

Submission  
No 386

**INQUIRY INTO PROVISIONS OF THE RIGHT TO FARM  
BILL 2019**

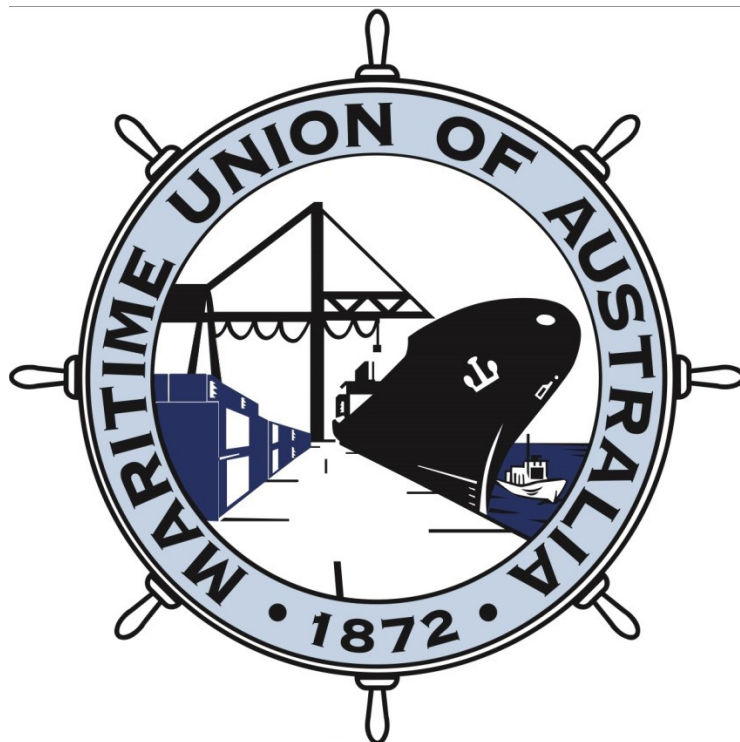
**Organisation:** Maritime Union of Australia

**Date Received:** 2 October 2019

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**MUA Submission:**

**Provisions of the Right to Farm Bill 2019**



**2 October 2019**

*NSW Legislative Council Portfolio Committee No. 4 - Industry*

Submitted by email: [PortfolioCommittee4@parliament.nsw.gov.au](mailto:PortfolioCommittee4@parliament.nsw.gov.au)

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## Introduction

This submission has been prepared by Maritime Union of Australia (MUA). The MUA is a Division of the 120,000-member Construction, Forestry, Maritime, Mining and Energy Union and an affiliate of the 20-million-member International Transport Workers' Federation (ITF).

The MUA represents approximately 14,000 workers in the shipping, offshore oil and gas, stevedoring, port services and commercial diving sectors of the Australian maritime industry.

In NSW, the MUA has three branches: Sydney, Newcastle and Southern NSW. This submission is made on behalf of all three branches.

## Other submissions

We support the submission made by Unions NSW. It is essential that the Committee have Unions NSW appear at the hearing to voice union concerns.

## Recommendations

We strongly oppose the Bill and urge all parliamentarians vote against it.

If the Bill cannot be voted down, it must be amended so that:

- It does not apply to a person who is engaged in a genuine peaceful demonstration or protest
- It does not increase the already considerable penalties for aggravated unlawful entry onto inclosed lands
- It does not criminalise people who encourage others to participate in a peaceful protests
- It does not apply to a union official or delegate undertaking workplace visits or inspections
- It does not apply to people or organisations engaged in industrial action

We are very concerned that the Bill is being rushed through Parliament with insufficient time for public debate and consideration. For example, this Inquiry was called on 24 September, with submissions due 1 October and a hearing on 3 October. On the afternoon of 1 October, there was still no schedule up for the hearing and it was not expected to be published until 2 October.

## The right to protest

The right to protest is fundamental to a healthy democracy. Throughout history, peaceful protest has played a vital role in securing legal rights and workplace protections that are now properly regarded as essential to a decent society.

Despite being called the Right to Farm Bill, the Bill's anti-protest measures go far beyond farming. The Bill attacks people's right to engage in peaceful protest in any enclosed space - private businesses, commercial and retail premises, shopping centres, universities, fenced parks, private roads leading up to workplaces and public transport hubs. It contains extreme measures designed to shut down dissent.

The Bill increases the fine for anyone who 'enters inclosed lands without permission' and 'hinders' a business when they do so, from \$5,500 to \$22,000 and brings in a new three-year jail sentence for the offence. Only three years ago the penalty for this offence was increased tenfold from \$550.

The Bill amends the offense from interfering with the conduct of the business while trespassing to simply 'hindering' the conduct of a business while trespassing – a very low threshold to trigger such draconian jail penalties. Hindering may include passive actions such as a crowd restricting access to a worksite, or workers being 'distracted'. The Bill also includes an offence to 'attempt to hinder'. This is a concerning addition, which creates a precedent for presumptive guilt.

The definition of 'inclosed lands' is so broad that it captures any land with a defined boundary. This could include virtually any workplace, and many public places.

The definition of hindering a business is similarly broad and would capture many forms of peaceful protest, such as a sit-in at a company's corporate headquarters, or a union protest at a workplace.

The Bill also introduces a new offence of directing, inciting, procuring or inducing the commission of the aggravated offence, which would criminalise the act of organising a peaceful protest. This could be used directly against unions, social justice and many other community organisations.

We are very concerned that these measures constrain or undermine the right to peaceful protest as implied in the Commonwealth Constitution and affirmed in the case of *Brown v Tasmania* [2017] HCA 43.

## Union workplace visits and meetings

We are deeply concerned that the bill could be used against union officials exercising their right to enter workplaces in response to safety incidents or other requests by members, or even to meet members in company carparks, which sometimes occurs when officials are not allowed to enter workplaces.

Our members work in dangerous industries, and union officials unfortunately are regularly called to assist workers in responding to fatalities or serious injuries of their workmates or serious safety concerns. In 2018 our union officials were prevented from entering a Sydney workplace where a near-fatality had recently taken place, and distraught workers were seeking assistance in improving workplace safety systems. Union officials were threatened by police and told to leave the premises. This Bill could be used to criminalise such forms of assistance.