

SENT BY EMAIL TO: leqqcon.sen@aph.gov.au

29 July 2019

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Committee Secretary

**RE INQUIRY INTO CRIMINAL CODE AMENDMENT (AGRICULTURAL PROTECTION)
BILL 2019 [PROVISIONS]**

Isaac Regional Council (IRC) welcomes the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Committee in response to the *Criminal Code Amendment (Agricultural Protection) Bill 2019 [Provisions] (the Bill)*.

About the Isaac Region

The Isaac region encompasses an area of 58,862 square kilometres from prime agricultural land to the resource rich Bowen and Galilee Basins housing the largest coal mining deposits in Australia. The area also includes a coastal strip that brings with it tourism opportunities.

Our region is home to 20,990 residents and approximately 12,075 non-resident workers who travel here primarily for work in the mining industry.

The Isaac produces more than half (54%) of Queensland's saleable coal, generating more than \$1.5 Billion in royalties, and we are proud to be a region which is feeding, powering and building communities.

The Isaac economy is largely driven by the resources sector which contributes \$11.131 billion (or 79.3%) to the regions total output¹ with the gross annual value of agricultural commodities more than half a billion dollars.

Isaac region also boasts a burgeoning renewable energy sector with 9 solar farms approved (and one pending). In addition, approval has been granted for one of Australia's largest wind farms at Clarke Creek.

The right to freedom of assembly

IRC strongly supports the right to peaceful assembly protecting the right of individuals and groups to meet and to engage in peaceful protest and acknowledges the right to freedom of association as it protects the right to form and join associations to pursue common goals.²

Acknowledging there are existing laws which restrict freedom of assembly and association on various grounds³, it is IRC's position that limitations which are placed on rights by way of

¹ REMPLAN Economy, accessed 10 July 2019

² Article 21 and 22 of the *International Covenant on Civil and Political Rights* (ICCPR) and article 8(1)(a) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR); *Peaceful Assembly Act 1992 Qld*, s.2

legislation should achieve a desired purpose and must be proportionate to the need on which the limitation is based, i.e. the penalty must be proportionate to the offence.

The rule of law is fundamental in maintaining a free, democratic and fair society. This is achieved through, amongst other things, the protection of individual rights and freedoms and by provision of laws that are fit for purpose.

The Criminal Code Amendment (Agricultural Protection) Bill [Provisions] 2019

IRC support the objectives of the proposed *Criminal Code (Agricultural Protection) Amendment Bill [Provisions] 2019* to protect farmers and primary production businesses from those who incite trespass or other property offences on agricultural land.

IRC notes the intent of the Bill is to protect farmers from the actions of those who disseminate information with the intent to encourage others to unlawfully trespass, or unlawfully damage property or theft on agricultural land.

Further, that the intent of the Bill is to bring proportionality to penalties for trespass offences and inciting trespass offences which are not adequately addressed within existing legislative frameworks to sufficiently deter people from entering agricultural land illegally. It is noted Australian farmers have more recently experienced criminal trespass, intimidation and disruption to their businesses and livelihoods from targeted activism.

Whilst the objectives of the Bill are supported by IRC, it is seen as critically important that lawful rights to freedom of assembly and association are not impacted by unintended outcomes of the Bill.

While IRC acknowledges the benefit that the Bill proposes to strengthen Australia's trespass laws to incorporate into Section 474 of the Criminal Code Act 1995 the offences of **Using a carriage service for inciting trespass on agricultural land** (s 474.46) and **Using a carriage service for inciting property damage, or theft, on agricultural land** (s 474.47)) as criminal offences to deal with trespass onto agricultural land, it recommends a cautious approach to ensure that the punishment fits the crime at both ends of the spectrum.

In this respect, IRC notes the Bill engages the following Articles:

- Article 12(1) of the International Covenant on Economical Social and Cultural Rights (ICESCR) relating to health and protections against contamination of food production and breaches of biosecurity protocols;
- Article 14(2) of the International Covenant on Civil and Political Rights (ICCPR) relating to presumption of innocence;
- Article 17 of the ICCPR – the right to freedom from interference in privacy and correspondence;
- Article 19(2) of the ICCPR – the right to freedom of expression – in regard to protecting public health and rights of Australian farmers.

The measures proposed in the Bill, to the extent that they may limit any rights or freedoms, provide for the application of a considered reasonable, necessary and proportionate view to achieve the intended outcome of the Bill.

³ For example, the Criminal Code criminalises associating with a member of a terrorist organisation and thereby providing support to it, if the person intends that the support assist the organisation. This restriction is applied on the grounds of national security and public safety as it relates to Articles 21 and 22 of the ICCPR.

IRC notes that the bill provides protections by way of exemptions for journalists and those making lawful disclosures of information, i.e. whistleblowers, further strengthening the considered reasonable, necessary and proportionate achievement of the Bill by mitigating potential foreseeable consequences.

IRC acknowledges the Queensland State Government's Criminal Code (Trespass Offences) Amendment Bill 2019 currently under review, whilst broader in scope, has clear synergy with the Bill.

In Summary

IRC reiterates its support for the objectives of the *Criminal Code Amendment (Agricultural Protection) Bill 2019*. Notwithstanding this support, IRC would be supportive of minor amendments, if considered necessary, to eliminate potential unintended outcomes, to enable passage of the Bill.

Yours faithfully

GARY STEVENSON PSM
Chief Executive Officer