

To: *Committee Secretary, Legal Affairs and Community Safety Committee, Parliament House, George Street, Brisbane Qld 4000*

From: Karen Dyhrberg, [REDACTED]
[REDACTED]

Re: *The Summary Offences and Other Legislation Amendment Bill 2019*

Thank you for the opportunity to give feedback on this bill.

I am a co-founder of Lawyers for Climate Action Australia and endorse the submissions made by that organisation.

The Queensland Law Society President recently wrote an article on the Queensland Government's proposed new protest laws, encouraging more respectful public debate. As I have considered this, my own personal response is to wonder how, at this critical moment in the history of our species, in the second-largest thermal coal exporter in the world, a supposedly progressive government is cracking down on protestors rather than, say, doing something urgent to help address climate change?

A year ago, the world received a huge warning on the urgency of the threat of climate change. In May this year, the Deputy Premier of Queensland admitted that our laws completely fail to address this threat. She was askedⁱ: *"The world's best heads – the best scientists, the best conservationists – have simply said, 'There is no debate here – no new thermal coal mines.' So, my question to you is, how can a new thermal coal mine in Queensland stack up environmentally?"*

Her response: *"Well, because when it comes to the [Environment Protection and Biodiversity Conservation Act] that we have at a federal level, there is no account of the impact of climate change, so our laws are deficient, there's no doubt about that Rebecca, when it comes to how we account for climate and those fossil fuels that we continue to use."* She did not reflect on how her own government could potentially just make better laws.

I still remember the sinking feeling in my stomach I had as I heard that. Our government wasn't planning to do anything. I was reminded of it when I heard today's reportⁱⁱ of a volunteer fire crew, ordered to stop defending their own town because the fire was too dangerous. "Prepare to burn," they told a desperate local, before driving off and leaving local property holders to fight it on their own. Some volunteer crews defied orders to stay and help.

What does a society do when their government seems uninterested in protecting them?

In past months we have seen mass protests, which evoked no response from government, and smaller, disruptive protests, which upset people by slowing traffic or delaying the transport of their coal. The government at least noticed these more disruptive protests and responded urgently, not by addressing climate change, but by cracking down on disruptive protests.

Ahead of the crackdown, the Premier told the media and parliament that activists had used lock-on devices and *"inside these cylinders and drums are glass fragments – even butane containers – so that anyone trying to cut a protester free will be injured or worse."*ⁱⁱⁱ When asked in Parliament to provide any evidence or numbers of such devices, she declined to do so^{iv}, and no such devices have been reported in the media^v – presumably not for want of media outlets keen to demonise greenie activists. I don't understand why the government would hesitate to present the evidence if they had it.

Even if the claims of booby-trapping devices are true, this activity is already unlawful in a multitude of ways, and rightly so. I doubt anyone opposes strong penalties for endangering the lives of others, but those penalties already exist.

So, what does the government's proposed new law actually do? It creates two categories of *Dangerous Attachment Device*: (1) devices designed to cause harm, and (2) lock-on devices with a casing or shield that prevents the protestor being easily released by someone else. Both categories are treated the same by the law and attract a penalty for their use to block access to a place of business or stop equipment operating (up to 1 year in prison or a \$2,669 fine) or use to interfere with transport infrastructure such as a road (up to 2 years in prison or a \$6,672 fine). The Bill also allows police to search someone without a warrant if they suspect possession of such a device.

The first category – devices designed to cause harm – are already unlawful, and the police can already search a person without a warrant if they reasonably suspect they possess something intended to cause harm. The only purpose of duplicating of existing laws seems to be to keep the focus on the supposedly sinister motives of activists.

Practically, the main effect of the Bill is to increase the penalties for the second category – lock-on devices *not* designed to cause harm. This is where the public focus should be. The public should be informed of, and encouraged to debate, this increase. Do the penalties meet public expectations? Is it fair that protestors receive higher penalties than mining companies receive for illegal drilling?

I live outside of Brisbane and personally I have spent more time worrying about my fire plan – in September – than being delayed in traffic by protest.

Demonising protestors to justify harsher laws has a history in Queensland. As Law Society President Bill Potts recently wrote^{vii}, in the Bjelke-Petersen era, *"In days before mass electronic communication... Joh could spin a few official photographs into the impression that right-to-marchers were looters and rioters, thus validating his brutal approach to suppressing them. Thankfully, what Joh couldn't control was the media and the lawyers, and some very brave reporters, uncompromising lawyers and of course Tony Fitzgerald's fearless enquiry allowed the people of Queensland to eventually see the truth. Sadly, we are seeing history repeat itself as legislative over-reach in terms of protests is again being attempted, and if Joh were alive he might well laugh, because these days some of the protestors are doing his work for him."*

In an era of communication saturation, a government is toughening protest laws based on claims with a bizarre lack of evidence. Are the protestors in fact doing Joh's work by getting the public offside? Or is it everyone who fails to call out history repeating itself?

We don't have time for another Fitzgerald Inquiry. We need the brave reporters and uncompromising lawyers to speak up now. We need to shift our focus from the narrative that people begging the government for action are the bad guys. We need action from our government on climate change.

"There are better ways of getting your message across, and they are far more effective" wrote Mr Potts, citing lobbying as being more effective, if less enthralling, than gluing yourself to a road.

I don't know if the Law Society plans to make submissions about the legislative over-reach and the need for action on climate change, but I hope it does. Submissions close on Tuesday, and it appears the law will pass with bipartisan support, but our democracy is stronger if parliamentarians know people are watching.

The stakes are higher than they have ever been, although for Aboriginal and Torres Strait Islander people,

the struggle to protect Country from greed and exploitation has been life-or-death since invasion.

Meanwhile, everyday people have written letters. They have protested peacefully. Hundreds of lawyers have written to their state, territory and national peak bodies asking for leadership and action.

No-one in power is listening. Nothing is changing.

Some people are making a considered decision to break the law to show their fellow citizens how important this cause is to them. They hope more people will join them (even if not willing to be arrested), based on the research that nonviolent campaigns are more likely to succeed than violent ones, and once movements mobilise 3.5% of the population, they never fail to bring about change.^{viii}

The perspective that back in the day, it was Joh was spinning the media, but things are different these days, inspired some (loud) re-playing of David Bowie's Changes. The oft-quoted lyric is: *"And these children that you spit on, as they try to change their worlds, they are immune to your consultations, they're quite aware of what they're going through."*

With the volume up I heard a lyric I hadn't noticed before. *"Where's your shame? You've left us up to our necks in it."*

Shame is not a helpful emotion. And I understand why the government is doing this – they think they are in a tight spot politically. They think it's too risky to stay and fight the fire. The population needs to stand up (or write a letter) and show politicians of all stripes that we want them to take the necessary action, and will support them if they do.

ⁱ <https://twitter.com/reblev/status/1131418584926773248?s=20>

ⁱⁱ <https://www.abc.net.au/radionational/programs/backgroundbriefing/australian-bushfires-future/11572014>

ⁱⁱⁱ Queensland Parliament Record of Proceedings, Tuesday, 20 August 2019

https://www.parliament.qld.gov.au/documents/hansard/2019/2019_08_20_WEEKLY.pdf

^{iv} Question on Notice No. 1180 asked on 21 August -2019 <https://www.parliament.qld.gov.au/documents/tableOffice/questionsAnswers/2019/1180-2019.pdf>

^v <https://www.theguardian.com/australia-news/2019/aug/21/queensland-government-accused-of-fabricating-claims-about-climate-activists>

^{vi} Summary Offences and Other Legislation Amendment Bill 2019 Explanatory Notes <https://www.legislation.qld.gov.au/view/pdf/bill.first.exp/bill-2019-056>

^{vii} https://www.qls.com.au/About_QLS/News_media/News/Presidents_update_18_September_2019

^{viii} <http://www.bbc.com/future/story/20190513-it-only-takes-35-of-people-to-change-the-world>