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**Dale Last MP**  
**Member for Burdekin**  
*Shadow Minister for Natural Resources and Mines*  
*Shadow Minister for Northern Queensland*

8<sup>th</sup> August, 2019

The Hon Peter Russo MP  
Chair, Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

By email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Mr Russo,

I write in response to your letter dated 7<sup>th</sup> May 2019 and the subsequent request to respond to the issues raised in submissions to the Criminal Code (Trespass Offences) Amendment Bill 2019.

The number of submissions made by individuals, industry and community groups is indicative of the interest generated by this Bill and the specific intent of the proposed legislation.

The response to the LNP's Criminal Code (Trespass Offences) Amendment Bill 2019 has been widespread and overwhelmingly positive and supportive.

Of the 11 submissions principally supporting the Bill, the organisations and industries represented account for the combined representation from more than 27,200 businesses and companies across the state.

Two regional councils, namely Whitsunday and Isaac, principally supported the Bill and have a population of more than 66,000 residents and transient workers that work in industries that would benefit from strengthened trespass laws like those in the Bill.

While there was a total of 132 submissions, many were from individuals, including at least 36 appearing to be based off a standard word response templates originating from a co-ordinated campaign against the Bill with a number also being from interstate.

The usual and expected opponents of laws to protect lawful businesses undertaking activities, including extreme environmental groups and animal extremists' groups are present, however they have not raised any new issues. These groups, like Australian Liberation Queensland and the Animal Justice Party, continue with their standard premise of using 'rights to protest' as a smokescreen to terrorise and financially disadvantage lawful businesses. If left unfettered, this would cost regional jobs and have a significant impact on the livelihoods and financial viability of both individuals and companies.

Certain environmental groups tried to justify their opposition to the proposed laws claiming that it would create 'duplication' or would 'clog' our courts. There clearly is a need for new laws, not a duplication, as, under current laws, those trespassing are not being issued with fines/penalties that meet community expectations. Claiming that the courts would get 'clogged' is also just an admission that there is a problem and a legal deterrent like the laws proposed are required to address the issue. If the courts capacity needs to expand to resolve the level of prosecutions, then it is the Government's responsibility to accommodate this. Stronger penalties are aimed as a deterrent to prevent these crimes being committed in the first place and protect regional jobs.

Most of the 'charity' organisations that provided submissions were quick to point out that they were not currently engaging in any 'unlawful' activities. This goes to the heart of the provisions contained within the Bill, with organisers of unlawful trespass activities being held liable for their actions. Given that this is the case, it is unsurprising that these protest 'charity' groups oppose these tougher and more expansive trespass laws.

The overwhelming response from business and industry organisations in support of the Criminal Code (Trespass Offences) Amendment Bill 2019 shows there is considerable appetite for new tougher laws. Put simply, the currently laws are not meeting community expectations and are failing Queensland businesses.

For the benefit of the Committee, and to ensure issues raised by submitters are addressed in the spirit of democracy, I have expanded upon some of the issues raised and provided responses supporting the need for the amendments.

I feel it is also necessary to further examine the background to this Bill as the issues that lead to its drafting highlight the need for reform. As background, I would ask that the committee considers the following:

1. This Bill was introduced to help address the threat posed to legal businesses by activist groups who oppose their business operations on environmental or ideological grounds.
2. In recent months, we have seen agricultural operations, transport infrastructure, resources projects and contracting businesses targeted by these groups.
3. The actions of the activist groups have had significant economic impacts on these businesses, resulting, in some cases, in trauma to individual employees. Furthermore, they have threatened the biosecurity of agricultural operations.
4. The action taken by these groups has not been approved by the landowner/leasee.
5. The action taken by these groups has not been approved by the Queensland Police Service in accordance with the Peaceful Assembly Act 1992.
6. On several occasions, the actions of these groups have, or could have, resulted in either physical or psychological injury (or both) to employees of these businesses who are undertaking their lawfully permitted duties.

Of those opposing the Bill, it would appear that four (4) key issues were used as the basis for the opposition. I have addressed these four issues individually to provide the relevant information to allow the Committee to consider the Bill.

1. The right to protest and engage in civil disobedience.

The *Criminal Code (Trespass Offences) Amendment Bill* does not, in any way, impede a citizen's right to protest. As defined in the Bill, penalties would only apply to offences committed on Private Land where permission has not been given, by the occupier, for protest activity.

Lawful protest on Public Land would not be affected by the Bill and neither would lawful protest on Private Land where permission for that protest was provided by the occupant.

Civil disobedience, by its very nature, relies on people deliberately disobeying the Law. I would submit to the committee that persons who engage in civil disobedience are already subjected to offences contained in a multitude of other Legislation.

Given that the right to peaceful, legal protest would not be affected by the Bill and the fact that civil disobedience relies on a decision to purposefully not comply with law, this issue, in my opinion, should be disregarded by the Committee.

## 2. The substantive nature of the penalties prescribed

Some submitters have described the penalties outlined in the Bill as excessive. The basic purposes of any penalty are as follows:

- a) To punish the offender
- b) To provide compensation to the aggrieved party
- c) To deter future criminal acts by that offender and others.

With regards to the first purpose, an offender found guilty of committing an offence against the provisions contained within this Bill should be punished with the penalty handed down reflective of community expectations. Entry onto private land without permission or lawful excuse is already an offence in Queensland and is an infringement on the rights of landholders and land occupiers. Whilst there are existing laws in place for this offence, my Bill seeks to address the effect of the offender's actions.

As we have already seen, the actions which would trigger charges under my Bill, are actions which have considerable effect on businesses, their employees, their suppliers and other sections of the wider community. If we were to simplify the justification of the penalties contained in my Bill, I would refer the Committee to the case of the "Gippy Goat Café" in Yarragon, Victoria.

The public record shows that this business was closed due to the actions of extremists partaking in exactly the kind of actions outlined in my Bill. In that case, the closure of the business led directly to one employee being made redundant. Based on the *Hospitality Industry General Award* published by [fairwork.gov.au](https://www.fairwork.gov.au) on June 27<sup>th</sup>, 2019 the loss of this position would result in a loss to that employee of at least \$38,480 per year.

This amount does not take into account extra expenses incurred by that employee in securing replacement employment, nor does it take into account the cost to the community (taxpayer) for support services to assist that employee in obtaining new employment.

The cost of this action to the business owners themselves has, as at today's date, not been published but it cannot be ignored that considerable financial resources and time are required to establish and run a small business. For some family businesses this could easily be in the realm of millions of dollars and, for larger businesses, could represent billions of dollars.

Given the potential losses that could be incurred by business owners, their employees and corporations, the proposed penalty of \$13,055 for Aggravated Trespass offence would not be sufficient to provide compensation to an employee, let alone a business owner or the community at large.

The third purpose of penalties is to deter future criminal acts by that offender or others. Using the example above, it is easy to see that these offences do cause financial harm to others, let alone any psychological impact. An escalation in the actions by offenders to damage premises or equipment would see this financial effect multiply, along with any psychological impact on employees and others. If we are to protect the right of Queenslanders to go about their jobs in legal businesses, we need to ensure that the employee and the business owner is protected from these actions. Not doing so would not only erode business confidence with regard to starting or continuing a business, it would also undermine any claim of recognising the importance of business to the Queensland economy.

Given the high financial cost of these offences, the proposed penalties cannot be seen as excessive. If the Committee were to also take into account the effects of actions such as these on, for example, train drivers, any suggestion of excessiveness pails into insignificance.

In addition to the financial implications for employees and businesses, and the possible social cost of these actions, we must also consider the possible Biosecurity ramifications of actions such as those already undertaken in Queensland.

On many occasions, this and previous governments at both the State and Federal level have cited both Queensland's and Australia's status as providing safe, high quality food and fibre. Activists who invade agricultural operations have demonstrated no understanding of the need to ensure proper biosecurity precautions and, by their actions, have demonstrated their unwillingness to comply with the relevant laws and procedures.

The potential economic impact for an agricultural business affected by a Biosecurity breach is enormous and such an occurrence would also have a major impact on Queensland's reputation for providing safe food. One only needs to refer to the Australian Senate inquiry into White Spot Disease to see the potential impact on industry of a biosecurity incident.

The report by Ridge Partners shows an economic loss of \$25M to producers alone. It also cites the loss of 122 permanent jobs and quotes a \$3.67M loss of economic activity at the local level alone. These figures do not take into account the cost of recovery from such an incident or reputational damage.

With regards to the Resources and Transport industries, the potential for economic loss can, also, not be understated. In addition to lost production time and the avoidable economic cost of injury to workers or protesters, incidents involving illegal access to sites by untrained individuals has the potential to result in increased expenses for security and for increases in costs such as WorkCover. As stated previously, there is also the potential for ongoing economic and personal damage to workers, their families and the protesters and their families as well.

If we take into account the social costs, economic costs and the potential for reputational damage to entire Queensland industries, the penalties suggested in my Bill could easily be described as being “on the lower end” from a compensatory point of view. Incurring these costs must come with significant penalty to offenders and there must be significant deterrence provided to reduce the possibility of future occurrences.

### 3. Exposure of incorrect and illegal practices

Several submitters have referred to the need for activists to monitor the actions of businesses, specifically in the area of animal welfare. The *Animal Care and Protection Act 2001* provides for the supervision of animal welfare by the RSPCA and Biosecurity Queensland. According to [business.qld.gov.au](http://business.qld.gov.au), these roles are also supported by the Queensland Police Service where inspectors are not present or available.

As mentioned previously, intrusion on an agricultural business by untrained persons with no regard for biosecurity procedures cannot be tolerated. If, in fact, further monitoring of animal welfare is required, it is incumbent on the Government and Statutory Departments to identify this need and respond appropriately.

The fact that the RSPCA, a highly respected organisation in the area of animal welfare, did not express objections to this Bill shows that objections based on this need are, largely, unfounded.

It is important to note that the LNP does not condone animal cruelty in any way. However, we acknowledge the need for food production and processing in this state, both in the interests of citizens and for economic reasons. It is simply impractical to deny the protections that this Bill would offer to citizens and businesses due to a perceived lack of action in the area of inspections. I would encourage any person with information on animal cruelty to immediately report their concerns to the relevant authorities in the interests of both animals and the Queenslanders who believe animals should be treated fairly and with compassion.

#### 4. The need to monitor alleged environmental harm

It is important for the committee to acknowledge the work of assessors and others within the existing approvals framework within Queensland. The LNP strongly supports the need for all businesses and individuals to comply with relevant environmental law and supports the need to monitor compliance.

As per the previous issue, any allegation that insufficient monitoring is currently undertaken must be addressed by the Government and the relevant Statutory Authorities. Again, it is simply impractical to deny Queenslanders and businesses the protections that this Bill would offer in response to an alleged underperformance of the Government or Statutory Authority. It is not the role of activist groups to take on regulatory responsibilities and attempts by objectors to justify their actions under this umbrella are disingenuous.

It is my submission that an overwhelming number of submissions support the intent of this Bill and the provisions contained therein. Trespass under the guise of activism should not be tolerated and it is clear there is widespread community support for increased penalties associated with trespass that causes economic loss to legitimate businesses in this State. Furthermore, given the recent spike in unlawful protest activities and associated trespass it is clear that organisers of these activities should be held to account for their role in counselling or procuring others to commit these offences.

I would like to offer my thanks to the Committee and the Committee Staff for their work on this important Bill. Should you have any queries, I am happy to meet at your convenience to discuss this matter further.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Dale Last', with a stylized flourish at the end.

Dale Last MP  
Member for Burdekin