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Committee Secretary  
State Development, Natural Resources and  
Agricultural Industry Development Committee  
Parliament House  
BRISBANE QLD 4000

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

Dear Committee

## **AGRICULTURE AND OTHER LEGISLATION AMENDMENT BILL 2019**

Thank you for the opportunity to make a submission to the inquiry into the Agriculture and Other Legislation Amendment Bill 2019 (the Bill). This submission is confined to measures in the Bill prompted by actions of animal rights activists and provisions enabling the use of body-worn cameras to record sounds and images.

### **Protesters**

The Bill would amend various legislation to:

- expand obligations to minimise biosecurity risks and significantly increase the maximum penalty for non-compliance with a biosecurity management plan;<sup>1</sup>
- introduce a new offence for causing or increasing an animal welfare, biosecurity, or public safety risk associated with an exhibited animal;<sup>2</sup>
- broaden the range of land uses covered by the offence of unlawfully entering farmland and doubling the maximum penalty;<sup>3</sup> and
- broaden the offence of unlawful assembly (where 3 or more persons are together for a common purpose).<sup>4</sup>

The Explanatory Notes and the Introductory speech state that these amendments are proposed to address unacceptable behaviour, and are not targeted at particular groups or particular views. It is said that:

Unauthorised entry by animal activist protestors to places where animals are kept in Queensland has been occurring more frequently, particularly in the past year. These

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<sup>1</sup> Amendment of the *Biosecurity Act 2014*.

<sup>2</sup> Amendment of the *Exhibited Animals Act 2015*.

<sup>3</sup> Amendment of the *Summary Offences Act 2005*.

<sup>4</sup> Amendment of the *Summary Offences Act 2005*.

protests have produced fear and anger among those involved in relevant industries. Such protest action may also have adverse economic impacts and pose risks to human safety, animal welfare, biosecurity and food safety.

The Explanatory Notes also identify some of the human rights affected or potentially affected by these proposed amendments, including:

- equality before the law;
- freedom of association
- the right to peaceful assembly;
- freedom of movement;
- the right to privacy.

All of these rights are covered by the *Human Rights Act 2019*. Although the obligations on the Parliament and portfolio committees under the *Human Rights Act 2019* have not yet commenced, the Commission encourages the Committee to consider whether the proposed amendments are compatible with human rights in the manner provided for in the *Human Rights Act 2019*.

Under the *Human Rights Act 2019*, a human right may only be limited where the limitation is reasonable and can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.<sup>5</sup>

After identifying the human rights affected by the proposal the Committee should decide whether limitations of the rights are reasonable and demonstrably justified by having regard to:

- (a) the nature of the human right;
- (b) the nature and purpose of the limitation (including whether it is consistent with a free and democratic society based on human dignity, equality and freedom);
- (c) the relationship between the limitation and its purpose (including whether the limitation helps to achieve the purpose);
- (d) whether there are any less restrictive and reasonable ways to achieve the purpose;
- (e) the importance of the purpose of the limitation;
- (f) the importance of preserving the human right; and
- (g) balancing all these factors.

In relation to the nature of the right to peaceful assembly, Article 21 of the International Covenant on Civil and Political Rights, provides:

The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection

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<sup>5</sup> *Human Rights Act 2019*, section 13.

of public health or morals or the protection of the rights and freedoms of others. [emphasis added]

A question for the Committee to consider is whether extending the offence of unlawful assembly in the *Summary Offences Act 2005* is necessary, when there are existing offences of trespass and unlawful entry of farmland. The Explanatory Notes do not provide any explanation as to why the existing trespass laws are unable to achieve the stated purpose of the proposed limitation on the right to peaceful assembly, that is, to address *adverse economic impacts and ... risks to human safety, animal welfare, biosecurity and food safety*.

Having balanced the considerations in section 13 of the *Human Rights Act 2019*, and noting the absence of a demonstrable justification for the limitation, the Commission does not support Clause 132 - Amendment of s 10A (Unlawful assembly).

### **Body-worn cameras**

The Bill would authorise a wide range of officers to use body-worn cameras to record sounds and images while performing regulatory type functions. These include:

- authorised officers and inspectors under the *Animal Care and Protection Act 2001*, exercising powers relating to code compliance monitoring, and investigations and enforcement;
- authorised officers under the *Biosecurity Act 2014* (authorised officer means an authorised person or an inspector), exercising powers including to enter, to stop or move vehicles or animals, to seize, and to obtain information;
- inspectors under the *Chemical Usage (Agriculture and Veterinary) Control Act 1988*, while exercising powers including to enter, to investigate, to search and inspect, to seize and detain, and to obtain information;
- inspectors under the *Exhibited Animals Act 2015*, while exercising powers including to direct a person to move, to enter, to stop or move vehicles, to give directions, to seize, to destroy an animal, and to obtain information;
- inspectors under the *Drugs Misuse Act 1986*, while exercising powers including to enter, to take samples, to require help, and to obtain information.

The Bill would also amend each of the relevant Acts to limit the use and disclosure of information, including information obtained by an inspector or authorised officer.

Recording sounds and images by the use of body-worn cameras impact the right to privacy and the right to freedom of expression, both of which are also covered by the *Human Rights Act 2019*. The right to freedom of expression includes the freedom to seek and receive information. This is relevant to access to recordings.

The Information Privacy Principles in the *Information Privacy Act 2019* include rules for the use, disclosure and storage of personal information.

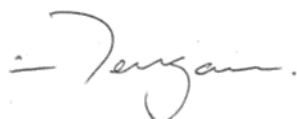
The Explanatory Notes state that recordings made by inspectors while exercising a power under the *Animal Care and Protection Act 2001* are records under the *Public*

*Records Act 2002*, and the obligations under the *Right to Information Act 2009* and the *Information Privacy Act 2009* apply. The Explanatory Notes do not state the same for the other Acts that are to be amended to authorise the use of body-worn cameras to record sounds and images.

Regulation of the use of body-worn cameras, and access to recordings and privacy safeguards, are important considerations for the Committee in determining whether the proposed amendments are reasonable and justified. It is therefore essential that the Committee determine whether the *Public Records Act 2002*, the *Right to Information Act 2009* and the *Information Privacy Act 2009* apply in relation to all of the proposed uses of body-worn cameras under each of the Acts. The Committee should also consider the extent to which the Information Privacy Principles apply, if at all.

The Commission encourages the Committee to consider the compatibility of the proposed authorisation of the uses of body-worn cameras with human rights under the *Human Rights Act 2019* in the same manner described above in relation to the protester measures.

Yours sincerely



**SCOTT MCDOUGALL**  
Queensland Human Rights Commissioner