



5 August 2019

Committee Secretary  
Legal and Constitutional Affairs Legislation Committee  
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Parliament House  
Canberra ACT 2600  
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Dear Secretary,

### **Criminal Code Amendment (Agricultural Protection) Bill 2019**

Thank you for the opportunity to make a submission to the Committee's Inquiry into the Criminal Code Amendment (Agricultural Protection Bill) 2019.

#### **About AFPA**

AFPA is the peak national industry body representing the Australian forest, wood and paper products industry's interests to governments, the general public and other stakeholders on matters relating to the sustainable development and use of Australia's forests and associated manufacturing and marketing of wood and paper products in Australia.

The forest, wood and paper products industry is one of Australia's largest manufacturing industries with an annual turnover of approximately \$24 billion. Around 120,000 people are directly employed along the industry value chain with a further 180,000 jobs supported through flow-on economic activity. It contributes around 0.6% to Australia's gross domestic product and 6.7% of manufacturing output.

#### **Overview**

AFPA commends the Federal Government for introducing this Bill, which creates new offences for the incitement of trespass, property damage or theft on agricultural land, including private forestry. However, the Bill fails to adequately protect the forestry sector by not including native forestry operations on Crown land (which the Bill currently explicitly excludes), and omitting wood processing facilities that are exposed to the same threats as agricultural processing sites such as abattoirs. AFPA urges the Government and the Committee to address these omissions with the necessary amendments.

The aggressive and coordinated "farm invasions" which shocked Australians and prompted the Government to prioritise this legislation are all too familiar tactics for Australia's forest industries, particularly the sustainably managed native forestry sector which has been a longstanding target of environmental activists. These disruptive and aggressive tactics are not consigned to the annals of history – forestry operations around the country are regularly impeded by trespassing activists.



A Victorian Government native forestry harvesting operation in Kinglake, Victoria, is currently being targeted by coordinated attacks from activists aimed at halting timber harvesting crews. The harvesting contractors – a family-owned business – have had to halt operations several times due to the trespassers, costing their business thousands of dollars a day. This is not an isolated incident.

Like the recent farm invasions, these events are often coordinated or encouraged through the use of a carriage service, including through text messages and social media. The Bill is intended to address this issue by linking new offences to the use of a carriage service to transmit, make available, publish or otherwise distribute material with the intention to incite another person to trespass on land used for a primary production business.

### **Existing legal framework is inadequate**

AFPA supports state and federal action to review and strengthen trespass laws and procedures for enforcement. Legislative frameworks should protect primary industries from the unacceptable invasion of property and privacy by activists. There must be real consequences for these actions, to reflect the seriousness of the crime and provide a genuine deterrent.

The recent surge in farm trespass incidents, and the ongoing disruptions to forestry operations, highlights the inadequacy of existing laws and their interpretation by law enforcement agencies and the courts. It is clear they are not an effective deterrent to unlawful protests. While state and territory governments have laws in place to render trespassing of forestry operations unlawful, they are often not enforced in a timely way, or do not result in prosecutions.

In the Kinglake protests, for example, Victoria's Sustainable Forest Timber Act 2004 makes it an offence to enter or remain in a "timber harvesting safety zone" and empowers authorised officers to direct someone to leave a timber harvesting safety zone. However, authorities have reportedly been slow to respond, and no one has been prosecuted over the trespasses despite repeated disruptions to harvesting operations.<sup>1</sup>

The deterrent factor associated with the Bill is significant, as it should be given the gravity of the offence and the impact on lawful businesses. By creating substantial penalties for offenders, the Bill sends a strong message to those who would seek to incite or engage in such conduct. In addition to the deterrent factor, we hope the legislation will create increased awareness amongst law enforcement agencies and the court system of the growing and serious impact of these incidents on our primary industries. However, amendments are required to adequately protect forest industries that are vulnerable to these attacks.

### **Amendments to the Bill needed to better protect forestry operations**

As mentioned earlier in this submission, the Bill currently excludes large sectors of the forestry and forest products value chain susceptible to unlawful protests. The Bill contains a very narrow definition of forestry which explicitly excludes native forestry, which largely occurs on Crown land. Schedule 1 of the Bill defines 'forestry' thus:

**forestry** means:

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<sup>1</sup> Herald Sun, 11 July 2019 <https://www.heraldsun.com.au/leader/north/protesters-demand-end-to-logging-in-beloved-kinglake-forest/news-story/fa482623edbe12ce1d6aaa1ae1280d9c>

- (a) planting or tending trees in a plantation or forest that are intended to be felled; or
- (b) felling trees in a plantation or forest.

However, while this definition covers forest harvesting operations in privately owned land, it excludes timber harvesting on Crown land which is overwhelmingly the biggest target of environmental activists. Sustainably managed native forestry in Australia is the major source of hardwood timber for appearance grade wood products such as staircases and floorboards. Native forests are also a major source of pulp logs for paper production which is processed both domestically and overseas. The sector supports thousands of jobs around Australia, many of them in regional communities.

While State legislation provides some protection from unlawful protests, the experience is that it provides little deterrent to harvesting operations, which put contractors and protestors at risk of injury and death, and costs businesses considerable sums of money, as the Kinglake example shows. AFPA urges the Government and the Committee to amend the Bill to include forestry operations on Crown land. This would complement rather than duplicate existing state legislation, noting that the Bill uses the Commonwealth's Constitutional powers with respect to Carriage Services.

Similarly, under the definition of "primary production business" in Schedule 1, the Bill lists processing operations covered by legislation, it includes a "business of forestry that is carried on on private land". If read in conjunction with the above definition of 'forestry' in the Bill, this is a very narrow definition. It is unclear whether the intention of the Bill is to include wood processing facilities such as timber mills, woodchip processors, and pulp and paper manufacturers who are often the target of environmental activists' campaigns, particularly those who process logs sources from native forests.

To avoid any doubt, AFPA recommends an amendment to this wording to reflect the more general definition used for other industries in the Bill. For example, just as the Bill provides coverage for "a business of operating a fish processing facility", AFPA urges the Government to amend the Schedule to cover "a business of operating a *forest products* processing facility".

AFPA urges the Parliament to pass the Bill with the necessary amendments to provide adequate protection for Australia's sustainable forest industries. I am available to provide further evidence at a public hearing of the Inquiry if required.

Yours sincerely,



Mr Ross Hampton  
**AFPA CEO**