

ANIMAL WELFARE AND TRESPASS LEGISLATION AMENDMENT BILL 2021

Second Reading

Resumed from 16 February.

HON JAMES HAYWARD (South West) [5.04 pm]: I rise to speak on the Animal Welfare and Trespass Legislation Amendment Bill 2021. We know that what started this off was an incident that happened in Brunswick, or that incident brought this to a head. It is something that had started to happen more regularly. We know that animal activists hysterically stole a young calf and filmed a video and made claims about the treatment of those animals. The McGowan government made a promise almost immediately, which was welcomed, that it would do something about this problem and help farmers and give them the protection they were looking for against these types of activities. That was back in 2018. Here we are in 2023, and the legislation is finally looking like it will go through.

Other members have spoken about what is in this legislation in relation to how effective it will be in terms of deterring those attacks on those farmers and the invasion of those properties. I do not really need to go over those other than to say it is good to see there will be measures in place that will help deter people from taking these types of actions. In other states, we have seen situations in which activists have gone onto farms and have cut fences and chased cows onto the road and other things, all in the name of saving the animals, but the reality is that what they were actually doing was putting those animals in harm's way.

We have had people talk about the biosecurity risks and the importance of making sure that our biosecurity on farms remains paramount. Obviously, disorganised and unplanned access of people jumping fences and running through paddocks threatens our biosecurity. It is important that we maintain that biosecurity. What is not understood is that the Labor government saw this as an opportunity to back in the vegan protesters and use this legislation to say to them that the vegans are right and that farmers are potential animal abusers and the government is going to crack down on them.

Hon Dan Caddy interjected.

Hon JAMES HAYWARD: Hon Dan Caddy made a timely interjection just then. He said in the debate that at his family farm, trespassers would steal fuel and other items from his farm. I am pretty sure he said words to the effect—I am not reading from *Hansard*; I am recounting from memory—that if all they had to do was agree to allow inspectors to come on at any time, they would have jumped at the opportunity to stop those people coming onto the farm and stealing fuel. Unfortunately, this legislation will not stop those types of attacks. The question I have is: why does there need to be a trade-off? Surely what those people were doing is illegal. Breaking onto the family farm and, in Hon Dan Caddy's experience, stealing fuel, is illegal. Why would that not just be enforced? Why would we need to trade something off?

I have been trying to think of an analogy that would best make sense of what I think is actually occurring here. The only one I can come up with is this: it is a bit like a child who has a schoolyard bully go through his lunch every day. Imagine a child in school. The bully comes over, goes into his bag, pulls out his lunch and takes a look. The reason he is taking a look is that he wants to make sure that his lunch complies with all the rules. The kid feels quite bullied, and rightly so, by this person who continually does this and he goes to the schoolteacher and says, "I'm being bullied by this person. They're coming over and pulling my lunch out of my bag without my permission. They are going through my lunch and having a look, and it's happening over and over again." The schoolteacher thinks about it for a while and goes, "Yes, this is no good." At some time in the future, but not that day, the teacher announces to the class that the teacher has a solution to the problem. The teacher says, "Yes, this bullying is wrong. It's got to stop. If you continue to do this and keep bullying this child and keep doing these things then, bully, you will be punished. But do not worry; we have decided to have the school prefect be made available to come in to check your school lunch every day."

Hon Darren West interjected.

Hon JAMES HAYWARD: I am not taking interjections.

Hon Darren West: Just talk about the bill. This has got nothing to do with it.

Hon JAMES HAYWARD: It is exactly. It is an analogy.

In this situation, we have a child who has come to the schoolteacher with an issue, and the solution is, effectively, that the government will legislate and support the activities that the person was largely complaining about in the first place. We have a situation in which the McGowan government has taken sides with the vegan activists and said, "What you're doing, you can't do it that way you are doing it. But what we'll do is we'll give our inspectors the authority to go on there at any point."

Other members talked about the fact that, currently —

Hon Dan Caddy interjected.

The ACTING PRESIDENT: Order!

Hon JAMES HAYWARD: Thank you, Acting President.

Currently we have the situation, which other members have spoken about, in which when the department has needed to get a warrant to go onto a premises, it has never been denied. Therefore, there is no real reason why these powers have to be extended or married together. Simply, what is happening here is that the McGowan government is pandering to the woke ideology in Perth-based people who feel that it is important that they target farmers. The government supports them.

The other issue that came up in the debate was the idea that farmers would need a social licence to continue to farm. This is probably not something that many of us would have considered; it is something that I have not heard raised previously in a forum. The idea is that for farmers to raise animals and grow food, they would require a social licence to do so. We really have to push back on that kind of thinking. I would have thought that producing food and enabling people to eat was a very, very important task. People know how good the quality of food is that our people produce in Western Australia, and it is something that we should be very, very proud of. There are some eight billion people in the world, I understand, and they need to be fed. The reality is that without commercial farming activities, those people simply would not be fed. Calls to reduce animal production and farming, ultimately, will lead to there not being enough food across the globe. Again, we are very blessed in Western Australia because much of our food is exported and we have enough food to feed ourselves and many others.

Of course, nobody likes mass animal production, and the reality is that in Western Australia we do not have a lot of that because we have such large spaces. The reality also is that killing animals for meat is not pretty. Nobody wants to go down and watch lambs being slaughtered. It is not pleasant. But eating lamb is delicious and is something that many Western Australians do all the time. People around the world love getting their hands on Western Australian produce because it is so good.

Eating meat is something that humans do and have done for a long time. In fact, eating red meat plays a significant role in extending the life expectancy of people, improving birth rates and reducing infant mortality. It is difficult. I really appreciated the speech by Hon —

Hon Dan Caddy: Dan Caddy.

Hon JAMES HAYWARD: — Dan Caddy. I did appreciate the speech by Dan Caddy; thanks very much!

Hon Samantha Rowe talked about the challenges we have when we enjoy leather products and eating meat but do not enjoy the fact that animals are slaughtered for us to do that. The reality is that animals have always served us humans—they have. We have used horses, camels and dogs. We have used all these animals and we continue to do so today. Animals are still being used. Guide dogs are being used. Police are using dogs. The reality is that animals —

Hon Samantha Rowe: It is in an ethical and humane way.

Hon JAMES HAYWARD: I agree; I am not debating with the member about that.

Although some people would say that that is an honourable role for an animal to play, the reality is that some animals play other roles. Those roles see them being born, being fed, being looked after and ultimately being slaughtered and used to feed human beings, and that is the reality.

Hon Samantha Rowe: That's fine. That's fine. Just do it in a humane and ethical way.

Hon JAMES HAYWARD: Sorry, member; are you saying that they are not doing it in a humane way? That is exactly what I am saying. The problem is with what the Labor Party is saying: "It is not being done right and that is why we need these people." That is what it is saying. What has occurred is that farmers have come to the government for help, saying, "We need some relief because these people are charging in here and doing this", but the government is saying, "In actual fact, those people are right so we need to have an established method for farmers to be checked on—and, yes, we'll stop the trespassers."

Hon Samantha Rowe: What's wrong with having checks?

Hon JAMES HAYWARD: There is nothing wrong with having checks, but the point is that checks and measures were already in place that could be used and were adequately being used. The real issue is that the McGowan government wants to pander to these —

Hon Samantha Rowe: Oh, don't be ridiculous. We're not pandering to them!

Hon JAMES HAYWARD: Then why does the government need to amend the act? The government has already said that a full rewrite of the Animal Welfare Act is coming. As I have said in this place before, I welcome and look forward to seeing it. But why does the government need to put this in? If there was really a need for an inspector, surely the government would simply do it at the point at which everything is on the table and there is a full rewrite

of the legislation, but the government has not done that. It has tacked that issue onto this bill and married them together. It has done it for only one reason. It is not about animal welfare; it is about the fact that it sends messages to the people who the government believes supports it and whose ideology the government believes is important.

This bill again demonstrates how regional members of the Labor Party have let down their constituency. We saw it with the lobster debacle, the silencing of regional voices through electoral reform, and the shutting down of the native timber industry—and we are now seeing it again here. This is a situation in which city-based priorities are more important than regional people. The reality is that our farmers are doing an excellent job of growing and looking after these animals. They are growing first-rate products and excellent quality meat, and we should be very proud of what they do.

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [5.17 pm] — in reply: I rise in behalf of the government to give the reply to the second reading debate on the Animal Welfare and Trespass Legislation Amendment Bill 2021. I thank members for their contributions to the second reading debate, and I hope to get to the substantial matters that were raised in their speeches.

The bill's journey to this place has been long, and I would like to begin my reply by, first, acknowledging the previous Minister for Agriculture and Food, Hon Alannah MacTiernan, who was involved in its development. I am certain that she will be pleased that the bill is now progressing through the house. I acknowledge and thank the Legalise Cannabis WA Party and the Greens (WA) for indicating their support for the bill. I note that Hon Wilson Tucker remains undecided. Unfortunately, he is out on urgent parliamentary business, so he will not hear all my persuasive points to get him across to support the bill, but I hope he is listening wherever he might be so that we can rely on his support as well.

The opposition has expressed, through its lead speaker, the Deputy Leader of the Opposition, Hon Colin de Grussa, that it will not oppose the legislation; although, if someone had heard only the contribution of Hon Dr Steve Thomas, that person would be somewhat confused about the position the opposition is taking because I could only take his contribution as being not in support of the bill—in fact, the not-opposed position perhaps having the “not” dropped off!

I take the lead speaker's position as that representing the loyal opposition.

After considering all contributions made during the second reading debate on the bill, it seems that the opposition, some other members and the government are broadly seeking the same outcomes when it comes to activists seeking to interfere with our farms—that is, to protect the agricultural sector and, in particular, farming families from the consequences of unlawful trespassing. However, it is obvious that there is a fundamental difference in how the issue of farm trespass is connected with animal welfare. The government is of the view that if trespass of this nature is to be deterred, it must be able to demonstrate that alternative measures are in place to monitor industry compliance with our animal welfare laws in high-risk facilities—that is, intensive production places. A strong and robust monitoring regime will reduce the incentive and any justifications for trespassers to take matters into their own hands, and provide assurances to the community.

My friend Hon Samantha Rowe spoke of the social licence that the commercial food production industry must maintain in order to sustain broad community support for their farming techniques, a concept that is not new or radical, as perhaps the last speaker might have been suggesting. It is not novel; it is quite well accepted that people engaged in those sorts of activities and broader activities must maintain their social licence in order to legitimise what they continue to do. We say that this bill is a key example that will help that industry maintain that social licence by maintaining the confidence of the community that the animals involved in intensive production are being treated in a manner consistent with community and legislated standards. That is why we are not dealing with the issue of farm trespass and animal welfare separately, and why they must be progressed together. I understand that some members on the other side do not agree with that, but that is what we are doing today and that is how we are progressing. Importantly, the majority of Western Australians who provided feedback on the draft bill during public consultation agreed with the government on this and expressed their support for the bill.

I will now turn to more specific concerns in questions raised by those who have contributed to the debate so far. I turn first to the lead speaker for the opposition, Hon Colin de Grussa, and his comments on the bill. I will take the opportunity to respond to some issues that he raised, noting that we will be going into Committee of the Whole and there will be opportunities to further unpack and explore those issues in detail. Hon Colin de Grussa made reference in his contribution to relevant reforms progressed in other jurisdictions, stating that criminal activists who trespass on agricultural properties in New South Wales now face fines of up to \$220 000 for individuals, \$440 000 for groups and on-the-spot fines of \$1 000. I would like to clarify that these increased penalties in New South Wales identified by the member were introduced under biosecurity laws and are not associated with the criminal offence of trespass. New South Wales, Queensland and Victoria recently amended their biosecurity legislation, which traditionally sets higher civil penalties to ensure they are not merely perceived as a cost of doing business. The amendments to the Criminal Code proposed by the bill are more similar to the criminal law reforms

implemented in South Australia, New South Wales and Queensland in response to the issues of activism-related trespass. Historically, the offence of trespass in these jurisdictions has attracted a lower penalty compared with the penalties for the same offence in Western Australia. For example, in 2020, the maximum penalty for trespass in South Australia was increased from six months' imprisonment and a \$2 500 fine to 12 months' imprisonment and a fine of \$10 000. This is still less than the maximum amount a court can impose for trespassing in Western Australia.

The member also drew our attention to the review of the Animal Welfare Act. I note that was also mentioned in other members' contributions. The member posed several questions regarding the interaction between the amendments to the Animal Welfare Act we are considering under the bill and future reforms to that act that are currently being drafted. Although the details of the future amendment bill are subject to cabinet confidentiality, I can provide the following advice on how these separate bodies of work will complement each other moving forward. The government sees this bill as the first step in a long process to modernise the Animal Welfare Act. As members have observed, the drafting of that bill will address the bulk of the independent panel's recommendations, and that has only recently commenced. In the meantime, the issues addressed by this bill continue to concern farmers and livestock producers. The government is committed to strengthening the penalties for those who trespass on farms as well as strengthening the powers of livestock inspectors to monitor compliance in certain livestock facilities. The strengthening of penalties and inspector powers implemented under this bill will allow the Department of Primary Industries and Regional Development to establish a monitoring program of high-risk facilities while it works on identifying appropriate competencies and training for all animal welfare inspectors. Eventually, all inspectors will be held to a consistent standard of training and competencies. However, this will take several years of work to achieve.

The member also asked about the qualifications and experience of the DPIRD officers whom the CEO may choose to appoint as designated inspectors in the context of the 2017 proposals to amend the Animal Welfare Act. DPIRD ensures that all its general inspectors are appropriately skilled, trained and supported to deliver the services required to ensure compliance with the legislation. I can advise that DPIRD already has specialised livestock inspectors who have met internal requirements as to training competencies and experience. They have specialised training experience in animal husbandry and investigations. These inspectors may be appointed as designated inspectors under the amended powers being introduced by this bill. Further, the government has accepted the recommendations of the independent panel to require specific training for livestock inspectors, which will provide a legislative basis for the inspector training program already underway.

Hon Colin de Grussa drew our attention to the Standing Committee on Legislation report into the Animal Welfare Amendment Bill 2017 and made extensive reference to the thirty-sixth report of that committee. I thank him for giving me the opportunity to outline how this bill addresses at least one of those committee recommendations, although I would first like to make the important point that most of the findings and recommendations of the thirty-sixth report were not unanimous amongst committee members—there were majority and minority findings and recommendations that may not have been obvious in the contribution of some members on the other side when they were referring to this report. The majority consisted of Hon Colin de Grussa, Hon Jim Chown and Hon Dr Steve Thomas, with the minority consisting of Hon Dr Sally Talbot and Hon Pierre Yang. As we can see, that committee did its work alongside the opposition alliance, not that there was such a thing in the last Parliament, and the minority obviously went with the government position. It probably does not tell a lot in terms of its intellectual rigour and weight because of the fact that there was division between two parties.

Nonetheless, the bill will implement at least one of the recommendations of the majority, which I shall address now. That was majority recommendation 7, which was about conferring the power to designate general inspectors as designated inspectors to the CEO of DPIRD rather than the minister. We accept that this is appropriate as the CEO currently has the power to appoint general inspectors under section 33 of the Animal Welfare Act 2002. The current bill will provide for the CEO to appoint those designated inspectors rather than the minister.

It is also important to note that the present proposal is much narrower than the amendments investigated by the standing committee in its thirty-sixth report. The present proposal is confined to abattoirs, knackeries and intensive production places—those facilities that are considered to pose the greatest animal welfare risks and that are least likely to contain a residence. In this regard, the proposed powers of entry under the bill can be differentiated from the powers proposed by the 2017 bill. In fact, the policy context we find ourselves in now is significantly different from the one examined by the committee in 2018. I suggest that the committee's report is of only limited utility to the current bill, given the narrower focus.

The committee did deal with the powers of entry to monitor animal welfare, which is an issue that has come up in this bill. The honourable member asked what kind of proactive work is being undertaken by the livestock compliance unit. I can advise that the bulk of the work of livestock inspectors is investigating complaints of cruelty received by the Department of Primary Industries and Regional Development. The only proactive work they routinely undertake is attendance at saleyards with the consent of the owners of those saleyards. The proposed new powers of entry conferred to a designated inspector under the provisions of the bill will generally not apply to livestock aggregation points such as saleyards and export depots. Rather, the new powers of inspection without prior notice or suspicion

will apply only to abattoirs, knackeries or intensive production places. The monitoring program the government seeks to introduce will complement the existing inspection regime established by DPIRD. The member also raised legislative principle 5 in his contribution, which was referred to in the report of the Standing Committee on Legislation. The majority finding was that the powers of entry under the 2017 proposal breached fundamental legislative principle 5. I think I have to correct myself there because I am not sure whether that was a majority finding; I think it may be one of the findings that was shared by all members. I think different conclusions were drawn by the majority and the minority about the breach of that.

The member sought reassurance that the proposed powers of entry under this bill will not raise similar concerns. My understanding is that the fundamental legislative principles taken from Queensland were used by the committee as a framework for the scrutiny process. The principle in question, number 5, asks whether the bill confers power to enter premises and search for or seize documents or other property only with a warrant issued by a judge or other judicial officer. The bill before the house today does confer powers of entry that can be exercised without a warrant. As previously discussed, such powers of entry are not unprecedented in Western Australia. The principle is not one to say that it should never happen, but one that should happen only for very good reason. The examples I can give are, under section 38(1)(a) of the Food Act 2008, an authorised officer may enter and inspect any premises that the authorised officer reasonably believes are used in the connection with the handling of any food intended for sale, or the sale of food, or any food transport vehicle. Similarly, under section 182(a) of the Fish Resources Management Act 1994, a fisheries officer may, for the purposes of the act, enter any land or premises subject to a licence to check whether the act or the conditions of the licence are being complied with. They can also enter any land or premises being used for the purpose of selling or storing fish for a commercial purpose to check whether the act is being complied with. In addition, scientific inspectors under the Animal Welfare Act also have the power under section 38(1)(d) to enter a place occupied by a scientific establishment at any time. As I said, these powers of entry, although always something we are cautious about, are not prohibited and we think are justified in the circumstances of this bill.

I will now turn to the contribution made by Hon Steve Martin. He asked what evidence there is to support the necessity of the animal welfare amendments. He asked about the evidence that community confidence needed to be maintained to the extent that it was not being maintained. I want to be clear that the government is not saying these inspection powers are necessary because farmers who employ intensive production methods are doing anything in particular wrong. It is not to be used as a slur against them, even though some people want to take it that way. There is plenty of evidence to indicate that consumers are becoming more concerned about animals used for commercial purposes. Some of that evidence has been cited during debate on the bill in this place. Demonstration of adherence to good animal welfare practices not only benefits the industry, but also assists to undermine the fearmongering and misinformation that some activists attempt to generate through their behaviour.

The member also queried why other points of the supply chain, such as vehicles, restaurants and shops, are not covered by the proposed aggravated trespass offence. I can advise that the government has turned its mind to the broader issue of activists disrupting legitimate business activity by, for example, invading a butcher's shop or illegitimately making bookings at a restaurant. I would like to clarify that the new offence proposed under this bill will not expand the circumstances in which a person commits the offence of trespass. Where a person has a lawful right to access land or enter property, the offence of trespass is not committed and the proposed aggravated circumstance will not apply. In many of these incidents when protests occurred in restaurants or similar places, the offence of trespass was not established because the protesters left when the owner asked them to do so. The implication here is that there was an implied licence to enter the premises, which is often, for want of a better word, a semi-public place like a restaurant, butcher's shop or shopping centre where people usually have the freedom to enter and egress at their own will. Therefore, there is the implied licence to enter so there is no trespass. What happens is they are asked to leave and, if they do so, the elements of trespass cannot be established because the implied licence has been revoked and the person responding to the revocation of that implied licence is required to leave.

There are three key reasons that the measures proposed in this bill will not apply to restaurants or other points along the supply chain. Firstly, farming properties are typically located in regional or rural areas and are therefore more isolated than restaurants and similar enterprises. The practical reality is that for people on a farm in a remote, regional or rural area, help is not as close as it may be for someone running a restaurant in Mt Lawley or Fremantle, where the police are just around the corner if they are called. Secondly, trespass onto these places does not involve the same biosecurity risks as trespass on farming properties. This is because trespass onto farming properties and other places that house live animals poses a risk of spreading pests and diseases between animals and properties, which can have a serious impact on animal welfare, production and market access. Animal products held at restaurants do not pose the same biosecurity risk. Thirdly, including these types of places in the proposal would heighten the risk of unintended impacts on vulnerable people, such as people experiencing homelessness, who may trespass on such properties for a range of reasons unrelated to the purpose of this proposal and are not intended to be captured by this bill.

The new offence is deliberately targeted to particular kinds of properties. However, the definition of animal source food production is broad enough to capture ancillary activities occurring on animal source food production places. Some examples of ancillary activities include cleaning or maintenance of an animal enclosure; providing veterinary care to animals; loading animals into transport vehicles; and dressing or hanging a carcass immediately following slaughter at an abattoir. Even though not all businesses will be captured by the new offence, operators subject to disruptive protests are not without protection. Depending on the circumstances, a business may have recourse to civil action for tortious interference, nuisance or trespass. Further, the protesters may, depending on the circumstances of the case, be criminally liable for existing offences such as trespass, threats, assault or fraud.

The member raised several issues relating to the penalties established under the new aggravated trespass offence, referring to the practice of crowdfunding to pay any fines imposed by the court. At the time, I made the member aware that such an issue exists for any circumstance in which a financial penalty is imposed. It is not just in these particular circumstances that crowdfunding for fines can potentially undermine the deterrence effect of a fine. The government is aware of the propensity for some activists to crowdsource funding to pay off their fines, but a community order—one of the other things we are putting in here—cannot be crowdsourced or have someone else complete it. Although we recognise the issue the member raised, I point to the fact that we have included other provisions that will make it difficult for people to avoid sanction and supervision, such as a community order. I will describe the effect of the penalty provisions under the Criminal Code amendments for the member now, because I think it will address some of the concerns the member raised during his contribution.

The minimum penalty under the bill has been included to prevent an exclusive reliance on fines as a sentencing option, in a situation in which crowdfunding has proven successful for activists. The objective of the supervision requirement of the community order is to allow for the offender to be regularly monitored in the community to ensure that the offender complies with any direction given by the court when imposing the order. The penalty is also designed to guide the offender's future conduct, because any subsequent offending would amount to a breach and give rise to several sentencing options. One of those options would be to cancel an existing community order and re-sentence the offender for the original offence, which would be likely to mean jail time. This will allow for an escalation of penalties for reoffending up to the maximum threshold under the bill, which I believe the member was advocating for during his contribution to the second reading debate.

The member also sought clarification of who will be able to be appointed as a designated inspector and what training will be required. I have covered off on this topic in my response already; however, I will add that the Department of Primary Industries and Regional Development recently released its *Regulatory compliance approach* document, which outlines the culture of strong, fair and accountable compliance regulation that DPIRD commits to as a regulator. It also recognises that regulatory compliance services are a professional craft, and that its inspectors are highly skilled, trained and developed. It outlines how DPIRD engages with the primary industries sector, as well as key industry and community stakeholders. I encourage the member to read this document; I am sure that it will help to ease his concerns about the inspectors who will be using the new powers under this bill. I believe I have a copy of it to table. If I do not have a copy in my file, I am sure that the advisers will provide one for me to table directly. I have a copy of the *Regulatory compliance approach* and I table that document.

[See paper [2044](#).]

Hon MATTHEW SWINBOURN: The member also highlighted several issues that he intends to raise during the committee stage of the bill, including the term “intensive production place”. I welcome the opportunity to work through those definitions with the member. However, I flag that the government has already taken on board the Nationals WA’s concerns about the definition of “intensive production place” under the consultation draft of the bill by removing the ability to prescribe a particular stocking density in regulations. The government listened to those concerns and addressed them in good faith by moving an amendment to the 2020 version of the bill in such terms. This change has been carried over to the amendments being considered by the house today. Just to understand that, the context is that the previous version of the bill contained a particular provision relating to—this is obviously going to reflect my poor agricultural knowledge—stocking densities. We responded to that by making an amendment, and that position has been carried over into this bill, so there are no particular stocking densities.

The member also raised the issue of vexatious reporting, which I would suggest is not an issue that is solely the domain of this particular regulatory regime. It is a problem that all regulators face. Unfortunately, there are people out there who are happily prepared to waste the valuable time of regulators and the people they raise those issues about. The bill does not address these issues. However, DPIRD has advised me that processes would capture any persons making frivolous or vexatious complaints. Again, this is something we can probably unpack a bit more, if the member wants, in the Committee of the Whole House.

I move to the contributions made by Hon Dr Brian Walker on behalf of the Legalise Cannabis WA Party. I thank him and his party for their support for the bill. As always, the member managed to turn this bill into something to do with cannabis, so congratulations. He is true to form and his success rate of doing that is 100 per cent. As the member knows, we have some work to do together on industrial hemp and things of that kind, but I thank the

member for his contribution. We note his concerns about the perceived lack of clarity associated with the minimum penalty for the new trespass offence. I will not rehash the policy objectives of this provision other than to say that the minimum penalty was drafted with vulnerable people in mind. It does not completely remove the court's discretion to take into account an individual's personal circumstances when sentencing.

Hon Dr Brad Pettitt, who is out on urgent parliamentary business, also indicated the Greens' support for this bill. I thank him for his contribution. Because he is not here to respond, I will not get into the sidetrack debate about whether the government has ever supported amendments put up by crossbenchers and others. Perhaps if he were not on urgent parliamentary business, he might have had a better understanding of what happens in the house, but he is obviously out on pressing urgent business, so we are not able to engage in that debate at this time.

The member's concerns about the targeting of animal activists and increasing transparency are noted. However, I think we can all agree that although there is a valuable place for protest in our society, there is no justification for unlawful trespass as part of such a protest, particularly on farm premises. The government of course recognises the importance of the right to engage in lawful protests and has deliberately crafted this bill to ensure that that right is not stifled, whilst including measures aimed at increasing transparency in intensive farming. Meaningful consultation was undertaken with stakeholders to try to mitigate any risks that the proposed offence might capture behaviour not directly related to the issue at hand. The result is a bill that draws an appropriate distinction between legitimate and illegitimate actions.

The member also raised the issue of biosecurity. The member pointed out that, so far, incidents of activism-related trespass in Western Australia have not caused any biosecurity issues. It is actually quite difficult to prove or disprove that point, because we never know what the activities were, if they were publicised and how well they were publicised, and it is difficult to draw a causative link between a biosecurity issue and the action itself. However, it is not difficult to conceive that people entering farm properties, particularly intensive farming properties, and not taking the appropriate biosecurity measures or adhering to site protocols could easily introduce a biosecurity hazard into that farm production, which could have a devastating effect on the animals that those activists are purporting to represent.

Hon Dr Brian Walker and I recently made a trip to Israel with the Select Committee into Cannabis and Hemp. During that trip, we visited a kibbutz and a medicinal cannabis growing facility. One thing that left an impression on me was the high level of biosecurity that we had to comply with for the growing of a plant. Every time we went into a separate grow room, we had to change our protective clothing, wash our hands and feet and do all those sorts of things. Although the member's point about whether there have been any biosecurity impacts by activists is a legitimate concern, it is not difficult to conceive that if that kind of activity were to increase, particularly if the activists visited multiple farms in a day or night, the prospect of a biosecurity issue arising is not out of the realms of possibility, and it is important that we try to stop that. For example, a trespasser may walk into a piggery without wearing appropriate protective clothing or cleaning their shoes, which could create a biosecurity risk for that piggery. That is an important reason to discourage that kind of behaviour. Given the serious impact the spread of disease can have on animal welfare, production and market access, the government has determined that this offence should take into account those risks.

Members would be aware that last year there was an increased risk of foot-and-mouth disease. I must always be careful saying that because I have often been afflicted by foot-in-mouth disease! I remember attending a briefing by the then Minister for Agriculture and Food on the impact it would have if it got into the Western Australian cattle community and the effects it might even have on human movements. Let us never downplay the seriousness of biosecurity. I am sure the new agriculture minister, Hon Jackie Jarvis, will endorse my comments wholeheartedly. She was on that trip with me as well, and she had to put the stupid things on her head also. Did I say that out loud?

Hon Jackie Jarvis: I'll take you to my next abattoir visit!

Hon MATTHEW SWINBOURN: Excellent!

Given the serious impact these diseases can have on animal welfare, the biosecurity considerations are both genuine and important.

I come now to Hon Dr Steve Thomas and his contribution.

Hon Dr Steve Thomas: You can simply apologise and move on.

Hon MATTHEW SWINBOURN: I think it was a Thursday when he made his contribution, so perhaps I should give him some leeway. However, with all due respect, it is difficult to characterise the contribution of Hon Dr Steve Thomas as anything other than a rant. The hyperbole dial was turned up to 11, with the member describing last Thursday as "a shameful day for this state".

Hon Dr Steve Thomas: I did my best to educate you. Don't blame me.

Hon MATTHEW SWINBOURN: The member educated me about some things, let me say that, but perhaps not what he thought. He cast slurs against many, including large parts of the Labor Party. I will make just a few clarifying points for the member.

Hon Dr Steve Thomas: You can try.

Hon MATTHEW SWINBOURN: This is important, member; please take it on board. People who care about the welfare of animals are not some fringe group in our society. They are part—a significant part—of the mainstream. People who consume and use animal products can and do care about the ethical and humane treatment of those animals. That interest is legitimate. This government is not, and has never been, against the farming community. On the contrary, this legislation is about protecting farmers from the actions of militant activists, and also seeks to legitimise activities of those engaged in intensive farming practices by putting in place a monitoring and compliance regime that will provide confidence to consumers that the animal products that arise from those practices are in accordance with legal and community standards. It is his political party that stands on the fringe on this matter. Perhaps a little self-reflection on this matter, and a few others, might lead to a return to a few more seats in this place or the other, but I am happy for the member to continue on the path he is on. The bulk of the less ranty comments were focused on the animal welfare amendments under part 2 of the bill.

Hon Dr Steve Thomas: You should sack whoever wrote that for you.

Hon MATTHEW SWINBOURN: I wrote that! I thought it was quite good at the time.

I have already detailed how the inspection regime sought to be introduced under this bill differs from the 2017 Animal Welfare Amendment Bill. However, I will highlight to the member that the places subject to inspection outlined in part 2 of the bill are a small proportion of the places protected by the new aggravated trespass offence. The important point to understand is that the trespassing offences are wide and the animal welfare inspection offences are narrow. Members should not conflate the two when discussing the proposed powers of entry of designated inspectors. I will make the following points in response to some of the more serious matters the member raised during his contribution, one of which was warrants.

The member covered in some detail the Standing Committee on Legislation's thirty-sixth report on the 2017 bill. The member advised that at the time of the inquiry the livestock compliance unit had never been denied a warrant to enter a place. Further, the member asked whether one had ever been denied since. I can advise that we do not have any current statistics on that. I assume this is to substantiate his contention that the current powers of entry under the Animal Welfare Act are adequate. A general inspector will apply for a warrant in response to a complaint of suspected animal cruelty when there is enough information to ground the warrant. In this respect, such compliance measures are deemed to be reactive and do not have a role in proactive compliance activities undertaken by the department. The requirement of reasonable suspicion to ground a warrant necessitates a general inspector to be in possession of information capable of justifying that suspicion. Usually, this information is provided by members of the public; however, most of the activities at abattoirs, knackeries and intensive production places occur within buildings. Therefore, the opportunity to form the requisite reasonable suspicion from outside the premises is often not available.

The independent panel recognised the need for the animal welfare regulation in this state to develop from the law enacted in 2002, which had the prohibition of cruelty as its primary objective, to a law that positively and proactively promotes animal welfare, while continuing to appropriately define and prohibit cruelty. The panel goes on to state that requiring an inspector to always obtain consent or a warrant before carrying out an inspection could, in the panel's view, impair the inspector's ability to ensure compliance with the act and regulations. To this end, the panel made several recommendations relating to the powers of inspectors, including for the purpose of monitoring compliance with directions and court orders. As I explained to the member when he gave his contribution, powers of entry such as this are not uncommon in WA or elsewhere in Australia.

I will talk now about police powers, a matter the member raised in his speech. The member asked questions about the powers of Western Australian police to enter places. I can advise that police have broad powers under the Criminal Investigation Act 2006, including the power to arrest and detain people for the purpose of keeping the peace, preventing crime and protecting property from criminal damage. Police may enter a private place only with the consent of the occupier under an implied licence granted by the occupier, under a warrant that authorises entry or under some other form of statutory authorisation. This bill does not confer designated inspectors with similar duties or powers to the police. For example, there is no power of detainment or arrest by designated inspectors.

Hon Dr Steve Thomas: You are muddying the waters with this.

Hon MATTHEW SWINBOURN: I am not.

The bill can more accurately be described as containing powers similar to those in the Food Act 2008, which permits authorised inspectors to enter restaurants, cafes and other hospitality venues to perform routine inspections without

warning or notice. Without being glib, it is always worth noting that animals, other than humans, have no power to make a complaint about the manner in which they are being treated.

Hon Wilson Tucker, who is out of the chamber on urgent parliamentary business, encouraged me to convince him to support the act, so I hope he is listening wherever he is to these compelling reasons to support the bill. I thank him for his interest in the development of the bill and I hope that my response to the debate so far has made it clear that each part of this proposal has been carefully considered in consultation with the public, livestock industries, the courts, WA police, the former Director of Public Prosecutions and many other stakeholders.

I can also advise the member that the government is very conscious of what is happening in other jurisdictions in relation to this issue and that this was taken into account during the development of the bill. I described at the top of my speech the two different approaches adopted in other Australian jurisdictions and how they relate to this proposal. Similarly, with respect to the Animal Welfare Act amendments, the government has had regard to the powers of entry that exist in other jurisdictions that already have monitoring programs, such as New South Wales and Tasmania, and also other regulatory regimes in WA. The government is therefore satisfied that the bill before the house today is appropriate for the WA context within which it is intended to operate.

I note the member also asked why these amendments needed to be progressed now and together. He was correct in his assertion that the practice of activism-related trespass had lessened over recent years. Notwithstanding this, the government believes that the policy intent of the bill remains valid as the tougher penalties and the greater capacity to monitor animal welfare proposed by the bill are directed at further deterring such unlawful activities in the future and will increase the options available to the courts in circumstances in which those activities might arise again. I have already reflected upon the severity of the personal and economic consequences that may flow from such offending.

As I have previously stated, the government believes these reforms must progress together. This bill responds to a specific issue. The review looked at the Animal Welfare Act and its entire administrative framework more broadly. Nevertheless, these two bodies of work, as I have mentioned, will complement each other.

The member suggested the government get involved in de-escalating the issue by doing community consultation with farmers and activists to see whether it could find common ground between them. Although such an approach is admirable, it is fundamentally misconceived in the circumstances that have given rise to the need to strengthen the provisions around farm trespass. The primary issue is that for such an approach to work, both sides would have to recognise the right of the other to exist. I think it is fair to characterise the views of some of the most well known activists in this space as simply not accepting the right of farmers to farm animals, or for people to eat and use animal products. In these circumstances, the idea we could bring farmers and activists together is misconceived.

Hon James Hayward made a contribution earlier today that I do not have a lot to add to or respond to. The concept that consumers have to just take what is delivered to them, without question or regard to the journey that that product took to get onto their plate, is one that I think most of us would just not accept. I think his suggestion that people just eat what is served up to them and trust that it has been put there in a humane and ethical manner is not one, in this day and age, that most people would agree with. People are concerned about things like food miles and the welfare of the animals they consume. I think it is critically important for our farming community to maintain the highest confidence amongst most people so that it can continue to provide the wonderful food that it provides to all of us.

I will just make a short comment about the government members who all made fantastic contributions: Hon Dan Caddy, Hon Samantha Rowe, Hon Darren West and Hon Shelley Payne. I thank them for their contributions and support during this debate.

In conclusion, I will sum up my comments with this: the government believes that the bill before the house today is the appropriate response to the specific issue of animal activism-related trespass onto agricultural properties. I recognise that the Liberal and National Parties take a different view. We can work through those issues during the committee stage. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chair of Committees (Hon Stephen Pratt) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

Clause 1: Short title —

Hon COLIN de GRUSSA: I thank the parliamentary secretary for his comprehensive reply to the second reading, as expected. It indeed answered many of the questions that we posed during the second reading debate, which leaves not so many to deal with during the committee stage—which is a good thing! I just want to start with some

commentary in the parliamentary secretary's second reading speech. On the third page of that speech, regarding the power of inspectors, he states —

These powers are inadequate to meet the community's expectations; namely, the appropriate authorities have, and exercise, the necessary powers to monitor for compliance with animal welfare standards in animal-source food production.

I am just wondering how that was assessed or quantified. How did we arrive at the fact that those powers were inadequate?

Hon MATTHEW SWINBOURN: I think perhaps the best way to illuminate this particular point is with a real-world situation that the Department of Primary Industries and Regional Development has dealt with. DPIRD has had situations in which it has sought to enter what we would call intensive production places. It does not have the right to enter those places. It has to seek consent. It has presented itself when it has concerns about what is going on and has been refused entry to those particular places. It did not have the requisite evidence to establish that a warrant could be issued. It had concerns, but not enough evidence to seek a warrant. The refusal at the gate essentially meant that it was not able to ensure that there was compliance with the Animal Welfare Act in that particular circumstance. That is an indication of the inadequacy of the current regime. When permission is needed to enter, there is always that opportunity.

Overwhelmingly, people are cooperative in their approach. I do not really like using this term, because I do not really think it is fair. When people do not have anything to hide, of course, they are happy to let people in and show them, generally speaking. It is not always the case that when people refuse, they are doing something wrong. Sometimes it is just not convenient for them. However, it does indicate an issue. That issue was further identified as an inadequacy in the independent panel's report. That also drives the area here.

Hon COLIN de GRUSSA: If I understood the parliamentary secretary correctly, he was talking about the department itself saying that the current inspection powers are inadequate, rather than —

Hon Matthew Swinbourn: I was giving you an example of where it has tried to use the existing regime to effect entry onto a property, but because it had no power to compel entry, it had been refused. There is an inadequacy there, because the concerns that it has and have been raised with it cannot be investigated to ensure compliance with the Animal Welfare Act.

Hon COLIN de GRUSSA: I guess where I was coming from with the original question —

Hon Matthew Swinbourn: Sorry for interrupting you.

Hon COLIN de GRUSSA: If I can continue with the original question, it was around the community expectations aspect of it. How was that itself quantified, rather than the department itself saying that it does not have adequate powers to enter when it needs to? Was there some kind of survey or other mechanism used to quantify that? Was part of the review of the Animal Welfare Act used to quantify that?

Hon MATTHEW SWINBOURN: The member asked how it was quantified, and I do not think I can give the member a metric for quantification. If I recall, and this is probably not a great example from the member's perspective, there was an online survey about native forest logging.

Hon Steve Martin interjected.

Hon MATTHEW SWINBOURN: It was excellent, yes! No such surveying was done. Obviously, there was the activity that gave rise to the animal trespass arrangements in the first place, and there was a lot of public debate going on at that particular time. I think even the member would recognise that there was some public sympathy for the trespassers, what they were trying to do and that it was expressed in that way.

Hon Steve Martin interjected.

Hon MATTHEW SWINBOURN: The member might not agree with the sentiment that was expressed, but I think as a matter of fact it has been expressed. I have said previously that the need for the enhanced inspection powers under the Animal Welfare Act was also highlighted by the footage obtained by the ABC's 7.30 program, which exposed the mistreatment of horses in eastern states knackeries. The ABC reporting relied on footage captured by hidden cameras, and it appears likely that the installation of cameras was facilitated by the commission of a trespass. I am not so much concerned about the commission of the trespass but of the indication of concern about what was happening in those particular circumstances amongst community members. I do not want to misrepresent what happened pre—the development of this bill and post—the development of the bill. Just to be clear, post—development of the bill, a consultation draft was provided. Stakeholder feedback was given and we had feedback from the community about the imperative for improving the arrangements with regard to animal inspections. As I said, I cannot give the member a quantified poll whereby 1 000 were polled and X number of people said X or Y. If I said that to the member, he would probably tell me that it was not good. Certainly Hon Steve Martin, who is staring me down from the back there, would probably say that as well. It is a bit of a fuzzy answer, but that is the answer.

Hon COLIN de GRUSSA: It is nearly dinner time; he might be hungry.

I do not have any more on that point, but I will ask about what was answered in consideration of the bill in the other place, and the parliamentary secretary just outlined a little about the consultation process that occurred with this bill. The parliamentary secretary mentioned that since the original 2020 iteration of this very similar legislation, references to stocking densities was removed, which is a good thing. It would have made it unnecessarily complex to implement, I would have thought. What other consultation has occurred post-2020, and has any additional consultation occurred since this bill was reintroduced in, I think, August 2022?

Hon Matthew Swinbourn: I could not tell you off the top of my head.

Hon COLIN de GRUSSA: It would have been late last year when it came in on the notice paper from the other place.

Hon Matthew Swinbourn: I think it was a 2021 bill, so that would suggest that it was introduced in 2021.

Hon COLIN de GRUSSA: It was introduced in 2021 and fell off the notice paper.

Hon Matthew Swinbourn: In the other place?

Hon COLIN de GRUSSA: Yes.

Hon Matthew Swinbourn: I do not pay a lot of attention to what happens down there, but we will try to get you some answers to what you have raised here.

Hon COLIN de GRUSSA: Okay.

Hon MATTHEW SWINBOURN: Thank you, deputy chair. You are doing a sterling job up there for your first time in committee. We should almost give him a round of applause! No, that would be improper.

I am not quite sure about the reference to what was said in the other place because I do not have the *Hansard*. In any event, no further formal consultation was taken after March 2020 when the other bill was introduced. This bill is not identical to the bill that was first introduced in 2020, but it is identical to the bill that was passed at that time by the Legislative Assembly and then brought to the Council, and then it did not progress once Parliament was prorogued. Other than reference to the date, the bill is identical to what it was. We did not start a new consultation process; the bill has just been introduced. I think it was reasonably comprehensive. There was a draft. I know my friend Hon Nick Goiran is sitting in the background and we had many talks about consultation—I might be taking a risk here roping him into the conversation—but a draft version of the bill was released that allowed for comments from people who saw what was coming. As I said, the amendment was made, but I do not want to overstate that anything further happened. As the member knows, people in the community have been calling for the progression of the trespassing parts. People from the community have also been calling for the progression of the animal welfare part. Perhaps the two very rarely meet in between, but there has obviously been that call. The bill is only 15 clauses long.

Hon STEVE MARTIN: I thank the parliamentary secretary for his excellent explanations in his second reading reply.

Hon Tjorn Sibma: Glowing praise!

Hon Matthew Swinbourn: I will take a little credit, but the overall credit goes to the advisers.

Hon STEVE MARTIN: Regarding the basic premise of the bill and putting together the two elements of trespass and animal welfare, there has been a lot of discussion about that, and I do not intend to rehash the second reading debate. Is the parliamentary secretary confident that the current, widely known to the public, regime of inspection by Department of Primary Industries and Regional Development inspectors—which we are about to replace with a more effective regime that I assume will also be widely known by the general public—will have an impact in raising the confidence of consumers? Is there any indication that will have any impact on allaying the concerns of people who are doing the trespassing?

Hon MATTHEW SWINBOURN: I think the member's question had a couple of prongs. I will go to the last point he made about whether this will have an impact on allaying the activists' particular concerns. I think it would be fair to say that nothing we do will allay the concerns of those on the very extreme who take an ideological position. They fundamentally oppose animals as part of our food chain, and they are what they are. Their issue is not the way animals are treated; it is that we have animals as part of our diet and that we rely on them for animal products and things of that kind.

Progress reported and leave granted to sit again, pursuant to standing orders.