

ANIMAL ACTIVISM — TRESPASS

134. Hon RICK MAZZA to the Leader of the House representing the Attorney General:

As a result of recent incursions and break-ins committed by vegan activists on the premises of primary producers, a number of farmers expressed their concerns relating to their rights in defence when presented with the situation of trespass.

- (1) What options are available to primary producers when confronted on their properties by these trespassers?
- (2) In the event that activists use aerial drones to infiltrate or surveil properties or landholdings, is there an entitlement for the owner or his agent to destroy or disable the drone when it is flying over their property?
- (3) Is the Attorney General considering any new legislation, or amendments to existing legislation, that will protect the rights of property owners, primary producers and managers from trespass by animal activists?
- (4) If no to (4), why not?

Hon SUE ELLERY replied:

I thank the honourable member for some notice of the question. I think that last part of the question should be —

- (4) If no to (3), why not?

So I will take that as being what the member means.

- (1) Incidents of trespass should be reported to WA police. Further, an owner or occupier of land may take civil action against the perpetrator for trespass or nuisance. It is, however, recommended that independent legal advice be sought in respect of any civil action before embarking on this course of action. It would also be open to an occupier or owner of land to apply for a misconduct restraining order against a trespasser under the provisions of the Restraining Orders Act 1997.
- (2) No, in the same way that an owner or agent cannot shoot down an aeroplane flying over his or her property. Any concerns surrounding drone activity should be reported to police and/or the Civil Aviation Safety Authority. By way of general information, a person who damaged or destroyed a drone could be civilly liable for trespass to goods, or criminally liable for an offence of criminal damage under the Criminal Code. Acts with intent to prejudice the safe use of an aircraft or unlawful interference with aircraft are also addressed in the Criminal Code. Further, the Civil Aviation Safety Act 1988 and the Civil Aviation Safety Regulations 1998 of the commonwealth also govern the use of drones. The commonwealth act and the regulations contain a number of offences relating to the use of drones. There is also state legislation that relates to aircraft that may cover drones. The Surveillance Devices Act 1998, for example, restricts the use of optical surveillance devices to record private activities. The Criminal Code contains provisions relating to trespass; and to using an object—for example, a drone—to cause fear or alarm to a driver of a conveyance.
- (3)–(4) The Criminal Code adequately deals with the issue of trespass. I reiterate that any allegations of trespass should be reported to police. In such instances, the police can consider whether to charge the alleged trespassers with trespass contrary to section 70A of the Criminal Code, or other offences. The Attorney General is contemplating whether any amendments need to be made to the Restraining Orders Act 1997.