



Your reference: Legal and Constitutional Affairs
Date: 22 July 2019

Ms Sophie Dunstone
Committee Secretary
Senate Legal and Constitutional Affairs
Legislation Committee
Parliament House
CANBERRA ACT

LegCon.Sen@aph.gov.au

Dear Ms Dunstone,

Criminal Code Amendment (Agricultural Protection) Bill 2019

I refer to your email 10 July 2019.

The Legal Services Commission is the largest criminal defence organisation in South Australia. We provide representation services via grants of legal aid to those persons who qualify for assistance under our means and merit guidelines. We represent defendants in both State and Commonwealth criminal matters.

Regarding the *Criminal Code Amendment (Agricultural Protection) Bill*, I have now had an opportunity to consult with my senior legal staff. The Commission believes that there are already significant and appropriate sanctions against this type of behaviour both at common law and under statute.

Division 474, Subdivision C of the Commonwealth *Criminal Code Act 1995* deals extensively with using a telecommunication network to commit offences, including offences against State laws (s.474.14). Section 474.15 makes it an offence to use a carriage service to make a threat with a maximum penalty of 10 years imprisonment. Section 474.17, makes it an offence to use a carriage service to menace, harass, or cause offence with a maximum penalty of 3 years imprisonment.

Laws concerning conspiracy and attempt to commit trespass could also be applied in these situations. Existing State laws regulating trespass to property are a better way to address the activities identified by the amendment. Under the South Australian *Criminal Law Consolidation Act 1935* serious criminal trespass to non-residential buildings carries a maximum penalty of 10 years imprisonment and aggravated serious criminal trespass carries a maximum penalty of 20 years imprisonment (s.169).

For the reasons set out above, the Commission considers that the new offences are unnecessary.

Thank you for the opportunity to comment on these proposals.

Yours sincerely,

Gabrielle Z Canny
Director