

De-escalation suggestions

The QPS appreciates that this type of activity can be perceived as highly intrusive and an invasion of privacy, resulting in feelings of vulnerability, fear and also anger. This can result in an emotive, unpredictable and potentially violent situation if landowners/occupiers/managers confront persons who are unlawfully on their property.

The following are suggested techniques/strategies to help those involved to reduce their anxiety and also collect evidence at the same time.

DO

- Continually ask questions. Repeat the below questions if they don't respond. (Be prepared that they will just use slogans)
- Try and identify the organiser/leader of the group by asking who is in charge
- Ask them their names – tell them yours and tell them that you are the lawful occupier. This shows accountability and willingness to be cooperative.
- Ask why are they there/here
- Ask who gave them permission
- Tell them that they have no permission to be on the property (use the direction provided previously)
- Ask them to leave and move to public property
- Acknowledge that they have a right to protest - offer for them to remain at the farm gate
- Offer to discuss their reasons for being there once off the property
- Tell them that this is a place of lawful business and a home
- Personalise the experience – that you and your family/workers are upset/fearful due to their presence
- Advise them that they are compromising the biosecurity and health of the animals on the property.
- Call the police and tell the activists that you have

Record their actions – use a phone or another video-recording advice.

Focus on collecting evidence, i.e. note registrations of vehicles used, who seems to be in charge, description of persons, who said what and what did they say/do.

DON'T

- Threaten any harm
- Produce, use or threaten to use weapons
- Answer any questions, particularly personal ones (other than providing your name).
- Argue about their ideology; this is not about changing their mind.
- Discuss your farming/business practices
- Disclose where any animals and/or equipment is stored/housed.

Drone Operating Rules

- You must not fly your drone higher than 120 metres (400 ft) above the ground.
- You must not fly your drone over or near an area affecting public safety or where emergency operations are underway (without prior approval). This could include situations such as a car crash, police operations, a fire and associated firefighting efforts, and search and rescue operations.
- You must not fly your drone within 30 metres of people, unless the other person is part of controlling or navigating the drone.
- You must fly only one drone at a time.
- If your drone weighs more than 100 grams:
 - You must keep your drone at least 5.5km away from controlled aerodromes (usually those with a control tower)
 - You may fly within 5.5km of a non-controlled aerodrome or helicopter landing site (HLS) only if manned aircraft are not operating to or from the aerodrome. If you become aware of manned aircraft operating to or from the aerodrome/ HLS, you must manoeuvre away from the aircraft and land as soon as safely possible. This includes:
 - not operating your drone within the airfield boundary (*without approval)
 - not operating your drone in the approach and departure paths of the aerodrome (*without approval)
- You must only fly during the day and keep your drone within visual line-of sight.
 - This means being able to orientate, navigate and see the aircraft with your own eyes at all times (rather than through a device; for example, through goggles or on a video screen).
- You must not fly over or above people. This could include festivals, sporting ovals, populated beaches, parks, busy roads and footpaths.
- You must not operate your drone in a way that creates a hazard to another aircraft, person, or property
- You must not operate your drone in prohibited or restricted areas.

* Approval is generally linked to an approved model flying association and its members

Please respect personal privacy. Don't record or photograph people without their consent—this may breach state laws.

Important: tips for flying within the law

- There might be local council and/or national park laws prohibiting drone flights in certain areas.
- Research the area you plan to fly and contact your council or national park if you're unsure.
- Don't operate near emergency services aircraft – if you fly, they can't.

Investigation of matters by police

Receiving a complaint regarding an alleged offence

Essentially by being called to a location, police are responding to a report of an offence (i.e. complaint is made).

The successful investigation of offences and the management of incidents is dependent on timely and accurate information being passed to investigating officers. Police officers who receive complaints or reports of offences and incidents are responsible for the accurate collection, recording and dissemination of this information. First response officers tasked to attend an occurrence are to promptly investigate the facts and circumstances in order to:

- (i) identify if an offence has been committed;
- (ii) identify potential witnesses and offenders;
- (iii) obtain all relevant information; and
- (iv) safeguard evidence.

Once an offence is identified, police then must consider two factors when deciding to prosecute – (1) Sufficiency of Evidence and (2) Public Interest. There are a number of aspects of both areas that police must be satisfied with.

So when they ask a landowner/occupier, 'Do they wish to make a complaint'? Police are ensuring that they are agreeable to providing the necessary evidence to commence a prosecution. This may include later providing a written statement and attendance in court as a witness. If they have recorded the actions of the activists, then this can be tendered as evidence.

Attachment – Producer Advice, farm trespass

In the event of potential activity by issue-motivated groups, it is recommended that all primary producers review their current security arrangements. Should any unauthorised persons attend any property, the lawful occupier should immediately contact police (**000** if considered an emergency or **Policelink 131 444**).

To assist, attached is a precis of Queensland legislation which primarily relates to prescribed circumstances for police to take action. This includes provisions of the Criminal Code which encompasses the rights of landowners (those in 'peaceable possession').

Importantly, police officers can be requested to assist to remove person(s) from any land, structure, vessel or place under Criminal Code section 277: 'Defence of premises against trespassers – removal of disorderly persons'. Persons attempting to enter, who, in the opinion of the person in peaceable possession (or authorised delegate), are not abiding by the conditions of entry may be advised that they have been refused entry and are not to enter (by way of a direction given by the Owner/Manager or delegate).

It is therefore recommended that a direction be given by the owner/manager of the land to those trespassing.

The proposed wording for such direction should substantially comply with the wording listed below: -

I am (name and position in company) of the (company) the person or agent of the person in peaceful possession of the (land/place etc.), to all those on / within(name of street/road/place), you are unlawfully on (name/place/land etc.). I revoke all lawful rights to be here, and I now require you to immediately move yourselves and all of your personal property off (name/road/place).

Trespass – Queensland Legislation

The Queensland Police Service has a policy for when to take action for trespass. Trespass on land is actionable as a civil wrong. However, trespass may, in some circumstances, also amount to a criminal offence.

The decision by police to take action for this type of criminal offence should therefore only be made when:

- (1) one or more of the following requirements is present:
 - (a) where specific legislation exists;
 - (b) the police officer has a reasonable suspicion the person trespassing is committing, or has committed or is intending to commit an offence;
 - (c) the person trespassing is committing a breach of the peace;
 - (d) an issue of safety arises; or
 - (e) the person in peaceful possession of the land/place is not able to readily remove the person; and
- (2) That there is sufficient evidence and it is in the public interest to commence proceedings.

The predominant offence for trespass that Queensland Police use in enforcement is the **Summary Offences Act 2005: Section 13 - Unlawfully entering farming land etc.**

(1) A person must not unlawfully enter, or remain on, land used for—

- (a) agricultural or horticultural purposes; or
- (b) grazing; or
- (c) animal husbandry.

Maximum penalty—10 penalty units or 6 months imprisonment.

(2) A person must not unlawfully open, and leave open, any gate, fence or other barrier that encloses all or part of enclosed land used for agricultural or horticultural purposes or for grazing or animal husbandry.

Maximum penalty—10 penalty units or 6 months imprisonment.

(3) This section does not prevent an authorised industrial officer entering a workplace in accordance with the terms of the person's appointment as an authorised industrial officer. *with the*

Put simply, Police may arrest an offender without warrant if they have reasonable suspicion that an offence has occurred, which includes that the land is used for the purpose described, that the person fails to provide or gives an unreasonable explanation for being on the land (Police must comply with the safeguards for declared offences under Summary Offences Act 2005).

It is also important to note that the element of 'unlawfully' must be satisfied. This often relates to whether the person has permission from the owner to be there and the owner makes a complaint to police.

Insofar as the rights of the land owner, put simply they have the same rights in relation to trespassers and disorderly persons as any other land owner or person managing property.

This is primarily vested in **Section 277 of the Criminal Code - Defence of premises against trespassers — removal of disorderly persons:**

(1) It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person lawfully assisting him or her or acting by his or her authority, to use such force as is reasonably necessary in order to prevent any person from wrongfully entering upon such land, structure, vessel, or place, or in order to remove therefrom a person who wrongfully remains therein, provided that he or she does not do grievous bodily harm to such person.

(2) It is lawful for a person who is in peaceable possession of any land, structure, vessel, or place, or who is entitled to the control or management of any land, structure, vessel, or place, and for any person acting by his or her authority, to use the force that is reasonably necessary in order to remove therefrom any person who conducts himself or herself in a disorderly manner therein, provided that he or she does not do the person grievous bodily harm.

(3) In this section— Place includes any part of an enclosure or structure, whether separated from the rest of the enclosure or structure by a partition, fence, rope, or any other means, or not.