



# ***AGRICULTURE, RESOURCES AND ENVIRONMENT COMMITTEE***

## **Members present:**

Mr IP Rickuss MP (Chair)  
Mr JN Costigan MP  
Mr SV Cox MP  
Mr S Knuth MP  
Ms MA Maddern MP  
Ms J Trad MP  
Mr MJ Trout MP

## **Staff present:**

Mr R Hansen (Research Director)  
Ms S McCallan (Principal Research Officer)  
Mrs M Johns (Principal Research Officer)

## **PUBLIC BRIEFING—CRIMINAL CODE AND ANOTHER ACT (STOCK) AMENDMENT BILL 2014**

### **TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 19 MARCH 2014**

**Brisbane**

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Committee met at 11.58 am

**LANG, Ms Jenny, Assistant Director-General, Department of Justice and Attorney-General**

**REEVES, Ms Andrea, Senior Sergeant, Public Safety Business Agency, Queensland Police Service**

**RYAN, Ms Alison, Principal Legal Officer, Department of Justice and Attorney-General**

**SHEPHARD, Ms Louise, Director, Department of Justice and Attorney-General**

**STEPHENS, Mr Trevor, Detective Senior Sergeant, Southern Area Coordinator, Stock and Rural Crime Investigation Squad, Queensland Police Service**

**CHAIR:** We will now commence the public briefing on the Criminal Code and Another Act (Stock) Amendment Bill 2014. For the public record, this is being broadcast live, so please state your name before you speak. Jenny, would you like to make an opening statement?

**Ms Lang:** Thank you for the opportunity to provide an overview on the Criminal Code and Another Act (Stock) Amendment Bill 2014. You have asked that this briefing address five points: the Stock Working Group and its recommendations; the working group's recommendations that are not reflected in the provisions of the bill; the key provisions of the bill; reported stock theft and related offences in Queensland—the number of head of cattle involved and their approximate value; and recent prosecutions for stock theft and related offences. My overview will cover the working group and the bill, and I will ask my colleagues from QPS, the Queensland Police Service, to deal with the other two matters in related to reported stock theft and recent prosecutions.

There are five sets of amendments proposed by the bill: a new stock disposal order regime, which is inserted into the Criminal Code; a new forced muster order regime, which is inserted into the Police Powers and Responsibilities Act; amendments to police powers in relation to the investigation of stock offences; a change of name for the Animal Valuers Tribunal; and amendments to the monetary penalties for stock offences in the Criminal Code. As you would be aware from the explanatory notes to the bill, the bill largely gives effect to the findings made by the Stock Working Group, which was established by former Attorney-General Lucas in late 2011 and it reported in early 2012. That Stock Working Group was chaired by former Court of Appeal Justice John Jerrard QC. Other members of that group included the Director of Public Prosecutions; officers from the Queensland Police Service Stock and Rural Crime Investigation Squad; the Queensland Law Society; the RSPCA; and Biosecurity Queensland within the Department of Agriculture, Fisheries and Forestry.

**CHAIR:** Wasn't there some AgForce people on that, too?

**Ms Lang:** There was, I think, a representative from AgForce on that working group as well. Certainly AgForce has been consulted throughout the process of developing the bill.

The working group was required to ensure that the penalties in the code were adequate in relation to this area; review the merits of retaining or abolishing the Animal Valuers Tribunal and, if the Animal Valuers Tribunal was recommended to be retained, make recommendations about what it should look like in the future or, if it was to be abolished, what should happen in relation to that; consider the issues relating to the holding of stock as legal exhibits pending the completion of criminal proceedings; examine the issues of stock producers recovering strayed or stolen stock from property where access is refused by a landowner; and also any other significant matters relating to ownership, identification and retrieval of stock that the working group considered a priority.

In terms of the key provisions of the bill, dealing first with the stock disposal regime, this is contained in clauses 13 and 14 of the bill and amends the Criminal Code. That regime was recommended by the Stock Working Group. It found that the existing Criminal Code provisions allowing for the return of an animal seized in connection with an offence were problematic and not workable. Those provisions currently enable the return to the owner pending the trial or the return to the owner and slaughter of an animal pending trial. But the main issue is that agreement of the defendant and complainant is required, and this is not often forthcoming. So this means that the Police Service have the cost of agistment of stock, potentially for many years, whilst awaiting the outcome of the trial. The value of the animals can deteriorate over that time and, although retained by police for many years, the animals are not ever actually required to be produced at trial for the judge, jury or magistrate, or in fact rarely required. The existing provisions also require that where an animal is returned by agreement for slaughter, the ears and hide must be kept for production at trial.

The Stock Working Group recommendations were made to address these issues and are implemented by the bill. The key provisions are, firstly, that an animal that is stock and that is seized in connection with an offence must be comprehensively visually recorded by police. These visual recordings are then evidence the prosecution may rely on at trial to prove the animal's existence, markings and conditions. The animal or its ears and hide no longer need to be produced. Secondly, the animal may be returned to the person claiming ownership where all parties agree. If they do not agree about the return of the animal or if the owner or defendant cannot be located, then the police or the Office of the Director of Public Prosecutions will have the option of applying to the court for a stock disposal order. That application might be made to the Magistrates Court or a judge of the District Court depending on where the offence is being dealt with. Notice of the application is given to all interested parties and, if the order is made by the court, it is authority for the Commissioner of Police to sell the animal at auction. The proceeds of sale minus the cost of sale are paid into court and they remain there until the proceedings for the criminal charges are at an end. The court in its criminal jurisdiction may then make orders under the Court Funds Act 1973 to pay those funds out, as this is effectively the point at which ownership has been determined.

In relation to the forced muster regime, this is contained in clauses 20, 23 and 24 of the bill and amends the Police Powers and Responsibilities Act. The working group identified the recovery of stray stock as a problem. Where livestock have strayed on to another property, the owner of the stock cannot enter that property to muster and remove the livestock without the approval of the owner of the property. There are currently no legislative provisions that allow either the stock owner or the police to enter and retrieve the stock without the landowner's approval. If the landowner refuses access, police are then involved to try to mediate between the parties, but this is often not successful. The working group recommendations in this area are largely implemented by the bill. The bill allows for the stock owner to apply for a magistrate for a forced muster order. The magistrate must be satisfied that either the landowner has unreasonably refused the stock claimant entry on to the land or that it is impractical in the circumstances to seek permission to enter the land. There is an opportunity for the QPS, the Queensland Police Service, to be heard on that application.

If the forced muster order is made, it permits the stock owner to enter and muster with such equipment as is necessary for up to six months from the date of the order, and it permits a police officer to enter, supervise and direct the muster. The landowner is required to make available facilities such as stockyards, dips and dams which are reasonably needed to be used in the management of the stock, and compensation may be ordered for any damage arising from the muster. If the order is made, the court may also make an order about costs in relation to the application at that point or they could decide to reserve the question of costs until the results of that forced muster are known, so until the force muster has been completed. This enables the court to consider whether the order was inappropriately sought by the stock owner and is reflective of the working group's recommendations.

In relation to the changes to police powers for the investigation of stock offences, an amendment is proposed to section 155 of the Police Powers and Responsibilities Act to increase the duration of search warrants relating to stock from seven days to 21 days to cater for the size of large rural properties. This also was a recommendation of the Stock Working Group. An amendment is also proposed to section 157 of the Police Powers and Responsibilities Act to enable the police to be able to require the use of stock management facilities such as stockyards, dips and troughs in executing a stock warrant. Again, this was a recommendation of the Stock Working Group.

In relation to the Animal Valuers Tribunal, under the Criminal Code the chief executive can appoint a person as an animal valuer and there is a regulation-making power as to the constitution and operation of tribunals of animal valuers, and that is reflected in the Criminal Code (Animal Valuers) Regulation 1999. A tribunal consists of two animal valuers and is convened if the prosecutor for a charge involving stock decides that a tribunal is needed to either inspect the animal or to value the animal. The role of the valuers is not a tribunal in the normal sense. They do not make a decision or hear and determine disputes between the parties. Their role is really to provide independent expert advice about the value of the animal which then becomes relevant in relation to the penalties and the fine potentially imposed. The working group recommended that the tribunal continue but, given that its name is somewhat misleading as to its function, that it be renamed the Animal Valuers Panel to more accurately reflect its role.

In relation to the penalties for stock offences, the Criminal Code contains a number of offences specifically relevant to stock—in particular, sections 444A to 448A, as well as stealing in section 398 and injuring animals in section 468. Those offences have a specific punishment regime which has a maximum term of imprisonment, a maximum fine and also a minimum fine. Where a fine is imposed, the code requires the fine to be a minimum of either the value of the stock where it has been valued or the monetary amount stated in the section, whichever is the higher.

Stock offences are indictable offences, which generally means they are dealt with in the District Court, but they are capable of being dealt with in the Magistrates Court by way of summary disposition. Whilst the general rule is that indictable offences will be dealt with in the District Court, for these matters the Criminal Code provides that they must be dealt with by a magistrate where one or both of the following apply: the defendant pleads guilty or the value of the animal is less than the prescribed value, which is \$30,000. Where the magistrate finally determines a charge, there is a cap on the penalty that can be imposed, which is three years imprisonment or a fine of \$11,000. For the District Court, the maximum penalties are as set out in the Criminal Code offence sections. A matter which would ordinarily be dealt with by a magistrate will proceed to finalisation in the District Court if the magistrate considers they cannot adequately punish the offender because of the restrictions on the fine that they can impose or the sentence or where the magistrate is satisfied on the application of the defendant that there are exceptional circumstances justifying it being dealt with in the District Court or where the magistrate considers that they cannot adequately punish the offender.

In 2013 the Department of Justice and Attorney-General reviewed the penalties for stock offences in the Criminal Code, and the volume of the cases and their outcomes for the period between 2007 and 2012 were considered. For that five-year period there was actually a low number of stock offenders when compared with other property offenders. There were 85 in total in that period. The most common offences were stealing stock, which involved 28 offenders, and killing stock with intention to steal, which involved 29 offenders. Between 2007 and 2012 there were no cases for two of the offences, which were using registered brands with criminal intention and having in possession stock with a defaced brand, which is contained in section 448A.

The maximum fines and maximum imprisonment levels for stock offences were significantly increased in 2002. When we did our review we found that the maximum fines were on par with what was happening in other jurisdictions. However, we did note that the minimum fine amounts for most of the offences had not been increased for some time. The minimum fine for injuring animals was inserted in 1989 and has not been increased since that time. The minimum fine for stealing stock was increased in 1997. For the remainder of the stock offences, the minimum fines were inserted in 1986, so they have not been increased since that time.

The proposed increases in the bill for the minimum fines are: for using registered brands with criminal intention, unlawfully using stock, suspicion of stealing stock, illegal branding, defacing brands and having in possession stock with defaced brand, the minimum fines are going from \$200 to \$440; for killing an animal with intent to steal, the minimum fines are going from \$200 to \$1,100 to match stealing, which is the other most prevalent offence and which involves similar outcomes for the stock animal; for injuring an animal, the minimum fines are going from \$440 to \$880 for an animal other than stock; and, for an animal which is stock, the minimum fines are going from \$440 to \$1,100. The higher increase is proposed for injuring animals which are stock as opposed to animals which are not stock for two reasons. Section 468 currently differentiates stock from other animals and currently provides a higher imprisonment and higher maximum fine for injuring stock, and having a higher minimum fine is consistent with that approach. The killing or injuring of stock is economically commensurate with stealing stock and killing with intention to steal, both of which have a minimum fine of \$1,100.

The other matter to note in relation to the bill is that it converts from dollar amounts to penalty units the fines for the stock offences in the Criminal Code and that is for consistency with the rest of the Criminal Code, which deals in penalty units, not particular fine amounts. This is resulted in a slight increase in the overall maximum from \$50,000 and \$50,050.

In terms of your query about the working group recommendations that are not included in the bill, I should say that we have been greatly assisted by the provisions that Mr Jerrard drafted and put before the working group and which were an attachment to the report. The drafting undertaken by the Office of the Queensland Parliamentary Counsel to produce the bill has, as you would naturally expect, resulted in provisions which do not look identical to those that were attached to the draft report or that were drafted for the report.

With respect to the stock disposal order regime and the Criminal Code and the additional police powers in the Police Powers and Responsibilities Act, the department considers that there were no departures in policy from those recommended by the working group.

With regard to the forced muster regime in the Police Powers and Responsibilities Act, the government has implemented the working group's recommendations but there are four departures from policy, and those arose during the drafting of those provisions. The first one was about who was recommended to be the applicant for a forced muster order. The working group's recommendation was that it be the police who would apply for the forced muster order, but the bill provides that the stock owner is the applicant. The reasons for that are that the facts on which the application are based are primarily within the stock owner's knowledge, not the knowledge of police, and the police are merely informed of that by the stock owner. Police are still involved in the forced muster regime in two important ways. Even though they are not a party they are still given a role in assisting the court because they can give evidence orally or by affidavit about their knowledge of the facts relevant to the application, and the affidavit has to be served in advance of the hearing on the stock owner and the landowner. The forced muster order is also authority for the stock owner and a police officer or officers to enter the property. The role of police officers is to direct and supervise the muster and generally keep the peace. Vexatious applications by stock owners will be deterred by the provision in the bill enabling costs to be specifically awarded against the stock owner applicant where the application is inappropriately made. To that end, the court can reserve its costs until the results of the muster are known, as I mentioned earlier.

In relation to the recommendation for the court order regime for the removal of stock that has strayed onto an applicant's land, which is the reverse of the forced muster order—that is, the stock strayed onto a person's land and the landowner seeks a court order to have the animals removed—this was not included as when we investigated that matter further it appeared that local laws on animal impoundment provide for inspectors to enter private property to remove stray animals and impound them. Sixty out of 77 local councils have enacted those sorts of laws. To enact similar laws here would be a duplication. There has been no representation made to the Queensland Police Service that this is a particular issue that requires a new legislative scheme.

The recommended time for expiry of a forced muster order is also a slight departure. The bill provides for six months from the date of order rather than 21 days. This change has been made to take into account droughts and floods. The Queensland Police Service Stock and Rural Crime Investigation Squad advises that cattle cannot be mustered in a drought, nor can they be mustered in a flood or even if there has been an excess of rain. So it is a practical issue in terms of implementing that.

Finally, the recommended power for police to require by notice that a stock owner who is entering with horses, dogs or equipment to muster stray stock under a forced muster order to have animal or equipment treated for disease or pest: this has not been included as it is not required as police have similar powers already under the Stock Act 1915, which would apply in these circumstances. It was not considered workable to give a written direction at a muster.

Also, in terms of departure from the working group's recommendations, the penalty increases were not recommended by the working group. But, as indicated, subsequent to the working group's report the Attorney-General directed the department to review those offences and the changes were recommended as a result of that review. That was the end of my opening. If the committee is so minded, I would hand over to our police colleagues to address those other two issues.

**CHAIR:** Certainly.

**Mr Stephens:** I am the southern area coordinator for stock and rural crime investigation squads in Queensland. My equivalent does north of Rockhampton and I look after south of Rockhampton, but under the new role we look at it as a command base where there are no visible boundaries. So my role in the squads is as southern area coordinator.

**CHAIR:** Are there any opening comments you would like to make?

**Mr Stephens:** Just that I was present during the whole period right up with the working group all the way through.

**CHAIR:** You were with John Jerrard?

**Mr Stephens:** Yes, in the original group. I think the result of that group and the findings that have been put together is a true reflection of that group and what was discussed. There might be some slight modifications due to wording or whatever, but I believe the end document is a true representation of what was discussed with all parties in that working group. From being there from day one to the end, I do believe that. Is there anything specific—

**CHAIR:** We will ask some questions in a minute. Does anyone else want to make a comment before we go to questions? Jenny, thank you very much for your comprehensive overview. I have a couple of questions. I was surprised that you have only gone for a 21-day muster period. I am even a little surprised at the six months. If you went back to 2011 and the police issued that order in December, you would have been flat out getting onto a property in six months.

**Mr Stephens:** Exactly.

**CHAIR:** What happens if we have a really wet season in the Gulf and those six months elapse, can they reapply for another extension or should we be looking at making recommendations for a 12-month period?

**Ms Lang:** There is nothing to prevent somebody from reapplying for an additional order.

**CHAIR:** I am sure Trevor would be aware of this. Some of your stock officers would have very good horses who I am sure would have had hendra virus vaccinations. What would you do if you went onto a property which is using stock horses that are not vaccinated for the hendra virus? What would you do in that situation?

**Mr Stephens:** I do not think there are any legislative powers where we can force them to inoculate their horses. All stock squad horses in Queensland are vaccinated and are kept current to cover our side of it. I do not think we have a legislative power as it stands now to force people—

**CHAIR:** That is what I am saying. I think the committee recommended that they have the appropriate vaccinations and you mentioned the 1915 act. If property A and property B do not have their horses vaccinated when you go to muster stock for property A or off property B, you have a chance of infection with your horses or yourselves.

**Ms Ryan:** When we were looking at that recommendation we did look at section 29 of the Stock Act, which has a lot of powers of inspectors which I understand includes the stock squad officers. There are quite a lot of powers about being able to direct people with animals to go elsewhere. I think at that point we had discussed how if someone tried to enter a property under the order with a diseased animal you could use those powers to turn them away.

**Mr Stephens:** I do not think we directly looked at the Hendra side. We mainly looked at tick lines at that time, and with the Stock Act there is already legislation that covers that.

**CHAIR:** Trevor, can I ask you to go away and have a think about that? The question would be: what dangers are there to your own horses and even people, because people have died from it, of course, if you are involved with groups who have unvaccinated horses, whether they be on property A or property B that you are mustering stock from? If they have stock horses they are using that are unvaccinated there could be that throwback. We have recently dealt with biosecurity as well. Would you like to come back to us with something, DJAG and Trevor—just some general discussion?

**Mr Stephens:** Yes.

**CHAIR:** On another point, I think Ian Harsant was one of the AgForce delegates on the committee. You know old Ian? He has a very deep, gruff voice but he is a pretty intelligent bloke.

**Mr TROUT:** I believe this is very good legislation and I congratulate you. Poddy dodgers beware. One thing that has always happened in the past is that the cattle that have been taken have been severely undervalued. The cattle could be in very good order, they are taken off a property and by the time the court deals with the issue those cattle are a fraction of the price of what they should be worth. I note that the fines are substantial, but is there any part of the legislation that ensures an owner is compensated to the correct amount of what was stolen from him? Or is it just what is left over at the end after all the court costs and holding costs? This is a huge issue. There is a case in Cairns that is before the court right now and sentencing is tomorrow. It was ridiculous what the owner of those cattle ended up with. Could you give us an explanation on that?

**Ms Ryan:** The idea with the regime is that cattle can be valued and disposed of earlier in the piece so there is not this languishing and waiting for the proceedings to finish.

**CHAIR:** Before we go any further, I might ask you to withdraw the name of the court case.

**Mr TROUT:** I did not say a name; I just said a court case. There were no names. Can the animal valuers panel take into account what those cattle were worth when they left a property? Because it could be six months or 12 months later when cattle are found and there are mustering costs on top of that which could mean the value of that cattle could be quite different.

**Mr COSTIGAN:** Very different from the time of the offence.

**Mr Stephens:** I may be able to help you. We do have that problem and we try to address it now with the valuers. If a beast was stolen two years ago and we find it today, we do make reference to that with the valuers at the time. We get them to make a comment, and a lot of times they will go away and do some research of the market at that time, allowing for growth when it was stolen as a weaner and now it is a cow, or a steer, or a bullock. So we do ask for some input in that valuation so it can be taken into account. As you can understand, it is very hard as it is an objective view, but we do ask valuers to make comments on the forms so it is made available to the court.

**Mr TROUT:** And the compensation will be taken into consideration in a court case to the owner of those cattle?

**Ms Shephard:** The issue of valuation by the panel goes to penalty. Under the Penalties and Sentences Act, as you may know, the court has the power to make a compensation order in favour of a victim, and the prosecution would make that application on behalf of the victim of the offence. That would not be necessarily restricted in terms of the valuation. So long as the evidence was put to the court as to the loss suffered by the victim, then the court has the full discretion to make an order in that regard.

**Mr KNUTH:** You mentioned before—I cannot recall what it was in relation to—an \$11,000 fine. If, for example, a poddy dodger gets an \$11,000 fine but the landowner is owed \$7,000 in compensation, is there leeway provided so that the fine can compensate the landowner?

**Ms Shephard:** Under the Penalties and Sentences Act there is a provision that says if a court imposes a fine and imposes a compensation order the compensation order takes priority.

**Mr TROUT:** From that fine?

**Ms Shephard:** It says that, if a court is looking at fining the offender and making a compensation order, when looking at that it can make both but it must give priority to compensating the victim. So it would need to look at the financial situation of the offender, and the PSA says that compensating the victim takes priority.

**CHAIR:** Under SPER.

**Ms Shephard:** Under the Penalties and Sentences Act, section 48.

**CHAIR:** Under SPER now, the compensation would be paid to the victim. Is that so or not?

**Ms Shephard:** Certainly, there are provisions, as you are aware, that fines can be referred to SPER for collection. I think it is the case that compensation orders and restitution orders can also be referred to SPER for collection.

**CHAIR:** I have had someone visit me with a \$60,000 SPER bill.

**Mr COX:** I have a follow-up question to the Chair's question with regard to people going on other properties with potential diseased animals or horses, and I understand that. When it comes to weeds and transferring other things, I guess it is normal best practice that the stock squad guys would try to enter any property clean. It is probably more a statement from me than a question.

**Mr Stephens:** The government has provided cleandown bays and we do look at all of that sort of stuff.

**Mr COX:** It is something you deal with all of the time.

**Mr Stephens:** Even though it was an application by another landholder to go and do the muster, the police were to keep control of the muster so that the muster followed normal mustering practices and it was done properly.

**Mr COX:** It is another role that you guys play. I have another quick question, and you might have answered this in part. I know the QLS had one question regarding people being able to apply to the courts for cattle to be removed. I guess this could be a situation where the cattle had not necessarily been stolen; instead, depending on property sizes, about 200 head of someone's cattle

from some of the bigger properties in North Queensland where I am from could be on someone's country and eating their grass and their pasture. I thought that was the question they were asking—that there is no uniformity across the state with that. I know in some of the response the department went into forced musters, which I think was referring more to if cattle had been stolen you would have a forced muster to get them back and retrieve them. Trevor, is there a uniformed option across the state where people can get cattle removed from their property through some sort of court order?

**CHAIR:** Council law?

**Mr Stephens:** If the landholder advises the other landholder of cattle, they do not remove their cattle, they can be civilly impounded. All reasonable mustering costs and transport costs to deliver those cattle to the pound—which may be the Charters Towers saleyard, for instance, and then the council takes over—and all of that is paid prior to those cattle being returned. So whoever owned those cattle has to come up with that money before those cattle are unimpounded.

**Mr COX:** I guess the question is that you are happy from your point of view that that process did not need looking at and that it is working quite well.

**Mr Stephens:** It is working quite well and it happens weekly, we were advised.

**Mr COX:** I know, it does. Thank you.

**Mr COSTIGAN:** Are those local governments all on song in relation to that across the state?

**Mr Stephens:** They are. We have addressed a few of their animal control officer meetings and that type of thing, and I do not know of a council that has not come on board, be it Beaudesert, Goondiwindi—

**Mr COSTIGAN:** The Cook shire, the whole lot?

**Mr Stephens:** Everybody who I have spoken to do come on board with it, yes. A lot of times they might need prompting and a reminder, but they have always come on board and impounded the cattle and gone through the process.

**Mr KNUTH:** Trevor, in your position, what are the most common issues that you are dealing with? Is it neighbours not allowing the return of stock or neighbours stealing unbranded stock? What is the most common?

**Mr Stephens:** In this forum, straying stock and neighbourhood property disputes. That is a big issue which prompted that forced muster legislation. We have a lot more issues at the moment that are not covered in this that we are looking at with another group. The cattle going between properties is a big issue. A big issue will be when the drought breaks and everybody goes to get their cattle.

**Mr KNUTH:** Do you get a lot of complaints in regard to neighbours branding their neighbours' cattle?

**Mr COX:** With their brand.

**Mr KNUTH:** Yes, with their brand.

**Mr Stephens:** We do get a few. Normally, if we look at it, it might be one. It would be different if it was one out of a thousand, under the mistake of fact we would probably put that down as perhaps an accident. I think in North Queensland there seems to be a bit more than that. The properties are a bit smaller down south and I do not see a real problem with that down here. You do hear about it a little bit, but normally it is always sorted out between neighbours. If we were looking at any numbers, we would be going down a course of looking at stealing them—if there was a significant number, yes.

**CHAIR:** As I think I said to you before the meeting started, Trevor, a lot of this bill is really neighbourhood dispute resolution—in the smaller blocks down here in South-East Queensland.

**Mr Stephens:** The forced muster certainly is, yes, but the disposal one is a very significant issue on its own and separate.

**CHAIR:** This will probably be for you, Jenny, or some of your team. The Queensland Law Society made a submission that it could be beneficial for consistency across the state that a person can apply to court to have stray stock removed from their land. That is what you were just talking about—that the councils have got most of that.

**Ms Lang:** That is right, yes.

**CHAIR:** So you are more than happy. You had a look at their submission on that, did you?



**Ms Lang:** Yes, we did. As Trevor said, we had previously done some work in light of the advice from Trevor.

**CHAIR:** I think there were six or seven shires that were mentioned that do not have that. Is that right? One of my uncles was one of the last pound blokes at Mount Gravatt, would you believe.

**Mr COSTIGAN:** When Mount Gravatt was in the bush.

**CHAIR:** That is right. So there are six or seven shires that do not have them.

**Ms Ryan:** Yes. I actually undertook the exercise of going through all the animal impoundment laws that have been picked up by the councils—so there is a model animal impoundment law. My reckoning was that 60 out of 77 had adopted it. That is what I had found—so a significant number.

**CHAIR:** Do you have any idea roughly where they were? Were they out in western shires or smaller shires?

**Ms Ryan:** I have a list that I did manually last year.

**Mr COSTIGAN:** You could take that on notice.

**CHAIR:** Yes, you could take that on notice and supply that.

**Ms Ryan:** That was probably done about six months ago, and that was me manually going through and looking at each council's laws. If you are interested in that list, I could provide it to you.

**CHAIR:** We do not want to see all of that hard work wasted, Alison, so it would be good if you could supply that to the committee at some stage.

**Mrs MADDERN:** When you get a warrant to go on and do a muster so the QPS is there, how does it work if in the process of that muster you come across a nice little plantation of funny green stuff or whatever the rest of it is?

**Mr Stephens:** Under the search warrant, there is chance discovery. So if you go in there under the warrant to do a stock muster then any other offences identified during the search are dealt with.

**Mrs MADDERN:** You need to go back and say that we need to have a look at this as well.

**Mr Stephens:** Yes, but the warrant does give you access. Once you have a warrant, you may be on there for drugs and then find something else, the chance discovery rule means that you are legally there for a purpose so if there is another offence detected while you are there you are still lawfully there.

**Mrs MADDERN:** When you have your warrant, can you go on and off the property? When you have your warrant and you are on the property, is it until the whole process is finished and you cannot go backwards and forwards?

**Mr Stephens:** That is correct. In our procedures, if we executed a warrant and we left the property wholly and solely, to return we would have to take another warrant. That is why under the 21 days we would set up a camp and stay until it is finished. I think there was an inquiry from the Law Society in relation to the entry of the house and re-entry of the house. If for some reason we executed a search warrant and we went to the house for documents, computers or whatever, when we left the house we would not return there. Once we walked out of that house, we would not be returning.

**Mrs MADDERN:** Unless you had another warrant.

**Mr Stephens:** Unless we took another warrant—if for some reason something had come up. It is not as if we would be returning to the house time and time again during the 20-something day period.

**Ms Reeves:** I think there is a small provision in section 155 of the PPRA that 'enter' also means to re-enter. As Trevor said, when you are doing something like a great big muster, you are not going to pack everybody up and leave and then come back. It will allow some police to perhaps stay and do some business and some police to go and be replaced by others, because you can imagine for 21 days there may need to be that going and coming. So there is some capacity to enter, but 'enter' also means to re-enter but whether or not they will continue to enter and re-enter will be determined upon the nature of the search and those sorts of things.

**Mr COX:** This is probably to Trevor and then maybe to Jenny. In regards to the tools of the trade, things are a lot different now to what they were 100 years ago when we also had this problem, with newer technologies which you get to use. I am not asking you about that because what you get supplied with is probably not under the Attorney-General's. The NLIS tags did not

come about because of the control of stock illegally or legally—they are there for other reasons—but it is obviously a tool that is now used widely in Queensland, with the NLIS ear tag and scanning and transfer of properties. Trevor, has having that information helped you in any way? From a legal perspective, is that information of transfers and the tracking of cattle legal? I presume it is. My understanding with NLIS is that it is up to the person receiving the cattle to transfer those cattle. So if I have taken your cattle illegally, it is really up to my onus to transfer them but I am not likely to do that if I have stolen them. That is probably a two-part question—(1), is it helping and, (2), is it legally useful?

**Mr Stephens:** We have got access to the database through the MLA. We made application for it to be used so we have used them and we do use their information for prosecutions—for not updating the database within the 48 hours and that type of thing. So it has been a very useful tool. It was set up for a different purpose—for disease—but we do have approval to use it. It is just that though; it is just another tool. As you know, if you are going to steal cattle, you would probably remove the tag anyway. It is a good tool though to give you an overlook. We do use it quite extensively.

**Mr COX:** If someone has removed those tags and you can prove they were, it helps you build a case that they are trying to hide identity.

**Mr Stephens:** And we look at the tag. In Queensland, we are very lucky in that we have the Brands Act and it is read in conjunction with the deals. We can build a big picture for identification for us.

**CHAIR:** I do not think there are any other questions from the committee. Thank you very much for making yourself available. Like I said, it is a process that has gone through a couple of governments in a couple of years so it seems to have ironed out most of the bugs. If you could give us something on that Hendra stuff or the biosecurity issues and maybe the local government issue, that would be great. It might be something that we have to follow up with the DPI or the local government minister to see if he can encourage those other councils to have those recommendations in place. Thank you very much.

**Committee adjourned at 12.41 pm**