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Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
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**Submissions in relation the Criminal Law Amendment Bill 2014
on behalf of BLEATS**

BLEATS (Brisbane Lawyers Advocating and Educating for Tougher Sentences) is a panel of more than 250 legal professionals in Queensland who provide pro bono legal representation and support to RSPCA Qld.

BLEATS was formed in 2007 and is currently in the process of incorporation. The organisation has set a new benchmark in Australia with respect to prosecution models for animal welfare offences, with several States across Australia forming similar organisations following the success of BLEATS.

RSPCA and their Inspectors are represented during each and every prosecution and all related appeals by an unparalleled list of experienced and expert legal professionals including Graeme Page QC, Michael Byrne QC, Walter Sofronoff QC, and Stephen Keim QC, as well as more than 100 other barristers on the panel.

We are pleased to provide submissions in support of the proposed amendments to the *Animal Care and Protection Act 2001*, the *Criminal Code 1899 (Qld)* and the *Justices Act 1886 (Qld)* which pertain to the RSPCA and animal welfare offences.

Animal Care and Protection Act 2001 - Section 183 - Prohibition Order

These changes allow the court to impose an interim prohibition order upon the charging of a defendant rather than the conviction. They are in our view a welcome amendment to the Act.

In many prosecutions, particularly in relation to 'puppy farm' or 'hoarding' matters, defendants continue to accumulate animals in the months or years between commencement and finalisation of the prosecution. It is usually the case that their animals have been seized and are being held by RSPCA pending the outcome of forfeiture or prosecution proceedings.

It is counterproductive to the legal process and the welfare of animals when people who are charged with animal welfare offences, where prohibition orders are likely to accompany any conviction, continue to accumulate animals.

This results in further complications upon conviction of the defendants and further expenditure of resources for RSPCA in seizing and obtaining forfeiture orders in relation to the additional accumulated animals.

It may also arguably encourage defendants to delay proceedings while they continue to enjoy the benefits of owning the animals including exploiting them for financial gain.

There have been several notable cases in recent years where defendants have been able to fund their defence against animal welfare charges relating to 'puppy farming' by continuing to generate income from farming puppies.

Therefore these changes are both necessary and appropriate in order to ensure best practice management of animal neglect and cruelty matters.

In our view a further amendment is required to allow RSPCA to obtain prohibition orders by application to a court without the need to conduct prosecution proceedings against a person.

This would avoid the current situation where RSPCA are on occasion required to prosecute matters that would not otherwise be in the public interest in order to obtain prohibition orders.

Examples of these matters are cases where due to advanced age, mental health issues or other circumstances, people have demonstrated an inability to provide appropriate care for an animal, yet do not perhaps warrant prosecuting due to their personal circumstances.

Criminal Code 1899 – Section 242 – Serious Animal Cruelty

BLEATS welcome the implementation of this new offence which in our view is necessary in order to meet community expectations with respect to animal cruelty offending.

In particular, we view as a critical component of these amendments, the provisions allowing for investigation and enforcement by the RSPCA.

In our submission RSPCA Qld currently enjoys a reputation as a proficient and expert prosecutorial body in relation to animal welfare offences particularly since the inception of BLEATS.

Due to the number of prosecutions conducted each year the RSPCA are able to expend resources and expertise in relation to brief preparation that is not practicable for police due to time and resource constraints. Each prosecutorial brief, even for a plea of guilty, is prepared as a full brief of

evidence. On pleas of guilty the Court is assisted by photographs, video, veterinary statements and any other evidence necessary to support the prosecution and assist the Court.

RSPCA Qld have adopted as policy the *Office of the Director of Public Prosecutions – Director’s Guidelines*. They have established a Prosecutions Committee comprising of senior members of the Inspectorate at RSPCA and legal professional from the community. The Committee reports ultimately to the RSPCA’s government partner the Department of Agriculture, Fisheries and Forestry and their role is to approve and manage all RSPCA prosecutions.

The current RSPCA Qld Prosecution Policies and Procedures are sufficient and adequate to ensure compliance with procedural and legal requirements in relation to the prosecution of indictable offences.

Expertise required

The prosecution of animal welfare offences requires in our submission a level of particular expertise and the availability of resources which are not available to police in most circumstances. The offences are unique in that the ‘complainants’ are not human and require care and attention throughout and beyond the prosecution proceedings. RSPCA Qld are equipped to provide this care, which can be costly and labour intensive, including boarding, veterinary care, grooming, foster care and rehoming.

The investigation of animal welfare offences also requires an expertise in the gathering of forensic, photographic, video and other expert evidence peculiar to these offences. Prosecution briefs of evidence, even on a plea of guilty, routinely include evidence from experts including veterinarians, pathologists, animal behaviourists and breed and species experts.

Funding

Funding and economic considerations do not impact on RSPCA Qld decisions in relation to prosecutions. In all cases where prosecutions are appropriate and necessary, they are conducted regardless of the costs involved. This is a commitment of the CEO at RSPCA and possible due to the ongoing support of BLEATS.

The BLEATS panel provide pro bono legal representation to RSPCA in relation to prosecutions conducted. Each prosecution case is presented in court by a fully briefed barrister, instructed by solicitors, who is able to assist the court by providing expert legal advocacy and presentation of comprehensive facts and evidence. Magistrates often express their appreciation to BLEATS and compliment the RSPCA Qld on the presentation of their cases and their professionalism and ethics in dealing with the defendants and the court.

Yours faithfully

Graeme Page QC
Patron of BLEATS