

5 DISTRICT COURT OF QUEENSLAND

REGISTRY: Gatton

NUMBER: [To be filled by court registry]

DEFENCE OF THE DEFENDANT

Plaintiff: Queensland Police Service

10 Defendant: Trevor Andrew Hold

Introduction

In respect to the matters outlined in Notices to Appear 4376258 and 4376257, concerning charges of one count each of obstructing a police officer, I respectfully highlight the

15 following:

Due to the actions—and notable lack of duty of care—by both the police officers and officers and team members of the National Fire Ant Eradication Program (NFAEP), my livestock suffered extreme stress resulting in severe harm, including the death of one of my calves.

20 Additionally, I sustained injuries requiring professional medical treatment, including x-rays, sterilisation, local anaesthesia, and five stitches to my left hand, located between my forefinger and thumb. This injury significantly impaired my ability to perform normal duties related to the management of my farm.

I raise serious concerns regarding the conduct and lawfulness of the actions taken by 25 the biosecurity officers and police officers on the morning of 16 April 2025 at 477 Gatton-Esk Road, Adare, which precipitated the issuance of the aforementioned Notices to Appear.

Available evidence suggests that the police officers present were not merely there to “keep the peace” but were instead tasked with forcibly entering the property. This assertion

is supported by video footage I have supplied, and statements made by Ms. Justine Saunders
30 APM, Deputy Secretary of the Biosecurity Operations and Compliance Group. During the
Rural and Regional Affairs and Transport Legislation Committee hearing on 25 February
2025, Ms. Saunders noted:

- “(Figures from) August 2024, so it’s dated—refusals currently sit at 1,442.”
- “The advice I have suggests that the compliance team has sought support from
35 Queensland police to access those premises.”

I respectfully submit that the Statement of Facts presented does not accord with my
personal recollection nor with the video evidence provided.

Statement of Facts

40 The defendant in this matter is Trevor Andrew Hold, a 46-year-old male residing at
477 Gatton Esk Road, Adare.

At approximately 8:42 AM on 16 April 2025, three police officers—Sergeant Trudi
Flintham (TF) [Registered No. 12789], Senior Constable Greg Wiley (GW) [Registered No.
401554], and Constable Katrina Lowrey (KL) [Registered No. 43864]—entered the
45 defendant’s private property. The officers parked a marked police vehicle in the vicinity of
the defendant’s house and established contact with him.

Upon this initial interaction, the defendant immediately withdrew any implied or
express consent for the police officers to remain on the property and directly requested that
Sergeant Flintham leave. In response, Sergeant Flintham stated, “That is not going to
50 happen,” and further explained, “the biosecurity people are coming on now, the fire ant
people.”

The defendant reiterated that he was expecting to meet the biosecurity personnel at the front gate, as previously arranged with Biosecurity Officer Roger Morris, and stated, “where we will go through the process, work through the process.” He then repeated that
55 the property was private, that the police had no lawful reason to be there and again requested that the officers “please leave.”

After several requests for the police to leave the private property and remove their vehicle, Sergeant Flintham ended the conversation and proceeded toward the front gate, where biosecurity officers had begun to enter the property.

60 The defendant then directed his conversation to Senior Constable Wiley, in the presence of Constable Lowrey, as Sergeant Flintham was no longer nearby. Over the course of the following exchange, the defendant made more than ten separate verbal requests for the removal of the police vehicle from private property and reiterated his withdrawal of consent for the police officers to remain. Despite these repeated requests, Senior Constable
65 Wiley responded multiple times that he refused to move the vehicle.

As biosecurity personnel walked down the driveway and entered the defendant’s private property without his consent, the defendant ceased his discussion with the police and instead focused on addressing the unauthorised entry of the biosecurity officers.

Preliminary discussions occurred with Roger Morris, as the defendant was escorting
70 the biosecurity teams from the private property, about organising the removal of the police vehicle. The defendant reminded Mr. Morris of a prior agreement made the day before, in which Mr. Morris had agreed to notify the defendant upon reaching the front fence of the property.

Once the biosecurity officers, including Mr. Morris, had exited the property
75 boundary, a further discussion took place at the fence line.

During this exchange, Mr. Morris stated that the police were present due to previous comments made by the defendant, including statements posted online suggesting “Wieambilla can happen again,” and a prior on-camera remark to the effect that police would have to shoot him to poison his property. The defendant denied making threats but
80 acknowledged the statements attributed to him, asserting that they reflected his attitude and that Mr. Morris knowingly brought armed police onto the property despite this.

The defendant expressed concern that the police presence, without warrant or lawful justification, was disturbing the peace and that any observation or supervision could occur from a public area alongside the biosecurity vehicles. Mr. Morris responded by stating
85 that the police were present as a safety measure. Although he claimed to have faith in and respect for the defendant, the defendant rejected that assertion, citing the presence of three armed officers as evidence to the contrary.

Mr. Morris maintained that they were lawfully present under a legislated biosecurity program. The defendant stated that no further discussion would continue until the police
90 vacated his land and relocated to public property. He expressed that the process had begun in an undignified and unjust manner and that it had already undermined any constructive engagement.

Following continued requests by the defendant for the removal of the police vehicle from private property, officer GW agreed to relocate the vehicle. The police vehicle
95 subsequently left the property at approximately 8:56 AM, 13 minutes after its arrival.

Prior to the formal reading of a statement by Biosecurity Officer Roger Morris, he informed the defendant that the product to be used for treatment on the property was “Engage,” which contains the active ingredient s-Methoprene. The defendant requested a

copy of the relevant Australian Pesticides and Veterinary Medicines Authority (APVMA)
100 permit authorising the use of this product.

In response, Mr. Morris claimed that the permit had recently been emailed to the
defendant. The defendant advised that no such email had been received. Mr. Morris then
stated that the permit was in his vehicle and that he would retrieve a physical copy. The
defendant also requested a copy of the Material Safety Data Sheet (MSDS) associated with
105 the product.

Mr. Morris produced a set of documents from a clip box and represented that both
the permit and the Material Safety Data Sheet (MSDS) were included in the material
provided. Upon inspection, it was found that the MSDS was not included. It was noted that
the provision of the MSDS is a stated condition of the APVMA permit. The failure to provide
110 the MSDS, as required under the permit conditions, raises serious concerns about lawful
compliance. As the MSDS forms part of the legal requirements governing chemical
application, the non-provision of this document may render any subsequent actions taken
by biosecurity officers or accompanying police officers on that day potentially unlawful.

Despite further clarification from the defendant that no relevant documentation had
115 been received via email, Mr. Morris continued to maintain that the documents had
previously been sent electronically.

Mr. Morris did not provide sufficient time for the defendant to read the full permit—
an 11-page document—before proceeding. As a result, the defendant was not given a
meaningful opportunity to review any site-specific restrictions, confirm adherence to
120 previously discussed farm management strategies, or ensure that safety requirements
outlined in the permit would be observed.

When asked by the defendant who had authorised his attendance that day, Mr. Morris stated that his authority derived from multiple senior officials within the biosecurity program, including Barry Cooper (a senior program official), Rachel Chay (Deputy Director-
125 General and Chief Biosecurity Officer), Robert Wilson (Manager of Compliance), Marni Manning (General Manager, Strategy and Delivery), and Graeme Bolton (Director-General). Mr. Morris stated that he was the designated decision maker on the day and the legal instrument authorising entry to the property.

Following the discussion regarding the permit and MSDS, Mr. Roger Morris
130 proceeded to read a prepared statement. The delivery of the statement was rushed, and the defendant was not afforded an opportunity for meaningful discussion or clarification regarding the proposed activities.

In his statement, Mr. Morris addressed the concept of a "reasonable excuse" under section 336 of the *Biosecurity Act 2014 (Qld)*, and stated that documentation previously
135 submitted to the program was not considered to constitute a valid reasonable excuse. However, no written explanation or formal documentation outlining this determination was provided to the defendant, either in advance or at the time of entry.

The defendant advised Mr. Morris that a signed statutory declaration had been submitted to Marni Manning outlining the defendant's reasonable excuse, along with three
140 written notices asserting the same. No acknowledgment or response had been received to any of these documents. Despite this, Mr. Morris stated that the material provided by the defendant did not contain anything that would prevent treatment from proceeding on 16 April 2025.

The defendant also indicated to Mr. Morris that, in addition to the previously
145 submitted documentation, there were site-specific and time-sensitive reasonable excuses

relevant to that day which had not been considered. The opportunity to present these was not provided, and the issues raised were not addressed by Mr. Morris prior to initiating biosecurity activities on the property.

At approximately 9:10 AM, Sergeant Trudi Flintham (TF) entered the property
150 without consent, forcing entry through the first gate, followed closely by biosecurity personnel who proceeded down the driveway.

At this point, the defendant had not been given an opportunity to present his reasonable excuse, nor had any formal process been followed to facilitate procedural fairness. The defendant had also not been afforded the opportunity to identify all individuals
155 entering the property and attempted to de-escalate the situation and gain clarity over the unfolding events.

In an effort to regain control and reinitiate a lawful dialogue, the defendant secured the second gate on the driveway and again attempted to present his reasonable excuse under section 336 of the *Biosecurity Act 2014 (Qld)*. This attempt was again denied. Sergeant
160 Flintham then forced entry through the second gate using what the defendant asserts was excessive force. This resulted in physical injury to the defendant, requiring professional medical attention and hospital treatment.

Following this second forced entry, biosecurity teams dispersed across the property and began applying chemical treatments. This activity commenced without regard for the
165 location or safety of livestock, despite repeated verbal requests by the defendant to pause or redirect treatment away from the animals.

In relation to the second charge of obstructing a police officer, involving Senior Constable Greg Wiley (GW), the defendant contends that at the time of the alleged obstruction, he was intervening to prevent biosecurity officers from applying toxic chemicals

170 within the house yard in a manner he believed contravened the conditions of the APVMA
permit. The obstruction was directed solely at the biosecurity officers—not at any police
officer.

Under section 336 of the *Biosecurity Act 2014 (Qld)*, non-compliance with a
requirement may be lawful if a person has a reasonable excuse. The defendant maintains
175 that his actions were based on such a lawful excuse. Furthermore, GW failed to ask the
defendant for the reason for the obstruction prior to physically intervening and
subsequently arresting him. This failure to inquire into the basis of the defendant’s conduct
raises concerns regarding the lawfulness of the arrest and the use of force applied.

180 **Argument**

To support this Statement of Facts, the defendant draws attention to statements made in
both charges, which confirm that the police officers ultimately vacated the private property
upon the repeated request of the defendant.

In this regard, the defendant refers the Court to the High Court decision in *Kuru v*
185 *State of New South Wales* [2008] HCA 26, where the Court reinforced the long-established
principle, also recognised in *Plenty v Dillon* (1991) 171 CLR 635, that:

“First, a person who enters the land of another must justify that entry by showing
either that the entry was with the consent of the occupier or that the entrant had lawful
authority to enter. Secondly, except in cases provided for by the common law and by statute,
190 police officers have no special rights to enter land.”

When police officers initially arrived at the defendant’s private residence at
approximately 8:42 AM, consent was immediately and clearly withdrawn. The defendant
expressly instructed the officers to leave the property. In response, Sergeant Flintham

indicated that they would not be leaving and justified their presence by claiming they were
195 there to “keep the peace” during a planned biosecurity operation. However, no evidence
was presented at the time—such as a warrant, statutory instrument, or clear legal
authority—to support their continued presence on the private land.

For a period of approximately 13 minutes, the defendant maintained his objection to
the presence of the officers and repeated his demand that they remove themselves and
200 their vehicle from the property. Ultimately, the officers complied and relocated the police
vehicle to the public verge outside the property boundary.

Later that morning, Sergeant Flintham re-entered the property in conjunction with
Biosecurity Queensland officers, citing authority under the *Biosecurity Act 2014 (Qld)*. In
both police statements, it is alleged that Roger Morris, a representative of the National Fire
205 Ant Eradication Program, provided the necessary documentation and authorisation under
that Act to facilitate entry onto the property for the purpose of chemical treatment.

However, the defendant contests the sufficiency and accuracy of this documentation.
Specifically, Mr. Morris failed to provide, upon request, the current Safety Data Sheet (SDS)
for the chemical being applied, a condition explicitly required by APVMA Permit No.
210 PER90213. The permit requires that the SDS be supplied in conjunction with the permit prior
to the use of the chemical, which was identified by Mr. Morris as containing the active
ingredient s-Methoprene.

Mr. Morris produced documents from a clip box and asserted that the permit and
SDS were included. Upon inspection, the SDS was not present. The defendant maintains that
215 failure to comply with this mandatory condition of the permit raises serious concerns about
the lawfulness of the chemical treatment operation conducted that day.

Accordingly, if Mr. Morris was not compliant with the permit conditions, any reliance by police officers on his representation of lawful authority becomes questionable. In such circumstances, police may have been inadvertently facilitating or aiding an unlawful action
220 on private property.

The defendant further submits that his subsequent actions—described in the charges as obstruction—were motivated by the realisation that a breach of the APVMA permit had occurred, coupled with concerns for the welfare of his animals, particularly given the distribution of chemicals near livestock. Under section 336 of the Biosecurity Act 2014 (Qld),
225 non-compliance with a requirement is lawful if the person has a reasonable excuse. The defendant maintains that he acted under such a reasonable excuse and that his actions were both justified and lawful in the circumstances.

Your Honour, the defendant held genuine and longstanding concerns regarding the treatment of his property, particularly following the loss of two calves after a previous
230 application of treatment chemicals. These concerns were compounded by his obligations under a property-specific Biosecurity Plan designed to ensure the welfare of cattle, horses, show dogs, and the integrity of organic farming practices on the land.

Pursuant to section 336(1) of the *Biosecurity Act 2014 (Qld)*:

“A person must not obstruct a designated officer, or another person or a detection
235 animal helping a designated officer, exercising a power under this Act unless the person has a *reasonable excuse*.”

Similarly, under section 790 of the *Police Powers and Responsibilities Act 2000 (Qld)*, obstruction of a police officer in the exercise of official duties constitutes an offence, but the statute recognises *reasonable excuse* as a lawful defence.

240 In the context of these statutory provisions, the defendant submits that his conduct
on the day in question was motivated by, and falls squarely within, the protection offered by
these reasonable excuse provisions. Prior to 16 April 2025, the defendant had submitted
written correspondence to the National Fire Ant Eradication Program outlining his concerns
and formally stating his reasonable excuse for resisting treatment. This included reference to
245 animal welfare risks, prior adverse impacts from chemical application, and compliance with
an on-farm Biosecurity Management Plan.

No acknowledgement or reply to this correspondence was ever received by the
defendant. As a result, when Biosecurity and Police officers entered the property without
due regard to this prior communication, and without allowing the defendant the
250 opportunity to present time-sensitive and site-specific objections, the defendant reasonably
believed that the statutory process had failed and that he was entitled to restate and assert
his reasonable excuse under section 336.

The defendant acknowledges that, during interactions with Biosecurity officer Roger
Morris, he spoke over Mr. Morris to be heard. This was not an act of aggression or defiance,
255 but a direct result of Mr. Morris refusing to listen to or consider the concerns the defendant
had previously raised in good faith. The defendant acted to protect the welfare of his
animals and his farming operations, believing he had not only a right but a responsibility to
do so under the law.

Moreover, the defendant's private Biosecurity Plan, which adheres to high standards
260 for animal welfare and property management, was ignored during the operation. No
consideration was given to the defendant's obligations under this plan, nor were any
accommodations made despite repeated requests. This omission further eroded procedural

fairness and compounded the defendant's belief that the authorities present were not acting in accordance with lawful or respectful engagement.

265 As previously noted, the defendant had already suffered the loss of two calves following earlier chemical treatments on his property. After the treatment conducted on 16 April 2025, the defendant experienced further adverse outcomes: one cow calved prematurely on that same day, and another delivered a stillborn calf a few days later. The defendant attributes these losses directly to the significant stress inflicted on his livestock by
270 numerous unfamiliar persons invading their paddocks during the treatment process.

Your Honour, the defendant has farmed for many years and has never experienced calf losses unrelated to the National Fire Ant Eradication Program's baiting activities on his property.

In support of the defendant's position regarding the legitimacy of his reasonable
275 excuse, I refer to the High Court decision in *Taikato v R* (1996) 186 CLR 454. The Court held that the determination of whether an excuse is "reasonable" is a question of fact for the tribunal—be it judge or jury—and not a matter for the police or prosecution to decide. Brennan CJ and other members emphasized that this determination must be evidence-based.

280 Further, in *Ostrowski v Palmer* (2004) 218 CLR 493, McHugh J clarified that whether a person has a reasonable excuse is a question of law and fact to be determined by the court, rather than by an administrative body enforcing regulations. Importantly, the Court held that ignorance of the law is not a valid excuse unless reasonable steps were taken to understand it.

285 These precedents establish guiding principles for interpreting provisions like section 336 of the *Biosecurity Act 2014 (Qld)*.

On 16 April 2025, despite the defendant's clear and repeated attempts to communicate his reasonable excuse to both Biosecurity and Police officers, his concerns were dismissed. The officers forcibly entered the property and proceeded with a full
290 chemical treatment for fire ants, despite there being no evidence of infestation. This action occurred without regard to the defendant's lawful objections or the welfare of his livestock.

Your Honour, it has been stated in relation to the offence where the defendant allegedly obstructed Sergeant Trudi Flintham that the National Fire Ant Eradication Team (NFET) had substantial prior communication with the defendant. While the defendant had
295 indeed sent numerous letters and emails to the NFAEP and to Marni Manning, none of these communications received any response. In this correspondence, the defendant clearly articulated his reasonable excuse and requested that his property not be treated for the reasons provided.

Due to the absence of any response or acknowledgment from the program, the
300 defendant held a reasonable expectation that his property would not be treated.

In this regard, Your Honour, the New South Wales Court of Appeal has summarized the current case law concerning silence and non-disclosure as potentially misleading or deceptive. It has been held that silence may constitute misleading conduct "where, in the whole of the circumstances in which the parties are situated, a 'reasonable expectation'
305 exists that disclosure should be made or silence broken."

Accordingly, the defendant submits that the silence from the NFAEP and Marni Manning may amount to misleading or deceptive conduct, as he had a reasonable expectation that a disclosure explaining why his property remained scheduled for treatment, despite his submission of a reasonable excuse, should have been provided.

310 Your Honour, I now address the incident at the second gate. The defendant was attempting to continue voicing his reasonable excuse and held the gate closed to ensure that his concerns were heard. Sergeant Flintham, accompanied by Biosecurity Officers, arrived equipped with bolt cutters, indicating their clear intention to forcibly enter the property regardless of the defendant's stated reasonable excuse. Sergeant Flintham forcibly opened
315 the gate with assistance from other officers, causing injury to the defendant's hand that required stitches. Notably, upon arrival, Sergeant Flintham had stated that the police were present to "keep the peace," yet her actions arguably exacerbated the situation.

I refer Your Honour to the case of DPP v Carr [2002] NSWSC 684, where Their Honours stated:

320 "...circumstances can conceivably exist in which a law enforcement officer intentionally brings about the opportunity for the commission of a criminal offence by conduct which is not criminal, but which is quite inconsistent with the minimum standards which a society such as ours should expect and require of those entrusted with powers of law enforcement. Extreme cases of creating circumstances of temptation under which a
325 vulnerable but otherwise law-abiding citizen commits an offence of a kind which (so far as the police are concerned) he or she might not otherwise have committed provide possible examples. As the Supreme Court of Canada pointed out in R v Mack 'there are inherent limits on the power of the state to manipulate people and events for the purpose of attaining the specific objective of obtaining convictions.' The rationale of the discretion
330 requires that it extend to cases where those 'inherent limits' are exceeded."

The defendant believes that his arrest would not have occurred had the officers permitted him to fully voice his concerns and reasonable excuse and allowed the National

Fire Ant Eradication Program (NFAEP) to refer the determination of the reasonable excuse to the courts for a judicial decision.

335 Your Honour, reference is made to the case of *Johnston v Carroll* [2024] QSC 360, which concerned mandatory COVID-19 vaccination and declared:

“The Court declares that Instrument of Commissioner’s Direction No. 12 issued on 7 September 2021 and Instrument of Commissioner’s Direction No. 14 issued on 14 December 2021 were unlawful under s 58 of the Human Rights Act 2019.”

340 The defendant submits that on 16 April 2025, the NFAEP and the Police failed to adequately consider his human rights and property rights as protected under Sections 25 and 58 of the Human Rights Act 2019 (Qld) prior to forcibly entering his property.

Section 58 of the Act states:

Conduct of public entities

345 (1) It is unlawful for a public entity—

(a) to act or make a decision in a way that is not compatible with human rights; or

(b) in making a decision, to fail to give proper consideration to a human right relevant to the decision; and

(5) For subsection (1)(b), giving proper consideration to a human right in making a decision

350 includes, but is not limited to—

(a) identifying the human rights that may be affected by the decision; and

(b) considering whether the decision would be compatible with human rights.

Regarding the allegation that the defendant was yelling at an officer to not treat his yard, it is submitted that the defendant had been specifically advised by the Biosecurity

355 Officer in charge that the yard around his house was not to be treated, partly due to the presence of his pregnant dogs. Despite this, a member of the treatment team continued to

bait the yards. The defendant stood in front of the area, arms outstretched, repeatedly pleading, "Please Sir... don't treat my yard." This was done calmly but firmly, yet the baiting continued without intervention from the Biosecurity Supervisor to stop the team member.

360 At this point, the defendant was tackled to the ground by police officers. It is asserted that at no time was the defendant obstructing police officers, as charged. While his voice may have been raised due to frustration at not being allowed to articulate his reasonable excuse and concern for the safety of his animals, he was not aggressive toward either police or biosecurity officers.

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Summary of Argument

Your Honour, in summary, the defendant respectfully submits the following points for the Court's consideration:

1. *Unlawful Entry by Police*

370 Police officers entered the defendant's private property on the stated basis of "keeping the peace." They remained on the property for approximately 13 minutes, during which they asserted a right to be present despite no crime having been committed, no warrant being produced, and the defendant's clear withdrawal of consent. The defendant submits that, in the absence of lawful grounds such as a

375 warrant or urgent circumstances, the officers' continued presence is of questionable legality. This raises concerns considering the principles established in *Kuru v State of New South Wales* [2008] HCA 26 and *Plenty v Dillon* [1991] HCA 5, which affirm that entry without consent or legal authority may be unlawful.

2. *Unlawful Actions by Biosecurity Officers*

380 The police facilitated and supported the entry of biosecurity officers to conduct
treatment for fire ants, despite no evidence of infestation on the property.

- The officer in charge, Roger Morris, failed to provide the current Safety Data Sheet as required by the conditions of APVMA Permit PER90213. The defendant submits that these failures may render the treatment and related actions taken under the permit
385 potentially unlawful.

4. *Failure to Consider Reasonable Excuse*

Neither the police nor the biosecurity officers afforded the defendant a proper opportunity to present a reasonable excuse as required by:

- Section 336 of the Biosecurity Act 2014 (Qld), and
390 • Section 790 of the Police Powers and Responsibilities Act 2000 (Qld).

Furthermore, the defendant contends that the repeated failure of the National Fire Ant Eradication Program and Marni Manning to respond to his correspondence may have created a misleading impression. This raises issues of silence amounting to misleading or deceptive conduct, especially given established legal principles
395 regarding reasonable expectations of disclosure.

5. *Unlawful Arrest*

The defendant respectfully submits that, had the police acted lawfully by refraining from unlawful entry and not supporting unlawful biosecurity actions, his arrest would not have occurred. The question of the defendant's reasonable excuse should
400 have been determined by the Court, rather than resolved through forcible measures.

6. *Human Rights Considerations*

The defendant raises concerns that insufficient consideration was given to his rights under the Human Rights Act 2019 (Qld), specifically:

- 405
- Section 25, regarding privacy, and
 - Section 58, outlining obligations of public entities.

The defendant respectfully requests the Court to consider whether proper regard was given to these rights prior to the decisions and actions taken on 16 April 2025.

7. *No Obstruction of Police Occurred*

410 The defendant submits that he did not obstruct police officer Wiley as alleged. At the relevant time, he was standing calmly in front of a biosecurity officer in an effort to prevent unlawful treatment of his property. He did not physically interfere with or threaten any police officer. His conduct was peaceful, non-aggressive, and directed solely toward the biosecurity activity.

415 The defendant respectfully submits that several significant legal and procedural issues arise from the events of 16 April 2025, warranting the Court's careful scrutiny, particularly regarding the lawfulness of entry, compliance with the Biosecurity Act, procedural fairness, and the protection of human rights.

420