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DISTRICT COURT OF QUEENSLAND

REGISTRY: Gatton

NUMBER:

DEFENCE OF THE DEFENDANT

Plaintiff: Queensland Police Service

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 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.

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 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.

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Available evidence suggests that the police officers present were not merely there to ‘keep the peace’, as stated immediately upon their arrival but were instead tasked with forcibly entering the property. This assertion is supported by video footage I have supplied which includes Sergeant Trudi Helen Flintham, advising prior to forced entry that ‘Under the biosecurity act you are obliged to allow the bio people to come in. We are here to enable that’. Additionally, Ms. Justine Saunders APM, Deputy Secretary of the Biosecurity Operations and Compliance Group, stated during the Rural and Regional Affairs and Transport Legislation Committee hearing on 25 February 2025:

- “(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 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 and submit my version of events below.

Statement of Facts

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 Helen Flintham (TF) [Registered No. 12789], Senior Constable Greg Wiley (GW) [Registered No. 401554], and Constable Katrina Lowrey (KL) [Registered No. 43864]—entered the defendant’s private property. The officers parked a marked police vehicle on the defendants private property, in the vicinity of the defendant’s house and established contact with him.

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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 they remove themselves and their vehicle from the private property. In response, Sergeant Flintham stated, “That is not going to 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 the property was private, that the police had no lawful reason to be there and again requested that the police 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.

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 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 biosecurity officers entering the property.

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Preliminary discussions occurred with Mr. Morris, as the defendant was escorting 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 boundary, a further discussion took place at the fence line.

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 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 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 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 Morris, he informed the defendant that the product to be used for treatment on the property was “Engage,”

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which contains the active ingredient s-Methoprene. The defendant requested a copy of the relevant Australian Pesticides and Veterinary Medicines Authority (APVMA) 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 the product.

Mr. Morris produced a set of documents from a clip box and represented that both the permit and the MSDS were included in the documents provided. Upon inspection, it was ascertained that the MSDS was not included. It was noted that the provision of the MSDS by the permit holder is a stated condition of the APVMA permit. The failure to provide the MSDS, as required under the permit conditions, raises serious concerns about lawful compliance.

Despite further clarification from the defendant that no relevant documentation had 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 previously discussed farm management strategies, or ensure that safety requirements outlined in the permit would be observed.

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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-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. Morris 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 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 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.

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The defendant also indicated to Mr. Morris that, in addition to the previously 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 Helen Flintham (TF) again entered the property 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 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 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 the forced entry at the second gate, biosecurity teams dispersed across the property and began applying chemical treatments. This activity commenced without regard for the location or safety of livestock, despite repeated verbal requests by the defendant to pause or redirect treatment away from the animals.

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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 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 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.

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 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

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authority to enter. Secondly, except in cases provided for by the common law and by statute, 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 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 defendant's private land.

For a period of approximately 13 minutes, the defendant maintained his objection to the presence of the police officers and repeated his demand that they remove themselves and their vehicle from the property. Subsequently, 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 Mr. Morris, a representative of the National Fire Ant Eradication Program, provided the necessary documentation and authorisation under that Act to facilitate entry onto the property for the purpose of chemical treatment.

The defendant contests the sufficiency and accuracy of this documentation. Specifically, Mr. Morris failed to provide, upon request, the current Material Safety Data Sheet (MSDS) for the chemical being applied, a condition explicitly required by APVMA Permit No. PER90213. The permit requires that the MSDS be supplied in conjunction with

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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 MSDS was not present. The defendant maintains that 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 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)*, 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 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 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)*:

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'A person must not obstruct a designated officer, or another person or a detection 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.

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 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 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 of the *Biosecurity Act 2014 (QLD).*

The defendant acknowledges that, during interactions with biosecurity officer Morris, he spoke over Mr. Morris to be heard. This was not an act of aggression or defiance, 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

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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 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.

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 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 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.

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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.

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 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 Helen Flintham that the National Fire Ant Eradication Team (NFET) had substantial prior communication with the defendant. While the defendant had 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 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

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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' 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.

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 reasonable excuse. Sergeant Flintham forcibly opened 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:

"...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 vulnerable but otherwise law-abiding citizen commits an offence of a kind which (so far as

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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 requires that it extend to cases where those 'inherent limits' are exceeded.

It is submitted that the defendant's arrest may have been avoided had the officers allowed him to fully articulate his concerns and reasonable excuse and the National Fire Ant Eradication Program (NFAEP) refer the determination of the reasonable excuse to the courts for a judicial decision.

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*'.

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

(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

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

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.

Summary of Argument

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

1. ***Alleged Unlawful Entry by Police***

   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,

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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 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. ***Alleged Unlawful Actions by Biosecurity Officers***

The police facilitated and supported the entry of biosecurity officers to conduct treatment for fire ants, despite no evidence of infestation on the property. This was confirmed by Sergeant Trudi Flintham's statement 'Under the biosecurity act you are obliged to allow the bio people to come in. We are here to enable that'.

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

3. ***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
- Section 790 of the *Police Powers and Responsibilities Act 2000 (Qld).*

The National Fire Ant Eradication Program Standard Operating Procedures (SOP) establish the prescribed process that field officers must follow when treating

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properties, including protocols to be followed when entry is refused by an occupier. These procedures acknowledge that refusals may occur for various lawful or reasonable reasons and set out a staged communication and escalation process.

The defendant contends that the procedural requirements outlined in section 6.5 of the SOP were not adhered to prior to the decision to enforce entry. In particular, the following key procedural safeguard was not observed:

- The requirement that, upon refusal of entry, the matter be reviewed by an Area Coordinator within 24 to 48 hours. The SOP mandates that the Area Coordinator must either (a) contact the occupier to address concerns and attempt to rebook the visit, or (b) escalate the matter to enforced entry only if all prior steps, including attempts at voluntary resolution, have been exhausted.

The absence of this process undermines the procedural fairness expected under the SOP and raises serious concerns about the lawfulness of the actions taken in relation to the property.

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 regarding reasonable expectations of disclosure.

4. ***Alleged Unlawful Arrest***

The defendant respectfully submits that, had the police refrained from entering the property without lawful authority and from facilitating biosecurity actions that are

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contended to have exceeded lawful powers, his arrest may not have occurred. It is further submitted that the question of the defendant's reasonable excuse was a matter for judicial determination, not for resolution using coercive or pre-emptive enforcement measures.

5. ***Human Rights Considerations***

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

- 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.

6. ***No Obstruction of Police Occurred***

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 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.

The defendant respectfully submits that several significant legal and procedural issues arise from the events of 16 April 2025, warranting the Court's scrutiny, particularly regarding the lawfulness of entry, compliance with the *Biosecurity Act 2014 (QLD)*, procedural fairness, and the protection of human rights.