

# Newsletter February 2011



Dear Panelists,

We hope this newsletter finds you and your family safe, and free from the devastation of the flooding and the wild weather in Queensland. Although it was certainly not a way we would hope to welcome in another year, 2011 looks to be another exciting and busy year for BLEATS.

## BLEATS special acknowledgments

This month we would like to recognise the over and above contributions of **Tony Morris QC, Chris George, John Eyelander, Gilbert Victoire, Chris O'Meara and Alison King**. They have all provided support for the RSPCA and expert representation. The results of the cases they are involved in reflect their outstanding efforts. A special thank you to all of the above legal reps and their generous employers.



## Inside this issue:

Publicity for BLEATS	1
BLEATS member of the month	1
Social Scene	1
Court Cases from Tracey Jackson	2
BLEATS recognized in the Courts	2
RSPCA Prosecutions Committee	3

## Publicity for BLEATS

BLEATS has had some fantastic coverage in the Media at the end of 2010 and during January 2011.

On 4 November 2010 Tracy-Lynne Geysen, Tracey Jackson and Daniel Young of the RSPCA featured in an article in Brisbane City News reporting on the Hudson animal cruelty case.

In the December 2010 issue of Proctor Tracy-Lynne Geysen and Jenni Weick featured in an article on 'what is animal law' and animal law as a new and emerging area of law.'

Steven White appeared in the Brisbane Legal on 23 September 2010 reporting on the ability for chain grocery companies to influence the conditions of animals.

BLEATS member and RSCPA Queensland Marketing Manager Michael Beatty was featured in the Q Weekender on 15 January 2011. In this article Michael noted that BLEATS has provided the RSPCA expert free legal representation.

The Weekend Australian featured an article on Tracy-Lynne Geysen, Tracey

Jackson and Mark Townend. The article reported on animal cruelty in society and the link between animal cruelty and interpersonal violence.

Finally and most recently in Brisbane Legal in February this year Tracy-Lynne Geysen, Graeme Page SC and Michael Byrne QC reported on the growing awareness of BLEATS and animal cruelty in Queensland Courts.

See the BLEATS website for these articles if you missed your copy.

## Social Scene—Christmas Party 2010

On 22 December 2010 BLEATS celebrated a year of success in the courts at the combined BLEATS and TLG Lawyers—Family and Animal Law Christmas party. The night was a great success! Fantastic food and drink and wonderful company, allowed BLEATS members to enjoy an evening celebrating 2010. On the night we held a raffle which

raised \$345 for the RSPCA. Thanks to Panchos Pizza Bulimba, Earth and Sea Bulimba, Tomato Brothers Wilston, Slice Pizza West End, Sirromet Wines, and Jade Buddha for their contributions to the raffle and food on the night. Thanks also to the newly formed BLEATS fundraising committee- Di Baartz of RSPCA, Natalie

Davidson of Women's Legal Service and Phillipa Last and Mark Styles from Queensland Law Society. Most of all thank you all for your support in 2010 and we hope, together, we can continue to make a difference to the lives of animals in Queensland in 2011.



## Recent BLEATS Cases from Tracey Jackson Assistant Chief Inspector

### Hodges Case

Congratulations to Cameron Buswell and Ross Cameron of Counsel for another good prosecution result in Mareeba in early December 2010. The defendant Jade Hodges received 200 hours community service and a 5 year prohibition order for 2 counts of breach of duty of care under the *Animal Care and Protection Act 2001 (Qld)*.

Ms Hodges pleaded guilty for failing to provide her horse, 'Silver Fun' with basic needs including food, water, and appropriate living conditions for over 6 months. The horse suffered severe weight loss, rain scald and dermatitis. The sentence ensures that Ms Hodges is unable to own a horse for the next 5 years, which the RSPCA is particularly pleased about.

### Gold Coast Cat Case

Congratulations to Ben Ricketts of Hopgood Ganim Lawyers and Gary Long SC who prosecuted a cat owner who attempted a home castration. The RSPCA were able to provide the defendant with education and she learned a valuable lesson from her experience particularly since she had to cover a large vet bill. As a result, RSPCA were able to discontinue the prosecution. The cat has been well cared for in the RSPCA Foster Program and has fully recovered.

### Francis Matter

The appeal in the Francis matter (where Francis cut the ears off 2 calves and failed to treat the maggot infested injuries that resulted ) was heard on 15 December 2010. The RSPCA obtained a brilliant result—the Magistrates Court decision was overturned, a new trial and costs were ordered. The case was originally dismissed in the Magistrates Court because of a failure of the

attending RSPCA officer to produce his identification. The District Court Judge made some significant findings to ensure that the RSPCA will not meet the same technical issues in the future. Thanks to Jim Henry SC, Gilbert Victoire and the wonderful, tireless John Eylander for their expert representation.

### Hudson Matter

The appeal in the Hudson case (where the defendant arranged a snare to catch and hang his neighbour's cat, video taped this and showed his workmates) is set down for 4 March 2011 in the Brisbane District Court.

### Smith Case

In this case the defendant failed to provide treatment to his cat that had cancer in its mouth. Chris George of Counsel obtained one of the largest fines RSPCA has achieved to date— the defendant was convicted and fined \$6,000. This is the best ever achievement for the RSPCA in a case of a neglect against a single animal.

### Choco and Freckles

In the Caboolture Magistrates Court Tony Enriken of Counsel appeared on behalf of the RSPCA and provided pro bono representation. Choco and Freckles were found without water, food, shade and suffering chronic skin conditions, were heavily flea burdened, and emaciated. The defendant received 100 hours of community service and was prohibited from owning or in any way acquiring any animal for 3 years. Well done Tony!

We thank Tracy-Lynne Geysen, Chris George of Counsel, Gilbert Victoire of Counsel, John Eylander and Scott Lynch of Counsel, all members of the BLEATS panel who have put in extensive work for the above appeals.

We also note that these appeals to the District Court go towards building binding precedents for the Magistrates Court.

### Diesel Case

In this case, Diesel a small dog, was found in a very poor condition. RSPCA officer Travis Cooper arrived at the residence and found Diesel heavily flea burdened, shaking, quivering, and with black and blue, swollen testicles because a rubber band was tied around them.

The defendant pleaded guilty to a charge of failure to treat an injury and was ordered to pay a \$3000 fine with 50% payable to the RSPCA, costs of \$1135.40 and court costs of \$75.90. Special thank you to Chris O'Meara who donated his time and skills to achieve a great result for the RSPCA and Diesel.



Diesel (pictured above and below) is living happily with his new adopted family.



## BLEATS recognised in Magistrates Courts

On 24 November 2010 Assistant Chief Inspector Tracey Jackson and Annabel Buchanan attended the Queensland Law Society seminar on Practice and Procedure in the Magistrates Court. Bill Potts, the coordinator of the seminar and a well respected criminal defence lawyer approached the RSPCA representatives at the seminar and

congratulated them on the RSPCA's fantastic reputation in recent years in the Magistrates Courts. Mr Potts noted that the RSPCA are often the subject of talk around the courts about how professional their matters are presented and how the RSPCA's prosecutions have changed dramatically in the last couple of years. Mr Potts advised that he has heard lots of positive feedback from defence

solicitors and Magistrates about the RSPCA being a well respected and professional prosecutorial body.

Fantastic news for BLEATS and the RSPCA who are clearly making some groundbreaking headway, as being recognized as respected and professional body in the courts.



## Prosecutions Committee for the RSPCA from Tracey Jackson (Assistant Chief Inspector RSCPA Qld)

Since the inception of BLEATS the RSPCA has been formulating a prosecution policy that will ensure best practice processes in the prosecution of offences under the *Animal Care and Protection Act 2001 (Qld)*.

One of the biggest criticisms of the RSPCA around Australia is the perception that Inspectors have unfettered power with respect to prosecuting offenders and that this power is abused. In Queensland we know there is no basis for this concern, however perception is critical as we continue to develop a credible reputation with the valuable assistance of BLEATS.

It is also important to ensure the RSPCA are professional in their unique obligations as the only private prosecutorial body in the State of Queensland. We believe that this can be achieved by adhering to structured prosecution guidelines and processes that are open, transparent and beyond reproach.

The RSPCA is aware of the need to formalise their procedure so as to create a public perception of openness, transparency and accountability in their prosecutions. The RSPCA has formed a prosecutions Committee comprising:

- Prosecutions Manager
- Assistant Prosecutions Manager
- 2 Committee Members (1 from the Inspectorate and 1 invited from BLEATS)

The role of the Prosecutions Committee is to make recommendations to the Chief Inspector with respect to applications for prosecutions submitted by inspectors and having regard to the RSPCA Qld Prosecution Guidelines. The Chief Inspector will then make an informed decision regarding the prosecution.

A prosecution sub-committee will be formed under the RSPCA Qld Board and will review all prosecutions on a proposed 6 monthly basis, with the flexibility to convene meetings where serious issues or concerns arise relating to prosecution process. This sub-committee will report regularly to the Chief Executive at DEEDI (the government department that authorises RSPCA Inspectors pursuant to the *Animal Care and Protection Act 2001 (Qld)*).

From time to time BLEATS members will be invited to sit on the Prosecutions Committee to consider applications for prosecution that are submitted by Inspectors. This won't involve any lengthy commitment from anyone other than reading the application and joining in a

teleconference to discuss the matter with the Committee so we can agree on a recommendation with respect to whether or not to proceed with the prosecution. These teleconferences are not expected to be longer than an hour. RSPCA intends on using a different BLEATS member each time to ensure they have input from someone relatively independent from the RSPCA.

It is not expected that the BLEATS member will provide legal advice about the specifics of the case but might provide some insight about whether or not the prosecution for the case should proceed or not. This might involve consideration of whether the prosecution is in the public interest, or whether there appears to be a prima facie case on the evidence outlined in the application.

Please contact Tracey Jackson or Tracy-Lynne Geysen by emailing them if you would like to participate on the committee.

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Thank you all as always for your ongoing support.

**Graeme Page SC**  
*BLEATS Patron*

This newsletter was prepared by Stephanie Powell