

# **NSW STOCK THEFT AND TRESPASS REVIEW**



## **FINAL REPORT**

**JUNE 2016**

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## Executive Summary

This Review was announced by the Deputy Premier and Minister for Justice and Police on 25 February 2016 along with specific terms of reference. The scope of the Review – stock theft, rural trespass and illegal hunting – represents how intertwined these crime types are. Given this, a series of recommendations are proposed in this Report which address all three of these issues, as well as ensuring Police are appropriately structured, empowered and resourced for the particular challenges posed by rural crime.

As Professor Elaine Barclay found in her 2014 Research into farm crime, while other types of crime are on a downward trend, rural crime is increasing and significantly underreported. It is also important to highlight that approximately 25% of NSW residents live outside Sydney, Newcastle and Wollongong.

Stock theft, rural trespass and illegal hunting are crimes of major concern to rural and isolated communities. These crimes can lead to significant economic loss for primary producers and rural communities, with one incident potentially leading to tens or even hundreds of thousands of dollars in property theft and malicious damage, as well as the loss of future breeding potential. The impact of rural trespass and illegal hunting is also multiplied by opportunistic crimes which accompany these offences, such as firearm theft, diesel theft or animal cruelty. Recent reports, for example, suggest that more than 90% of stolen firearms in NSW being taken from rural areas.<sup>1</sup>

As many rural families live and work on the same property, such crimes can generate tremendous fear, as well as a sense of insecurity, and intimidation, due to being unable to control who is able to access their land. And police assistance, particularly in isolated communities, may be hours or even days away, especially if the nearest police station is not staffed 24 hours.

The current Police response to crime in rural and remote communities was brought into question at every public consultation held over the course of the Review. It is apparent that the staffing of 24-hour stations is critical to the efficient policing of rural and remote areas right across NSW. Because of industrial agreements, police from smaller stations are routinely used to fill gaps in rosters at larger stations and officers in charge of stations are not appropriately empowered to determine the best policing response for their local communities. Such practices are starving rural communities of the police protection to which they are entitled. It is the opinion of this Review that addressing this issue should be the highest priority of the NSW Police Force.

Hunting on private land using knives, dogs or bows continues to grow in popularity across NSW, perhaps fuelled in part by the lack of regulation of such activities, compared with the regulatory scheme in place for hunting with firearms. Often this hunting involves rural trespass. This lack of regulation does nothing to assist Police or the Department of Primary Industries to manage or control such behaviour.

When rural crimes are prosecuted, the penalties issued are routinely far below both the maximum penalty and the quantum of the loss suffered by victims of such crime. Victims feel deep frustration that current penalties do not act as effective deterrents and suggest that magistrates and sometimes police officers do not appear to understand or appreciate the impact of such crimes.

This Report will propose a number of recommendations aimed at addressing stock theft, rural trespass and illegal hunting. These include enhanced penalties for existing offences, an expansion of current regulatory

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<sup>1</sup> <http://www.centralwesterndaily.com.au/story/3934718/organised-crime-and-bikies-stealing-weapons-from-centralwest-gun-owners/>

requirements and significant changes to the way the NSW Police Force is currently structured to address rural crime.

Key to addressing stock theft, rural trespass and illegal hunting is ensuring that police in rural and remote areas are engaged with their communities and are properly tasked and resourced to address these crimes. For a number of years, this does not appear to have been the case, most likely since police retreated to 'core business' and relinquished various extraneous duties undertaken on behalf of other government agencies which gave them regular contact with their communities. Current police transfer arrangements mean that police officers accept short-term postings to rural and remote areas, merely as a stepping stone to more desirable positions. Rural officers in non-24 hour stations are also often tasked outside their sectors and rural crime investigators are routinely tasked with jobs which have nothing to do with rural crime, such as child protection register visits.

Police policies and structures also mean that if a call for assistance is received at night and/or to attend a remote location, police officers are supported by current policy in determining they should not attend alone, despite their possibly being the only police representative on duty in that sector. Whilst the intent behind this – to protect the safety of officers working in single units – is supported, consideration must also be given to the policing support made available to landowners dealing with trespassers and thieves, who may possibly be intoxicated and also armed. Although Police policies are intended to address both police and community safety, there is considerable confusion in relation to this area of policing, which was clearly expressed by stakeholders during the course of the Review.

The content and findings of this Report reflect discussions with and submissions received from a range of different stakeholders, from government agencies, to industry bodies to residents of rural and remote communities.

This Report is addressed to the Deputy Premier for his serious consideration. The recommendations made in the Report will, if implemented, greatly assist in empowering both police officers and victims of crime in addressing stock theft, rural trespass and illegal hunting.

7 June 2016

## Recommendations

A new standalone Act which incorporates the following provisions:

1. Section 126 of the *Crimes Act 1900* ('Stealing cattle or killing with intent to steal') – maximum penalty amended to \$1000 for each animal stolen (unless valued higher) or 14 years imprisonment, or both.
2. Similar to current offences in the *Inclosed Lands Protection Act 1901*, a new offence of 'rural trespass', with a maximum penalty of 50 penalty units or 2 years imprisonment, or both. The factors of aggravation are to be either the creation of an enhanced biosecurity risk for a particular property, or the presence of hunting equipment, including hunting dogs. This should also include the power for authorised officers to require name and address from persons charged with the offence.
3. Section 28J of the *Summary Offences Act 1988* ('Offence of hunting on private land'), with increased maximum penalties of 20 penalty units or imprisonment of 12 months or both, with a penalty notice amount of \$1100.
4. Based on section 4 of the *Deer Act 2006*, a deeming provision which will codify the requirements for proving ownership of a rangeland goat.
5. Introduction of a provision allowing for primary producers to apply to Police for a forced muster order allowing them to seek a forced muster of someone's stock in circumstances where it is impracticable for someone to seek permission to enter a property and recover their stock or another landowner unreasonably refuses to give permission to someone to enter a property to recover their stock.

Also, enhanced penalties for the following offence, which would apply across all NSW, not just rural and regional areas:

6. Section 4 of the *Inclosed Lands Protection Act 1901* ('Unlawful entry on inclosed lands') – maximum penalty increased to 20 penalty units in the case of prescribed premises and 10 penalty units in any other case, with increased penalty notice amounts of \$1100 and \$700.

Changes to current Police structures and processes:

7. Establishment of a new structure for Police in rural and remote locations which better ensures that police officers work in their assigned sectors and have appropriate back-up when required to attend jobs at night and in remote locations.
8. Establishment of a standalone 'Stock Squad', reporting through to an Assistant Commissioner of Police and with a rank structure and dedicated intelligence analysts, which allows officers to work in teams and provides opportunities for promotion and additional training.

9. Rural Crime Investigators to be transferred to the new standalone squad and their numbers to be enhanced.
10. Establishment of a Community Induction Program in collaboration with NSW Farmers, the Rural Fire Service and other community organisations, designed to assist police officers working in rural and remote locations to better engage with local communities and learn more about the priorities of the communities in which they work.
11. NSW Police Force to draft, publish and distribute an aide memoire to all rural police officers, based on the current Queensland Police document, which covers all police powers and legislative provisions relating to policing in rural areas.
12. NSW Police Force to determine whether more of the Associate Degree in Policing Practice can be offered on-campus at Charles Sturt University Dubbo, so as to limit the travel recruits from the Western Region need to make to the Police Academy in Goulburn.
13. Creation of a new bridging course by NSW TAFE and NSW Police similar to the IPROWD course, targeting potential police recruits from the Western Region of NSW, aiming to support their entry into the NSW Police Academy and hence boost the number of recruits from the Western Region, who will be drawn to transfer back to a country location.
14. Creation and launch of a new smartphone App aimed at making it easier to report rural crime, by ensuring that reports are pushed directly through to a dedicated rural crime analyst, who can then disseminate the report to the appropriate Rural Crime Investigator. The App should allow for easy upload of photos and videos related to crime reports and should enable reports to be saved and sent later, where they are created in areas with no internet access. A sponsor could be sought to defray the costs of this project.

#### Proposals for DPI and LLS:

15. All goat depots to be required to keep and maintain records of purchases on their premises, including name and address and vehicle registration number. Police to be empowered to inspect and make copies of these records at any reasonable time, without a warrant.
16. Re-introduction of a requirement for compulsory ear-marking for all sheep over the age of 6 months, on the property on which they were bred.
17. LLS to commence imprinting NLIS tags for sheep with the owner's registered earmark, to facilitate cross-checking by compliance officers and police officers, to assist in proving ownership.
18. The activity of harvesting rangeland goats to require a licence, which will help protect the property rights of primary producers and harvesters.

19. All hunting on private property to require both a licence and a letter of permission from the landowner. Police to be empowered to require production of both documents from hunters either whilst hunting or in circumstances where police have reason to believe individuals are travelling for the purpose of hunting.
20. Following recommendation 19, the seizure power in section 45 of the *Game and Feral Animal Control Act 2002* be broadened to cover all illegal hunting, both on private and public land and include the option for police to issue a 'notice to produce' for any vehicles seized, so that the seizure of a vehicle in such circumstances could occur within 24 hours at the nearest police station.
21. LLS to strengthen its NLIS compliance and enforcement regime, particularly in relation to property to property transfers, in consultation with DPI and report-back to the Rural Crime Advisory Group within six months on actions taken.
22. LLS to retrieve archived particulars of large stock symbol brands and share this information with Police within six months, to enable the validation of brands found on large stock suspected of being stolen.

## Feedback received from rural stakeholders

The Chair of the Review spoke to meetings of stakeholders in the following locations: Orange, Peak Hill, Broken Hill, Cobar, Ivanhoe, Wilcannia, Nyngan, Bourke, Brewarrina, Coonamble, Pilliga, Narrabri and Oberon. These meetings were publicised, open to the public and were either organised by NSW Farmers, the Office of the Hon Kevin Humphries MP or in one case (Orange) the Department of Justice.

In addition, submissions and comments were received via post, e-mail and a dedicated Facebook page.

Meetings were also held with representatives from the following: Department of Primary Industries, Local Land Services, Meat and Livestock Australia, NSW Farmers, Local Government NSW, Australian Livestock and Property Agents Association and the NSW Police Force. The Chair also outlined the Review's findings to the Rural Crime Advisory Group at its May 2016 meeting in Tamworth.

The main issues raised during consultations with land owners were stock theft, stock identification, rural trespass, especially by pig hunters and goat harvesters and police response to rural crime incidents. Some disturbing stories were shared about intimidation by hunters, brazen thieves, property damage and mental stress. People provided detailed submissions about the efforts they had undertaken to try and report and provide evidence of crimes on their property. For example, the following was received from a property owner from the Western Region, as part of a submission to the Review,

*'On at least two occasions, my wife and I have attempted to report incidents as they occurred to be met with a call diverted to Dubbo, then to Bourke only to be told that no police were on duty or even on call in Nyngan. On another occasion, when the call was put through to Nyngan and an officer was on duty my wife was told that he was the only officer on duty and unable to attend to the incident. This particular incident involved a man, who was obviously drunk, his wife, who he said was on drugs and children in the car. My wife was not going to leave the protection of the house to record a registration number as I was away elsewhere.'*

Respondents also highlighted reasons why they might choose not to report crimes to police, including that it was difficult to locate police officers locally even by phone and police officers did not adequately understand rural crimes. There was also a sense that there was no point to making reports when police were not able to achieve satisfactory results, for example due to lack of evidence or disappointing court outcomes. Police officers also commented on this issue, saying how frustrating it was to prepare a brief and get a matter to Court, only for magistrates to apparently downplay the seriousness of rural crimes and sentence accordingly.

It was also very clear from submissions and responses that rural landowners are very open to embracing and adopting new technologies and processes aimed at preventing rural crime, provided that these did not significantly increase their operating costs. For example, a number of people reported that they were already using cameras on their properties, either to record number plates or to assist other government agencies in managing wildlife. At the public meeting in Oberon, there was also discussion about being able to match permanent marks placed on stock with laser printed ear tags, so as to limit the risk of ear tags being removed from stolen stock and replaced.

Other issues raised included hunting dogs living in town and killing stock on outskirts of towns, drones casing properties and startling livestock, use of camera footage as independent evidence of offences, property owners of very small holdings obtaining PICs to be used in connection with theft of goats, 'loaded dogs' with trackers and breastplates, trawling roads on vehicles ready for pigs, Western Division mail roads, gazetted roads and unfenced Travelling Stock Routes used by offenders, problems with absentee owners and

unscrupulous land holders. Some of these issues fall outside of the Review's terms of reference and will be referred to Police for separate consideration.

### Feedback received from NSWPF Rural Crime Investigators

The 33 Rural Crime Investigators are key stakeholders for the Review, given their ongoing dealings with stock theft, trespass and illegal hunting. They were invited to provide submissions to the Review in late February. A total of seven submissions were received and these canvassed a broad range of issues, as captured below.

One RCI commented that, 'I think the penalties for stock theft are adequate, it's just getting the magistrates to impose them and I doubt we are going to see any improvement in that area...'. Another commented that actual penalties handed down by courts for rural offences are 'generally pitiful', act as no real deterrent and do not reflect the expectations of the rural community and that current penalties for trespass are totally inadequate in a rural setting. Whilst probably suitable for trespass in an urban yard or a school, for rural properties, where trespass is the catalyst for other issues and there are strong benefits for offenders, such as theft or hunting, the benefits easily outweigh the penalty value.

One of the submissions included the comment that there should be an offence of aggravated rural trespass, with the circumstances of aggravation being found to be in possession of hunting equipment, or trespassing with intent to commit any other offence. In relation to a possible vehicle confiscation power, it was commented that it would be a great idea for trespass on a private property, but that there would be issues in implementing and using such a power. As such, a means of directing an offender to deliver the vehicle to a police station should probably be considered. Number plate confiscation was also raised as a workable alternative. Another issue raised for further consideration is that younger offenders will be likely to be driving cars not registered in their name – this is likely to impact on vehicle confiscations being upheld by the courts.

One submission commented that Police as a whole are not appropriately trained to target and investigate stock theft: '[u]nless you were born or worked on farms I don't think you can really understand the issues. However more training for police in regional areas on livestock and farming in general, none of which I have received, would be invaluable for all police.' The comment was made that the re-vamping of branding legislation in cattle should be considered, saying that this will assist as a deterrent and also aid investigations. The submission went on to say that NLIS is difficult to use and property to property (P2P) transfers are not routinely done, which can make even basic incident reports difficult for police and the fact that NLIS devices can be removed and replaced or lost means that the system is flawed. Another said that 'NLIS noncompliance affects virtually every job we do. The person who owns or is responsible for the PIC should have to notify NLIS when cattle leave the PIC, nominating where they are going.'

One RCI made the comment that for traceability and continuity purposes, all stock and station agents should be required to have their own personal NLIS access code and this person should be required to take full responsibility and liability for the transactions undertaken on the NLIS database under their access code. It was also said that the Property Stock and Business Agents Act should also be amended to make it the responsibility of the agent to report stolen or suspect stock to police, with an associated offence and penalty if this is not done. This is currently the subject of discussions between Police and the Australian Property and Livestock Association.

The comment was made that more training should be provided to RCIs around current requirements for ownership, transfer and sale of rangeland goats, so as to ensure clarity. It was suggested that it be made compulsory for all goats to be earmarked and identified before they leave the property, given that the current legislation gives poachers an immediate 'out' if they are taking the goats direct to a goat depot (without tags). One submission said that cattle should be either branded or earmarked with a registered

mark before they are 6 months of age, as this would greatly assist with stock stealing investigations and limit the number of cleanskin cattle. The comment was made that ‘the temptation to steal cattle is made only greater to thieves and more difficult for police to trace due to the lack of identification requirements for cattle.’

One submission also commented that the statute of limitations for offences under the Stock Diseases Act and Regulation should be amended to ‘within 2 years of the offence being detected’, because this would remove any ambiguities in relation to prosecution and when police claim the offence was committed, which is technically when detected by police.

## The NSW Livestock Industry

The table below shows the current size and value of the agricultural industry in NSW, both as an employer and contributor to the NSW economy. A notable trend within the industry is that agricultural businesses are able to, through the effective use of technology, manage more land remotely – making them even more vulnerable to theft, damage and interference.

Businesses in the primary production sector typically operate on small margins and prices are greatly affected by changes in national and international trade. This means that losses caused through theft or damage will be difficult to recover from. In addition, primary producers are not always insured properly or at all and where they are insured for stock theft, policies often set low limits on the value of such claims or include caveats in terms of their coverage. Yet farmers can lose tens or even hundreds of thousands of dollars in a single incident of theft, for example through farm vehicles, stock and diesel theft.

In such a scenario, the impact of stock theft can be far greater than for other NSW businesses that are more widely understood. For example if an expensive car was stolen from a car dealer, or luxury goods were stolen from a department store the incident may even garner media attention. But a theft of equivalent value from a farm is likely to be downplayed, attract minor penalties if indeed it gets to court, and will leave the victim, who is likely not to be fully insured, feeling aggrieved.

### Industry Data

Category	Gross Value Production 2015 (\$m)	Employment Single Livestock Industry	Employment Mixed Livestock Industries	Number of Businesses
Cattle and calves slaughtered	1,539.95	13,646	13,417	25,753
Sheep and lambs slaughtered	639.83	6,775		15,760
Sheep wool	815.97			
Pigs slaughtered	199.72	509		479

Poultry slaughtered	767.72	949		2,692
Poultry eggs	214.80	887		
Dairy milk	528.10	3,064		1,420
Other slaughtered n.e.c	7.44	N/A		N/A
<b>Total</b>	<b>4,713.53</b>	<b>25,830</b>	<b>13,417</b>	<b>46,104</b>

#### Sources

Gross Value Production: Australian Bureau of Statistics (2015), Value of Agricultural Commodities Produced, Australia 2013-4

Employment: Australian Bureau of Statistics (2012) 2011 Population Census, Table Builder Employment Data for: Employment, Income and Unpaid Work.

Number of Businesses: Australian Bureau of Statistics (2015), Agricultural Commodities, Australia 2013-14.

Collated by the Department of Primary Industries (NSW)

## Rangeland Goats

Rangeland goats are a maturing agricultural industry in NSW. Where at one time they were considered to be pests, today they are highly profitable.

Goats can breed twice a year and can produce twins, making them high-yield. They are also low maintenance, do not require shearing, crutching or mulesing and can survive in harsh conditions. Goat meat is one of the most widely consumed meats in the world and Australia is the largest exporter of goat meat, with goat meat exports valued at \$243.2 million in 2015. Most Australian goat meat is shipped to the United States.

The unique feature of rangeland goats in this context is that proving ownership is difficult and hence theft is easy, given that rangeland goats legally are not private property and so cannot be stolen. A landowner may choose to amass rangeland goats on their property until they have enough for a load to the closest abattoir. Quite understandably, the landowner may believe that in such circumstances the goats now form part of his property and are his to sell. However if the goats are stolen, they are unlikely to be tagged, or have any other marking or proof of animal husbandry that the landowner can refer to as proof of ownership. Goats are exempt from tagging requirements if being transported directly to a goat depot or an abattoir and are reportedly very difficult to tag. This in turn makes a prosecution for the theft of rangeland goats difficult to pursue and makes opportunistic theft easy and profitable.

There are estimated to be around 6 million rangeland or feral goats in NSW currently<sup>2</sup>, mostly in western and north-western NSW. The rangeland goat is the major source for the goat meat processing industry, accounting for approximately 90% of total goat meat production.<sup>3</sup>

<sup>2</sup> National Parks and Wildlife Service

<sup>3</sup> <http://www.gica.com.au/history-of-goats/rangeland-goats>

Many producers in NSW keep goats either as their primary or secondary source of income. Every property on which rangeland goats are captured must have a property identification code (PIC)<sup>4</sup>. This includes Crown Land such as state forests and national parks. National Parks and Wildlife (NPWS) offers contracts to musterers for the harvesting of goats on parcels of land that they manage. Musterers erect yards into which they muster goats and then transport the goats to abattoir. NPWS may collect a royalty on goats caught on land it manages in some areas.

Goat prices have been high over the past year, reaching \$4.80-\$5.50 per kilo for over the hook carcass weight.<sup>5</sup> This makes goats highly saleable and desirable to steal.

## Measuring the impact of Stock Theft, Trespass and Illegal Hunting

### How big an issue is stock theft?

Police advise that the number of stock theft incidents has been increasing since 2013 and that NSW primary producers experienced a combined \$2,572,462 loss during 2015. This does not include loss of by product (wool, skin, etc) from the stolen livestock or loss of breeding potential.<sup>6</sup>

NSW farmers have reported over \$11 million worth of sheep and cattle stolen during the five years to 2015. This calculation is based on average market prices each year for cows and ewes and does not take into account the loss associated with stud stock, wool, breeding potential, or investment to improve bloodlines of stock. So one or two instances of stock theft may represent a farmer's profit margin for the year.

Thefts may be small and opportunistic, or large and well-organised. For example, NSW Farmers reports that one of their members in the Riverina has had \$400,000 in sheep and \$200,000 in goats stolen over the last four years.<sup>6</sup>

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<sup>4</sup> [http://www.dpi.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0004/447925/NLIS-Guidelines-for-NSW-goat-depots.pdf](http://www.dpi.nsw.gov.au/__data/assets/pdf_file/0004/447925/NLIS-Guidelines-for-NSW-goat-depots.pdf)

<sup>5</sup> <http://www.abc.net.au/news/2015-08-31/rangeland-goat-price-spike/6738202> <sup>6</sup>

Police advice received via e-mail, 4 May 2016.

<sup>6</sup> NSW Farmers submission, received 13 May 2016.

Quantity of Livestock Reported Stolen					
	2011	2012	2013	2014	2015
<b>Cattle</b>	1549	971	1731	1454	1519
<b>Sheep</b>	27538	20987	13341	9079	14207
Average Market Price (cow / ewe)					
	2011	2012	2013	2014	2015
<b>Cattle</b>	\$ 694.00	\$ 620.00	\$ 543.00	\$ 600.00	\$ 964.00
<b>Sheep</b>	\$ 95.80	\$ 58.90	\$ 46.10	\$ 66.50	\$ 77.70
Estimated Value					
	2011	2012	2013	2014	2015
<b>Cattle</b>	\$1,075,006.00	\$602,020.00	\$939,933.00	\$872,400.00	\$1,464,316.00
<b>Sheep</b>	\$2,638,140.40	\$1,236,134.30	\$615,020.10	\$603,753.50	\$1,103,883.90

Source: NSW Police Force

Police advise that since 2011, 47 matters where the primary charge was 'Steal cattle or killing with intent to steal' (section 126 of the *Crimes Act 1900*) have been heard in the Local Court. Of these, four charges were heard in Wagga and three in Cooma. There were a further three matters heard in the Children's Court for this offence (in 2013 and 2014), one District Court matter (from 2011) and another matter that did not make it to court (from 2014).<sup>7</sup> This suggests that a lot of stock theft incidents do not make it to court, possibly due to there being insufficient evidence.

In relation to the theft of goats in particular, Police advice indicates that there were 12 goat theft incidents recorded on COPS in the 2015-16 financial year. Nine of these occurred in the Western Region, mostly within the New England LAC. Only one person has been charged with two incidents of steal cattle and dispose of stolen goods. Only one event appears to have involved goats that were tagged.<sup>9</sup> However the true number of harvested goat thefts is likely to be far larger, given their current legal status means they are unable to be stolen at common law and difficulties for farmers in marking or tagging these animals.

## Unique features of stock theft

Unlike the stock of other businesses, livestock are generally easily accessible, may be visible from public roads and may not be regularly audited or checked by their owners – making them easy targets for opportunistic thieves. Livestock could also legitimately stray onto neighbouring property and knowingly not returned, or be used for their by-products and returned, such as merino wool, calves being kept and bulls used to service other stock without permission. Farmers may also not muster their stock regularly, meaning that small losses may go unnoticed for long periods. In addition, farmers can work for years to enhance the bloodlines of their stock, in an effort to increase their breeding potential and value. So when these animals are stolen, it is not only the loss of the animal that is suffered, but their potential breeding benefit – and it may take generations of breeding to restore this work.

<sup>7</sup> Police advice received on 6 May 2016. <sup>9</sup>

Ibid.

Whilst strict requirements are in place for the tagging of stock and the keeping of records for transfers and sales, there are gaps in the current system which assist stock thieves, for example, feral goats being taken directly to an abattoir are not required to be tagged. In addition, whilst compliance with the requirements of the National Livestock Identification System is reportedly around 98% for farm to saleyard transfers, for property to property transfers the situation is not as clear.

Rangeland goats may be in the possession of primary producers, hunters or harvesters for only short periods of time, before being delivered to an abattoir or goat depot and are difficult to tag due to animal welfare concerns and the issue of wild goats climbing out of races. And despite recent efforts to enhance the regulation of this industry, submissions made to the Review suggest that plenty of opportunity exists to evade these requirements. For example, landowners allowing their friends to use their PIC to sell goats, widespread sale of rangeland goats for cash with no documentation and people obtaining PICs for small parcels of land to provide legitimacy to stolen goats. The Review received multiple reports of illegal goat musters and of goat depot employees assisting in the undocumented trade of goats through paying cash and misrepresenting the origin of goats.

Farmers and their families are also likely to live on the same properties from which stock are stolen – properties which may often be quite remote from population centres. This can make encountering thieves quite an intimidating experience, particularly at night – as help may not be close by. Reports indicate that when found by landowners, trespassers are perhaps unsurprisingly not always compliant or respectful of the wishes of landowners. Anecdotally, there is also evidence to suggest that a lot of stock theft is ‘local’, that is, the thief and the victim come from the same community, perhaps even with some relationship between them. This can also hamper resolution of such matters, with fears of retribution if the police are called. At one meeting for example, a farmer spoke of illegal hunters in his area who were father and son, whose criminal histories were widely known.

There is also a widely-held perception, based on prosecution outcomes and sentencing that the value of stolen stock is not properly understood or appreciated by the justice system. Farmers may suffer a loss of between a few thousand and hundreds of thousands of dollars in one theft and the penalties imposed never come close to reflecting this magnitude of loss. While the current penalty for stock theft is very high – a maximum of 14 years imprisonment – nothing like this is ever meted out by the courts. In relation to rural crime, this seems to have contributed to a strong distrust of the justice system, apathy and low reporting rates.

## Rural Trespass and Illegal Hunting

Rural trespass and illegal hunting, identified as issues of great concern to rural landholders, appear to be on the increase.

Based on NSW Police Force data, there were 442 reported incidents for rural trespass during 2015, 79% of which were recorded within the Western Region. There were 914 illegal hunting incidents recorded on COPS during 2015. Of these, 67% were from the Western Region and 22% were within the Southern Region. Illegal hunting is the only rural crime that has recorded consecutive rises over the past five years, with incidents on average increasing by around 29% per year.

The majority of these illegal hunting incidents involve the hunting of pigs with dogs (pig dogging) and in some instances the hunting of both feral and native animals using a bow and arrow.<sup>8</sup> It is likely that these offences

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<sup>8</sup> Email submission from Game Licensing Unit, DPI, 19 April 2016 <sup>11</sup>  
Comment at Oberon meeting, 11 May 2016.

are often undetected or are underreported, so the true incidence is likely to be significantly higher. Based on this data and assuming some degree of underreporting, these offences are extremely common and are, by definition, concentrated in rural and remote communities.

Rural trespass and illegal hunting often receive minimal penalties and are generally dealt with by way of a penalty notice. However, rural trespass and illegal hunting are also commonly accompanied by other crimes, such as property theft, malicious damage, intimidation, stock theft and diesel theft. For example in 2015, 173 firearms were stolen from rural properties, 120 of which were rifles.

Victims of these crimes experience immense frustration when the perpetrators receive a fine of a few hundred dollars and no criminal records, when the impact on victims is far greater –in terms of both financial loss and safety concerns. Many stakeholders commented to the Review that punishments need to better match the crime in order to constitute effective deterrents. There is also increasing concern about vigilante activity in rural and remote communities, where police resources and response times are considered to be inadequate.

There is also significant concern about illegal hunting bringing strangers into small communities – strangers who may for example be well armed, possibly intoxicated and have dogs that pose a threat to stock should they not be properly controlled. Police have advised for example that Khaled Sharrouf (the Islamic State fighter who famously posted pictures of his sons holding severed heads) had been previously arrested in Portland for illegal hunting<sup>11</sup>. A number of farmers also reported aggressive interactions with trespassers and illegal hunters, who do not always leave a private property when requested to do so, even when known to the property owner. Unlike firearm users, other hunters are currently not required to undergo a probity check in order to obtain a licence and it is possible that this lower level of regulation makes other types of hunting more attractive, as individuals who would not be granted a firearm licence can still pursue hunting as a recreational activity.

In its submission to the Review<sup>9</sup>, NSW Farmers reported that its members are concerned that illegal pig hunters are not ultimately interested in controlling or reducing wild pig numbers, as this would serve to limit their sport. And on this basis, NSW Farmers believes that the objectives of illegal hunters are inconsistent with those of landowners, who attempt to undertake coordinated pest control. NSW Farmers says it is also aware of incidents where hunters have deliberately transported piglets into areas which previously had no wild pig populations, creating new pest animal problems for landowners.

Based on data from the Department of Primary Industries<sup>13</sup>, around 160,000 hunters are licensed under the *Firearms Act 1996* to use firearms in a hunting situation in NSW. And an additional 40,000 hunters are estimated to hunt with bows or hunt pigs with dogs on private land in NSW.

At present, there are few restrictions placed on hunting on private land. Hunters are not required to carry proof of permission from a landowner to hunt on their land, but are required to produce it within a reasonable time if they are firearm users. Pig-dogging, or using dogs to help track and hunt feral pigs (usually with knives) is a large and growing recreational sport. Unlike firearm users, hunters using knives and dogs or bows are not currently required to undergo a criminal history check and this may be attractive to individuals who wish to hunt, but know they have a criminal history or apprehended violence orders that would preclude them from being granted a firearms licence.

Currently, there is no legal requirement in NSW for a hunter using anything other than a firearm (that is, bows and arrows, knives, dogs) to obtain written permission from a private landowner prior to hunting on

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<sup>9</sup> Submission received from Charlie Cull on 13 May 2016. <sup>13</sup> Email submission from Game Licensing Unit, DPI, 19 April 2016 <sup>14</sup> Section 45, 'Power of seizure'.

that land, let alone to produce evidence of such permission if requested to do so. Police are of the view that this creates difficulties for them in investigating potential illegal hunting on private land.

In addition, the current offence outlined in section 28J of the *Summary Offences Act 1988* for illegal hunting on private land provides that someone is taken to have a reasonable excuse for such activity if they did not know the land was private land. Such a claim would be difficult for police officers to disprove. Another common excuse offered in such circumstances is that a hunter is trespassing to search for a straying dog.

By including hunting on private land under the *Game and Feral Animal Control Act 2002*, hunters would also be subject offences and penalties in circumstances where they do not possess a game hunting licence or where they have contravened the Hunters Code of Practice, which contains trespass, animal welfare and firearms safety provisions.

Under the *Game and Feral Animal Control Act 2002*<sup>14</sup> hunters may also have any item believed to be used in a game hunting offence seized including hunting equipment, hunting dogs and vehicles. The Regulatory Authority may also apply to a court to have any seized items forfeited to the Crown. The seizure and forfeiture of similar items used in illegal fishing, like boats has proven to be an effective deterrent under the *Fisheries Management Act 1994*.

In hunting feral or pest animals across various parcels of land, hunters may also inadvertently or recklessly cause biosecurity risks for primary producers or cause distress or injury to animals. Issues like this should be taken into consideration when assessing the harm caused to victims of such crimes, however victim impact statements are not an option for such crimes, so it is currently difficult for the victim's position to be fully expressed under current arrangements.

Land owners have repeatedly expressed how important it is to be able to have more control over who comes on to their property and the fear and frustration they experience when they are unable control this. Here are two excerpts from submissions made to the Review, which highlight these issues:

*"In January 2015, our property front gates were rammed and smashed open. Trespassers then drove all over the property and left the gates open on the way out, letting out our sheep. In September 2014 I caught trespassers removing goats from my neighbours' property. When I approached them they became abusive, threatening to bash me. They had approximately \$2000 worth of goats on board. When it came to court in September 2015, one of the men got a \$200 fine for trespass and a \$400 fine for intimidation.*

*The day before I went to court to give evidence for this offence trespassers laid down my front fence and stole goats out of my paddock. About the same time, trespassers entered my neighbour's property, smashed their security cameras and smashed the electricity box off the pole so the power couldn't be turned back on. They stole a trailer and used it to steal everything that they could lift that was worth anything."*

*"Our farm vehicle, a Nissan Navara...which was locked and parked in a shed was stolen. This occurred between 20/5/15 and 7/6/15 after rainfall which fell around 25/5/15. Our vehicle was tracked and found on another part of the property. All gates the thieves went through were left open and fences cut. The thieves had been bogged, they had used our vehicle to go pig hunting and used our vehicle to try to pull theirs out and bogged it as well. It was evident that they were there a couple of nights..."*

On one occasion, the review was also told about a current situation where a private property was being violated by illegal pig hunters every weekend. The offenders, who live in a small rural village, were unlicensed and drove unregistered vehicles. They had been arrested at least five times for traffic offences, but were still turning up to the property in question each weekend in cars, cutting a different fence each time to gain entry. Similar situations were relayed to the Review, with obvious frustration and extreme emotion. People clearly feel helpless in the face of ongoing criminal conduct like this.

Confronting illegal hunters on a remote property, who may have firearms, knives, hunting dogs or other weapons, would be challenging even for police officers. And without the guarantee of police attendance, landowners may end up taking matters into their own hands, with serious implications.

For example, in April 2016 the Central Western Daily reported<sup>10</sup> the court outcome of an illegal hunting incident that occurred at Coolabah, near Nyngan. Three men had been spotted on a private property, illegally hunting pigs. The farmers shot at the hunters' utility, writing it off, and detained the men, whilst waiting for police. During the wait, one of the farmers fatally shot the two hunting dogs the hunters had been using.

The article reported that two of the hunters did not have clean criminal records and were on section 9 bonds at the time of the incident. They were both fined \$300 each for hunting without a licence and another \$300 each for entering private land without consent. The third hunter was not charged, due to this being his first offence. The farmers were charged with a range of firearms and animal cruelty offences. This incident highlights the potential dangers in such interactions between landowners and illegal hunters, particularly where firearms are present.

Trespassing is also viewed as a major issue, because it is so often accompanied by other crimes in rural areas. A recent media report suggested<sup>11</sup> that a common tactic was for thieves to drive up to a homestead and gauge whether anyone was home. If they were, the thieves would claim to be lost. If the property was unattended, the thieves would steal whatever they could – quad bikes, diesel fuel, unsecured firearms, etc. Farms are also viewed as easy targets for opportunistic, drug-fuelled crime. Reports of drones seemingly being used to 'case' a property and assess the location of valuables, presumably for future theft, are also increasing.

It is important to note that many recreational hunters do conduct themselves lawfully and ethically and there is no intention to restrict the practice of hunting, when conducted in this manner.

## Police position on the regulation of hunting

The NSW Police Force has indicated that they would support additional regulation of hunting, to address the issues highlighted above. Police recommend<sup>17</sup> that consideration should be given to amending the Game and Feral Animal Control Regulation 2012 to:

- Impose a licensing condition on the holder of a hunting licence, requiring them to obtain written permission to hunt on private land, from the owner of that private land; and
- Impose a licensing condition on the holder of a hunting licence to produce that written permission if requested to do so by an inspector, police officer or owner/manager of the land when hunting on private land.

This will also provide an opportunity for police to address illegal hunting prior to it occurring, by giving them the opportunity to stop and question individuals who appear to be on their way to hunt, based on the presence of dogs, weapons or other equipment.

Police also advise that, based on previous discussions with the Department of Primary Industries (DPI) on the matter, both agencies agree that there is merit in establishing a probity system for all recreational hunters

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<sup>10</sup> "Men fined for illegal hunting", **Central Western Daily**, 13 April 2016, p.7

<sup>11</sup> <http://www.beefcentral.com/news/state-stock-squads-cooperating-to-combat-drug-fuelled-rural-crime/> <sup>17</sup> Police advice received on 6 May 2016.

using techniques other than a firearm to hunt and that consideration should be given to establishing a secure way of exchanging information about recreational hunters who have had their firearms licence suspended, cancelled or been made subject to conditions.

The Review supports the Police proposals outlined above and encourages Police and DPI to recommence this work at the earliest opportunity. It is likely that currently, individuals who have been refused a firearms licence or know they would be refused and wish to hunt recreationally are taking advantage of the fact that pig hunting and bow hunting are largely unregulated on private land, to the cost of local landowners.

Other jurisdictions, such as the United States, already regulate hunting on private land. Such regimes could prove useful as precedents for an enhanced regulatory model for recreational hunting in NSW.

## UNE Research on Farm Crime

In 2014, Associate Professor Elaine Barclay and her team from the University of New England undertook a mail survey of 3160 farmers across a range of agricultural industries in New South Wales and Queensland.

The aim of the survey was to examine the nature, extent and impact of rural crime, the scope of security practices on farms, and farmers' attitudes to rural crime, including their propensity to report crimes to police. Trends in rural crime were compared and assessed against those of a previous study conducted in 2001. The final survey was 1251 farmers, 69% of which were from NSW and 31% of which were from Queensland.

The research, published in 2015, found that<sup>12</sup>:

- Incidents of trespassing and unauthorised hunting have doubled since the last survey and 35% of landholders have ongoing problems. The current 'pig hunting craze' has produced offenders who are well equipped with off-road vehicles, GPS systems, and high-powered rifles.
- Stock theft has increased to a lesser extent since 2001, but this crime continues to have a significant impact on victims; financially, psychologically and socially. The 'butchering' of one or two animals for food remains a common occurrence on farms. Neighbourhood thefts cause rifts in the community and can isolate victims of crime. Some large thefts are committed by organised crime networks. Some producers have lost of valuable breeding stock, which has ongoing financial consequences. Many victims have suffered psychological stress causing some to sell up or trade out of stock.
- The theft of fuel, machinery, timber and the dumping of rubbish have also increased in comparison with the 2001 findings.
- There has been an increase in reports to police for crimes of trespass and illegal hunting and theft of fuel and stock. However, only half of all rural crimes are reported to police and this reporting rate has not changed since 2001.
- Farmers fail to report crimes because they are too difficult to prove, or they are not considered serious enough. Often too much time elapses before a theft is discovered, or there is uncertainty that a crime has actually occurred.
- Many farmers believe that it is a waste of time reporting crimes because there is little the police can do. This was a more common reason for not reporting crimes than it was in 2001.
- The lack of feedback to victims on the status of the police investigation when they do report crimes was a frequent complaint.

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<sup>12</sup> *Crime on Farms: A survey of farmers in NSW and Queensland*; Elaine Barclay, University of New England (2015)

- The failure of the courts to prosecute offenders to the satisfaction of victims can also dissuade other victims from reporting crime.
- Compared with the 2001 findings, fewer participants could rely on their neighbours to call the police or let them know if there was something suspicious occurring on their property.

Associate Professor Barclay found that the 2015 results continued to strongly reflect a finding of the 2001 research, namely that farmers prefer to report crime or suspicious behaviour in their district to local police rather than use police hotlines or other mediums for reporting crime. Farmers are frustrated when calls to local police are redirected to regional centres where staff have little knowledge of the district or rural crime. The research concluded that social media initiatives of policing services to disseminate and receive information on crime are likely to be taken up by farmers who are regular users of these mediums, and increasingly so as internet access improves in the bush.

Respondents indicated that stock and rural crime investigators were highly valued in the community, but there was need for more of these specialised police. Respondents also indicated a desire for a greater police presence at sale yards, clearing sales, public meetings and patrolling rural roads.

## Policing rural crime in NSW

### Recent history of policing rural crime

The NSW Police Force currently defines rural crime as crime that impacts on the function of the pastoral, agricultural or aquaculture industries. This includes theft of farm equipment like tractors, diesel theft and stock theft and does not include other types of crime that are common across NSW, such as assault or steal from person.

Rural crime is a specialised area of policing, with a number of offences likely to either be concentrated in or occur exclusively in rural and remote areas. It often involves issues, practices and legislation not used by metropolitan Police commands.

From the 1950s onwards there were six Stock Squad Officers stationed at Enmore (later Flemington), headed by a Senior Sergeant responsible to the then Office in Charge of the Criminal Investigation Branch. A further six positions were then strategically placed across rural NSW, who were directly responsible to the Stock Squad in Enmore<sup>13</sup>.

During the 1980s there were 28 Stock Squad positions throughout NSW including six at Flemington, including one sergeant. The Flemington positions were intended to service the metropolitan area, including several sale yards at McGraths Hill and Camden, but primarily to investigate compliance issues surrounding the then Homebush sale yards and abattoirs. They also assisted with large stock theft and associated fraud inquiries in rural NSW and came under the command of the then Criminal Investigation Bureau. With the redevelopment of the Homebush site into Olympic Park it seems that those six positions were absorbed into metropolitan crime investigative units.

Similarly, because rural Stock Squad positions were seemingly often not valued by their then Commanders under the previous Patrol and District structure, they were also absorbed as country detective officers, including their vehicles, with the notable exception of the Stock Squad officers at Griffith, Wagga Wagga and Queanbeyan.

In approximately 2000 the then Police Minister formed the Pastoral and Agricultural Crime Working Party, later the Rural Crime Advisory Group (RCAG).<sup>14</sup> This group was formed as a response to rural producers constantly

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<sup>13</sup> Submission from former Stock Squad Officer Roger Smith.

<sup>14</sup> For ease of reference, the Group will be referred to as RCAG throughout this report.

complaining about a lack of Police knowledge and attention to their rural crime reports. The RCAG made a recommendation for the re-establishment of the NSW Stock Squad and it was this which resulted in the establishment of the 33 RCI positions currently in place. It should also be noted that these 33 positions were additional numbers granted by Government and not taken from other commands and funding and resources were allocated accordingly.

At that time there was much discussion about the role of the RCIs and their locations, supervision and structure. A Charter for the RCIs and supporting documents were specially drafted. Consideration was particularly given to whether or not the RCIs would work under the Local Area Command structure or be placed into the Region and receive their supervision at that level. The decision was ultimately made that RCIs would be a LAC resource.

The NSW Police Force has a corporate spokesperson for rural crime issues. Currently this role is undertaken by Acting Deputy Commissioner Mc Kechnie. A dedicated Rural Crime Analyst, who briefs the corporate spokesperson and liaises closely with Rural Crime Investigators (RCI), is based in the Western Region Office in Dubbo.

Across NSW, currently there are 33 RCIs stationed at 26 non-metropolitan Local Area Commands (LAC), as follows:

Camden Local Area Command – Narellan

Hawkesbury Local Area Command – Windsor

Barrier Local Area Command – Dareton

Darling River Local Area Command – Nyngan

Lachlan Local Area Command – Parkes

Orana Local Area Command – Dubbo (2 positions)

Barwon Local Area Command – Moree (2 positions)

Mudgee Local Area Command – Mudgee

Castlereagh Local Area Command – Walgett

Chifley Local Area Command – Bathurst

Oxley Local Area Command – Tamworth (2 positions)

New England Local Area Command – Inverell (2 positions)

Canobolas Local Area Command – Orange

Griffith Local Area Command – Griffith

Wagga Wagga Local Area Command – Wagga Wagga (2 positions)

Albury Local Area Command – Albury

Cootamundra Local Area Command – Cootamundra

The Hume Local Area Command – Goulburn

Monaro Local Area Command – Queanbeyan and Cooma (2 positions)

Far South Coast Local Area Command – Batemans Bay

Deniliquin Local Area Command – Deniliquin

Richmond Local Area Command – Lismore

Coffs/Clarence Local Area Command – Grafton

Mid North Coast Local Area Command – Kempsey

Manning/Great Lakes Local Area Command – Taree

Central Hunter Local Area Command – Maitland (2 positions)

Depending on the area of the state in which they are based, RCIs may be called out to investigate a wide variety of rural crime, such as wool theft, stock theft, rural-related fraud, malicious damage or animal cruelty. Some RCIs are based in very remote areas, whilst others are in larger regional centres – as highlighted by the list above. RCIs are expected to acquire and maintain specialist skills and knowledge, such as the legal requirements for buying and selling stock, how the National Livestock Identification System operates or the differences between various types of livestock breeds. Based on where they are located, RCIs develop specialities in areas such as grain, wool and other livestock, including apiary and aquaculture – the industries prevalent in the areas they are located.

Given they were provided as an extra resource, intended to be dedicated to rural crime, RCIs are also often inappropriately tasked according to the LAC's priorities. For example, they may be called upon to investigate robberies, sexual assaults, break and enters or progress child protection register matters. This obviously effects the amount of time RCIs are able to spend building networks within rural communities and investigating rural crimes and does nothing to address the current under-reporting of these crimes.

In addition, depending on the region, police officers may be directed to prioritise other issues occurring in their area, such as mining protests in the Pilliga Forest, making it more difficult to respond quickly to reports of property crime, including livestock. And when rural and regional commands are operating below their authorised strength for extended periods, it can be extremely difficult to respond to reports of property crime within a reasonable timeframe.

The current structure also means that RCIs do not have a defined career path and must seek opportunities outside the field of rural crime if they wish to gain a promotion. The implications of this are broader than simply ensuring a promotional path for individual officers. RCIs can and do build up a high level of expertise in this area of policing, which assists them in investigating and prosecuting these types of crimes and gives community members confidence when dealing with them. This is all lost if and when an RCI decides to seek a promotion, as is his or her right.

In November 2015 RCIs developed and implemented an accredited Rural Crime Training Course. The course covers a range of issues, including the safe handling of livestock, Straying Stock / Impounding Act and Vehicle Roll-over Standard Operating Processes, NLIS data production and saleyards accreditation.<sup>15</sup> How the course content was determined is unknown.

The course was developed by senior RCIs in conjunction with the NSW Police Force Academy and the Department of Primary Industries and is designed to be delivered over four days. RCIs must re-take the course every two years. All participants who successfully complete the course receive a Certificate of Attainment, which is nationally accredited and recognised as prior learning for future agricultural-related education.

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<sup>15</sup> Advice provided from NSW Police

Police in rural areas other than specialist RCIs are responsible for taking a report of rural crime, however their knowledge or exposure to rural industries or rural crime is often limited. It is intended that RCIs provide training to other officers within their commands on these issues. Rural stakeholders have also communicated an expectation that police officers operating within rural communities should have a working knowledge of the types of issues present in these communities.

As with other areas of the State, Police direct rural victims of crime to call the Police Assistance Line to make non-urgent reports. The impact of this type of contact is likely to be keenly felt by inhabitants of rural and remote communities, who are likely to already feel isolated and who may have no regular opportunity to interact with their local police officers. It is likely that this impacts on the current significant underreporting of rural crime.

If victims of crime seek to make a report to, or seek assistance from, their local station, they may find that the call gets transferred to a station many kilometres away, due to smaller stations being unmanned, or officers relieving in other stations, making a quick response difficult for police. This may cause great community concern, particularly in relation to high value thefts or violent crimes and means the capturing of evidence or locating suspects is made more difficult. It can also lead to a perception that communities are on their own overnight, as there may not be any local police on duty in smaller communities, despite the presence of 'lock-up keepers' or other officers on-call.

For example, the Review was contacted by one cattle theft victim, who had waited 13 days for police to attend his property, where it was alleged that 42 Angus cattle, valued at approximately \$42,000, had been stolen. The delay was apparently due to the local police continually being rostered on at a larger police station further away and police from an alternate police station failing to recognise the seriousness of the report and prioritise it accordingly. It is interesting to consider whether a \$42,000 theft from a business in metropolitan Sydney would have been handled in a similar manner by Police.

Police are very active on Facebook as a community engagement tool and operate Community Safety Precinct Committees across the State. They also attend NSW Farmers meetings and other community events.

Operations can also be organised, to target particular risks or issues. Operation High Ground, which was launched in early 2016 to target rural crime on isolated properties, is an excellent example.

Operation High Ground seeks to provide the strategic and tactical ability to address rural crime issues in the Darling River Local Area Command and provide direction to all officers based in this remote and rural command. Specific training and SOPs are also being provided to staff across the command. Police advise that the training comprises information sessions on legislation pertaining to agricultural industries, including livestock, chemical and cropping industries, as well as basic knowledge of animal types and industry compliance.

In addition, Darling River LAC has commenced a communication education strategy using 'Eyewatch' on Facebook and a dedicated e-mail address to facilitate the exchange of information, but not the reporting of crime. Community forums have also been held with local government and rural industry stakeholders.

As a result of Operation High Ground, charges have been preferred for a range of offences, including trespass, unlawful entry with intent, owner of a dog which attacks, unauthorised hunting on private land, custody of a knife in a public place, hunt game animal on private / public land, fire firearm disregarding safety, not approved firearm storage, not keep firearm safely, use unauthorised firearm, torture, beat and cause death of animal, drive motor vehicle whilst disqualified, enter enclosed land without lawful purpose, dog not wear collar and name tag and number plate not correctly fixed. Infringement notices have also been issued for trespass and owner of a dog not under control in a public place. Eighteen offenders have been

charged, with 20 charges laid and 7 infringement notices issued.<sup>16</sup> These results are a credit to Superintendent Greg Moore and his team.

## Community Engagement

Through consultations for the Review, short postings to rural communities, sometimes without families and the Conflict of Interest Policy were given as reasons why police officers may not always be fully engaging with their local communities.

Community engagement is a key element of effective policing, particularly in rural and isolated communities, which helps to build trust between police officers and local residents and is likely to result in higher reporting rates. Police in rural and remote communities often need to rely on local residents to assist in locating and identifying offenders.

Many police officers are of course skilled at community engagement. One such officer brought to the attention of the Review, due to the high esteem in which she is held within her community is Senior Constable Jo Ireland, stationed at Nowendoc. An overview of how Senior Constable Ireland operates within her community is attached, at Appendix B.

An option to boost and strengthen linkages between Police and local communities and encourage community engagement may be to establish an 'Induction Programme'. This could be achieved through agreement from existing community organisations such as the Country Women's Association, the Rural Fire Service and NSW Farmers to work with officers who were new to a particular area to, for example, help them to develop skills in livestock identification or introduce them to important gatherings or networks within the community.

## Future directions – RCIs and standalone squad

Given the limitations of the current RCI structure and scope, it is suggested that changes should be implemented to ensure better usage of these officers in addressing rural crime.

At the Rural Crime Advisory Group (RCAG) meeting in Windsor in February 2016, the group was advised that the RCIs currently expended 67% of their shifts on rural crime matters in 2015<sup>17</sup>. Given that some RCIs are working full-time on rural crime, it follows that some are not devoting much time at all to rural crime, whether intentionally or as a result of structural barriers. This is borne out by consultation and information supplied to this Review. It is essential that corrective action is taken as soon as possible to address the situation where RCIs are not able to fulfil their role, remembering the positions were extra allocations by Government.

There is a marked difference in the manner of operation and investigative capacity of the RCIs, depending on the officer and their location. For example, the RCIs stationed at Albury, Queanbeyan, Wagga Wagga and Cootamundra are able to perform the role in the manner in which it was intended and work as a very successful team. This is because their Commander and Crime Managers trust them and allow them the opportunity to perform the role as was intended, with community satisfaction. These officers were also well chosen for these roles and demonstrate a passion for and commitment to rural crime. Throughout the rest of the State the role of RCI has achieved varying degrees of success, but these officers are often used in general detective duty because of

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<sup>16</sup> Police advice, received on 6 May 2016.

<sup>17</sup> Source: 'NSWPF Rural Crime Report – RCAG February 2016', provided by Western Region Office.

staff shortages or other reasons. At a time when rural crime is on the increase and a huge cause of community concern, the 33 RCI positions need to be re-focused on rural crime matters and community engagement, as was originally intended.

It is recommended that a new standalone squad, modelled on Queensland's Stock and Rural Crime Investigation Squad (SARCIS), be introduced by the NSW Police Force to better empower rural police officers and address rural crime. The SARCIS structure is attached at Appendix C. All the RCIs could be transferred to this new squad.

This new structure should include at least two Detective Sergeants, and provide for the group to work in teams located across the State, again as occurs in Queensland – unencumbered by LAC or Region boundaries and able to conduct their own operations and provide back-up as required. In some areas this will not represent significant change, where RCIs already undertake regular teamwork.

There should be a single supervisor at the rank of Detective Inspector. Where that officer was located would be subject to discussion; however, one option would be to place the Inspector within State Crime Command, possibly under the Property Crime Squad. This would help to ensure that rural crime was effectively integrated into the NSW Police Force's broader assessment of crime across NSW and was resourced accordingly. This idea is further developed later in this report.

### Recruitment and training of RCIs

With regard to the training of RCIs, the programme for the current course appears well conducted and should develop into a worthwhile training package over time. In addition the Review has been advised that NSW RCIs attend the Queensland SARCIS training at Milmerrin and this should continue. Ideally, RCIs should also develop greater capacity within their ranks for practical rural skills necessary to effectively perform the role, such as horse riding and mustering.

Effective recruitment of RCIs, to ensure the right people for the right positions, remains an extremely important issue. Indeed one of the submissions received from RCIs commented that, '...no matter how many powers you give someone or training if they are the wrong person for the job all that will result is that the rural community will lose confidence in that person, reporting of incidents will decline, not because they aren't happening, simply because the rural community has no confidence in the RCI, thinks they are incompetent and will not report matters to Police...LACs then believe they do not have a rural crime issue and the RCI is used as a criminal investigation detective.'

It is understood that RCI recruitment is done mostly within a Region, which limits the opportunity for well qualified applicants from elsewhere to apply. It is recommended that advertisements for RCI positions be placed State wide, so as to provide the best possible chance of recruiting suitable applicants and a careful selection process conducted by qualified personnel who understand the requirements of the position. This would ideally take into account the particular features of rural crime work, such as the likelihood of needing to work alone, a familiarity with agricultural industries and the need to practice effective community engagement techniques.

The issue of ensuring ongoing RCI capacity should also be considered. Currently if an RCI retires, accepts a promotion or takes a long period of leave, it is difficult if not impossible to provide for skilled replacements. The proposal for a new standalone squad will help to address this.

### Police recruitment in rural and regional NSW

Another issue that significantly affects the ability of the NSW Police Force to police rural and regional areas effectively is the large number of vacancies in rural and regional commands.

Police advise that currently, only 30.5% of NSW police recruits are drawn from outside Sydney, Newcastle and Wollongong. And only 6.4% of recruits are drawn from the Western Region.<sup>18</sup> It is understood that currently there are 68 vacancies within the Western Region alone and that these are not just at remote or small stations, the vacancies are at large regional centres as well.

These statistics and the current high level of vacancies within the Western region suggest that a different approach is required for recruitment in these areas, so as to ensure more communities in the Western region are policed by members of these communities, who have ties to the area and reason to settle for a reasonable period of time.

It is considered that in large part these issues stem from the difficulties individuals from rural and remote areas face when attempting to both gain entry to the NSW Police Academy and complete the training required to become a police officer.

With respect to the Associate Degree in Policing Practice (ADPP), offered by Charles Stuart University (CSU), the option of studying remotely is now offered for Session 1 of the course<sup>19</sup>, which is very positive. However this option takes longer than the face to face option and still requires students to spend 22 days on campus in Goulburn, in addition to the residential requirement for Session 2.

This places students who live a long way from Goulburn, or students who have little or no financial support, at a distinct disadvantage, as these students must be able to support themselves and possibly their families over this period as well as finance the travel required. For this reason, the option of offering more of the ADPP course on campus at CSU in Dubbo should be explored, so as to lessen the geographical disadvantage for students from the Western Region of NSW.

The introduction of a bridging course and support program for residents of Western NSW who may be interested in becoming a police officer should also be considered. This would build on the successful 'IPROWD'<sup>26</sup> model, which assists indigenous people to prepare for entry to the ADPP course and provides them with support along the way. TAFE accessibility decreases the further west from Sydney someone lives, so such a course should be offered in as many locations in the Western region as possible. In the same way that IPROWD seeks to encourage a more diverse NSW Police Force, this would help to produce police recruits from a wider variety of backgrounds and experience, with ties to the areas of the State most in need of police officers.

Queensland Police are also using rural rugby games as an opportunity to speak to local residents about joining the Queensland Police Service. A similar proactive strategy, which targets potential recruits from rural and remote areas in NSW, should also be considered.

## Current Framework for Management of Stock

### National Livestock Identification System

The National Livestock Identification System (NLIS) is used across Australia to manage the identification and traceability of livestock (cattle, sheep and goats). The NLIS database is managed by Meat and Livestock Australia (MLA), however each State and Territory provides their own regulatory framework for the system and is responsible for monitoring compliance.

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<sup>18</sup> Police advice received on 13 May 2016.

<sup>19</sup> [http://www.police.nsw.gov.au/recruitment/the\\_training/associate\\_degree\\_in\\_policing\\_practice/entry\\_pathways](http://www.police.nsw.gov.au/recruitment/the_training/associate_degree_in_policing_practice/entry_pathways) <sup>26</sup> Indigenous Police Recruitment Our Way Delivery

MLA advises<sup>20</sup> that there are 24,718 NLIS Database accounts from NSW and the breakup of the main accounts is as follows:

- Agents: 388
- Feedlots: 77
- Abattoirs: 52
- Saleyards: 115
- Third Party: 456 (these usually act for producers, and in some cases they have multiple PICs linked) □  
Producers: 22,652

Based on the estimated number of primary producers in NSW, these figures suggest that not all NSW primary producers in NSW have NLIS accounts and most likely rely on abattoirs and saleyards to record stock movements. This means that farmers without NLIS access are unlikely to be taking advantage of alerts which can be placed on the database and may not be checking for any suspicious stock movements involving their PIC or their stock.

Through the NLIS, the Local Land Services (LLS) assigns all relevant properties a property identification code (PIC). All livestock owners/managers and occupiers of land that carries cattle, sheep, goats, pigs, bison, buffalo, deer, camelids, equines (that is, horses and donkeys) and poultry must have a PIC, regardless of whether the livestock are moved or not.<sup>21</sup> Stock movements from property to property, property to saleyard, or property to agistment site are generally all required to be recorded on the database.

The primary purpose of the NLIS database is to ensure lifetime traceability of stock for biosecurity, meat safety and product integrity reasons. However, Police also have access to and use the database as a key evidentiary tool when investigating stock theft.

The NSW Department of Primary Industries (DPI) is responsible for NLIS policy in NSW. DPI provides quarterly reporting based on desk-top monitoring of all uploads of NLIS movement data (for cattle, sheep and goats) to the national database by saleyards, abattoirs, stock and station agents and producers recording movements of cattle, sheep and goats between properties. This reporting/feedback is communicated to industry participants and is also provided to NLIS national committees which in turn is communicated up to SAFEMEAT<sup>22</sup>.

Local Land Services NSW (LLS) is the agency responsible for ensuring compliance with NLIS requirements.

The issue of low compliance with NLIS requirements has been raised as a concern by RCIs for some time. Police have reported checking the number of stock shown on NLIS as being on a property and finding the actual number often being quite different. Whilst this could indicate theft, often it indicates poor compliance with recording property to property transfers on the NLIS database and police time can be wasted searching for stock that are in fact not missing at all.

DPI supplies quarterly figures of cattle, sheep and goat movements recorded on the NLIS database as property to property (P2P) movements to LLS and monitors the numbers recorded in the database. Producers and agents record the majority of P2P movements.

According to DPI, the number of P2P movements which occur each quarter is unknown and hence it is not possible to estimate how many of the total P2P movements are recorded on the NLIS database. DPI can only

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<sup>20</sup> E-mail from G Basha (MLA), 28 April 2016

<sup>21</sup> This is a requirement under Clause 37 of the Stock Diseases Regulation 2009.

<sup>22</sup> SAFEMEAT is a partnership between the red meat and livestock industry and the state and federal governments of Australia. Its aim is to ensure that Australian red meat and livestock products achieve the highest standards of safety and hygiene from the farm to the consumer. <sup>30</sup> Email from Peter Day, 5 May 2016.

monitor the movements which were actually recorded. However, DPI has systems for identifying, monitoring and following up properties which may not be recording P2P movements and these are targeted for compliance follow up.<sup>30</sup>

Each month PICs are identified on the NLIS database where large movements of non-vendor bred sheep have moved to an abattoir and where very few sheep were recorded as moving onto a property. LLS is advised of these and asked to follow up what movements have been recorded.

Properties are also identified where large numbers of cattle have been moved off that generate a high level (that is, greater than 30%) of system transfers. System transfers occur when the cattle are not transferred onto a property before they are sold or moved (the NLIS automatically generates an 8X transfer to the property the cattle have moved off). LLS is asked to follow up these as well.

DPI advises that in NSW, the level of system transfers (for cattle) is currently between 6-7%.<sup>23</sup> This figure presumes that all cattle will eventually be reflected on NLIS, as compliance rates for saleyards are very high. However, this does not reflect for example stock that are stolen and sold through another PIC, stock that are stolen and retained for breeding, etc.

When asked about their current compliance and enforcement regime, LLS referred the Review to the DPI document, 'NLIS Compliance Monitoring and Enforcement Procedures Version 3'<sup>24</sup>.

It is clear on reading the document that awareness of and taking action to address stock theft is not contemplated by the Procedures. For example, on page 11 the document states that, 'the selling agent is instructed to ensure that special tags are attached to any untagged sheep before the sheep leave the saleyard' – no instruction is given to investigate the cause of the sheep being untagged, merely to ensure their ongoing traceability.

With respect to oversight of P2P cattle transfers, the document states that 'Non-compliance may be difficult to detect and enforce.' It says that using information provided by Biosecurity NSW, 'LHPAs' further investigate *up to one case* (italics added) of excessive system transfers per month in order to determine the cause. If the issue cannot be resolved or the problem continues, the matter is discussed with Biosecurity NSW regulatory officers with a view to regulatory action.<sup>25</sup> With respect to sheep and goat P2P movements, the mob-based system does not trigger system transfers on the NLIS database. Properties are monitored over time however and PICs with significant discrepancies are targeted for 'follow-up action'. The document says that the targeted PIC lists provided by Biosecurity NSW are updated from local knowledge and are fed back to Biosecurity NSW for monitoring. The document says that 'LHPAs continue to actively promote P2P movement recording through advisory and extension activities'.

With respect to detection and enforcement, the document says that there are four levels of offences, based on severity and impact. Penalty notices are only to be issued for the top two levels of offence, with court action only an option for the most serious offences. Under the Stock Diseases Regulation 2009, the penalty notice amount for these offences is \$550.

The description of the top two levels of offence is as follows:

- Significant offence: tends to be a deliberate or reckless circumvention of or failure to comply with the regulations. The traceability of a greater number of stock is compromised or lost and/or the

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<sup>23</sup> Email from Peter Day, 5 May 2016.

<sup>24</sup> Dated 16 August 2013. Local Land Services was formally established on 1 January 2014, with the commencement of the *Local Land Services Act 2013*.

<sup>25</sup> Page 14, NLIS Compliance Monitoring and Enforcement Procedures Version 3.

integrity and perception of the NLIS as a whole is compromised. Repeated minor offences may constitute a significant offence. A written warning is to be issued for a first significant offence.

- Serious offence: is one which substantially compromises traceability and/or undermines the integrity of the NLIS. This may be due to the inherent nature or scale of the offence; ongoing failures to comply with limited or not attempt to take corrective action; the offence has caused significant mischief or disadvantage to a number of people; or there is evidence of blatant or fraudulent conduct.

This prioritisation is explained in the following way, 'as the capacity to undertake enforcement action is limited by the available resources, responses to alleged breaches should be prioritised using a risk management approach so that action is proportionate to the level of harm (impact) posed by noncompliance.'

On page 20 the document states that '[a]n inspector must refer evidence to a Police Rural Crime Investigator if the inspector has reasonable grounds for suspicion of stolen stock or of fraud.'

The Review consulted with various LLS staff, including a Senior LLS Ranger, an LLS Chairman and the former LLS Executive Officer in Dubbo. The LLS Chairman, Senior Ranger and Executive Officer all advised that LLS' focus was not about compliance and enforcement but rather about education of producers and where necessary, issuing warning notices for stock identification or transport breaches. This suggests that further work needs to be undertaken between DPI and LLS to ensure that an appropriate compliance and enforcement role in relation to NLIS and stock identification generally is established and maintained. The consequences if this is not done are broader and more serious than even stock theft, and include for example widespread biosecurity hazards.

## National Vendor Declarations

Livestock Production Assurance National Vendor Declarations (NVDs) are documents that are required to be completed for any movement of stock, including to processors, saleyards or between properties if they have different Property Identification Codes (PICs). NVDs have two purposes<sup>26</sup>:

- Providing a buyer with a guarantee relating to the food safety status of the animals they are purchasing; and
- Enabling traceability of livestock movements where necessary.

An NVD must specify the originating PIC, the number, breed and permanent marking of any stock being transferred. Declarations regarding ownership and prior feeding of the stock must also be made. An NVD can be used as a TSS in certain circumstances.

NVDs are an industry, not a statutory, requirement.

## Transported Stock Statements

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<sup>26</sup> <http://www.mla.com.au/Meat-safety-and-traceability/Livestock-Production-Assurance/Vendor-declarations>

A Transported Stock Statement (TSS) is required whenever cattle, sheep, goats, horses or some nonindigenous animals, for example buffalo and camel, are to be transported by a vehicle, whether by road, rail, water or air.

The TSS was developed in 1990 to replace the then Stock Permit system, which comprised two elements. Certain travelling stock had to be moved under the travelling stock permit, which was a printed form in a numbered book, which had to be purchased from Pastoral Protection Board Offices and a TSS, which was required for other types of travelling stock, such as horses. There were also working stock permits for use by drovers.

The current TSS was a simplified version of these documents and provision was made for other documents, such as NVDs, to be used as TSSs provided they contained the required information.

A TSS is in two parts. Part 1 must be completed by the owner of the stock being transported prior to commencement of the journey and Part 2 must be completed by the driver of the vehicle en route.

LLS may charge a fee for the issue of a TSS. TSSs are largely enforced by police officers and not using a TSS in accordance with the *Local Land Services Act 2013* risks a fine of up to \$2,200.<sup>27</sup>

## Recent history of stock identification requirements in NSW<sup>28</sup>

Stock identification requirements have undergone significant change in recent times in NSW. Over the course of the Review it has become evident that there is a lack of clarity in some areas as to what current requirements are and perhaps what has been lost over time, in terms of robust stock identification processes. The following is therefore provided as an overview.

The first NSW legislation enabling the non-compulsory branding of cattle, but requiring the registration of any stock brand used, was the *Registration of Stock Brands Act 1921*. The first legislation to require the compulsory earmarking of sheep, and the registration of earmarks, was the *Pastures Protection Act 1934*. This was amended by the *Pastures Protection (Amendment) Act 1981* to also require the compulsory earmarking of goats, and the registration of the earmark design.

Earmarking of cattle and deer has always been optional. But if an earmark is used on such animals, that earmark must be registered.

From 1 July 1990 the *Pastures Protection Act 1934* and the *Registration of Stock Brands Act 1921* were replaced by the *Rural Lands Protection Act 1989*. The *Rural Lands Protection Act 1989* contained provisions concerning stock identification that were transposed from the repealed *Pastures Protection Act 1934* and from the *Registration of Stock Brands Act 1921*.

In essence, the *Rural Lands Protection Act 1989* continued the stock identification provisions of the former Acts. In 2001 the *Rural Lands Protection Act 1989* was repealed and replaced by the *Rural Lands Protection Act 1998*.

The introduction of the *Rural Lands Protection Act 1998* meant significant changes to stock identification requirements, as formerly prescribed requirements for stock identification were not transposed to the new 1998 Act and Regulations.

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<sup>27</sup> Ibid.

<sup>28</sup> Submission from C. Alchin, received 10 May 2016.

With regard to earmarking and branding, the 1998 Act provided that the Regulation may contain provisions pertaining to stock identification. This was the only reference to stock identification. The Regulation provided the option of prescribing matters pertaining to stock identification. Stock identification was therefore relegated from the legislation to optional schemes decided upon by the Rural Lands Protection Board (RLPB) State Council.

The State Council introduced its own stock identification schemes, which were essentially identical to those which were prescribed in the former *Rural Lands Protection Act 1989* and Regulations. Full details of the State Council's stock identification schemes were communicated either via a website or through hard copies available in RLPB Offices.

The *Rural Lands Protection Act 1998* was amended in 2008 to, amongst other things, rename the RLPBs. The new name for such bodies was Livestock Health and Pest Authorities (LHPAs).

From 1 January 2014 the *Rural Lands Protection Act 1998* was repealed and replaced by the *Local Land Services Act 2013*. Local Land Services (LLS) absorbed the functions previously performed by the LHPAs.

Section 206 of the *Local Land Services Act 2013* says that the Regulations may include references to stock identification. Clause 97 of the *Local Land Services Regulation 2014* says that LLS may (not must) establish stock identification schemes. Clause 98 of the Regulation prescribes that non-compliance with such a stock identification system (if it is introduced) may attract a penalty.

The LLS is thus empowered to administer stock identification schemes in a similar way that RLPBs and later LHPAs could in the past. Clause 97 says that if such a scheme is implemented, it must be promulgated in the Government Gazette. The only reference to such stock identification on the LLS website<sup>29</sup> is a brief comment which says in part:

*We administer other non-compulsory forms of stock identification such as brands and earmarks, which play a traditional role in identifying stock ownership and reducing stock theft.*

## Earmarking

The basic statutory requirements have been:

- Earmarks had to be registered with the local (former) PPB/RLPB/LHPA.
- Persons had to choose an earmark that was prescribed in the Regulations.
- The earmark patterns were originally allocated on a State-wide basis. As time progressed, the Act was amended to enable earmarks to be allocated within a Board's district, and later by enabling the Governor to create sub-districts within a Board's district.
- Earmarks had to be on the right ear of males, and left ear of females
- There were 146 designs prescribed in the Regulations. Various maximum dimensions were prescribed for each earmark design, and whether large or small stock were involved.

## The registration system

The earmark registration system administered by RLPBs and later LHPAs involved use of the earmark provisions of the stock identification system developed by their State Council, together with hand-written registers, often going back to 1934. Although some RLPBs and LHPAs later computerised some of their stock

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<sup>29</sup> <http://www.lls.nsw.gov.au/livestock/stock-identification>

identification data, in many cases it was, and no doubt still is, associated with the utilisation of very old records.

## Branding

When brand designs were allocated up to 1990, they were of a one-piece symbol brand design. Originally symbol brands had always been allocated on a State-wide basis, although brands had to be registered with the local Board.

By 1990 all of the prescribed brands under the Act had been allocated so consequently, no new symbol brands were allocated from 1 July 1990. Anyone who has such a brand allocated prior to that date are required to annually renew the registration (via an Annual Return form). Such brands may be transferred to another person in prescribed circumstances.

The problem of running out of available brand designs was addressed by issuing a new type of brand design, referred to as a 'board brand'. These brands had a three-piece pattern, and marked a larger area of the animal's hide than the area marked by a symbol brand. The 'board brands' were unpopular. They were issued on the basis of registration within individual Board districts. Because of this, the first figure of such a three-piece brand identified the individual RLPB which issued the brand.

In 1990 the maintenance of the symbol brand register was transferred from the (then) Department of Agriculture to the State Council of the Boards. The State Council appointed the then South Coast Board to maintain the symbol brand register on its behalf. The South Coast Board had a staff member working parttime on maintaining the register, who resigned in 2009 and, it is understood, was never replaced.

The State Council was advised that significant income could be derived from a fresh distribution of symbol brands. As mentioned, all of the prescribed symbol brand designs were allocated to stockowners by 1 July 1990, and therefore no new symbol brand registrations have been made since that date. However, there have been very many cancellations and non-renewals of symbol brand registrations over the past 25 years to the extent that there are now well over 100,000 unallocated brand designs available for registration.

If fresh symbol brand designs were allocated for a fee, this could be an ongoing source of income for LLS. Horse owners could be a prime target for the issue of such brands. The symbol brands were originally allocated on a State-wide basis. If fresh allocations of symbol brands were to be made available, the State could be subdivided into smaller areas (eg. LLS districts) and this would enable a particular brand design to be allocated more than once.

Between 2006 and 2013, repeated attempts were made to have the details on the microfiche and computer database transposed onto a new computer program. All such attempts failed. This work was quoted at \$30,000 to \$45,000. It is believed that due to this cost, the work has never been progressed. Were a central register of brands to be re-introduced in NSW, it is likely that this would need to formally commence as a new scheme. This would also help to protect against any ongoing illegal use of existing brands.

## Current requirements to identify stock

The Stock Diseases Regulation 2009 outlines requirements for the identification of stock. 'Identifiable stock' are defined as cattle, pigs, goats and sheep. Clause 19 says that identifiable stock is identified by attaching to the stock, in the manner approved by the Director-General, by order published in the Gazette, a permanent or special identifier. Clause 20 provides that the owner of any identifiable stock is identified in accordance with clause 19:

- (a) Before the stock leaves any property on which it is kept (whether or not that property is the one on which it was born); or
- (b) On arrival of the stock in NSW; or
- (c) If directed to do so by an inspector, in such circumstances as the Director-General may specify, by order published in the Gazette.

Special orders making or rescinding stock identification requirements can be viewed on the DPI website. DPI has advised that the NLIS is the authorised administrator under clause 45 of the Regulation.

The Regulation also contains a number of provisions relating to the maintenance of various registers, including details of properties and permanent identification measures. The Registers are intended to, amongst other things, facilitate and assist the operation of stock identification schemes, protect public health and safety and assist in the investigation of stock theft.<sup>30</sup> It is noted that the Regulation will be repealed in the near future and replaced by a supporting Regulation to the *Biosecurity Act 2015*, which is yet to commence.

DPI has confirmed that brands and earmarks are not prescribed as a means of stock identification under current legislation administered within its portfolio. Brands and earmarks are administered by Local Land Services (LLS) under the State Council Stock Identification System (SCSIS), which is a voluntary scheme. The SCSIS is maintained by LLS as a service to producers, to allow them to retain ownership of individual brands and marks.<sup>31</sup>

With respect to the NLIS, beef and dairy cattle producers have two primary responsibilities:

- Identifying cattle with an NLIS-approved device before they leave their property of birth; and □ Reporting animal movements between properties with different PICs on the NLIS database.

Under NLIS management, each animal is identified with either an ear device or a rumen bolus and an ear tag prior to leaving its property of birth. Ear devices have two numbers, the NLIS ID number and the Radio Frequency Identification Device (RFID) number. These numbers are linked on the NLIS database.

Goats and sheep are traced using a mob-based system, with identification via visually readable ear tags printed with a PIC. Traceability is provided by the combination of ear tags, movement documents and

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<sup>30</sup> Clause 41, Stock Diseases Regulation 2009

<sup>31</sup> DPI Submission to Review, signed by P Day, received 5 May 2016.

uploads of all mob-based movements to saleyards, abattoirs and other properties to the NLIS database.<sup>32</sup>

Based on comments received during the Review, it seems that NSW primary producers use a range of measures to identify their stock, often simultaneously. These range from just NLIS tags, ear tattoos, ear marking, branding and management tags. Rumen boluses may also be used for high value stock, but these need to be scanned for to be effective and may not be accepted by abattoirs. None of these measures appear to completely protect stock against theft, but are useful in terms of proving ownership of stock.

## Regulation of Goat Depots

A goat depot describes a site where goats, consolidated for the purpose of live export, slaughter, trading, fattening, or growing out, are held in a fenced area for a period of time that requires them to be provided with food and water.

Depots are typically located in rangeland or pastoral areas and buy goats from surrounding producers, drafting and possibly finishing these to meet market specifications and then transporting the goats in commercially viable lots to market.<sup>33</sup>

Since 1 February 2016, goat depots across Australia have been required to be registered to move goats without NLIS tags. Certain conditions apply to registration, including having a goat depot NLIS database account and having a letter from a goat meat processor, indicating that the depot is or will be a supplier of goats on a commercial basis.

Producers who misuse the conditions of registration could be forced to tag all goats prior to leaving the depot or their property. Note that tagging, NVD and movement recording requirements for farmed goats and for rangeland goats moving to another depot or property remain in place.<sup>34</sup>

Any untagged goats retained in a depot for longer than 10 days must be tagged with a pink post-breeder tag before being moved from the depot. Typically goats are moved to slaughter at an abattoir or exported in less than 10 days.

## Addressing Review Terms of Reference

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<sup>32</sup> <http://www.dpi.nsw.gov.au/content/agriculture/livestock/nlis/sheep-goats>

<sup>33</sup> <http://www.gica.com.au/latest-news/depots-bolster-supply>

<sup>34</sup> <http://www.gica.com.au/latest-news/depot-registration-to-support-tag-free-movement-of-goats>

*ToR 1: Are the current offences and penalties relating to stock theft and trespass adequate to address the impact of these acts on primary producers and rural businesses? If not, what amendments could be made to address this?*

The major offences police officers are likely to use to prosecute stock theft or farm trespass are section 126 of the *Crimes Act 1900* ('Stealing cattle or killing with intent to steal') and section 4 of the *Inclosed Lands Protection Act 1901* ('Unlawful entry on inclosed lands').

The maximum penalty for the Crimes Act offence is 14 years imprisonment, however the offence is able to be dealt with summarily, under the *Criminal Procedure Act 1986*. Of the 13 matters sentenced in the Local Court between October 2011 and September 2015, nine section 9 bonds were issued, three section 10 bonds were issued, three individuals received a fine only and one individual (with prior offences) was imprisoned, for 18 months.

On this evidence, it could be argued that the existing offence does not provide a strong enough deterrent, given the effect of stock theft on a primary producer can be devastating, with long term implications for a primary production business.

The prosecution for a recent stock theft matter, *Police v Newman*<sup>35</sup>, highlights the issues with prosecutions for stock theft. The offences being tried in this matter were:

- Two counts of steal cattle less than \$2000 (section 126, *Crimes Act 1900*)
- Breaches of clauses 20(a) and 21(1)(f) of the Stock Disease Regulation 2009, which outline requirements to identify stock.

The offender received a penalty of \$800 for each steal cattle offence, \$1,400 for each stock identification offence and compensation to be paid in the sum of \$1,284.

Whilst the steal cattle offences were more serious, given their impact on the victim and as evidenced by the maximum penalty, the Court gave more weight to the stock identification offences, as reflected in the fines received.

Section 4 of the *Inclosed Lands Protection Act 1901* carries a maximum penalty of \$550 for unauthorised entry onto lands other than 'prescribed premises', such as schools, child care centres, hospitals and nursing homes. This penalty has not been increased for at least 13 years.

Of the 2578 matters heard by the Local Court between October 2011 and September 2015 which related to this provision, in 1752 (68%) the offender received a fine, in 347 (13%) the offender had the charged dismissed following a finding of guilt and in 330 matters (12.8%) the court convicted the offender without imposing any other penalty.

The number of these matters that occurred in rural and regional locations is unknown. However, the likely risks and impacts arising from trespass in rural and regional NSW differ greatly from how the same offence might take place in an urban environment and this should be taken into consideration in the formulation and application of the law in relation to trespass.

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<sup>35</sup> Albury Local Court, 1 December 2015.

For instance, vast land holdings and sparse population density make it more difficult to detect trespassers, illegal hunters and stock thieves. Chains could be cut or fences knocked down and remain undetected for some time. Some properties may have alarms or cameras, but it would be difficult and cost prohibitive to cover an entire property. In addition, police officers may be some distance away and if a report of a crime is made, may not attend a property at all if collection of any evidence is unlikely.

In addition, sparse populations may mean that families are alone on a property for long periods, making trespass by illegal hunters or others intent on stealing cattle an intimidating prospect. Recent anecdotes suggest that it is becoming more common for farmers to take matters into their own hands in such circumstances and shoot hunting dogs, or damage cars belonging to trespassers. This is clearly an undesirable development.

Accordingly it is proposed that, in order to strengthen the deterrence factor of the trespass provision in the Inclosed Lands Protection Act, the maximum penalty should be increased and an aggravated version of the offence should be created, which may sit in the same Act or a new standalone Act focused on rural crime. Factors of aggravation could either be the presence of hunting equipment, or be related to the type of property entered – for example where there is a high biosecurity risk.

Also, as noted in the NSW Farmers Submission to the Review, in addition to increasing maximum penalties it is also important to consider other issues which may be impacting on the effectiveness of current offences and penalties as deterrents. For example, general willingness to prosecute such matters, difficulty in establishing proof of guilt or a lack of will by magistrates to apply high penalties in the event of a conviction. These factors should also be considered by Government when examining how best to provide the most effective deterrents against stock theft, illegal hunting and rural trespass.

### *Relevant Recommendations*

1. Section 126 of the *Crimes Act 1900* ('Stealing cattle or killing with intent to steal') – maximum penalty amended to \$1000 for each animal stolen (unless valued higher) or 14 years imprisonment, or both.
2. Similar to current offences in the *Inclosed Lands Protection Act 1901*, a new offence of 'rural trespass', with a maximum penalty of 50 penalty units or 2 years imprisonment, or both. The factors of aggravation are to be either the creation of an enhanced biosecurity risk for a particular property, or the presence of hunting equipment, including hunting dogs. This should also include the power for authorised officers to require name and address from persons charged with the offence.
3. Section 28J of the *Summary Offences Act 1988* ('Offence of hunting on private land'), with increased maximum penalties of 20 penalty units or imprisonment of 12 months or both, with a penalty notice amount of \$1100.

Also, enhanced penalties for the following offence, which would apply across all NSW, not just rural and regional areas:

4. Section 4 of the *Inclosed Lands Protection Act 1901* ('Unlawful entry on inclosed lands') – maximum penalty increased to 20 penalty units in the case of prescribed premises and 10 penalty units in any other case, with increased penalty notice amounts of \$1100 and \$700.

*ToR 2: Does the current system under which stock is identified, transferred and sold effectively protect the property interests of primary producers? If not, what amendments could be made to address this?*

The current system under which stock is identified, transferred and sold is primarily geared towards managing biosecurity risks and tracing stock and not protecting farmers against stock theft. Permanent marks such as branding and tattoos can be used, but are voluntary. And even where they are used, there is no permanent register for such marks to enable independent identification of stock if recovered.

It is recommended that a compulsory requirement to ear mark all stock over the age of 6 months, on the property on which they were bred, should be introduced. This will greatly assist both primary producers and Police to address stock theft.

Also, the maturation of the goat industry in NSW has meant rapid changes to how the transfer and sale of goats is regulated. In the case of rangeland or feral goats, it is arguable that current requirements still require some strengthening, for example to better protect the property rights of goat harvesters. For this reason, it is recommended that a deeming provision be introduced into NSW legislation to codify the requirements for proving ownership of a rangeland goat.

In addition, the low level of compliance with NLIS requirements for property to property transfers of stock remains a concern, particularly when stock may not otherwise be regularly mustered or otherwise identifiable. LLS should be directed to enhance its compliance and enforcement efforts in this regard and to reassess its current policy of what penalties to impose for non-compliance and when.

With respect to rangeland goats, additional regulatory measures are recommended.

Representatives from the NSW goat industry told the Review that the current system was appropriate because those selling goats supply the depot with an NVD, which are then available for inspection by police if they are investigating a theft. However, it is important that police have the power to request access to relevant records and that these records are easily searchable and readily available.

Also, NVDs are an industry requirement for the sale of stock for human consumption and although covered by statute if used as a TSS, are often not correctly completed. The review therefore rejects the view that NVDs are an efficient system for investigation and monitoring of goat theft, given the issues uncovered during the course of the Review. One industry observer even commented that it would be in the interests of unscrupulous goat harvesters for the current system to continue. The Review was also advised that regular inspections take place of goat depots, however, these are only 6 monthly at best and are not related to theft monitoring or investigation.

After much consultation the Review has come to the conclusion that all goat harvesters should be required to be registered and when selling goats to a depot the registration be required to be produced. Further, the goat depot, in a similar way to Wool, Hide and Skin Dealers, be required to record in their invoice book particulars of the vendor, goat licence, goats purchased and the registered number of the vehicle used. During an inspection, police and other relevant agencies would then be

able to view one book or series of books with all the details required for the investigation or supervision. This would be much preferable than being shown hundreds of NVDs in various forms of storage and in various forms of condition depending on age. Such an inspection would be a nightmare for investigators. This recommendation also would be in concert with normal business practice, given that all businesses are required to keep and maintain reasonable records for taxation purposes.

Police and relevant agencies would also need a power to inspect at reasonable time. This would also allow better supervision of the industry as Police in smaller remote stations, where these depots are situated, would be able to provide regular supervision as a crime prevention strategy.

The proposal to register goat harvesters received a mixed response from industry representatives, with some claiming current regulatory measures were sufficient but others recognising that the proposal would assist in protecting property rights over the goats and would assist Police to investigate and prosecute theft. The Review is of the view that on balance such reform would be beneficial to the industry and could be implemented with minimal cost and disruption.

Finally, so as to strengthen protections around the ownership of harvested goats under someone's control, it is proposed that a deeming provision based on section 4 of the *Deer Act 2006* be drafted to cover rangeland goats. This could be inserted into a new standalone Act with other existing and new provisions dealing with rural crime.

The provision in the Deer Act reads as follows:

- (1) A deer that is held in captivity may be bought, sold or otherwise dealt with or disposed of.*
- (2) If a deer ceases to be held in captivity, all property in the deer is immediately extinguished.*
- (3) If a person captures a deer that is not held in captivity, the person becomes the owner of the deer.*
- (4) Despite subsections (2) and (3), if a person other than an authorised officer captures a deer within 2 kilometres of the enclosure or other place (not being a vehicle) in which the deer was last held in captivity, property in the deer is not extinguished.*
- (5) Despite subsections (2), (3) and (4), any of the following persons (but no other person) may kill a deer that is within 2 kilometres of the enclosure or other place (not being a vehicle) in which the deer was last held in captivity:*
  - (a) an authorised officer, or*
  - (b) an occupier of land, or*
  - (c) a person authorised by a person referred to in paragraph (a) or (b).*

This would assist someone who claims to have had rangeland goats stolen from either their own property, or another site where the goats had been held in captivity.

### ***Relevant Recommendations***

1. A deeming provision, based on section 4 of the *Deer Act 2006*, which will codify the requirements for proving ownership of a rangeland goat.
2. Introduction of a provision allowing for primary producers to apply for a forced muster order, similar to the current Queensland provision, allowing them to seek a forced muster of someone's stock in circumstances where it is impracticable for someone to seek permission to enter a property and recover their stock or another landowner unreasonably refuses to give permission to someone to enter a property to recover their stock.
3. All goat depots to be required to keep and maintain records of purchases on their premises. Police to be empowered to inspect and make copies of these records at any reasonable time, without a warrant.
4. Introduction of a requirement for compulsory ear-marking for all stock over the age of 6 months, on the property on which they were bred.
5. The activity of harvesting rangeland goats to require a licence, which will help protect the property rights of primary producers and harvesters.
6. LLS to strengthen its NLIS compliance and enforcement regime, particularly in relation to property to property transfers, in consultation with DPI and report-back to the Rural Crime Advisory Group within six months on actions taken.

*ToR 3: Are police and staff of other relevant agencies appropriately empowered and trained to investigate and prosecute stock theft? If not, what amendments could be made to address this?*

Rural crime is a specialist area of policing requiring particular competencies and knowledge, such as:

- Types of livestock and an understanding of the value of particular animals and breeds; □ Safe handling of livestock;
- Understanding relevant legislation for moving or purchasing livestock, animal welfare, etc;
- How to exhibit stolen livestock;
- Relevant accreditation to ride horses and / or trail bikes;
- Understanding of the National Livestock Identification System Database and its requirements; and
- Knowledge of the various other legislation relevant to rural crime, such as the Local Land Services Act, Wool, Hide & Skin Dealers Act, Stock Diseases Act, Biosecurity Act, etc.

Depending on the particular job or region, police may be required to muster stock, differentiate between various breeds of livestock, understand various animal husbandry practices and be across various pieces of legislation.

Through this Review, stakeholders have expressed frustration that police officers in rural areas, even RCIs, are not always able to demonstrate such competencies, do not always respond in a timely manner and perhaps cannot appreciate the true cost of stock theft, trespass or illegal hunting to primary producers. The submissions received from RCIs also noted the training and experience required to effectively carry out their role and suggested that possibly current training regimes may still be falling short of requirements.

With respect to response times, the stories told during this Review range from delayed response for up to 10 days to no response at all at the time of most need. It is the opinion of this Review that issues with police response times in rural and remote areas stem largely from how police are tasked and empowered and current policies and structures within the Police Force and not in the majority of cases because of inefficacy or deliberate inaction by the police officers themselves.

The Review has determined that police officers in rural areas are constrained and hampered by an organisational structure of Local Area Commands effectively designed for an urban policing environment. This structure starves rural communities of their police officers to the point where there is little to no police community engagement, limited relationships with the community and 'local police' are routinely used by the larger stations to fill rostering gaps because of various absences such as sick leave, maternity leave and training.

To add to this structural malfunction are several policies that appear to further restrict police in being able to provide an appropriate service to their rural community. For example, the *Procedures for Remote or Isolated Work*<sup>36</sup> purports to guide an officer in making a decision on whether to attend a

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<sup>36</sup> NSWPF document, October 2015 version.

call out incident alone. From reading the document, a police officer at a single unit station is equally able to make a risk assessment advising them to go or not to go.

An incident was relayed to the Review as occurring in a very remote area of NSW, where several graziers had illegal trespassers surrounded in a paddock at night. They called for police assistance and the officer working alone was directed not to attend, regardless of the circumstances of overwhelming community assistance available and the possibility of back up outside the Region boundary. So ultimately, the graziers felt let down by their local Police. There is no intention to place blame on the officers in such cases. However the community rightly asks, where do we go for protection? What do we do to protect ourselves?

During one meeting attended whilst undertaking the Review, an Acting Commander advised the rural attendees that police do not work singularly after dark in any circumstances. At another meeting a LAC Commander advised that a 'lock-up keeper' role was paid overtime to handle out of hours matters. On another occasion, a local sergeant attended the consultation and advised he was the only officer working that day – which underscores the level of service people in that area are currently receiving.

So there appears to be some mixed messaging given to rural communities about the level of service they can and should expect from NSW Police out of hours. Current service levels certainly appear to be below the expectations of many rural communities.

Of further concern to the rural community right across the State is the practice of diverting non-24 hour police station telephones to larger stations after hours. This not only results in a delayed response, but also often with no response because of an inappropriate decision not to call out police officers at the head station. This situation has been brought about by the available communication technology and in many cases is a cost saving practice, as a call out incurs minimum 3 hours overtime and to answer the telephone out of hours only incurs one hour overtime. It is also argued that to divert the telephone reduces the interference with the non 24 hour station officer.

It is understood that while the previous industrial award arrangement for lock-up keepers no longer applies, such staff still receive considerable reduction in rent and their spouse still receives considerable remuneration for the inconvenience of door knocks and telephone calls after hours. The Review has also witnessed on front fences of police houses a sign that states, 'Private Property, if Police required ring Eagle Phone at Station'. This practice, combined with the diversion of telephones, albeit, cost efficient if unnecessary call outs are reduced, cannot be cost effective over all, factoring in the outdated payments made to the officer and their spouse.

The Remote and Special Remote Policy to attract existing Police to western NSW, which offers a location of choice after tenure, has been reasonably successful. However similarly, a policy which encourages short tenures in rural and remote communities, also discourages effective community engagement, or at least makes it more difficult.

It is the position of the Review that policies governing the policing of rural and remote areas need to be reassessed so as to ensure that they empower and support police to provide an appropriate and effective level of service to their communities. New approaches to policing rural and remote communities should also be considered. For example, at one meeting a local primary producer and former Victorian police officer suggested that police target rural crimes by location – clustering

resources in an area until all existing jobs were cleared. This idea has some merit and echoes the approach taken in other jurisdictions to clear out drug-related crime for example.

### *Relevant Recommendations*

1. Establishment of a structure for police in rural and remote locations which better ensures that police officers work in their assigned sectors and have appropriate back-up when required to attend jobs at night and in remote locations.
2. Establishment of a standalone 'Stock Squad', reporting through to an Assistant Commissioner of Police and with a rank structure and dedicated intelligence analysts, which allows officers to work in teams and provides opportunities for promotion and additional training.
3. Rural Crime Investigators to be transferred to the new standalone squad and their numbers to be enhanced.
4. Establishment of a Community Induction Program in collaboration with NSW Farmers, the Rural Fire Service and other community organisations, designed to assist police officers working in rural and remote locations to better engage with local communities and learn more about the priorities of the communities in which they work.
5. NSW Police Force to draft, publish and distribute an aide memoire to all rural police officers, based on the current Queensland Police document, which covers all police powers and legislative provisions relating to policing in rural areas.
6. NSW Police Force to determine whether more of the Associate Degree in Policing Practice can be offered on-campus at Charles Sturt University Dubbo, so as to limit the travel recruits from the Western Region need to make to the Police Academy in Goulburn.
7. Creation of a new bridging course by NSW TAFE and NSW Police similar to the IPROWD course, targeting potential police recruits from the Western Region of NSW, aiming to support their entry into the NSW Police Academy and hence boost the number of recruits from the Western Region.

*ToR 4: What can NSW learn from other Australian jurisdictions in terms of improving our response to stock theft?*

## Introducing a Dedicated Squad

The Queensland Police Service's Stock and Rural Crime Investigation Squad (SARCIS) is an example of a standalone, specialist command for rural crime.

As per the organisational chart<sup>37</sup>, SARCIS is a standalone squad of 40 staff, led by a Detective Superintendent, a Detective Inspector and dedicated Coordinators, at the rank of Detective Senior Sergeant, for Northern and Southern Queensland as well as a dedicated Intelligence Unit.

The State and Area Coordinators are responsible for a range of duties, including<sup>38</sup>:

- oversight of major livestock investigations
- oversight all stock related offences State wide
- coordinating operations that cross regional boundaries
- maintaining intelligence holdings on stock offences
- liaising with principal stakeholders
- oversight legislation, policies and procedures relating to stock offences
- providing appropriate training for staff
- planning budgets and monitoring expenditure
- participating in the selection of staff for stock squads
- monitoring the activities of stock squads
- conducting quality and operational audits of stock squads, and □ media liaison at a state and national level.

SARCIS sits under Queensland Police's State Crime Command and reports through to an Assistant Commissioner. It is designed and operates as a specialist squad and its staff must complete an eightday training course, covering skills such as horse riding, mustering and motorbike riding. The training also provides an opportunity for more experienced officers to pass on their skills and experience to more junior officers coming through the ranks. The SARCIS course is believed to be the only one of its kind in Australia and a small number of NSW RCIs have travelled to Queensland in the past few years to complete it.

SARCIS also operates under a broader definition of rural crime than that used in NSW, specifically:

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<sup>37</sup> Attached at Appendix C

<sup>38</sup> <http://mypolice.qld.gov.au/sarcis/2012/09/18/sarcis-state-and-area-coordinators/>

- *Stock crime* is any crime associated with offences involving livestock being produced by a primary producer such as but not limited to cattle, sheep, goats, horses, poultry, and pigs. It also includes crimes associated with horses kept by owners for private use or equine sport. It also includes offences relating to wildlife protected under legislation such as the Nature Conservation Act.
- *Rural Crime* is crime, in particular organised crime, which significantly impacts on the agricultural industries, primary producers, rural residents and rural and remote communities generally. Rural Crime can include trespassing, illegal hunting and associated weapons offences, theft, fraud, drug offences, offences against the person, offences threatening road safety, in particular by heavy vehicles, and offences identified as being of significance to rural residents for the case and place management of crime through environmental scanning and intelligence analysis.<sup>39</sup>

And due to these broad definitions, SARCIS deals with a wide range of crimes, from stock theft, to missing person cases and illicit drug plantations. They are well resourced, with specialist equipment such as cattle trucks, mobile cattle pens and horses.

Should the option of a standalone stock squad be pursued in NSW, it may be useful to reconsider the current definition of rural crime used by the NSW Police Force, to ensure it provides an appropriate scope for the proposed new squad. One issue for example is that RCIs do not apparently often deal with crime pertaining to the aquaculture industry, despite this falling within the current definition of rural crime and being a significant issue of concern to the industry and stakeholders like NSW Farmers. Also, police in rural and remote areas often deal with drug plantations, despite this falling outside the current definition of rural crime.

#### Devolving responsibility for rural crime

In 2008, Western Australia's Police Force disbanded its Stock Squad and key responsibilities relating to the enforcement of livestock identification and movement were transferred to the Department of Agriculture and Food WA (DAFWA), Livestock Compliance Unit.

Across regional Western Australia (WA), stock theft is investigated at a district level by local police and detectives (there are approximately 77 detectives in Rural Western Australia). WA Police receive reports of livestock crimes for investigation; however coordination and quality assurance of reported livestock crimes and subsequent investigations is conducted through the Office of Regional WA.

WA Police provide assistance to Livestock Compliance Unit Inspectors on evidence of a breach of section 198 of the Stock (Identification & Movement) Regulations 1972 (ie. fail to provide name and address to an Inspector). The Regional Crime Co-ordinator attached to the Office of Regional WA monitors such investigations.<sup>40</sup>

Northern Territory Police also advises that they no longer have a Stock Squad.

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<sup>39</sup> E-mail from M Dowie, 6 May 2016.

<sup>40</sup> E-mail from J Brennan, 4 April 2016.

Their current procedure is that general duty members investigate the theft of stock as per a normal stealing offence. Depending on the value of the stolen goods or complexity of the investigation or complaint, the investigation is referred to a Regional Investigations (plain clothes investigation/detective unit) to take carriage. The Northern Territory Police Investigation Management Guidelines provides that general duties members can investigate stealing offences of minor nature, suspect known, non-volume crime up to the value of \$5,000.

If specialist advice is needed in relation to a stock theft matter, assistance is sought and provided by Stock Inspectors who work for the Northern Territory Department of Primary Industry and Fisheries.<sup>41</sup>

This model is not considered to be one which would assist in improving the management of stock theft and other rural crime in NSW and so is not recommended.

### Forced muster orders

Chapter 22A of the *Police Powers and Responsibilities Act 2000* (Qld) makes provision for individuals to apply to a Magistrate's Court for forced muster orders for stock, aimed at investigating suspected stock theft. Applications for forced muster orders must be accompanied by at least one affidavit which, amongst other things, describes the stock and states the applicant's information and belief as to the grounds on which the applicant believes either of the following:

- (i) It is impracticable for the applicant to seek permission from the other person to enter the place and remove the stock from it;
- (ii) The other person unreasonably refuses to permit the applicant to enter the place to search for, locate and remove the stock.

Evidence indicating ownership of the stock in question must also be provided.

Whilst NSW legislation does already provide for the forced muster of stock in certain circumstances<sup>42</sup> it is doubtful that any of the current provisions would support police in conducting a forced muster for the purposes of identifying suspected stolen cattle, in the way that the Queensland provision outlined above does.

It is common for victims of stock theft to hold a suspicion as to where their stock are and who has stolen them. A forced muster provision would help to empower victims and police to take steps to identify and recover stolen cattle.

### Using technology to provide an enhanced pathway for the reporting of crime

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<sup>41</sup> E-mail from Katherine Van Gorp, 29 February 2016

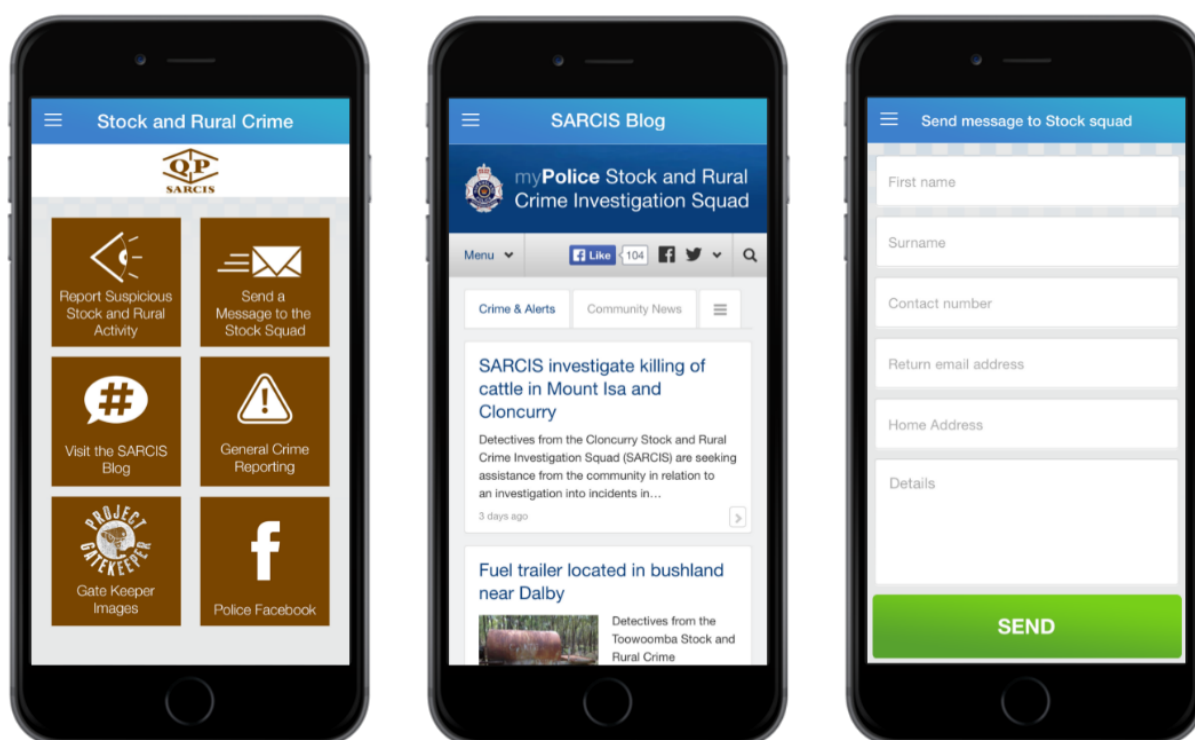
<sup>42</sup> See for example, section 172(2)(k) of the *Local Land Services Act 2013*

In 2015, the Queensland Police Service established a specific rural crime reporting function within its Policelink App for smart phones, which can be downloaded for free. This allows users to instantly upload a report to police without having to wait to return home or to the office. Reports can also be saved and sent later if users do not have phone reception at the time of identifying a crime.

The App enables users to identify suspects and vehicles and directly upload any relevant videos or photographs. However emergencies are still to be directed to Triple Zero. The App also confirms someone's latitude and longitude, to assist in the making of accurate reports.

From the Police side, such reports and images are forwarded through to the appropriate rural staff by dedicated analysts and are collated and searchable. And police are encouraged to take photos of vehicles and upload them onto the intelligence database. This means for example, if a red utility is reported as being linked to stock theft in a particular area, the SARCIS database can be searched for this term, to see whether a pattern of incidents already exists which may assist in an investigation.

Based on feedback from the Stock Review Facebook page and community meetings, the concept of an App to make reporting crime quicker and easier would be well received by the rural community, provided it allowed for photos to be attached and a reference number was provided for each report made. And corporate sponsorship could be sought, perhaps from the insurance industry, to defray the costs of developing and launching the App.



### *Relevant Recommendations*

1. Establishment of a standalone 'Stock Squad', possibly within State Crime Command, reporting through to an Assistant Commissioner of Police and with a rank structure and dedicated intelligence analysts, providing for opportunities for promotion and additional training.
2. Introduction of a provision allowing for primary producers to apply for a forced muster order, similar to the current Queensland provision, allowing them to seek a forced muster of someone's stock in circumstances where it is impracticable for someone to seek permission to enter a property and recover their stock or another landowner unreasonably refuses to give permission to someone to enter a property to recover their stock.
3. NSW Police Force to draft, publish and distribute an aide memoire to all rural police officers, based on the current Queensland Police document, which covers all police powers and legislative provisions relating to policing in rural areas.
4. Creation and launch of a new smartphone App aimed at making it easier to report rural crime, by ensuring that reports are pushed directly through to a dedicated rural crime analyst, who can then disseminate the report to the appropriate Rural Crime Investigator. The App should allow for easy upload of photos and videos related to crime reports and should enable reports to be saved and sent later, where they are created in areas with no internet access. A sponsor could be sought to defray the costs of this project.

## Conclusions

This Review has tapped into a deep sense of anger and frustration felt by rural communities in relation to the issues of stock theft, illegal hunting and trespass. Many people have expressed to the Review a sense that they are being let down by Police and the Justice System. Farmers experience malicious damage and theft again and again, but see the perpetrators get off with minimal fines, if indeed the matter gets to court.

Police stations are not staffed 24 hours and it may take many hours to receive a visit from a police officer, if indeed a police officer attends at all.

This helps to place in context Associate Professor Barclay's finding that farm crime is significantly underreported in NSW and Queensland – victims begin to feel that Police and the Justice System can't help them and apathy sets in. Then crime data for these offences remains low, RCIs are tasked with other matters and the issues remain unaddressed. Farmers also then begin to feel like it is left to them to protect their properties, confront trespassers and shoot hunting dogs. Victims of crime are not always well versed in what constitutes an offence, or what evidence could assist police to pursue an investigation.

However it is also the case that current requirements for the marking of stock and the reporting of stock movements have obvious holes which facilitate stock theft. For example, there is no longer a statutory requirement to permanently mark stock over the age of 6 months. NLIS, the database designed to provide lifetime traceability for stock is not used by all primary producers and NLIS requirements do not appear to be well enforced. And stock thefts are not always immediately identified, making it difficult for police officers to investigate.

The NSW goat industry also requires some enhancements to its current level of regulation, so as to ensure that the property rights of goat owners and goat harvesters are protected and enforced and trade in goats does not continue to be such an easy pathway for opportunistic crime.

Hunting also appears to be on the increase across rural and regional NSW and is currently inadequately regulated in relation to hunting on private properties, particularly pig dog hunting and bow hunting. This situation provides cover to trespassers, thieves and vandals caught on private property, who can then argue that they were lost, or merely chasing after a hunting dog. Farmers have made it clear that they want to be able to control who can lawfully come onto their property.

With respect to the policing of stock theft, illegal hunting and farm trespass, a number of issues have clearly emerged during the course of the Review. Firstly, the current structure, where Rural Crime Investigators are attached to LACs, does not appear to have delivered the intended results. It appears that RCIs are not solely tasked on rural crime, even though these 33 positions were specifically created and resourced for this purpose.

As outlined in this Report, for many years the NSW Police Force supported a Stock Squad structure for the management of rural crime. This frees up officers to concentrate solely on addressing rural crime, conducting compliance operations with other agencies and building effective relationships with the rural community to help ensure greater reporting of rural crime incidents. The Review recommends the re-establishment of a standalone stock squad, with direct reporting lines to State Crime Command,

as the best option to effectively address rural crime. Officers attached to this Squad should receive ongoing professional development in issues such as stock identification, mustering of stock, wool classing, etc.

Finally, the nature of these crimes means that they are often committed at night, when police resources are at their thinnest. Victims have reported frustration at having calls relayed through to larger stations, outside their local community, or being told to simply ring Policelink or Crime Stoppers. Providing the best possible service to rural communities should be the prime focus of the NSW Police Force in rural and remote communities. For this reason, the current limitations posed by the LAC and Region structure, as well as the prioritisation of sector stations, needs to be urgently addressed.

## Appendix A - Current Legislative Framework

### *Crimes Act 1900*

- Section 126 (Stealing cattle or killing with intent to steal). Maximum penalty: 14 years<sup>43</sup> imprisonment.
- Section 131 (Unlawfully using etc. another person's cattle). Maximum penalty: 3 years.

### *Summary Offences Act 1988*

- Section 28J (Offence of hunting on private land). Maximum penalty: 10 penalty units or imprisonment for 12 months or both.

### *Inclosed Lands Protection Act 1901*

- Section 4 (Unlawful entry on inclosed lands). Maximum penalty: 10 penalty units in the case of prescribed premises and 5 penalty units in any other case.

### *Biosecurity Act 2015*

- Section 300 (Forfeiture of boats and motor vehicles).

### *Stock Diseases Act 1923*<sup>44</sup>

- Part 3 (Inspectors)
- Section 20G (Person must not deface brand or mark with yellow pigment). Maximum penalty: Maximum penalty 100 penalty units.

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<sup>43</sup> Under the *Criminal Procedure Act 1986*, these Crimes Act offences can be tried summarily where the value exceeds \$5,000

<sup>44</sup> Act is due to be repealed on the commencement of Schedule 6 of the *Biosecurity Act 2015*.

Division 2 Mandatory permanent identification of cattle, pigs, goats

Subdivision 2 Identifiable stock

- Clause 18 (Approval, use and sale of permanent identifiers)
- Clause 19 (Manner of permanently identifying stock)
- Clause 20 (Requirement to identify stock)
- Clause 21 (Stock required to be identified in certain circumstances)

Subdivision 3 Additional requirements for cattle

- Clause 22 (Information in relation to cattle at saleyards)
- Clause 23 (Information in relation to cattle held by stock and station agent)
- Clause 24 (Information in relation to cattle at abattoir)
- Clause 25 (Information in relation to cattle arriving at property)
- Clause 26 (Information in relation to export of living cattle)
- Clause 27 (Information in relation to loss, death or theft of cattle)
- Clause 28 (Loss or theft of unattached permanent identifier)

Subdivision 4 Additional requirements for pigs

- Clause 29 (Information in relation to pigs at saleyard). Maximum penalty 100 penalty units.
- Clause 30 (Information in relation to pigs at abattoir). Maximum penalty 100 penalty units.
- Clause 31 (Information in relation to pigs arriving at property). Maximum penalty 100 penalty units.

Subdivision 5 Additional requirements for sheep and goats

- Clause 32 (Information in relation to sheep and goats at saleyard). Maximum penalty 100 penalty units.
- Clause 33 (Information in relation to sheep and goats held by stock and station agent). Maximum penalty 100 penalty units.
- Clause 34 (Information in relation to sheep and goats at abattoir). Maximum penalty 100 penalty units.
- Clause 35 (Information in relation to sheep and goats arriving at property). Maximum penalty 100 penalty units.

Division 4 Identification codes

- Clause 37 (Requirement for certain properties to have identification codes). Maximum penalty 100 penalty units.

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<sup>45</sup> Regulation is due to be repealed in 2016

*Local Land Services Act 2013*

- **Stock Theft & Trespass Review** Section 116 (Offence of causing or permitting stock to be on a public road, travelling stock reserve or public land without authority). Maximum penalty: 50 penalty units.
- Section 119 (Stock transportation particulars).
- Section 120 (Restrictions on the transport of stock by vehicle on a road). Maximum penalty: 20 penalty units.
- Section 123 (Powers to stop and search vehicles transporting stock). Maximum penalty: 50 penalty units, 12 months' imprisonment, or both.
- Section 204 (Owner of stock may be ordered to muster stock). Maximum penalty: 20 units.

*Local Land Services Regulation 2014*

- Clause 97 (Stock identification scheme). LLS may establish a scheme or schemes for identification of stock (whether on a compulsory or voluntary basis).
- Clause 98 (Offences relating to stock identification schemes). Maximum penalty: 50 penalty units.

## Appendix B – Case Study: Senior Constable Jo Ireland – Community Engagement

Nowendoc is a village in the Northern Tablelands of NSW, which has a population of 157. Surrounded by National Park, it was the base for the police operation in the hunt for the fugitive Malcolm Naden in late 2011-early 2012<sup>46</sup>.

Senior Constable Jo Ireland transferred to Nowendoc in October 2015 and reports that she became Secretary of the local tennis club within a month. She and her family have made a point of all becoming involved in local sports – as a way to build strong community ties. On transferring to Nowendoc, she was aware that police officers had not prioritised the village for some time, prioritising larger regional centres like Walcha.

Senior Constable Ireland explains that she made a point of being very open about her policing attitudes, standards and expectations within Nowendoc and is careful to remain neutral and not get drawn into historical arguments. She believes that this forward and open approach has worked and the community were then clear about how she intended to work in the community. She says she felt that this was a huge positive for her, that the community appreciated her approach and showed respect for her and her family. Senior Constable Ireland believes this to be a vital tool in community policing, to be upfront with your policing expectations and be a good communicator. She also advises rural and remote officers to use the local ‘bush telegraph’ to do your work and tell your community what you are going to do and why, as this will help to flush out offenders and increase rates of reporting to police. She says she has used this to great effect in Nowendoc in relation to issues such as disqualified drivers, illegal hunting, unregistered vehicles and stolen property.

In addition, Senior Constable Ireland believes that police officers must take on tasks that fall outside normal police duties, to assist the local businesses and communities. For example, Nowendoc is located on the Thunderbolts Way between Walcha and Gloucester, meaning large amounts of traffic pass through our rural area every day. Moving stock around and over Thunderbolts Way is very hazardous for stock, graziers and traffic. Senior Constable Ireland provides assistance to all graziers on the highway to move stock with the warning lights of the police vehicle and signs. She believes that this simple extension of her duties has assisted the local community greatly and prevented accidents on our roads.

Finally, Senior Constable Ireland is of the view that officers must work in their area. She believes that while the single unit policing policy is important for the safety of officers, during day light hours, single unit officers or small stations must work in their towns, not in the larger stations forgetting their communities.<sup>47</sup>

It is submitted that community engagement strategies like those described by Senior Constable Ireland are what is required to effectively police rural and isolated communities and should be the benchmark for all officers undertaking such work.

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<sup>46</sup> Wikipedia

<sup>47</sup> E-mail from S.Con. J Ireland, 6 May 2016.

With respect to remote single unit call outs, Senior Constable Ireland advises that she follows the following procedure:

- Is there radio or phone service to call out resources from the location in question?
  - Obtain the names of any individuals involved
- Do not walk or drive into an extremely isolated situation as a single unit. Take farmers / contractors / National Parks officers with her
- If doorknocks or calls are received from home, pass these onto the supervisor in Walcha or Tamworth for recall.
- After hours, team up with another officer on-call in the area to complete jobs.

## Appendix C – SARCIS Structure

