

# Henson fight will rage on despite the law

Corrie Perkin  
Michael Pelly

## 'No charges' against Henson

Michael Pelly



child pornography charges over  
of participants in the arts stream  
of the 2020 Summit, who called

**Insufficient evidence:** How *The Australian* broke the story yesterday

BILL Henson is free to continue his internationally renowned photographic career without risk of jail but yesterday's decision by NSW police to abandon its case against the Melbourne artist has done nothing to bridge the bitter divide between those who support his work and others who believe it is child pornography.

After the police decided Henson and the Roslyn Oxley9 Gallery had no case to answer under child pornography laws, children's rights activist Hetty Johnston declared it was "a great day for pedophiles, a sad day for Australia".

Henson, whose images of a naked 13-year-old girl were confiscated by police on the eve of an exhibition opening at the Sydney gallery, said: "It is reassuring to see existing laws, having been rigorously tested, still provide a framework in which debate and expression of ideas can occur".

Henson described as "profoundly humbling" the support he received throughout the three-week investigation, which sparked a global debate between the arts world and child protection advocates. He also conceded that this had more to do with the principles at stake than the artistic merits of his work.

"Of course I recognise that much of this support came from the desire of many people to voice their commitment to more general principles," Henson said.

The police decision follows advice this week — reported in *The Australian* yesterday — from the office of Director of Public Prosecutions Nicholas Cowdery QC that it did not believe a case could be made out

against Henson under section 91G of the NSW Crimes Act, which prohibits the use of children for pornographic purposes.

Prosecutors also advised that charges against the artist and Roslyn Oxley9 Gallery under Section 91H for the "production, dissemination or possession of child pornography" would be difficult to prove.

The laws carry jail terms of up to 14 years.

NSW police Assistant Commissioner Catherine Burn said the police had not over-reacted on May 22 when they raided the gallery and removed 12 images from the exhibition and a further 20 from the gallery's storeroom.

"We conducted an investigation and because it is a complex matter, we sought advice and now that expert advice indicates that there is no reasonable prospect of conviction," she said.

Ms Burn said police had received three complaints from the public, which they decided to act on.

She said that the police would not apologise to Henson.

NSW Law Society president Hugh Macken said the Henson photographs did not offend the Crimes Act because they did not show children in a sexual context.

"There was never any prospect that these photos would fit the definition of child pornography and the decision of the DPP vindicates that position," Mr Macken said. "Nudity is not obscenity."

Gallery owner Roslyn Oxley thanked the many people who had offered support to her gallery and Henson over the past two weeks.

Ms Johnston told *The Weekend Australian* last night she was one of the three people who issued a complaint to police about Henson's photographs, and she intended to continue her fight against state and federal laws that allowed images of naked underage girls to be taken and circulated as art.

"It's just incomprehensible to us that, as a nation, we don't have laws that protect our children from commercial sexual exploitation," she said. "We all understand artistic protection is important — we get that. But child protection is more important."

Ms Johnston plans to consult legal advisers to examine the legislation and lobby for change.

NSW Premier Morris Iemma thanked police for their investigative work.

"My personal opinion remains clear: these photographs crossed the line and were inappropriate," he said. "I can't understand how a parent could allow a child to be photographed in this way."

Additional reporting:

Sanna Trad

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