

COMMISSION OF INQUIRY INTO
AUGUST 2007 OUTBREAK OF EQUINE INFLUENZA

Before The Hon Ian Callinan AC

Held at Level 5, 55 Market Street, Sydney

On Wednesday, 14 November 2007, at 10am
(Day 4)

1 MR MEAGHER: Commissioner, before I start with the
2 witness, there are a couple of procedural matters that
3 I should address.
4

5 The first is that apparently the parties have access
6 to an electronic file called courtbook, but at the moment
7 they have access to that file only on the computers in the
8 courtroom. As I understand it, what is to be put on
9 courtbook are documents that are in evidence plus documents
10 which the inquiry makes available to the parties before
11 they are admitted into evidence, such as statements and
12 documents referred to in statements.
13

14 The consequence of what I have just said is that, as
15 I understand it at the moment, the parties effectively
16 can't print those documents out or otherwise obtain easy
17 access to them.
18

19 What we are arranging to do is to change the system
20 such that courtbook will be available electronically to the
21 parties remotely, in the sense that it will be available to
22 them at their offices, so that the parties can print out
23 that material and use it forensically and participate more
24 actively in the proceedings, which is what we would desire
25 to happen.
26

27 That will not be achieved until the weekend, but
28 I would hope that by Monday morning the position would be
29 that the parties, provided that they have arranged various
30 codes, et cetera, will have remote access to courtbook.
31

32 The second thing is that what I propose to do now is
33 to identify a number of documents which I am putting into
34 evidence for the purpose of having those documents in
35 courtbook. In the course of the witness's evidence, I will
36 identify further documents which will go into evidence and
37 be available on courtbook.
38

39 After we've finished the three AQIS witnesses who are
40 being called at the start, we propose to move to witnesses
41 who were involved in the arrival of the horses and their
42 transport to Eastern Creek. It is less likely that those
43 witnesses will involve a number of documents, in the sense
44 that their evidence is really given by reference to what
45 they did and saw rather than by reference to documents they
46 created.
47

1 The other matter that I wish to raise, Commissioner,
2 is that we do anticipate recalling each of these AQIS
3 witnesses after the evidence has unfolded in order to
4 enable each of them to have put to him or her particular
5 pieces of evidence so that responses can be made.
6

7 It may be that the parties take the view that they
8 would prefer to delay any cross-examination of these
9 witnesses until later. We certainly wouldn't oppose that
10 course.
11

12 Unless you have something to say, Commissioner,
13 I would wish to read - it will take me a couple of
14 minutes - some documents on to the record as documents
15 going into evidence.
16

17 THE COMMISSIONER: I will just mention one matter for the
18 convenience of the parties. Tomorrow I intend to start at
19 a quarter to 10, to sit until 1, resume at a quarter to 2
20 and finish tomorrow at a quarter to 3 and then sit ordinary
21 hours again on Friday. It is only tomorrow that there will
22 be some changes. Thank you.
23

24 MR MEAGHER: I want to put these documents into evidence:
25 first, the work instruction for import clearance of horses
26 from New Zealand, live animal imports, which is
27 AQIS.0001.001.0328-343; then a series of AQIS policy
28 advices, which set out quarantine requirements for
29 importation of horses from various places, specifically the
30 European Union, Japan and the United States, they being
31 quarantine requirements as they existed from 28 January
32 2000 through to August 2007.
33

34 I then want to tender as well the Biosecurity
35 Australia advice of 28 September 2007, which introduced
36 amendments to those quarantine requirements which take
37 account of the outbreak of equine influenza. The documents
38 that I tender - I will just refer to the electronic numbers
39 - are AQIS.0001.001.0344-405 and AQIS.0001.002.0280-310.
40

41 I next propose to tender the work instruction for the
42 clearance of non-regular passenger transport aircraft
43 arriving at first ports of entry into Australia, which is a
44 work instruction within the airports program and which was
45 relevant to the clearance of passengers on these cargo
46 aircraft which carried the horses. That is
47 AQIS.0001.002.0441-0444.

1
2 I next want to tender what is described as the
3 Victoria Racing Club quarantine HACCP program, that being
4 an abbreviation for hazard analysis clinical control point
5 program, of January 2000, which was the third revision.
6 That is a document that was referred to in evidence
7 yesterday. That is AQIS.1000.007.0004 through to 0085.
8
9 Then there are some further documents. The first is
10 the annual report of the Department of Agriculture,
11 Fisheries and Forestry 2005-2006, which is
12 AQIS.2003.042.0001-0644. The next is the department annual
13 report for 2006-2007, which is DAFF.INQ.001.0001-0582.
14
15 The next is schedules to the AQIS business plan for
16 the year ended 2008. The first is AQIS.2002.017.0001-0053.
17 There is another schedule to that business plan, which
18 I tender, which is the New South Wales region business
19 plan, which is AQIS.3000.006.0075-0093.
20
21 I then tender some schedules to earlier business
22 plans. First is the live animal imports business plan,
23 which was a schedule to the 2004-2005 AQIS business plan,
24 which is DAFF.0001.669.0072-0088. The next is the business
25 plan for the post-entry animal quarantine for the year
26 2005-2006, which is DAFF.0001.669.0001-0015.
27
28 Then arising out of the material that was
29 cross-examined upon yesterday, I tender the following
30 material. The first is Dr Widders' comments on the work
31 instruction, which are in the form of tracking amendments.
32 That is AQIS.1001.033.0002-0017
33
34 The next is the covering email which accompanied the
35 standard operating procedure on standard operating
36 procedures, which is AQIS.2002.015.0001. The next is
37 part 2 of the AQIS business plan for the year ended
38 2007-2008, which is AQIS.2003.013.0001-0071.
39
40 The next is the email from Mr Hibberd in May 2004,
41 which was the covering email to the live animal import
42 review, which is DAFF.0001.069.2305.
43
44 The final document that I wish to tender at the moment
45 is Dr Widders' comments on the live animal import review
46 which were attached to his email to Mr Turner in May 2004.
47 That is DAFF.0001.069.2451-2459.

1
2 Unless Mr Robertson objects, I would also seek to
3 tender, although we are not calling him at the moment,
4 Mr Stephen Hunter's statement and the attachments to that.
5 That is document WIT.DAFF.001.0001-0039.
6
7 MR ROBERTSON: I have no objection to that course,
8 Commissioner.
9
10 MR MEAGHER: There are four other documents which I will
11 ask Mr Ironside some questions about, but I will put them
12 into evidence now. They relate to the consignments of the
13 horses in early August.
14
15 What I propose to do is to tender at the moment one
16 application for a permit for import to quarantine material.
17 This one relates to the consignment of horses which came in
18 on Tuesday, 7 August on the MartinAir flight and which
19 consisted of 10 horses imported for the Coolmore Stud and
20 two other horses, and the 10 horses included
21 Encosta de Lago. The document is CI.0001.030.0001-0006.
22
23 MR CHESHIRE: Commissioner, I apologise for interrupting
24 at this stage. That, as I understand it, is likely to be
25 an IRT application for a permit. IRT has produced a number
26 of documents to the Commission pursuant to a notice to
27 produce. We did claim confidentiality on those documents,
28 first of all in relation to our own commercial interests,
29 but also in relation to those of the owners, and we have
30 had some discussions with Coolmore.
31
32 It is my understanding that before any of these
33 documents were tendered, they were going to be shown in the
34 form in which they were to be tendered, because there is
35 financial information in particular which we do not think
36 should be released to any of the parties, let alone to the
37 broader public. I haven't yet seen that, and I would like
38 the opportunity before that is formally tendered and
39 released to all the parties.
40
41 MR MEAGHER: I am conscious of my friend's concern. We
42 have looked at these documents. The only confidential
43 thing that this document discloses is that \$280 was paid
44 for the application for the permit. Otherwise, it
45 identifies the names of the horses but doesn't say anything
46 else.
47

1 MR CHESHIRE: Commissioner, that may well be right --
2
3 THE COMMISSIONER: You want some time to consider it.
4
5 MR CHESHIRE: Yes.
6
7 THE COMMISSIONER: Mr Meagher, that doesn't seem
8 unreasonable. No doubt you can consider that fairly
9 quickly. I don't want to put you under pressure.
10
11 MR CHESHIRE: Yes.
12
13 MR MEAGHER: My friend has been given copies of the
14 documents which I propose to tender and he can let us know
15 shortly whether --
16
17 THE COMMISSIONER: Can you notify us as soon as you can?
18
19 MR CHESHIRE: I would anticipate by the end of morning
20 tea, if not before.
21
22 THE COMMISSIONER: Thank you. If there is anything that
23 is sensitive, it may be able to be blanked out.
24
25 MR MEAGHER: I am just tendering that material as examples
26 of an application for the import permits then issued for
27 horses from Japan, the United States and the United Kingdom
28 or Ireland to illustrate how the conditions which
29 Biosecurity Australia advises about are imposed as part of
30 the import permit.
31
32 We have prepared, in relation to each of the
33 consignments, a bundle of documents which summarises the
34 relevant information in relation to the consignment, the
35 horses, the people who travelled with the horses, the
36 people who met the horses at the airport and how they were
37 transported to Eastern Creek. There is one bundle for each
38 consignment.
39
40 We are conscious of my friend's concern in relation to
41 confidentiality with respect to some aspects of those
42 documents and we are currently masking the parts of the
43 documents which are not relevant for the purposes of the
44 inquiry so as to protect that confidence. We hope to be in
45 a position, once my friend has cleared those documents, to
46 put them on the courtbook by the end of today or some time
47 tomorrow so that the parties have access to all of that

1 material before we start calling witnesses who deal with
2 the six consignments.
3
4 Those documents will be accompanied by a summary which
5 we have prepared in relation to each consignment, to which
6 we will give an electronic number. It is not intended to
7 be evidence, but it will be a summary which should be
8 treated as a submission as to the facts with respect to the
9 consignment. It may be that, over time, the summary is
10 amended to reflect evidence as it is led.
11
12 Commissioner, I then seek to continue with the
13 questioning of Ms Gordon.
14
15 <JENNIFER MARY GORDON, on former affirmation: [10.17am]
16
17 <EXAMINATION BY MR MEAGHER CONTINUING:
18
19 MR MEAGHER: Q. I want to try to summarise the position
20 as you gave it to us yesterday. I want to ask some
21 questions and hopefully get some short answers as to
22 whether you agree with the summary of your position in
23 relation to various matters. Do you follow?
24 A. Yes.
25
26 Q. You say that the national manager of each program was
27 responsible for developing the standard operating
28 procedures or work instructions for that program?
29 A. Yes.
30
31 Q. And that it was the responsibility of that national
32 manager of the program to identify the risks which the
33 procedures had to address?
34 A. Yes.
35
36 Q. In relation to live animal imports and post-entry
37 animal quarantine, that manager was, in August 2007, a
38 Mr Ironside?
39 A. That's correct.
40
41 Q. Relevantly in 2004, that person was a
42 Dr Narelle Clegg?
43 A. Yes.
44
45 Q. You say that the officers who were responsible for
46 implementing the standard operating procedures and the work
47 instructions were the regional officers as distinct from

1 the officers in Canberra?
2 A. That's a more complex arrangement. The officers that
3 are responsible for implementing them in an operational
4 sense on the ground are in our regional offices, but the
5 officers in Canberra are responsible for overseeing the
6 national consistent application of those work instructions
7 and are often involved in providing advice to regional
8 officers on particular requirements or particular
9 circumstances and how they relate to the work instructions.
10
11 Q. But as I understand it, what you say is that once a
12 work instruction is promulgated by Canberra, and assuming
13 that it is promulgated on a national basis, then it is up
14 to the people in the region to see that it is complied
15 with?
16 A. Yes. It would be the responsibility, as I explained
17 yesterday, of the regional supervisory structure to ensure
18 that the people in the region are aware of the work
19 instructions and to ensure that they know that that's there
20 for their guidance to carry out their particular
21 activities. But, as I also explained yesterday, the
22 national program managers remain actively involved in
23 providing advice and assistance to the operational officers
24 in the regions in relation to particular imports and issues
25 that might arise in the context.
26
27 Q. As I understand it, you accept as correct that the
28 national program manager is also responsible for appointing
29 appropriate staff to perform audits to determine whether
30 the standard operating procedures or work instructions are
31 in fact being followed?
32 A. Yes. That's part of the standard operating procedure
33 policy in terms of how we manage the development of
34 nationally consistent work instructions and standard
35 operating procedures and how we apply them on the ground
36 and monitor their implementation.
37
38 Q. In relation to that last matter, as I understand it
39 you accept that it was the role of the national program
40 manager to, in effect, undertake, where thought necessary
41 or appropriate, audits to see whether the work instructions
42 were being followed both before November 2005, when the
43 standard operating procedure on standard operating
44 procedures was implemented, as well as after?
45 A. Yes, it is the responsibility of the national program
46 manager to monitor, through audits and other measures, the
47 national consistent application of those work instructions.

1 We don't impose any particular time frame on those, because
2 it will depend to a large extent on the resources that are
3 available and other demands that will be made on the
4 program.
5
6 Q. Ms Gordon, my question was, "Was that the position
7 both before and after November 2005"?
8 A. Yes.
9
10 Q. Your evidence is that what is described as the
11 standard operating procedure on the standard operating
12 procedures is a document which reflects current policy
13 within AQIS, so it is a current document?
14 A. The document that you showed me yesterday is a
15 previous document. There has been an updated document
16 since the one that you identified yesterday.
17
18 Q. But I thought you agreed yesterday that there was no
19 difference of substance that you could see between the
20 document I showed you and the document that may be more
21 recent.
22 A. I couldn't identify any, but I would have to sit down
23 and compare the two documents, which I obviously haven't
24 had an opportunity to do.
25
26 Q. The next point is that you agreed that there was no
27 standard procedure within AQIS whereby those responsible
28 for developing standard operating procedures or work
29 instructions were required to consult Biosecurity Australia
30 when doing so?
31 A. No. Consultation with Biosecurity Australia goes to
32 accessing scientific policy advice on particular conditions
33 for importation. Standard operating procedures and the
34 implementation of them goes to translation of import
35 conditions into how we will manage those on the ground in
36 Australia. From time to time, national program managers do
37 consult Biosecurity Australia about particular matters that
38 they believe that they need further explanation for.
39
40 Q. But they are not required to do so when they are
41 preparing work instructions or standard operating
42 procedures, are they?
43 A. They are not required to do it when they are
44 developing work instructions, but if issues arise that
45 require further exploration or explanation, then they would
46 do so.
47

1 Q. But that is a matter for judgment for the relevant
2 national manager, isn't it?
3 A. It is a matter for judgment. Most of what we do comes
4 down to a matter of judgment.
5
6 Q. Please, is it a matter for judgment or not?
7 A. Yes, it is a matter for judgment. Our work is all
8 about matters of judgment.
9
10 THE COMMISSIONER: Q. Can you give me an example of an
11 issue that arose and a consultation that took place?
12 A. Commissioner, I can give you general examples of the
13 sorts of things on which consultation would take place with
14 Biosecurity Australia. We may well have advice from
15 Biosecurity Australia about a particular condition to do
16 with a treatment that should be applied or a vaccination.
17
18 Q. But can you give me an actual example within the last
19 few years?
20 A. Dogs coming into Australia usually are required to be
21 vaccinated according to particular schedules before they
22 arrive in Australia. Our officers would seek to put those
23 conditions on the dogs as part of the import permit.
24
25 Quite often, the owners of the dogs that are in other
26 countries will consult their local veterinary authorities
27 and say that before they can bring the dogs to Australia,
28 they have to be vaccinated in accordance with the
29 particular vaccine that we prescribe on advice from
30 Biosecurity Australia.
31
32 In some cases, in those countries, those people would
33 be advised that the vaccine is not available or that that's
34 not the way those diseases are managed in those countries
35 and will offer alternative examples. So the owners of the
36 dogs will come back to us and ask us, "Is this alternative
37 arrangement possible?", and we will consult Biosecurity
38 Australia to resolve whether that is possible or not.
39
40 So there is quite a range of circumstances,
41 Commissioner, in which we take advice from Biosecurity
42 Australia, advise the importers that they need to comply
43 with it and then we need to consult back with Biosecurity
44 Australia if those particular circumstances don't meet the
45 conditions.
46
47 Q. You give me the impression from that - and I know it

1 is only an example and there may be other examples - that
2 there has to be some external initiation of a consultation.
3 Has the quarantine section, of its own initiative, within
4 the past few years ever thought, "Well, this may be a
5 problem", or, "There is a concern about this. We should go
6 to Biosecurity to get advice"? Has that happened?

7 A. It does happen, Commissioner. By and large, for many
8 of the problems that come into the country, the conditions
9 are relatively stable and settled. But when something
10 changes, we would consult Biosecurity Australia to see
11 whether in fact there are alternative ways of managing it.
12

13 A very good and recent example is that once we had the
14 knowledge that we had equine influenza in the country, we
15 asked Biosecurity Australia to have a look at our
16 on-the-ground operating arrangements for managing horses as
17 they came into the country and to provide us with
18 additional advice on the sorts of things that we needed to
19 do to address the risk that we now knew we had here in
20 Australia.
21

22 Q. What about pre-emptive consultations before you
23 actually have a problem? Have there been any of those
24 initiated by the quarantine section without any external
25 impetus at all?

26 A. Commissioner, yes, our officers have very frequent
27 interactions with officers of Biosecurity Australia about
28 the application of import conditions. The vast bulk of
29 those take place in the context of developing the
30 conditions under which the importations will take place,
31 but it is not unusual for people to seek advice and have
32 conversations about the application of conditions after
33 goods have arrived in Australia.
34

35 So for somebody bringing goods in through an airport,
36 if our officers aren't entirely sure what conditions they
37 ought to apply - and it is not always entirely clear which
38 category goods might fall into - they would seek advice
39 from Biosecurity Australia about the best way of managing
40 those goods.
41

42 THE COMMISSIONER: Thank you.
43

44 MR MEAGHER: Q. The inquiries that you have described
45 are inquiries with respect to the application of conditions
46 imposed for the import of animals?

47 A. They would be in relation to any goods that come into

1 the country that we're required to manage. We consult
2 Biosecurity Australia for a range of goods.
3
4 Q. Please address my question, and we will be a lot
5 shorter about this, Ms Gordon. The inquiries that you have
6 described are inquires with respect to the application of
7 conditions imposed for the import of animals, aren't they?
8 A. I'm sorry, I don't understand your question. The
9 Commissioner asked me about examples --
10
11 THE COMMISSIONER: Q. No, no, attend to Mr Meagher's
12 question and try to answer it directly. If you want to
13 make an explanation, you can make an explanation after you
14 have answered the question, but try to be as responsive as
15 you can, Ms Gordon, to the actual question.
16
17 MR MEAGHER: Q. What I am seeking to do is to understand
18 whether, at the stage of formulating a set of procedures or
19 work instructions, such as the Sandown ones which were the
20 subject of a hazard analysis - and you agreed yesterday
21 that there had been no such analysis with respect to
22 Eastern Creek - at the stage of formulating work
23 instructions which are to apply generally in relation to
24 the import of live animals such as horses, it is the
25 practice to consult Biosecurity Australia as a matter of
26 something that has to be done. As I understood your
27 evidence yesterday, it was that there was no such
28 requirement. That's so, isn't it?
29 A. There is no requirement, but it is not unusual for our
30 officers to consult Biosecurity Australia to confirm that
31 the arrangements meet the advice that they have provided.
32
33 Q. When you are talking about arrangements meeting the
34 advice that they have provided, those sorts of
35 consultations happen in the context of specific
36 importations where conditions have to be applied or
37 conditions have been applied and there is a question as to
38 whether they should be varied or disregarded; isn't that
39 so?
40 A. Most usually, but it is not unusual for officers
41 developing work instructions or standard operating
42 procedures to also consult Biosecurity Australia to confirm
43 that what they are doing will meet conditions.
44
45 Q. But there is no requirement that they do so?
46 A. There is no requirement that they do so. As we just
47 said earlier, it is a matter of judgment.

1
2 Q. As I understand it, yesterday you agreed that you
3 didn't know whether Biosecurity Australia had been
4 consulted in 2004 when the work instruction was
5 promulgated?
6 A. No, I would not normally then, nor now, get into the
7 detail of the development of particular work instructions.
8 That would be the responsibility of the national managers.
9
10 Q. So what is the answer to my question?
11 A. No, I don't know whether they consulted Biosecurity
12 Australia.
13
14 Q. You certainly didn't suggest that they should?
15 A. No.
16
17 Q. The next point is that you accept that before late
18 2003, there was nothing in relation to the import of live
19 horses which would answer the description of national work
20 instructions or a national operating procedure?
21 A. That's my recall, yes.
22
23 Q. Your evidence is that as at August 2007, the only
24 final document which answered the description of a work
25 instruction was that which was promulgated in May 2004?
26 A. That's my understanding, but, as I have indicated in
27 my statement, I hadn't managed the animals program from the
28 end of 2004 until late February of this year. This year,
29 I hadn't gone and reviewed any of the work instructions for
30 live animal imports.
31
32 Q. Have you become aware since late August 2007 that
33 there were in fact other documents floating around?
34 A. I'm now aware that there was a document that was
35 developed in 2004, which was a much more detailed document,
36 that would now constitute what we call a work instruction.
37 That was in draft. I knew it was being developed at the
38 time, but it hadn't yet been finalised.
39
40 Q. Have you also become aware that there were other
41 documents which had been prepared within the Eastern Creek
42 Quarantine Station?
43 A. I wasn't aware of particular documents, but I wouldn't
44 be surprised if officers haven't translated particular
45 activities for themselves.
46
47 Q. Please, could you address my questions. Is the answer

1 that you haven't become aware that there were other
2 documents which have been prepared within Eastern Creek?
3 A. No.
4
5 Q. In relation to the document which was promulgated in
6 May 2004, you say that you had discussions with Mr Turner,
7 who was the manager of the New South Wales region, about
8 Dr Widders' comments?
9 A. I was --
10
11 Q. Is that right, that you had such discussions?
12 A. I wasn't aware of Dr Widders' comments on the document
13 that you showed me yesterday. I was aware of Dr Widders'
14 comments on the live animal import review and had discussed
15 that with Mr Turner, yes.
16
17 Q. You said yesterday - I just want to make sure that
18 I understood correctly what you said - at page 134 line 40
19 that it was your recall that the concerns that Dr Widders
20 had raised in this document, which was his response to the
21 live animal import review, had already been addressed prior
22 to the finalisation of the work instructions and had been
23 taken into account in that document.
24 A. That's correct.
25
26 Q. Was there one discussion with Mr Turner or more than
27 one discussion?
28 A. There was more than one discussion with Mr Turner.
29
30 Q. Over what period did the discussions take place?
31 A. My recall is that they took place over a number of
32 months. The document that you showed me yesterday --
33
34 Q. Sorry, the answer is a number of months?
35 A. Yes.
36
37 Q. Can you tell us, please, as you best now recall, in
38 the sequence in which the discussions took place, the
39 substance or the effect of what you said to Mr Turner about
40 that subject and what he said to you?
41 A. As I recall it, Mr Turner raised with me, not long
42 after the work instruction had been promulgated in May, the
43 fact that Dr Widders had some concerns with it. In that
44 context, as I recall it, and you showed me a document
45 yesterday, an email yesterday, Mr Turner forwarded to me
46 Dr Widders' comments on the live animal import review.
47

1 Subsequent to that, I had conversations with
2 Mr Turner, and we sought to set up meetings between
3 national program officers and officers in the New South
4 Wales region to go through the concerns and to ensure that
5 officers in the region understood how their concerns had
6 been taken into account and why that work instruction was
7 now the one that we expected to be followed.
8
9 Q. What happened after that?
10 A. Those conversations took place for, as I said, a
11 number of months. Towards the end of that year, I left the
12 program and had assumed that the matter had been settled.
13 To my knowledge, those matters haven't been raised by
14 Dr Widders or others since that time.
15
16 Q. Were any meetings ever set up?
17 A. I think there were meetings late in that year, but
18 I couldn't give you the actual dates of those meetings.
19
20 Q. Did you attend any of them?
21 A. No, I didn't attend the meetings personally.
22
23 Q. Did Mr Turner tell you that Dr Widders no longer held
24 the concerns which he had expressed in the document that
25 you had been provided with a copy of?
26 A. I don't believe he told me that in those terms, no.
27
28 Q. What did he say to you which made you satisfied that
29 Dr Widders' concerns had been taken into account?
30 A. I consulted with the national program people who had
31 been developing the work instructions. Dr Widders'
32 marked-up comments on that document that you showed me
33 yesterday had been done in 2003 in the context some months
34 before the finalisation of the work instruction. They had
35 been considered. The work instruction had been finalised
36 and had been promulgated as a final work instruction.
37
38 Q. But his comments on the live animal review were
39 published by him and brought to your attention after the
40 work instruction had been finalised and promulgated,
41 weren't they?
42 A. It is not my understanding that they --
43
44 Q. Weren't they?
45 A. They were brought to my attention after it had been
46 finalised, but it is my understanding that his comments had
47 actually been developed in the course of the development of

1 the live animal review and also in the course of the
2 development of the work instruction and that he was simply
3 raising them again after the work instruction had been
4 finalised.
5
6 THE COMMISSIONER: Q. Ms Gordon, I must ask you simply
7 to answer the question. That was hardly an explanation
8 that you gave. Whether you are anticipating further
9 questions or not I don't know, but would you please just
10 answer the question and confine yourself to any necessary
11 explanation of your answer.
12
13 MR MEAGHER: Q. If you want to see this, Ms Gordon, you
14 can. Maybe we should put up on the screen the document
15 which is DAFF.0001.088.0096. That's an email which you
16 didn't receive, but it is an email from Dr Widders which is
17 after the work instruction was promulgated, isn't it?
18 A. It is.
19
20 Q. He says with respect to work instructions that these
21 have been developed by staff with no or limited experience
22 of clearance procedures, and require significant input to
23 ensure that they are practical.
24
25 Are you saying that he just put that on the record at a
26 point in time after he had become satisfied that it wasn't
27 the case?
28 A. I can't comment on what Dr Widders was proposing to do
29 in this email. I didn't get a copy of it at the time.
30
31 Q. If we go forward to the document which you received
32 which attached his comments, which is
33 EII.0002.001.0032-0041, if we could have the first page of
34 that on the screen, that's the copy of his response which
35 you received on 7 June. Do you have that?
36 A. No.
37
38 Q. Do you say that it is your recollection that at the
39 time you received that, or subsequently to your receiving
40 that, Mr Turner told you that you didn't need to worry
41 about it because Dr Widders was satisfied that the matters
42 he had referred to had been addressed in the work
43 instruction issued in May?
44 A. No. I think you've misunderstood what I said.
45 I didn't say that Mr Turner told me that Dr Widders was
46 satisfied. I said that I had consulted with national
47 program staff and they had advised me that they were

1 satisfied that Dr Widders' concerns had been addressed in
2 the work instruction.
3
4 Q. So the position, as you recall it, is that the final
5 work instruction was promulgated; you then received a copy
6 of Dr Widders' notes as a result of a conversation with
7 Mr Turner; you then spoke to the national program people,
8 who said, in effect, what, "Don't worry about Dr Widders;
9 his comments have been taken into account. We know what
10 we're doing." Is that the position?
11 A. Yes, that's the position.
12
13 Q. Can I then ask you a couple of questions about the
14 changes to the work instructions which have happened since
15 August 2007. You said yesterday that those changes had
16 taken place to take account of an additional risk that had
17 not been taken into account in the work instructions. Do
18 you remember saying that?
19 A. Yes, the known risks that we now had EI in the
20 country.
21
22 Q. As I understood it, the effect of what you were saying
23 was that you understood before August that the measures for
24 pre-entry quarantine would actually address the risk of
25 equine influenza and there would be only a residual risk
26 which had to be addressed when the horses arrived in
27 Australia and were put into post-arrival quarantine?
28 A. Yes.
29
30 Q. Meaning that the post-arrival quarantine procedures
31 could be based on an assumption that it was unlikely that
32 these horses would have equine influenza, because of the
33 pre-export quarantine procedures which had been insisted
34 upon?
35 A. Yes.
36
37 Q. Do you say that was your understanding of the way in
38 which the procedures were drafted before August 2007?
39 A. Yes.
40
41 Q. Have you subsequently been advised that quarantine
42 procedures such as these, whether they are addressing
43 pre-export or post-arrival, should in fact assume that the
44 animals that they are dealing with may be infected with
45 diseases such as equine influenza?
46 A. Yes, it's my understanding that the advice we have
47 from Biosecurity Australia is to take into account the

1 possibility that the animals may have been infected and to
2 provide for longer periods of pre-export and post-arrival
3 quarantine so that the disease would express and we would
4 know about it before they were released.
5
6 Q. Is that advice that you have received from Biosecurity
7 Australia since August 2007?
8 A. Yes.
9
10 Q. Do you say that you had never received it from
11 Biosecurity Australia before August 2007?
12 A. No. The advice from Biosecurity Australia that we
13 were operating on prior to 2007 had been in place for quite
14 some years.
15
16 Q. But there was no advice from Biosecurity Australia on
17 the procedures, was there - on the procedures?
18 A. On our operational procedures, no.
19
20 Q. Do you remember that, in his note on the live animal
21 review in 2004, Dr Widders expressly addressed the risk of
22 equine influenza and horses being infected by it at the
23 airport?
24 A. Yes, he did.
25
26 Q. Maybe we should look at that. If you go back to
27 EII.0002.001.0032, and specifically electronic page 38, do
28 you see the paragraph commencing:
29
30 Equine influenza is the main quarantine
31 risk associated with imports of horses ...
32
33 A. Yes.
34
35 Q. This was Dr Widders, in 2004, referring to an analysis
36 of recent outbreaks which indicated that vaccination
37 doesn't protect against virus shedding and that personnel
38 such as vets, grooms, et cetera, may act as vectors for
39 dissemination of the virus to susceptible horses and then
40 saying that, in his view, the procedures associated with
41 clearance, if uncontrolled, represent a real risk for
42 dissemination of equine influenza.
43 A. Yes.
44
45 Q. You wouldn't have agreed with that at the time; is
46 that right?
47 A. My view at the time would be that the procedures were

1 not uncontrolled. If you read the work instruction, there
2 are specific advices there about managing the risks of
3 horses being infected with a range of diseases.
4

5 Q. But your view at that time was that there was only a
6 residual risk which had to be addressed in Australia,
7 because the actual risk had been addressed by the
8 pre-export quarantine requirements?
9

10 A. Yes, but there were, nonetheless, risk management
11 measures in place to address that lower level of risk on
12 the basis that the major measures had been addressed
13 pre-export quarantine. So there were certainly
14 instructions in the work instructions about ensuring that
15 only a limited number of people who needed to be in contact
16 with the horses were there.

17 Q. Your view is different from that of Dr Widders?
18

19 A. I was operating off the advice of the national program
20 managers, who were experienced people in these matters.
21 Therefore, my view was not different from Dr Widders in the
22 sense that you should not have controls at all but that the
23 controls that were being put in place were going to be
24 adequate for the particular circumstances as we knew them
25 at the time.

26 Q. Well, in fact, you now accept that they weren't, don't
27 you?
28

29 A. Yes, I now understand that the measures that we
30 thought would manage this particular risk pre-export, in
31 the country of origin, didn't manage it.

32 Q. What Dr Widders said is now something which is
33 accepted as a correct assessment of the risk at the
34 airport, isn't it?
35

36 A. No, not necessarily. If you see what he says, he
37 says:
38

39 In my view, the procedures associated with
40 clearance of imported horses at Sydney
41 Airport, if uncontrolled, represent a real
42 risk for dissemination of equine influenza.

43 The procedures at Sydney Airport were not uncontrolled.
44 The work instruction provided controls for managing horses
45 in a way that we, at the time, believed would manage the
46 residual risk of potential for equine influenza.
47

1 Q. Have those work instructions been amended?
2 A. I'm sorry?
3
4 Q. Have those work instructions dealing with controls at
5 the airport been amended since August?
6 A. Yes, we have amended. We have developed additional
7 controls at the airport now that we know we have equine
8 influenza in Australia and that it was able to be
9 transmitted in the way that it has.
10
11 THE COMMISSIONER: Q. Ms Gordon, what are the controls
12 which you have in mind when you speak of "controls for
13 managing horses in a way that we, at the time, believed
14 would manage the residual risk"?
15 A. Commissioner, in the work instruction that existed at
16 that time, there were specific advices to the officer who
17 would be clearing the horses. If you would just bear with
18 me for a moment.
19
20 Arrival at airport
21 . Ensure that only personnel relevant to
22 the unloading and transport of the horses
23 are present at the transfer area, and
24 ensure that any personnel (other than those
25 that travelled on the flight with the
26 horses) that are required to handle horses
27 during unloading are wearing appropriate
28 clothing.
29
30 So it was considered that if personnel were limited to
31 those that really needed to be there and that they were
32 wearing appropriate clothing, that wouldn't move elsewhere,
33 that would only go to the quarantine station, be under
34 control --
35
36 Q. All right. I understand. Are there any others there
37 that you would refer to?
38 A. There are also other instructions to the officers to:
39
40 . Ensure that any lead ropes/head collars
41 used with the horses accompany them to the
42 Quarantine Station, and direct that any
43 lead ropes/head collars belonging to the
44 trucks that were used with the horses ...
45
46 Q. All right. We can read the rest of that. If you can
47 just identify them, are there any others? Just identify

1 them for us, if you would?
2 A. That horses must be transported directly by the
3 importer agent to the quarantine station. So there is a
4 series of instructions there to the officer clearing the
5 horses at the airport that were directly intended to
6 control risk.
7
8 Q. I understand; you have identified them. Ms Gordon,
9 have you ever been to the airport yourself when horses are
10 unloaded?
11 A. No, Commissioner.
12
13 Q. Have you ever been to Eastern Creek?
14 A. Yes, Commissioner.
15
16 Q. When were you last there?
17 A. About a month ago.
18
19 Q. And before that?
20 A. Prior to that, probably 12, 18 months prior to that.
21
22 MR MEAGHER: Q. Just for the record, you were reading
23 from the AQIS work instruction for clearance of live horses
24 from page AQIS.0001.001.0016; is that right?
25 A. Yes. That's the document that you provided me in hard
26 copy yesterday.
27
28 Q. You were referring to the second dot point, which you
29 said controls personnel handling the horses by requiring
30 that they wear appropriate clothing?
31 A. That's correct.
32
33 Q. In your answer, you went on to say, when you were
34 referring to that:
35
36 So it was considered that if personnel were
37 limited to those that really needed to be
38 there and that they were wearing
39 appropriate clothing, that wouldn't move
40 elsewhere, that would only go to the
41 quarantine station, be under control ...
42
43 That's what you said in your answer. You agree, don't you,
44 that the problem with the work instruction which Dr Widders
45 pointed to in his comments on the work instruction I took
46 you to yesterday was that the people who handle the horses
47 at the airport don't always go into the quarantine station;

1 they just leave the airport and go wherever; do you
2 remember that?
3 A. Yes.
4
5 Q. And the control that you identified in your answer
6 isn't in the work instruction, is it?
7 A. The ensuring that only personnel relevant to the
8 unloading and transport of the horses are present at the
9 transfer area does go to that issue, in my opinion.
10
11 Q. Since this time, it has now been made clear that
12 people who touch the horses at the airport and who aren't
13 going to Eastern Creek have to wash out; they have to
14 change clothes before they leave the airport. Is that
15 right?
16 A. That's correct.
17
18 Q. That's what Dr Widders suggested should happen in May
19 2004?
20 A. Yes.
21
22 Q. Do you agree now that what he suggested in May 2004
23 was a sensible suggestion?
24 A. In hindsight, it seems like perhaps that would have
25 helped in this particular circumstance, yes.
26
27 Q. Could I now turn to your position as the senior person
28 to Mr Liehne. I think you accept that your task, at an
29 oversight level, was to see that these programs were run
30 effectively and efficiently.
31 A. Yes.
32
33 Q. What systems were in place to see, so that you could
34 satisfy yourself or be satisfied, that the national program
35 manager was doing what he was supposed to do, as you have
36 described, and that the regional managers were doing what
37 they were supposed to do, as you have described? What
38 I first want you to do is to identify the systems. Then we
39 will deal with them separately. What were the systems in
40 place in August 2007?
41 A. As we've discussed previously, and I think as you
42 identified to me yesterday, AQIS develops on an annual
43 basis business plans for each of its programs and business
44 plans within each of its regions.
45
46 We have a system of doing biannual, twice a year,
47 reviews on those business plans where the national managers

1 and the regional managers address to the AQIS executive how
2 they are going against those business plans. They report,
3 against those business plans, areas in which they have had
4 some impediments in terms of implementing the objectives of
5 the plans or the strategies that have been put in place in
6 the plans and other issues that may have arisen that they
7 then need to address or put in place arrangements for.
8
9 I also have regular meetings with my branch heads, so
10 Mr Liehne would be one of those, and I have discussions
11 with him about the arrangements that are in place for him
12 to assure himself of the management of the programs that
13 come within his responsibility.
14
15 Q. Is that the extent of the systems?
16 A. There is obviously day-to-day supervision of officers
17 and there is extensive --
18
19 Q. But not by you?
20 A. Not by me of national managers directly, no. But you
21 asked me about my management of Mr Liehne and what he does.
22 My conversations with him would go to issues that have been
23 raised with him by his national managers and with regional
24 managers.
25
26 Q. Just to summarise, you have identified the fact that
27 business plans are prepared each year by the programs and
28 by the regions.
29 A. Yes.
30
31 Q. Relevantly here, that is live animal imports,
32 post-entry animal quarantine and the New South Wales
33 region?
34 A. That's right, yes.
35
36 Q. Then you say that there are half-yearly reviews on
37 those business plans in which those people report to you?
38 A. That's correct.
39
40 Q. I don't have available to me at the moment copies of
41 those half-yearly reports, but can you tell us whether
42 they, in terms, address specific questions to whether work
43 instructions and standard operating procedures are in
44 place, are being implemented and have been audited?
45 A. No, the business plans would address issues that the
46 business has determined need to be addressed. For
47 instance, if there are standard operating procedures that

1 for one reason or another need to be reviewed and upgraded
2 or if new ones need to be developed, they will address
3 funding issues, resourcing issues, and then the half-yearly
4 business plan reviews would address whether those things
5 have been done, or if there is any particular reason why
6 there had been a delay in getting those matters done, what
7 the business proposed to do to address any issues that had
8 arisen in that particular period of time.
9
10 Q. You participate in the preparation of the business
11 plans in the sense that they come to you for approval,
12 don't they?
13 A. Yes. The preparation of the business plans -
14 I participate at two levels. The business plans are
15 developed after a series of meetings and the development of
16 an overarching AQIS business plan where we identify our
17 overarching AQIS strategic risks in the context of the
18 department --
19
20 Q. I'm sorry to interrupt you, but my question was do you
21 participate in the preparation of the business plans?
22 A. Not the detail of the business plans. If I could
23 perhaps explain --
24
25 Q. I want to be short about it, if I can, but fair to you
26 if you have to qualify what you need to say in order to
27 answer the question. Do you see the business plans before
28 they are finally adopted and incorporated in the business
29 plan of AQIS?
30 A. Yes.
31
32 Q. Do you have to agree to them or adopt them in some
33 way?
34 A. Yes. I think - to say that I approve them as the
35 business plans for the quarantine division would be the
36 appropriate way of expressing it.
37
38 Q. Were you doing that in 2004/2005?
39 A. No.
40
41 Q. Who was doing it in 2004/2005?
42 A. The then executive manager would have been doing it.
43
44 Q. Who was?
45 A. Mr John Cahill.
46
47 Q. Your position at that time was equivalent to

1 Mr Liehne's position now, was it?
2 A. That's correct, yes.
3
4 Q. Then you would have also seen the business plans?
5 A. I would have seen the business plans.
6
7 Q. And approved them in that position, which was manager
8 of the branch?
9 A. That's correct, yes.
10
11 Q. Let's just take the business plan for 2004/2005. When
12 would that have been finalised?
13 A. We do them on an annual basis on the financial year
14 basis, so it would have been finalised probably at some
15 stage June/July 2004.
16
17 Q. July/July 2004?
18 A. About that time.
19
20 Q. Can we have a look at the document DAFF.0001.669.0072.
21 I can give you a copy of this in paper form.
22
23 MR AGIUS: If those at the Bar table want to look it up,
24 it is on the courtbook.
25
26 MR MEAGHER: Q. I think we have now managed to get it on
27 the screen. This is the live animal imports sub-program
28 business plan for the year 2004-2005.
29 A. Yes, as I understand it.
30
31 Q. And it would have been prepared somewhere around June
32 or July 2004?
33 A. Yes.
34
35 Q. You would have seen it?
36 A. Yes.
37
38 Q. It sets out early on what the functions of the
39 quarantine group are. That's on electronic page 74. If we
40 just come down to the program functions and
41 responsibilities, it sets out below that the other
42 activities of the program. I want to then take you to
43 page 78. As I understand it, that sets out the significant
44 matters which are proposed to be done in that business
45 year; is that right?
46 A. That's correct, yes.
47

1 Q. The headings across the page are "Outline",
2 "Rationale", or reason for doing it, then "Milestones" -
3 that's the date by which it has to be done; is that right?
4 A. That's the date that they are intending to get it
5 done, yes.
6
7 Q. If you go down to 1.3, it says:
8
9 The operation is to ensure implementation
10 of the recommendations of the review of the
11 live animal imports sub-program.
12
13 That's the live animal import review that was published and
14 the subject of comments by Dr Widders in May of that year,
15 2004?
16 A. That's right, yes.
17
18 Q. Then it says that it recently completed a review of
19 the role and responsibilities of Canberra and regional
20 staff participating in the import of live animals and
21 reproductive material; targeted national consistency. Then
22 in the "Milestones" column, the first thing says:
23
24 Review accepted by national managers.
25 September 2004.
26
27 A. Yes.
28
29 Q. What does that mean?
30 A. Basically, as I would understand it - and, again, it
31 has been some time, so I don't recall the detail - that by
32 September 2004 the outcomes of the review were being
33 implemented consistently by national managers in the
34 regions.
35
36 Q. It says "accepted", doesn't it?
37 A. Yes, it does say "accepted".
38
39 Q. It suggests that as at the time this business plan was
40 prepared, the review had not been accepted by national
41 managers, doesn't it?
42 A. It does suggest that, yes.
43
44 Q. Which is inconsistent with your recollection.
45 A. It is when you put it like that, yes.
46
47 Q. Then it says:

1
2 Review delivered to regional managers.
3 September 2004.
4
5 That suggests that by the time this was prepared, the
6 review hadn't been delivered to all regional managers; is
7 that right?
8 A. Yes, but there would have been only two regional
9 managers that would have been relevant to this particular
10 activity.
11
12 Q. That's New South Wales and Victoria?
13 A. That's correct, because they are the areas where
14 horses come in.
15
16 Q. So you would interpret this as saying that this review
17 hadn't even been delivered to New South Wales and Victoria
18 and that it was proposed that it be done by September 2004?
19 A. That's how you would read this. But, as we know, the
20 review had been delivered to New South Wales at least some
21 months prior to that.
22
23 Q. Then the next one is:
24
25 Production of work instructions and
26 training material by the live animal
27 imports sub-program Canberra.
28 September 2004.
29
30 A. Yes.
31
32 Q. That suggests that that had not yet occurred?
33 A. Yes, that does suggest that that hadn't occurred.
34
35 Q. Although that's not consistent with your recollection.
36 A. No. We hadn't discussed earlier - I don't have any
37 recollection, I have to say, about exactly when the work
38 instruction - well, the work instructions, but not the
39 training materials, had been developed to accompany the
40 work instructions.
41
42 Q. That says "work instructions and training materials".
43 A. Yes, but they were looking at getting it done by
44 September 2004, and my understanding was that they had got
45 that part of it done earlier.
46
47 Q. Was any training material ever produced?

1 A. I'm not aware.
2
3 Q. There wasn't, was there?
4 A. I'm not aware. I ceased being responsible for this
5 program only a couple of months after that, and as I tried
6 to explain yesterday, even at that particular point in
7 time, my major focus was not on live animal imports; it was
8 on live animal exports.
9
10 Q. Then the next one:
11
12 Live animal imports sub-programs and
13 regional managers implement recommendations
14 of review [by] November 2004.
15
16 A. That referred to adjusting their staffing structures,
17 which was part of the live animal import review, as we
18 discussed yesterday.
19
20 Q. The next one is:
21
22 Audit implementation of recommendations.
23 May 2005.
24
25 A. Yes.
26
27 Q. That means check to see if they have been implemented?
28 A. Yes.
29
30 Q. That never happened?
31 A. I'm not aware that it did happen. But, as I said, by
32 May 2005 I was no longer responsible for this program.
33
34 Q. I know, but you have inquired whether there was ever
35 any audit of the kind described there, haven't you?
36 A. Yes. Most recently I have inquired, and, as
37 I understand it, they didn't complete that particular
38 milestone.
39
40 Q. There has never been an audit?
41 A. Not that I'm aware of, no.
42
43 Q. Did they report that to you in one of these reviews of
44 the business plans?
45 A. They may have. But, as I explained, from the end of
46 2004 through to late February of this year, this wasn't one
47 of my program responsibilities, so I wasn't monitoring it

1 closely. I was monitoring the ones that I had
2 responsibility for.
3
4 Q. Can we go to a different business plan. That's the
5 post-entry animal quarantine program plan for the year
6 ended 2008.
7
8 THE COMMISSIONER: Have you finished on that?
9
10 MR MEAGHER: Yes.
11
12 THE COMMISSIONER: I just have a few questions that I want
13 to ask Ms Gordon.
14
15 Q. Ms Gordon, do you see "Program functions and
16 responsibilities"? Do you have that in front of you?
17 A. Yes, Commissioner.
18
19 Q. It is page 3 of the hard copy.
20 A. Yes.
21
22 Q. Towards the foot of the page, "Audit of
23 quarantine-approved premises". Now, what is a
24 quarantine-approved premises? Would Eastern Creek have
25 been that --
26 A. No.
27
28 Q. -- or would it have been private - Sandown, for
29 example?
30 A. No, neither Eastern Creek nor Sandown are
31 quarantine-approved premises, but we have provisions within
32 the quarantine legislation to approve a whole range of
33 premises for --
34
35 Q. Well, are there any that have been approved?
36 A. There are a number. Zoos, for instance, that hold
37 animals, imported animals, usually operate under a section
38 of the Quarantine Act that enables them to be approved.
39
40 Q. Would nothing that we're concerned about here answer
41 the description of quarantine-approved premises?
42 A. No, no, Commissioner.
43
44 Q. Could I take you, then, to page 6 of the hard copy
45 under "Financials", "To recover the true costs of
46 regulatory services", and so on. Can you tell me, do you
47 know approximately what the charge is for the importation

1 and how much anybody would have to pay to import one of
2 these extremely valuable thoroughbreds?
3 A. I can't give you all the detail of fees. They are set
4 out in the quarantine fees determination. But we have
5 developed the fee structure on the basis of the actual
6 costs of our delivering the services, including all of our
7 costs. So they would have to pay a fee, I think we heard
8 earlier, for the import permit application, for the time of
9 our officers at airports clearing the horses, and there is
10 a range of fees for maintenance of the horses in the
11 quarantine station.
12
13 Q. At some stage in some documents I thought I saw a fee,
14 and it didn't seem very much. You don't know what sort of
15 order of magnitude?
16 A. It is relatively modest fee. I think the current fees
17 determination is about \$34 a day for a horse in the
18 quarantine station itself.
19
20 Q. \$34 a day. Has any calculation been done to recover
21 capital costs in that or anything of that kind? It just
22 seems a very, very modest fee --
23 A. Yes. Yes, Commissioner.
24
25 Q. -- and hardly a fee that would recoup the actual
26 costs.
27 A. Our fee structures are done on what we call a program
28 basis, so the costs of the quarantine station, the whole of
29 the Eastern Creek Quarantine Station, including facilities
30 for dogs, cats, horses, birds, bees and other species that
31 are there, would all be calculated, and the lease costs and
32 the costs of our officers. So our fees are required to
33 reflect all of the costs that go to delivering the
34 particular service and then to allocate those costs to the
35 importers.
36
37 Q. It may be possible, but at the moment I find it hard
38 to believe that \$34 a day would recoup the real costs,
39 including capital costs, of a horse at Eastern Creek.
40 A. Our fees do reflect fairly detailed costs modelling.
41 We are required to develop what we call cost recovery
42 impact statements that are reviewed by the department of
43 finance, and then they do become part of the fees
44 determination. So we have to be assured that they do
45 recover the full costs of delivering the whole of the
46 program, not necessarily the individual species within the
47 programs.

1
2 Q. Because you wouldn't pay the same to import a bee as
3 you would pay to import a valuable thoroughbred, would you?
4 A. No, Commissioner, I understand, but the costs are not
5 related to the value of the animals or the species. The
6 costs are related to the delivery of the service.
7
8 Q. We won't take up time with it now, but it is something
9 that I am interested in. It may be that much-improved
10 biosecurity may come at a considerably greater cost.
11 A. Yes, Commissioner.
12
13 Q. It may have to be a recommendation that I would have
14 to consider. Can you extract for me - I don't suggest
15 immediately - those budgeting documents which show the cost
16 calculation?
17 A. Yes, Commissioner. I might, if I may, also add that
18 we do review our fees on a regular basis of three to five
19 years, depending on pressures on a particular program, and
20 there had been a fee review scheduled for the live animal
21 imports post-entry animal quarantine programs I think in
22 the coming year, so these fees that have been in place
23 would have been subject to review fairly shortly.
24
25 Q. In any event, if you could get me the last two or
26 three of the budgeting documents. There are just a couple
27 more matters --
28
29 MR MEAGHER: Commissioner, actually, Ms Gordon does deal
30 with these in paragraph 23 of her statement.
31
32 THE COMMISSIONER: The copy I have talks about auditing of
33 work instructions and implementation in paragraph 23.
34
35 MR ROBERTSON: On page 5.
36
37 MR MEAGHER: You may have a draft, Commissioner.
38
39 THE COMMISSIONER: I think I have a draft.
40
41 MR MEAGHER: The equivalent in the draft is paragraph 25.
42 I will give you a copy of the final version.
43
44 THE COMMISSIONER: Yes, thank you. That's the detail of
45 it.
46
47 Q. If I could see the underlying budgeting documents

1 which show the basis for these calculations, Ms Gordon?
2 A. Yes.
3
4 Q. There are just a couple more matters, if you will bear
5 with me. Could I take you to page 8 of 17, item 1.4:
6
7 To improve the examination process of
8 imported animals by engaging private
9 veterinarians.
10
11 I have left out some words.
12 A. Yes.
13
14 Q. I see in the next column, the author says that it
15 would also eliminate potential "OHE&S". What does "OHE&S"
16 stand for?
17 A. Commissioner, it is OH&S. It's occupational health
18 and safety.
19
20 Q. And liability. I don't quite understand what the
21 intention of 1.4 was. Was it in contemplation that more
22 private veterinarians would be engaged on an outsourcing
23 sort of basis or that private veterinarians would be able
24 to examine their clients' animals, or what was the
25 proposal?
26 A. Commissioner, my recall of this particular proposal
27 was that the horses that are in the post-entry animal
28 quarantine station at Eastern Creek are examined by
29 veterinary officers from time to time; blood tests are
30 taken to monitor their health for quarantine purposes.
31
32 Q. We know that, but what was the thrust of the
33 intention?
34 A. The intention of this was that our officers, our
35 quarantine vets, are not necessarily horse experts; they're
36 general quarantine veterinary officers rather than horse
37 experts, and that there were some advantages to enabling
38 private vets who are horse experts to undertake some of
39 these activities under our supervision.
40
41 Q. Which would, I suppose, involve or include an
42 expectation that they would act responsibly themselves as
43 veterinarians --
44 A. Yes, Commissioner.
45
46 Q. -- and that they, too, would have a knowledge of
47 potential diseases or infective diseases and might take

1 steps of their own initiative perhaps to prevent infection?
2 A. Yes, and could be directed by us to do so, yes.
3
4 MR MEAGHER: Q. Could I take you to the post-entry
5 animal quarantine program business plan for 2005/2006,
6 DAFF.0001.669.0001. I have a copy for you, Ms Gordon, and
7 a copy for the Commissioner. Ms Gordon, would you have
8 seen this document in your capacity as manager of the
9 branch?
10 A. At this time, I was no longer manager for the branch,
11 I had moved to being executive manager, quarantine and
12 plant programs and didn't have responsibility for animal
13 programs.
14
15 Q. So you wouldn't have seen this at all?
16 A. I would have seen this document as part of the AQIS
17 executive team, but I wouldn't have been paying the same
18 sort of attention to it as I would have to ones that were
19 within my direct responsibility.
20
21 Q. Then if you go to electronic page 7, we have again the
22 list of matters which would have been, hopefully, attended
23 to in that business year. Item 1.1 talks of:
24
25 To achieve border security and animal
26 welfare by implementing national work
27 procedures for the daily care of cats, dogs
28 and horses undertaking post-arrival
29 quarantine.
30
31 A. Yes.
32
33 Q. That would include Eastern Creek?
34 A. That's right.
35
36 Q. And horses, obviously?
37 A. That's correct, yes.
38
39 Q. The reason was said to be that:
40
41 The formulation of standard work procedures
42 would contribute to the maintenance of an
43 acceptable and consistent client service
44 delivery standard, providing a basis for
45 training staff and performance through
46 people appraisals. Current procedures to
47 be reviewed and inconsistencies identified.

1
2 A. Yes.
3
4 Q. Then the milestone is that there be standard work
5 procedures documented and implemented nationally by August
6 2005?
7 A. Yes.
8
9 Q. That suggests that as at that time, whoever prepared
10 this business plan didn't believe that there were standard
11 work procedures documented and implemented nationally which
12 dealt with the care of cats, dogs and horses in
13 post-arrival quarantine?
14 A. That's my understanding, that there were some
15 inconsistencies in the way these matters were managed in
16 the quarantine stations.
17
18 Q. Did that ever happen before August 2007?
19 A. Not to my knowledge, no.
20
21 Q. So that this business plan milestone was not achieved
22 in this business year or in each of the successive two
23 business years?
24 A. Not to my knowledge, no.
25
26 Q. There was also expected to be an audit of standard
27 work procedures of each of the quarantine stations by March
28 2006. Did that ever happen?
29 A. Not to my knowledge. But, as I explained, I wasn't
30 responsible at the time, so I wasn't monitoring it.
31
32 Q. The review of standard work procedures which was
33 expected to be completed by June 2006 - did that happen?
34 A. Not to my knowledge.
35
36 Q. How could one rely on these business plans as
37 providing any safe system of assurance that, say, work
38 instructions were being implemented and audited?
39 A. As I explained earlier, there would have been, and
40 there are still, twice a year business plan reviews where
41 national managers are asked to address what strategies they
42 haven't done and give us explanations as to why. In some
43 cases, it is because there have been changes in staff or
44 personnel or there has been some other unexpected issue
45 arise in that program where resources have had to be
46 directed to that. I don't recall the particular
47 explanations in relation to these ones.

1
2 Q. But if that is right, what one would draw from this
3 business plan, if one received a review saying that none of
4 these things have been done, is that there weren't standard
5 work procedures documented and implemented nationally and
6 there hadn't been a review of standard work procedures?
7 A. That's how would you read that, yes.
8
9 Q. So that one just wouldn't have a clue what was going
10 on within the quarantine stations, for example, at that
11 level?
12 A. Yes. What this tells you is that --
13
14 Q. You agree with what I put?
15 A. I agree with part of what you have put.
16
17 Q. Just one other matter. If you go to 4.1, which deals
18 with the subject of financials, it was to improve the
19 program's financial integrity through delivery of a fee
20 structure that reflects cost recovery. There was then, as
21 I read it, intended to be a review of the fee
22 determinations.
23 A. Yes.
24
25 Q. Has that ever happened?
26 A. Not to my knowledge. I think that's the fee review
27 that we're doing at the moment.
28
29 Q. I am going to then move to another business plan.
30 Could I take you to the post-entry animal quarantine
31 program business plan for the year 2007-2008. I have a
32 copy for Ms Gordon and a copy for the Commissioner. The
33 document is AQIS.2002.017.0023. You would have had to
34 approve this business plan?
35 A. Yes.
36
37 Q. In June or July of this year?
38 A. Yes, approximately then.
39
40 Q. If I could take you to electronic page 32, there is a
41 statement of what might be described as general strategies.
42 Is that how you would describe those?
43 A. Yes. These would be standard processes or issues that
44 the program needs to address.
45
46 Q. So that in relation to business improvement, one was
47 to analyse data to ensure that resources at the station

1 match quarantine activity; another was to revise and review
2 work instructions to ensure consistency and appropriateness
3 of practice. What did you understand that to mean --
4 A. That the program --
5
6 Q. -- or to involve?
7 A. Sorry. Pardon me, I misunderstood your question. My
8 understanding of that was that the program was planning to
9 look at all the work instructions that were being used
10 within quarantine stations and to ensure that they were
11 consistent across the stations and were being applied
12 consistently and that they were appropriate in terms of the
13 procedures that were being followed.
14
15 Q. If you go over the page to electronic page 33, the
16 first annual strategy, in the second part of 1.1, is:
17
18 Development and provision of nationally
19 consistent standard operating procedures
20 and work instructions on the intranet for
21 dogs, cats and horses.
22
23 It says:
24
25 There is no central location that each
26 station can access current SOPs and work
27 instructions. This will be rectified by
28 making them available on the AQIS intranet.
29
30 What did you understand that to mean?
31 A. That the particular work instructions that the station
32 managers were following within the quarantine stations
33 weren't national ones and therefore weren't on the AQIS
34 intranet.
35
36 Q. Does that mean that you were aware, in June 2007, that
37 the station managers within the quarantine stations were
38 not following the work instructions such as that
39 promulgated in May 2004?
40 A. No. The one promulgated in May 2004 was a work
41 instruction for the general clearance of horses, not
42 specific detailed instructions on managing animals within
43 the station itself. There are elements of it that were at
44 a higher level, but this was referring to day-to-day
45 management of the animals within the quarantine station.
46
47 Q. So are you saying that in June or July of this year,

1 your understanding was that there was a work instruction on
2 the intranet which did not expressly or specifically
3 address what was to happen within the quarantine station
4 concerning the import of live horses?
5 A. The more detailed management issues that needed to be
6 taken care of within the quarantine stations - yes, there
7 wasn't one of those available, as I understood it.
8
9 Q. Did you therefore understand that the quarantine
10 officers within Eastern Creek were not paying any attention
11 to the work instruction which was promulgated in May 2004?
12 A. No, it would be my understanding that the officers
13 within Eastern Creek would have or should have been aware
14 of the general standard operating procedures - the work
15 instruction, which was a higher level and has provisions or
16 has instructions in there, if you like, at a higher level
17 for how to manage horses, but what this was talking about
18 was specific, more detailed arrangements for management of
19 animals within the station itself.
20
21 Q. I thought you had said yesterday that you expected,
22 unless there were exceptional circumstances, that
23 quarantine officers would comply with the 2004 work
24 instruction concerning live animals - horses?
25 A. Yes, but if you read the 2004 work instruction for
26 clearance of live horses, it has instructions in there for
27 officers about management of clearing horses going into the
28 station, veterinary inspections, clearing of horses leaving
29 the station, but it doesn't provide a level of detail for
30 internal management of the horses and other instructions
31 while the horses are actually in the station itself.
32
33 Q. What was your understanding, then, as to what the
34 people in the quarantine stations at Spotswood and Eastern
35 Creek were doing in relation to the receipt and quarantine
36 of horses in June 2007?
37 A. My understanding is that the officers managing the
38 Eastern Creek Quarantine Station would be following the
39 live animal import work instruction to the extent that it
40 provided directions and guidance on how to manage horses
41 going into and while in and leaving the quarantine station,
42 but what it didn't provide for them was a more detailed set
43 of work instructions, almost down at the level of work
44 activity, for the management of horses while they were in
45 the quarantine stations, and what the program was proposing
46 to develop here was a series of nationally consistent
47 instructions.

1
2 Q. Where it says that there is no central location that
3 each station can access current work instructions, what did
4 you understand that to mean?
5 A. That each station would have developed specific
6 instructions that they may be following but that they
7 hadn't located them on the national intranet.
8
9 Q. Doesn't it seem to be suggesting that they didn't have
10 access to or were not using the national intranet?
11 A. In respect of those more detailed work instructions
12 for managing horses while they were in the quarantine
13 station that they had developed themselves within that
14 station.
15
16 Q. That's not what it says, is it, Ms Gordon, as
17 I understand it?
18 A. That's my understanding.
19
20 Q. It is saying that there is no central location that
21 each station can access current work instructions.
22 A. The live animal import work instruction for clearance
23 of live horses was on the AQIS intranet, and each of the
24 station managers had access to it.
25
26 Q. But this suggests that they weren't using it, doesn't
27 it?
28 A. I think we're talking about different documents.
29
30 Q. I am suggesting perhaps that this suggests that the
31 people within the quarantine stations were not using the
32 intranet in order to inform them as to what current
33 operating procedures or work instructions were?
34 A. There were no instructions, as I understood it, for
35 detailed management of horses while they were in the
36 quarantine station that were on the intranet, so they
37 wouldn't have been using it for that purpose. But they
38 would have had access to the intranet version of the
39 clearance of live horses, live animal imports work
40 instruction that we were talking about earlier.
41
42 Q. That document contains attachments, doesn't it, which
43 deal with what might be done with horses within quarantine?
44 A. Yes, it provides a variety of standard documents to be
45 used.
46
47 Q. What was your understanding as to whether they were

1 using those?
2 A. I would have expected that they would be using them,
3 but I wouldn't have been checking on that myself
4 personally. It would not have been within my expectation
5 that I would get down to that level of detail.
6
7 THE COMMISSIONER: Is that a convenient time?
8
9 MR MEAGHER: Yes.
10
11 THE COMMISSIONER: We will adjourn for a quarter of an
12 hour.
13
14 SHORT ADJOURNMENT
15
16 THE COMMISSIONER: We don't have a witness.
17
18 MR MEAGHER: No.
19
20 THE COMMISSIONER: Here she is.
21
22 THE WITNESS: My apologies, Commissioner.
23
24 MR MEAGHER: Q. Ms Gordon, I want now to turn to the
25 period after the equine influenza was discovered, to put it
26 neutrally, in Eastern Creek. I want to show you a sequence
27 of documents. Do you recall that in this period after
28 25 August, you were involved in various activities,
29 including preparing summaries of the procedures as they
30 were understood to have been in Eastern Creek before the
31 outbreak?
32 A. Yes.
33
34 Q. Could I take you, first, to the document
35 AQIS.0002.014.0042. This is not an email to you. The
36 bottom email is from Mr Hankins, who ran the Eastern Creek
37 station, to Caryn Scott. Who is Caryn Scott?
38 A. Caryn Scott is an officer in the live animal imports
39 program in Canberra.
40
41 Q. Then she sent a copy of it on to Peter Liehne, who was
42 the manager of the branch.
43 A. Yes.
44
45 Q. You will see that there was attached to the email a
46 number of documents. I can perhaps give you a copy of
47 this. For the record, could we go to page 43, where there

1 was this copy of an authorisation for a vet or farrier to
2 enter Eastern Creek; then at page 44, there was a document,
3 which was AQIS expectations of horse grooms at Eastern
4 Creek; then at page 45, there was a document headed
5 "Attention"; at page 46, there was a document headed "Horse
6 procedures arrivals", which runs for four pages; then at
7 page 50, there was a document headed "Operating procedures
8 for horses at Eastern Creek", which was four pages; and,
9 finally, at page 54, there was an authorisation for groom
10 document. Do you recall being given copies of those
11 documents at around this time, 25 August?

12 A. Yes.

13

14 Q. Were you told that they were the documents which
15 Mr Hankins had sent as the documents that he was using or
16 which recorded the procedures he was following within
17 Eastern Creek?

18 A. Yes.

19

20 Q. So that he didn't send you either a copy of the work
21 instruction or a copy of any draft operations manual for
22 horses?

23 A. He didn't send them to me, but he obviously didn't
24 send them down to the officers in the program, no.

25

26 Q. Did you draw from that that from his perspective, as
27 at August 2007, he was not paying any regard to either the
28 work instructions or any other document described as an
29 operations manual?

30 A. My understanding was that what we had asked for and
31 what he had sent down were documents that were internal to
32 Eastern Creek, not the general live animal import horse
33 instruction. Some of these documents are in the form of
34 some of the attachments to that live animal import work
35 instruction.

36

37 Q. But they are certainly not all there?

38 A. No, they are not all there. But these are about the
39 ones that pertain to activities taking place within the
40 station itself.

41

42 Q. Could we go to document AQIS.0002.014.0023. That is
43 an email from Mr Liehne to Mr Ironside, with a copy to you,
44 of 27 August; do you see that?

45 A. Yes.

46

47 Q. Does that record the new procedures which were

1 implemented at Eastern Creek from about 27 August?
2 A. Yes.
3
4 Q. As you understand it, are those procedures still in
5 place?
6 A. I only have half the document here.
7
8 Q. Perhaps we can move the document down so we can see it
9 on the screen. If we stop there.
10 A. Is it possible to get the document so that I can see
11 the whole document?
12
13 Q. I'm not sure. Could we, on the screen, please move
14 the document down so that we can see paragraph 1. Thank
15 you. My question was, are those procedures still in place?
16 A. As I understand it, yes.
17
18 Q. Could we go on document AQIS.0002.014.0058 at page 59.
19 That is an email from Mr Liehne to you setting out a facts
20 sheet on conditions and processes for importation of horses
21 to Australia, as requested. Do you see that? Could we go
22 back to page 58 on the screen. I can give you a hard copy
23 again, if you would like. The following page, page 59, is
24 headed "Process for importation of horses into Australia"
25 and sets out in 11 paragraphs the relevant sequence of
26 events. Did you understand, when you received that email,
27 that that was intended to reflect the procedure which was
28 being implemented immediately before the equine influenza
29 was discovered?
30 A. Yes, I do understand that that's what was intended to
31 be --
32
33 Q. Could we go down to paragraph 9. Did you understand
34 that that meant that access to the station was only through
35 secure gates and that any non-AQIS personnel entering the
36 station had to sign in?
37 A. Yes.
38
39 Q. Did you have any understanding as to what would happen
40 after hours?
41 A. After hours, the people who would enter the station
42 would be admitted by the head grooms. The grooms
43 themselves had swipe passes, as I understand it. This was
44 referring to non-AQIS personnel entering the station during
45 the hours that were office hours, and the grooms who had
46 passes had to sign documents to indicate, before they were
47 given those passes, that they would comply with AQIS

1 requirements while they were in the quarantine station.
2
3 Q. In paragraph 10, does that suggest that you understood
4 that before the outbreak people like vets and farriers were
5 being required to wear dedicated clothing inside the
6 quarantine station and to shower and change when they left
7 as well as disinfect equipment?
8 A. That's certainly what this paragraph told me, yes.
9
10 Q. Do you understand that that was in fact the position
11 that was occurring before the outbreak?
12 A. My understanding of what was occurring at the Eastern
13 Creek Quarantine Station was what I was advised. This was
14 one of the documents that was put to me with the advice.
15
16 Q. Have you received any advice, since you received this
17 document, which contradicts what is in paragraph 10?
18 A. Yes. When I got this document, I asked for
19 clarification on a number of matters, because we were using
20 this document to provide advice to the minister and
21 I wanted to be sure that the information we were providing
22 was accurate. When further questions were asked, we were
23 advised that these procedures weren't always followed.
24
25 Q. Which ones were the ones which were identified as not
26 being always followed?
27 A. Well, I think if we go back to paragraph 9, "Access to
28 the station is only through secure gates", I remain of the
29 view that that was accurate.
30
31 "All non-AQIS personnel entering the station must sign
32 in" - all AQIS personnel don't sign in on each and every
33 occasion; the grooms, for instance, don't. As I understand
34 it, there may have been some circumstances, or I've been
35 led to believe that there were some circumstances where not
36 all those leaving the station showered or changed before
37 they left the station. They were required to do so, but it
38 wasn't necessarily followed all the time.
39
40 Q. Could I then take you to a document which is
41 AQIS.0002.014.0265. This is an email from you to a
42 Dr Norman Blackman of 28 August 2007. Do you see that?
43 A. Yes.
44
45 Q. Who was Dr Norman Blackman?
46 A. Dr Blackman is an officer in the minister's office who
47 advises him on animal matters. He is a veterinary officer.

1
2 Q. Was this a briefing, then, that you were providing to
3 him on the basis that he may provide it to the minister?
4 A. Can I see the full document, please?
5
6 Q. Yes. Perhaps if we could go on the screen to
7 page 267, which is the attachment, down to the question,
8 "Is the quarantine station secure?" First, could you
9 answer my question, Ms Gordon. Was this a briefing, then,
10 that was provided to Dr Blackman on the basis that he may
11 provide it to the minister?
12 A. Yes, at that stage, yes.
13
14 Q. You will see that in response to the question, "Is the
15 quarantine station secure? Who has access?", the answer
16 was:
17
18 Any person seeking access must be admitted
19 through locked gates and all non-AQIS
20 personnel entering the station must sign
21 in.
22
23 A. Yes.
24
25 Q. Did you subsequently become aware of, or were you
26 told, that that was not always the case?
27 A. It was put to me that it wasn't always the case.
28 I think we had subsequent briefings to the minister where
29 we provided him with further advice to indicate that some
30 procedures may not have been followed in all circumstances.
31
32 Q. And similarly in relation to the next question, "What
33 non-AQIS staff have access to the horses at the quarantine
34 station?"
35 A. Yes.
36
37 Q. Then similarly as to the next question, "Is protective
38 clothing required at the station?", at the bottom of
39 page 267 and the top of page 268, were you told that that
40 wasn't always the case and that a number of people did, in
41 fact, not use dedicated clothing or shower out?
42 A. I've been advised of that, but I became aware of that
43 only after the compliance and investigations officers began
44 their investigations in the early days.
45
46 Q. If I could take you to the next document,
47 AQIS.0002.014.0092, this is an email from Mr Hunter to

1 Mr Blackman, with a copy to you. Again, it attaches the
2 same question and answer and describes it as a brief on
3 existing procedures. I can show you the document so you
4 can look at the attachment, but was it your understanding,
5 when you received that, that the attached question and
6 answer brief was intended to describe procedures existing
7 before equine influenza was discovered in the quarantine
8 station?
9 A. Yes, that's the advice that we had at that stage.
10
11 MR MEAGHER: I tender that document from page 92 through
12 to page 95.
13
14 THE COMMISSIONER: Q. Just remind me, who is
15 Stephen Hunter?
16 A. Stephen Hunter is the executive director of AQIS and a
17 deputy secretary in the department. I report directly to
18 him, Commissioner.
19
20 MR MEAGHER: Q. If we could go to the next document,
21 AQIS.0002.014.0220, which is an email from Mr Ironside to
22 you of 31 August. Do we have this in the system?
23
24 MR AGIUS: It is not on courtbook.
25
26 MR ROBERTSON: Commissioner, while there is a temporary
27 pause, I may need to make an application in relation to the
28 confidentiality of the last document so far as it may be
29 taken to set out advice to the minister. Could I flag that
30 for the moment? I am not clear what my instructions may be
31 in that respect.
32
33 THE COMMISSIONER: What would be the basis of the
34 application - public interest immunity of some kind?
35
36 MR ROBERTSON: It would be, although I realise it is
37 complicated, because at least some aspects are not advice
38 to the minister as such. I just need to get that clear.
39 I didn't have any notice, of course, that this document was
40 to be tendered.
41
42 THE COMMISSIONER: I think it should be clarified very
43 quickly, Mr Robertson.
44
45 MR ROBERTSON: Yes, I will do that.
46
47 THE COMMISSIONER: This is an inquiry into the executive

1 by an appointee of the executive.
2
3 MR ROBERTSON: Yes, I understand that.
4
5 THE COMMISSIONER: At the moment, I don't really see, in
6 relation to a document of this kind, much scope for public
7 interest immunity. I may be wrong, but --
8
9 MR ROBERTSON: Just to be clear, Commissioner, I am not
10 suggesting that it isn't material that, of course, the
11 Commission should have access to and use. I just need to
12 get clear what my instructions are in relation to the
13 general publication of it.
14
15 THE COMMISSIONER: My inclination is to make this hearing
16 as open as possible, as you would appreciate.
17
18 MR ROBERTSON: Of course.
19
20 THE COMMISSIONER: The public interest immunity in respect
21 of such a document, I would have thought, would have been
22 the claim of the minister or the executive itself and not
23 an official.
24
25 MR ROBERTSON: Yes. Quite so. I am just flagging the
26 issue.
27
28 THE COMMISSIONER: It is difficult, though, because
29 Mr Meagher wants to cross-examine on it.
30
31 MR MEAGHER: No, I don't wish to. I don't need to,
32 Commissioner.
33
34 THE COMMISSIONER: All right. You look into your
35 position, Mr Robertson.
36
37 MR ROBERTSON: Thank you, Commissioner.
38
39 THE COMMISSIONER: Would you let us know as soon as you
40 can, please.
41
42 MR ROBERTSON: I will.
43
44 MR MEAGHER: Q. Ms Gordon, unfortunately I don't have a
45 paper copy of this email, but it is from Mr Ironside to you
46 and it seems to be in response to a request as to
47 correspondence in the past with the program concerning

1 post-arrival arrangements for horses. If we could go
2 slowly down the page, it refers to correspondence between
3 the minister and Mr Ramsden and a Mr Schwarten on various
4 matters. I simply ask, did you request Mr Ironside to
5 provide that information to you?
6 A. Yes, I would have requested that.
7
8 Q. Why?
9 A. I think the sequence of events had been that there had
10 been allegations in the media that previous ministers had
11 been advised of concerns from members of the industry about
12 the arrangements for horses in quarantine and that they had
13 actually written on a number of occasions, and we were
14 searching our records to identify what records we had that
15 would support the claims that had been made.
16
17 Q. Were you at some stage provided with copies of the
18 correspondence referred to in the email?
19 A. I was provided with copies of correspondence that was
20 found. I can't guarantee, without going back to my own
21 records, that I got copies of correspondence on each of
22 these matters.
23
24 Q. Could I move forward to the next document,
25 AQIS.0002.014.0257. This document runs through to
26 page 262. I will give you a copy of it. It is an email
27 from Mr Liehne to Mr Scott Channing. Could you tell us who
28 he was?
29 A. Scott Channing is the executive officer to the
30 secretary of the department, Dr Conall O'Connell.
31
32 Q. You are shown as getting a copy of it. Could you
33 confirm that the document which was attached is the
34 document which starts at electronic page 259, which
35 purported to be a description of the current standard
36 procedures at Eastern Creek? Could we go to the top of
37 page 259, please. Could you confirm that, Ms Gordon?
38 A. I am sorry, could you repeat the question?
39
40 Q. Is the document which starts at page 259, headed
41 "Quarantine risk management for horses" - and if we could
42 scroll down on that page slowly - the document which was
43 attached to the copy of the email which you received from
44 Mr Liehne?
45 A. Yes, as I understand it.
46
47 Q. Again, if we could go to the next page, 260, in the

1 third-last paragraph, there is a paragraph purporting to
2 describe the current procedure in relation to private
3 veterinarians and farriers; that is, that they were
4 required to sign a declaration that they would comply with
5 specified procedures, that if they are admitted in office
6 hours they sign a statement, that after office hours they
7 are admitted by the grooms, and that the procedure,
8 apparently, required them to use dedicated clothing, shower
9 and change on leaving the station and to disinfect any
10 equipment used. Do you see that?

11 A. Yes.

12
13 Q. Was it your understanding, at the end of August 2007,
14 that that was a procedure which had been in place before
15 the outbreak?

16 A. That's what I was advised, yes.

17
18 Q. And being implemented?

19 A. That's what I was advised, yes.

20
21 Q. Have you subsequently been advised that that was not
22 the case?

23 A. No, I have subsequently been advised that it may not
24 have always been followed, but I have no direct evidence
25 one way or the other.

26
27 Q. Do you remember that at the end of August,
28 Dr Mike Nunn was asked to peruse the current guidelines and
29 protocols?

30 A. Yes.

31
32 Q. What was his position at the end of August?

33 A. Dr Nunn is a principal scientist with Biosecurity
34 Australia.

35
36 Q. Is he the senior scientific officer in Biosecurity
37 Australia?

38 A. He is the principal scientist, animal biosecurity,
39 advising the chief executive of Biosecurity Australia.

40
41 Q. Did he prepare some sort of a preliminary report on
42 the current biosecurity arrangements at Eastern Creek and
43 the airport?

44 A. He did.

45
46 Q. Was that the first time, to your knowledge, that he
47 had ever been asked to do that?

1 A. To my knowledge, yes.
2
3 Q. And also it is the first time, to your knowledge, that
4 anyone from Biosecurity Australia had been asked to do
5 that?
6 A. To my knowledge, yes, and noting that my knowledge
7 goes back to about 2001 and these procedures had been in
8 place prior to that.
9
10 Q. Yes. If we could go to document AQIS.0002.012.0042,
11 I can give you a copy of that. Is that a copy of an email
12 you received in which Dr Nunn provided a brief summary of
13 the current arrangements in place at Eastern Creek, that
14 is, the arrangements after the outbreak and taking account
15 of amendments which had been introduced?
16 A. Yes.
17
18 Q. Do you see towards the bottom of the first page, there
19 is a paragraph commencing, "In summary":
20
21 ... the impression gained from this
22 inspection is that, from a biosecurity
23 perspective, the arrangements in
24 place...are, with some fine-tuning and
25 enhancement...satisfactory for the
26 "lock-down period" ... The impression
27 gained from this inspection is that the
28 arrangements in place at the animal
29 handling facilities for unloading and
30 transport of horses at Sydney Airport,
31 particularly in relation to SOPs and
32 awareness of biosecurity, require further
33 consideration and enhancement.
34
35 A. Yes.
36
37 Q. Did he subsequently prepare a more formal report on
38 that inspection?
39 A. Yes.
40
41 Q. Could you go to the document which is
42 AQIS.0002.014.0503, which is an email from Dr Nunn to
43 Mr Stephen Hunter, with a copy to you, of 4 September. The
44 last page of the document is 507. Could I take you to the
45 attachment, page 504. That is the report that he prepared.
46 A. Yes.
47

1 Q. Could we go to the paragraph commencing, "The
2 fundamental premise". Could you read that to yourself.
3 The fundamental premise that underpins post-arrival
4 quarantine, as he describes it there, was not consistent
5 with your understanding of the purpose of post-arrival
6 quarantine before that time, was it?
7 A. It is consistent with my understanding.
8
9 Q. Is it? Was it your understanding that horses in
10 quarantine, post-arrival, had to be managed as if they were
11 infected?
12 A. Yes.
13
14 Q. Do you say that that was your understanding of the
15 position as far back as 2004?
16 A. Yes.
17
18 Q. Isn't it inconsistent with what you said to us
19 yesterday and earlier this morning as to what you
20 understood was the basis upon which post-arrival quarantine
21 procedures were implemented; that is, that post-entry
22 quarantine would address the risk and there was only a
23 residual risk to address?
24 A. No. What I said was that the arrangements in place
25 are managed along what we call a continuum of quarantine
26 where we progressively seek to reduce the risks and,
27 indeed, in the case of horses, manage the major risks that
28 the horses may be infected with equine influenza by
29 measures prior to the horses arriving in Australia and that
30 the risk management strategies that we have in place on
31 arrival in Australia and for post-arrival quarantine take
32 into account that the risk has been reduced by those
33 off-shore measures before the horses arrive.
34
35 Q. What Dr Nunn was saying that you have to treat these
36 horses as if they are infected - not as if they may be or
37 could be or it is unlikely that they would be, but as if
38 they are infected.
39 A. I understand what Dr Nunn has said here, and
40 I still --
41
42 Q. That is not consistent with your understanding, as
43 described to us yesterday or this morning, is it?
44 A. Well, perhaps I've not expressed myself particularly
45 clearly, but I don't see a contradiction between what
46 I have said are the risk-management measures for managing
47 the risks of horses coming into the country from countries

1 that have equine influenza.
2
3 Q. You said in your answer that the post-arrival
4 quarantine should take into account that the risk has been
5 reduced by the offshore measures.
6 A. Yes, reduced.
7
8 Q. Reduced. Whereas Dr Nunn was saying that they have to
9 be managed as if they are infected, not as if there is some
10 reduced risk that they might be infected. They are
11 different matters, aren't they?
12 A. Well, they are different expressions, but I think that
13 if Dr Nunn and I were asked to have a discussion about our
14 understanding, we would probably agree that we have
15 measures that seek, as far as possible, to address the
16 likelihood that the horses have equine influenza by the
17 measures that are in place prior to their arrival in the
18 country and that the measures that we put in place - it is
19 a layered series of complementary measures - seek to take
20 into account the reduction in risks that occurs before the
21 horses arrive. But there still, nonetheless, is always a
22 risk. It is a risk-management system where we have to base
23 our interventions on the basis that there is always a risk,
24 and we never assume that there is no likelihood of risk at
25 all.
26
27 Q. In relation to this matter, in any event, you would
28 defer to Dr Nunn, I take it, as the man with the expertise?
29 A. Yes, Dr Nunn is the principal scientist with
30 Biosecurity Australia with responsibility for advising on
31 these matters.
32
33 Q. I take it that when you read this report, you noted
34 that he was critical, specifically, of the procedures in
35 place at the airport. Do you recall reading that?
36 A. Yes.
37
38 Q. If we could go to page 507, which is the last
39 page this report, he was first saying, in the
40 paragraph under the heading "Conclusions", that the
41 facilities for unloading and transfer of horses at the
42 airport required further consideration and enhancement.
43 A. Yes.
44
45 Q. Did you agree with that when you read this report?
46 A. When I was advised that there had been more people
47 than I had anticipated attending arrivals of horses at the

1 airport, I agreed with what Dr Nunn said.
2
3 Q. Had you ever been to the airport to see horses
4 unloaded?
5 A. No.
6
7 Q. Did you have any sensible basis for having any
8 anticipation at all as to who would be there?
9 A. Yes. I had been advised back in 2004, when the work
10 instructions were being developed by Dr Clegg, what
11 arrangements were in place, and she had had extensive
12 experience with managing horses coming into the country.
13
14 Q. What did she say as to who would be present at the
15 airport?
16 A. Her advice to me, and my understanding, was that there
17 would be a limited number of people at the airport; there
18 would be the people that arrived with the horses, the
19 grooms, the truck drivers to assist moving the horses from
20 the crates or from the aircraft into the trucks that would
21 take them to the quarantine station.
22
23 Q. Anybody else?
24 A. It was not my understanding, from the advice that she
25 gave me back in 2004, that there would be, as Dr Nunn seems
26 to indicate here, a large number of other people.
27
28 Q. Do you see in the third paragraph, which commences
29 "This report focuses on the equine quarantine area at
30 Eastern Creek", that he then goes on to make comments about
31 Eastern Creek more generally. He says:
32
33 If Eastern Creek is to be maintained
34 indefinitely for post-arrival quarantine of
35 imported horses, some changes may need to
36 be considered.
37
38 At this time, that is, August 2007, was there a question
39 mark over whether Eastern Creek would be retained or would
40 continue as an animal quarantine station?
41 A. Yes.
42
43 Q. What were the questions?
44 A. The Eastern Creek Quarantine Station is a leased
45 facility and the lease terminates in 2015. Leases on a
46 number of our other quarantine facilities also terminate
47 over a period of time from 2009, so we've been in the

1 process of developing advice for the minister on what
2 options there might be for post-arrival quarantine
3 facilities for all species of animals once those leases
4 have expired.
5
6 Q. Are those considerations ongoing?
7 A. Those considerations are ongoing.
8
9 Q. Was it the position by mid-2007 that a decision had
10 been made not to incur any more capital expenditure in
11 relation to the Eastern Creek site?
12 A. Not that I'm aware, that we wouldn't incur any more
13 capital expenditure absolutely, but we were obviously
14 weighing up the expenditure on the Eastern Creek site
15 against the fact that there may have been decisions taken
16 by the minister and by the government to put other
17 arrangements in place.
18
19 Q. What does that mean in practical terms? Does it mean
20 that it was impossible for Mr Hankins to get any money
21 spent on capital works at Eastern Creek?
22 A. It would not have been my understanding that it would
23 have been impossible. If he put a business case up
24 suggesting that there were matters that needed to be
25 addressed, they would have been considered and a decision
26 made on the benefits of spending that money to ensure
27 security of the quarantine station.
28
29 THE COMMISSIONER: Q. Ms Gordon, the answer is that
30 there may have been decisions taken by the minister and by
31 the government to put other arrangements in place - do you
32 see that question and answer there?
33 A. I am sorry, Commissioner, where are we referring to?
34
35 Q. On my screen, it is about halfway down. The answer
36 begins:
37
38 Not that I'm aware, that we wouldn't incur
39 any more capital ...
40
41 I am sorry, I am reading from what you just said. You
42 said:
43
44 Not that I'm aware, that we wouldn't incur
45 any more capital expenditure absolutely,
46 but we were obviously weighing up the
47 expenditure on the Eastern Creek site

1 against the fact that there may have been
2 decisions taken by the minister and by the
3 government to put other arrangements in
4 place.
5
6 Do you remember saying that?
7 A. Yes, Commissioner.
8
9 Q. Were you aware, in fact, of any other decisions by the
10 minister or the government?
11 A. No. At that point in time, Commissioner, we hadn't
12 yet put options to the minister for his consideration.
13
14 Q. No, but you have said that there may have been other
15 decisions by the minister and the government. Surely, if
16 there had been other decisions, you would have known about
17 them?
18 A. Commissioner, it was a poor use of language on my
19 part. I think what I was intending to say was that in the
20 future, the minister or the government might take a
21 decision to put in place other arrangements for
22 post-arrival quarantine. I am sorry if I have misled you.
23
24 THE COMMISSIONER: Thank you.
25
26 MR MEAGHER: Q. Ms Gordon, were you aware in August 2007
27 that, prior to that time, Mr Hankins had requested the
28 construction of a disability wheelchair access ramp at
29 Eastern Creek so that people in wheelchairs could visit
30 their cats and dogs, which would have cost about \$5,000,
31 and that his request was knocked back because it wasn't a
32 relocatable asset?
33 A. I don't recall that specific proposal, no.
34
35 Q. But it would be consistent with your understanding of
36 the attitude in Canberra to capital expenditure at Eastern
37 Creek that that would have occurred, wouldn't it?
38
39 THE COMMISSIONER: Mr Meagher, I have to ask you to
40 clarify that. Canberra has a lot of people in it. There
41 are a lot of people making decisions.
42
43 MR MEAGHER: I accept that, Commissioner.
44
45 THE COMMISSIONER: What do you mean?
46
47 MR MEAGHER: Q. Were you aware that that proposal was

1 put by Mr Hankins and knocked back by those responsible for
2 agreeing to such budgetary matters?
3 A. I don't --
4
5 THE COMMISSIONER: I am sorry, Mr Meagher. I don't know
6 who is responsible for it.
7
8 MR MEAGHER: Neither do I.
9
10 THE COMMISSIONER: I think we have to descend to people or
11 positions.
12
13 MR MEAGHER: Q. Do you know that such a request was put
14 to Mr Ironside and that it was knocked back?
15 A. I don't recall the request being put.
16
17 Q. Isn't it the position that capital bids are produced
18 at the regional level and then go to the central office for
19 approval?
20 A. That's true, yes.
21
22 Q. Who is it in the central office who approves or
23 disapproves of capital bids?
24 A. The approval process for capital bids would be that
25 the national program would put up a proposal for a capital
26 bid expenditure, and it would go to the finance review
27 subcommittee of the ALGC for consideration, and then
28 recommended capital bids would be put to a meeting of the
29 AQIS leadership governance committee.
30
31 Q. So that it would have to be approved by Mr Ironside
32 first before it could go to the ALGC for consideration?
33 A. Yes, through the finance subcommittee.
34
35 Q. Can I continue with some of these emails. It is
36 correct, isn't it, that in this period in early September
37 there was a sequence of emails in which this information
38 about Eastern Creek and Spotswood was updated?
39 A. Yes.
40
41 Q. So that, for example, AQIS.0002.014.0939-0945 was
42 another version of this chronology. I can perhaps let you
43 have a look at it. It was sent by Mr Ironside to you. Is
44 that right?
45 A. Yes.
46
47 Q. I won't take you to this, but I will tender for the

1 record AQIS.0002.014.0959-965, which is another version of
2 an email from a Mr Fullam to you of 7 September. Could we
3 next have on the screen AQIS.0002.015.0088, which is an
4 email from Mr Andy Carroll to you of 10 September. I am
5 giving you a copy of that, plus a copy of the next document
6 which I am going to take you to. Who was Mr Andy Carroll?
7 A. Dr Carroll is the national manager of border branch.
8 He reports directly to me.
9
10 Q. Did you ask him to do something in relation to revised
11 procedures for horse arrivals at airports?
12 A. Yes.
13
14 Q. What did you ask him to do?
15 A. I asked him to review what procedures were in place
16 for horse arrivals and what might need to be done to
17 strengthen those procedures in the light of the fact that
18 we now knew that we had equine influenza in Australia.
19
20 Q. You say that that fact made it necessary to change the
21 procedures which otherwise were in place, do you?
22 A. By this stage, I had been given advice that suggested
23 that the procedures that were in place, as I understood
24 them, under the clearance of live horse work instruction
25 perhaps had not been followed and that there had been many
26 more people attending on the arrival of the consignments in
27 early August, and we were asking officers to investigate
28 what had happened and to identify what we needed to do to
29 give much more precise instructions about what should
30 happen.
31
32 Q. He says in the first dot point:
33
34 Initial investigation revealed a lack of
35 comprehensive written procedures covering
36 initial clearance of arriving horses, air
37 stables, tack and accompanying
38 personnel ...
39
40 A. Yes.
41
42 Q. Am I right in thinking that the written procedures
43 which were in place at that time were in the live animal
44 import document of 2004?
45 A. Yes.
46
47 Q. Then can I take you to the next document, which is

1 AQIS.0002.015.0128. That is another email from Mr Carroll
2 to you of 10 September, and that is on the same subject but
3 in slightly different terms. Do you see that?
4 A. Yes.
5
6 Q. Could I draw your attention to the last dot point.
7 When you read the last dot point, did you appreciate that
8 that was a matter that Dr Widders had raised in May 2004?
9 A. No, because, as we discussed earlier, I wasn't aware
10 of that marked-up document that Dr Widders had sent.
11
12 Q. But you are now aware of that document?
13 A. Yesterday I became aware of it.
14
15 Q. That was the first time, was it?
16 A. Yes.
17
18 Q. So that was the first time that you became aware that
19 Dr Widders had raised part of the matter dealt with in the
20 last dot point in May 2004?
21 A. That was the first time that I had seen that document,
22 yes.
23
24 MR ROBERTSON: Commissioner, may I just clarify, my
25 learned friend Mr Meagher has referred on a number of
26 occasions this morning to a document of May 2004. I'm not
27 sure whether I'm confused or not, but I think he is talking
28 about a 2003 document, which is a marked-up annotation of a
29 work instruction.
30
31 MR MEAGHER: My friend is correct. I need to be more
32 precise.
33
34 MR ROBERTSON: I think there may have been some confusion.
35
36 THE COMMISSIONER: Yes, the witness may have been
37 confused.
38
39 MR ROBERTSON: And even in some of her answers earlier
40 today. I just note that for the time being.
41
42 THE COMMISSIONER: Thank you, Mr Robertson. Mr Meagher
43 accepts that, and he will clarify it. If there is any
44 confusion that you think may have arisen out of any
45 reference that was wrong, you can no doubt examine in
46 relation to them.
47

1 MR ROBERTSON: Yes. I am not attributing fault, of
2 course.
3
4 THE COMMISSIONER: Of course not, no.
5
6 MR ROBERTSON: I think, in part, it stems from the lack of
7 immediate access to my part to the documents.
8
9 THE COMMISSIONER: Yes. In any event, Mr Meagher is aware
10 of it now.
11
12 MR MEAGHER: Q. When I referred, in that last series of
13 questions, to a document of May 2004, I should have been
14 referring to a document of I think October 2003, which was
15 the marked-up version of the work instruction.
16 A. Yes.
17
18 Q. And you were responding on the basis that that's what
19 my questions were directed to?
20 A. Yes, but I must admit, I'm also getting confused about
21 which documents and which dates, because I'm accumulating
22 quite a collection here.
23
24 Q. Would you like me to take them from you so that you
25 don't get confused?
26 A. No, but what I will do is I will make sure that
27 I understand your question more clearly.
28
29 Q. Thank you. Was it the position that in about the
30 middle of September a working group was formed within what
31 is described as CCEAD to look at quarantine policy for
32 importation of horses?
33 A. I understand that is the case, but I wasn't
34 participating in the CCEAD meetings at that time.
35
36 Q. Could you tell us what CCEAD stands for?
37 A. I believe it stands for Coordinating Committee For
38 Emergency Animal Diseases. It is part of the response
39 arrangements that the Australian Government and the States
40 and Territories have agreed to respond to pest and disease
41 risks that have occurred in Australia.
42
43 Q. Did that lead, as you understand it, to the issue by
44 Biosecurity Australia of revised quarantine measures for
45 the importation of horses in late September 2007?
46 A. I believe that was the instigation of the review by
47 Biosecurity Australia, but, again, I'm commenting on

1 matters that I wasn't directly involved in.
2
3 Q. I will tender but not take you to these documents: an
4 email from Robin Martyn to a Mr Happold of 16 September
5 2007, which is DAFF.1000.006.0078. Who was Mr Happold, do
6 you know, in September 2007?
7 A. No, I'm sorry, I can't comment on those documents at
8 all.
9
10 Q. Then a discussion paper, which is
11 DAFF.1000.006.0145-152. Then an email from Jill Milan to
12 Narelle Clegg of 19 September, which is
13 DAFF.1000.006.0332-338.
14
15 Ms Gordon, at the same time, was there in preparation
16 a revised set of procedures for dealing with the clearance
17 of horses at the airport and their movement to the
18 quarantine station?
19 A. Yes, that work was taking place within AQIS.
20
21 Q. You were involved in that?
22 A. No, Dr Carroll was directly supervising that work.
23
24 Q. Who else was involved in that principally? Who is
25 Erika Rogers?
26 A. Erika Rogers is an officer in the airport program and
27 within Dr Carroll's branch.
28
29 Q. Have you participated in that process of preparing
30 those new procedures?
31 A. No, I have oversighted the preparation of the new
32 procedures, but I haven't directly participated myself. It
33 would not normally be the sort of activity that I would
34 engage in.
35
36 Q. But you would be kept informed as to what has been
37 done?
38 A. Yes. And, as drafts were developed, at the point
39 where they were worth putting to me for consideration, that
40 is what occurred.
41
42 Q. At what stage is the preparation of those procedures
43 now?
44 A. My understanding, at least last week when I left
45 Canberra, is that those procedures are close to
46 finalisation. There has been extensive consultation with
47 the two regional officers involved in the import of horses

1 to ensure that the procedures are capable of being applied
2 on the ground and that final drafts are being prepared.

3
4 Q. When do you expect that the final versions of those
5 procedures will be available?

6 A. I would expect to be able to see a final version when
7 I return to Canberra in the next day or two. The
8 procedures themselves have actually already been put into
9 practice, or at least they were tested in the clearance of
10 a number of consignments of horses that have taken place
11 over the last few weeks, or couple of weeks. I can't give
12 you the actual dates. But the final documents are being
13 refined. They have to go through a process where we get
14 our corporate legal officers to check them to ensure that
15 any references to legislation and compliance arrangements
16 in relation to legislation are accurate.

17
18 Q. Do you know whether those procedures have been
19 provided to Biosecurity Australia for comment?

20 A. I believe they have been, yes.

21
22 Q. Do you know whether any hazard analysis of the kind
23 undertaken in relation to Sandown racetrack has been
24 undertaken in relation to those procedures?

25 A. No.

26
27 Q. Do you mean that one hasn't or you don't know?

28 A. I don't believe we've done a hazard analysis critical
29 control point review, on those procedures.

30
31 Q. Have you considered whether that should be done?

32 A. I have not considered whether that needs to be done,
33 no. It is a different process involved.

34
35 Q. What is the different process?

36 A. The hazard analysis critical control point processes
37 and procedures are, as I understand it, in any case, a
38 fairly systematic approach to reviewing a procedure. They
39 were developed in areas for food safety and other
40 industries to actually identify the particular points where
41 you need to put controls in.

42
43 The procedures that we are developing would be capable
44 of being subjected, I believe, to that sort of process, but
45 we have similarly developed flow charts and identified
46 points where there need to be some controls and tested
47 those against the understanding of regional officers who

1 will be involved and asked Biosecurity Australia to comment
2 on them, and that would be our normal process for
3 identifying risks and putting appropriate controls into
4 place.
5
6 Q. Can we go to document AQIS.0002.017.0001, which is an
7 email from Erika Rogers of 26 September to Julie Sims and
8 others, with copies to you, concerning these revised
9 procedures. Do you see that?
10 A. Yes.
11
12 Q. There is attached to it from pages 3 through to 16 a
13 version of the procedures. Is that correct? Perhaps you
14 should look at this document.
15 A. Thank you.
16
17 Q. Are the documents which commence at electronic page 3
18 and following the written form of the procedures that you
19 have been describing, in a draft form?
20 A. No, these were an early draft where we were charting
21 the actual steps that would need to be taken into account,
22 the points at which some arrangement needed to be put in
23 place, some intervention needed to take place, as a basis
24 for discussion to agree between the national program and
25 the regional offices that these were all the points in a
26 process where an activity could be directed that would
27 address a risk.
28
29 Q. We haven't seen the procedures, but I take it, then,
30 they don't take this form that the current draft is in?
31 A. These sorts of flow charts would be attached to a
32 document that actually described and gave more specific
33 instructions about what to do and how to do it, but the
34 development of a flow chart of this sort helps to focus the
35 discussions when you are trying to agree what process you
36 need to put in place.
37
38 THE COMMISSIONER: Q. Are you aware of any
39 recommendation for the performance of a virtually
40 instantaneous test to see whether a horse does have equine
41 influenza which can be taken at the airport or even on the
42 aeroplane?
43 A. No, Commissioner.
44
45 Q. You have never heard of that?
46 A. I heard it referred to yesterday, Commissioner, but
47 I hadn't heard of it before then, no.

1
2 Q. That was the first time?
3 A. Yes.
4
5 Q. So nobody has brought it to your attention?
6 A. No.
7
8 Q. No veterinarian in the department or anybody else?
9 A. No, Commissioner.
10
11 Q. There is no recommendation, either draft or otherwise,
12 with respect to performance of such a test of which you are
13 aware?
14 A. Not that I've seen, Commissioner, no.
15
16 MR MEAGHER: Q. I should take you finally to the
17 documents which were released by Biosecurity at the end of
18 September. Did you see those when they were released?
19 A. I would have to see what documents you are talking
20 about.
21
22 Q. Can we go to AQIS.0001.002.0280. I will give you a
23 copy of it. It is a different document reference, but it
24 is the same document. This two-page advice is signed by
25 Robin Martyn, who is the general manager of animal
26 biosecurity within Biosecurity Australia. Had you seen
27 this document before?
28 A. Yes.
29
30 Q. You will see that Biosecurity Australia has now
31 recommended in the second dot point that:
32
33 Diagnostic testing for equine influenza
34 virus in pre-export quarantine and
35 post-arrival quarantine - PCR testing for
36 influenza A or equine influenza virus 7 to
37 10 days apart in PEQ with the last test
38 within 4 days of departure and PCR testing
39 in PAQ on day 5.
40
41 A. Yes.
42
43 Q. You hadn't been aware of that before, or had you?
44 A. I am sorry, I don't understand what you mean?
45
46 Q. Had you been aware that Biosecurity Australia was
47 proposing to impose conditions on the import of horses

1 which required that they be tested for equine influenza in
2 post-arrival quarantine?
3
4 THE COMMISSIONER: That wasn't the test I had in mind.
5
6 MR MEAGHER: I accept that, Commissioner.
7
8 THE WITNESS: I became aware, obviously, when we received
9 this advice from Biosecurity Australia, but, as I indicated
10 earlier, I haven't been participating in the CCEAD meetings
11 where these issues were discussed.
12
13 MR MEAGHER: Q. Finally, is it the case, as you
14 understand it, that once those advices of 27 September 2007
15 were issued by Biosecurity Australia, the conditions on
16 which horses were permitted to be imported from the United
17 Kingdom, Ireland, Japan and these other countries were
18 varied to take account of that Biosecurity advice?
19 A. Yes. The import permits that would be issued by AQIS
20 for horses coming from countries that were covered by this
21 advice would reflect this advice.
22
23 MR MEAGHER: For the record, I don't show you this, but
24 there is an email from an Ainslie Brown to various people,
25 of 10 October, which is DAFF.1000.006.0364, which addresses
26 that subject.
27
28 I have no further questions of this witness at this
29 time, Commissioner.
30
31 THE COMMISSIONER: Thank you, Mr Meagher. Mr Robertson,
32 I think you should go first. In effect, you are acting for
33 Ms Gordon, aren't you?
34
35 MR ROBERTSON: Yes. What had been discussed yesterday,
36 Mr Commissioner, was in fact the reverse of that, that is,
37 that I would go last, before Mr Meagher then had his
38 opportunity.
39
40 THE COMMISSIONER: You are quite right. Thank you for
41 reminding me.
42
43 MR ROBERTSON: If that is still convenient.
44
45 THE COMMISSIONER: You are quite right. I'm sorry,
46 Mr Robertson. Have the parties agreed upon an order
47 themselves in relation to this witness? I gather not. Why

1 don't you start, Mr Agius, for New South Wales.
2
3 MR AGIUS: Commissioner, I would prefer to defer most of
4 my examination of this witness until we have had access to
5 some of the material. There are, however, one or two
6 issues that I could deal with at the moment.
7
8 THE COMMISSIONER: When you say "defer", you mean defer
9 until other evidence has been called?
10
11 MR AGIUS: Yes. I had understood that this witness is one
12 of those who it is proposed to recall, in any event.
13
14 THE COMMISSIONER: Yes. All right. You proceed, to the
15 extent that you wish to.
16
17 MR AGIUS: Thank you.
18
19 <EXAMINATION BY MR AGIUS:
20
21 MR AGIUS: Q. The Commissioner asked you a question
22 about a test that could be performed that was almost
23 instantaneous in delivering a result on the question of
24 whether or not a horse suffered from equine influenza. The
25 name of the test that I had in mind when the Commissioner
26 asked that question was Directigen. Have you heard of that
27 test?
28 A. I heard of it yesterday.
29
30 Q. For the first time?
31 A. Yes.
32
33 Q. Did I understand you correctly that yesterday you said
34 you were on leave?
35 A. I had been on leave from the weekend of 18 August, for
36 that week, and I returned to the office on the Friday
37 afternoon.
38
39 Q. So 18 August until --
40 A. Until the following Friday afternoon.
41
42 Q. So it is a closed period of leave --
43 A. Yes.
44
45 Q. -- that you had pre-arranged?
46 A. No, there had been a family bereavement.
47

1 Q. I apologise for that. You are not currently on leave?
2 A. No, I am currently at work.
3
4 Q. Are you in the same position that you were in prior
5 to, say, the first week of August?
6 A. Yes.
7
8 Q. In the course of your evidence both today and
9 yesterday, you said words to this effect - and, if
10 necessary, I can take you to where you said it in the
11 transcript - "We identified the need to put in place
12 additional measures to manage what was now known to be a
13 risk that we had already here." You said that in
14 connection with obtaining advice from Biosecurity after
15 knowledge of the equine influenza outbreak. What did you
16 mean by that?
17 A. Again, I think I apologise, I think I may have used
18 language very loosely. What I meant by that was that once
19 we became aware that we had equine influenza in the
20 country, we were putting in place additional measures to
21 manage what was a known and higher level of risk than we
22 had understood it prior to the equine influenza outbreak.
23
24 Q. Knowledge that you had equine influenza in the country
25 wouldn't affect the risk that horses infected with equine
26 influenza might pass through quarantine, would it?
27 A. No, not in the way that you express it, but once we
28 had equine influenza in the country, we needed to ensure,
29 to the extent that we could, that we put in place measures
30 to ensure that it wasn't spread further or that further
31 people going in and out of the Eastern Creek Quarantine
32 Station weren't able to spread it further, that we were
33 managing horses coming from countries where clearly the
34 procedures we had had in place hadn't effectively dealt
35 with those risks.
36
37 Q. What I thought you meant when you said that was this:
38 "We realise that we had had a failure of procedure with
39 quarantine, we had let equine influenza into the country,
40 and, because of that, we decided to contact Biosecurity to
41 see whether they could assist us with updating our
42 procedures".
43 A. No, that's not what I meant.
44
45 Q. Yes, but, you see, when you say "once it was now known
46 that there was a risk that we had equine influenza already
47 here", that in fact means, doesn't it, once you were aware

1 that equine influenza had entered the country; aren't the
2 two concepts synonymous?
3 A. I understand why you might draw that conclusion, but
4 that's not what I intended to say. That's not the meaning
5 that I intended to provide. What I was trying to say was
6 that the procedures that were in place prior to the
7 outbreak of equine influenza had been intended to address
8 the risk of horses coming from countries where there was
9 equine influenza. Once we became aware that there was
10 equine influenza in Australia, we put in place additional
11 procedures to deal with what was known then to be a risk
12 that had occurred in Australia and that would be able to
13 address that risk.
14
15 Q. But that's a different risk, isn't it? That's the
16 risk that equine influenza present in Australia after some
17 date in August might infect horses that were otherwise free
18 of equine influenza who had been imported into Australia
19 after the outbreak?
20 A. No. What we were also trying to do - and taken into
21 account was the fact that the procedures that had been in
22 place prior to the outbreak, which had been intended to
23 address the risk of equine influenza, hadn't done so. So
24 horses that had, for instance, been in pre-export
25 quarantine for the required periods of time, horses that
26 had been required to be vaccinated, horses that had health
27 certificates from the competent authorities of the
28 countries that they had come from - those measures, which
29 were intended to ensure, to the extent possible, that the
30 horses would not carry equine influenza, had not been able
31 to prevent the entry, however it occurred, and we were
32 putting in place additional measures reflected in this
33 Biosecurity advice that we have just looked at previously,
34 and, indeed, in our own operational management of the
35 arrangements to take into account that those other measures
36 hadn't effectively protected Australia.
37
38 Q. I'm afraid you have lost me in the course of that
39 answer. What I am trying to understand is this: as
40 I understand it, your principal job at AQIS was to do what
41 you could to prevent equine influenza from coming into this
42 country and, if it came into this country, to contain it
43 within the quarantine area. Am I wrong about that?
44 A. Yes, but acknowledging that there would always be a
45 risk, but to bring the risks down to the lowest level
46 possible, yes.
47

1 Q. To control that risk as best as possible?
2 A. Yes.
3
4 Q. Knowing that the risk was always there?
5 A. Yes.
6
7 Q. Is that right?
8 A. Yes.
9
10 Q. That is a risk that continues up until today?
11 A. Yes.
12
13 Q. And will continue into the future?
14 A. Yes.
15
16 Q. But once you knew that equine influenza had escaped
17 from a quarantine station, then there was a different risk,
18 wasn't there: there was a risk that equine influenza which
19 was then already in Australia might somehow infect horses
20 that were being imported?
21 A. No. I think we are talking about two slightly
22 different things. For a start, we don't yet have evidence
23 about where the equine influenza escaped out into the
24 general horse population. You referred to it having
25 escaped from the Eastern Creek Quarantine Station. As
26 I understand it, that's still one of the scenarios being
27 considered, but it isn't certain that that is how it
28 occurred.
29
30 But what we do know is that the measures that we had
31 in place for the importation of horses prior to the
32 outbreak of equine influenza in Australia were intended to
33 reduce, to the extent possible, the likelihood of horses
34 coming into the country with equine influenza.
35
36 Once it became clear that those measures had not
37 effectively prevented horses coming into the country with
38 equine influenza, we put in place additional measures to
39 manage horse importations against that known risk and we
40 also put in place additional measures to manage the horses
41 in the Eastern Creek Quarantine Station to ensure that we
42 contained the disease to the extent possible.
43
44 Q. But that known risk, to use your words, was a known
45 risk that was always known; it is not a known risk that
46 came into being because it was recognised that there was
47 equine influenza already in Australia?

1 A. Yes, but I'm using the language of "known risk", that
2 bearing in mind that the pre-export arrangements for horses
3 were intended to address effectively the likelihood that
4 horses would arrive in Australia with equine influenza,
5 once we became aware that the risk measures that we had in
6 place had not effectively prevented that occurrence, there
7 was a different risk there. There was now a known risk
8 that those measures won't work and that we needed to put in
9 place additional measures until we could identify more
10 precisely what had gone wrong, I guess.

11
12 Q. Why did you assume, then, that it was the measures of
13 quarantine in foreign countries that hadn't worked as
14 opposed to the measures of supposed quarantine in this
15 country that hadn't worked?

16 A. We had not made such an assumption. I think, as we
17 discussed earlier, we have put in place, on the advice of
18 Biosecurity Australia, additional measures for pre-export
19 management of horses as well as additional measures for
20 post-arrival management of horses.

21
22 MR AGIUS: I see the time, Mr Commissioner.

23
24 THE COMMISSIONER: Is that convenient? Were you going to
25 another topic?

26
27 MR AGIUS: Yes.

28
29 THE COMMISSIONER: Very well. We will adjourn until
30 2 o'clock.

31
32 LUNCHEON ADJOURNMENT

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1 UPON RESUMPTION:

2

3 MR AGIUS: Q. Ms Gordon, did you have any role at all as
4 at August of this year in notifying the presence of EI so
5 that the AUSVETPLAN could be put into action?

6 A. No.

7

8 Q. Lastly, I want to ask you about this question of
9 auditing. We have seen the work instruction, being the
10 clearance of live horses live animal import document. Was
11 there any procedure in place prior to August of this year
12 to monitor compliance with that work instruction at Eastern
13 Creek?

14 A. Yes, I think, as I explained yesterday, we have a
15 policy on standard operating procedures which allocates
16 responsibilities to various business units, so it
17 identifies clearly the responsibilities of the national
18 program and it identifies the responsibility of supervisors
19 and managers in the various regions and --

20

21 Q. What does that mean in practice in relation to the
22 monitoring of compliance with that instruction at Eastern
23 Creek prior to August 2007 - what actually happened in a
24 practical way?

25 A. The requirements basically state that the national --

26

27 Q. No, no, I'm sorry. I just want to know what actually
28 happened, not what the policy was. We will come to the
29 policy later. What actually happened?

30 A. I can't tell you what actually happened because at my
31 level in the organisation I don't get involved in the
32 detail of the application of policies at that level.
33 I have something like 2,500-plus officers working in
34 quarantine programs across Australia and it would mean
35 I wouldn't be doing the job that I'm expected to do if
36 I was actually paying attention down at that level of
37 detail.

38

39 Q. But in preparation for this inquiry you didn't go back
40 and check what had happened in a practical way concerning
41 monitoring of this work instruction in relation to this
42 outbreak of equine influenza?

43 A. Not long after we had the outbreak of equine
44 influenza, we asked our compliance and investigations
45 officers to look into the matter and then it was
46 inappropriate for me as a senior manager to start inquiring
47 of the officers as well. It was more appropriate to wait

1 for the outcome of their inquiries and then the minister
2 announced this inquiry, and our officers were transferred
3 there.
4

5 Q. Was there a particular person who had responsibility
6 for monitoring compliance with the work instruction at
7 Eastern Creek?
8 A. There was more than one group of people responsible.
9 There were different aspects of the instruction. The
10 instruction itself, in terms of national consistency in
11 application, was the responsibility of the national program
12 manager.
13

14 Q. Not whether or not it is applied across the country,
15 but how it was applied and whether it was complied with at
16 Eastern Creek prior to August of this year. May we start
17 with the manager at Eastern Creek? I suppose that person
18 had a role, you would say, in ensuring that that
19 instruction was implemented?
20 A. Yes, and that manager's manager had a responsibility
21 to ensure that they knew that the instructions were there
22 and through their individual performance plan, which all
23 our officers are required to have with their directly
24 supervising manager, there would have been reference to the
25 work that the manager was required to do and what was
26 available to guide them in doing that job.
27

28 Q. Who had the responsibility of auditing it, though -
29 not just asking the manager whether or not the manager had
30 been implementing the work instruction, but in auditing its
31 implementation to determine whether it was being
32 implemented and whether it was accurate?
33 A. The national program manager in Canberra of the
34 program would have the responsibility for putting in place
35 an audit regime to ensure that the procedures were both
36 appropriate and being followed on the ground.
37

38 Q. Who was that prior to or up to August 2007?
39 A. David Ironside.
40

41 Q. Do you know whether or not that audit process involves
42 documentation?
43 A. It would normally involve taking the actual document
44 itself and going out and observing and talking to officers
45 on the ground about what they were doing and how they were
46 doing it. There is a recommendation in our policy
47 document, our standard operating procedures policy

1 document, to the extent possible, to involve officers from
2 other regions so that there is a capacity to identify
3 whether in fact there have been variations in practices
4 across regions.
5
6 Q. So does that mean that you would have expected that
7 Mr Ironside would have gone out to Eastern Creek armed with
8 the work instruction and, either by himself or in the
9 company of others, made inquiry of various AQIS personnel
10 at Eastern Creek to determine the extent to which the work
11 instruction was being complied with?
12 A. Not necessarily Mr Ironside himself, but Mr Ironside,
13 through our policy document, is asked to identify resources
14 to do that.
15
16 Q. So you would have expected him to have had resources
17 in place to undertake that audit process?
18 A. From time to time. Not on a regular basis. I think
19 again as we discussed this morning, it had been identified
20 as an activity to be undertaken through business plans in a
21 number of years. Obviously now I know that it obviously
22 hadn't occurred, because it has appeared again in this
23 year's business plan that it has to be done.
24
25 Q. So does that mean that since 2004, there had never
26 been a single audit concerning the compliance with the work
27 instruction?
28 A. Not to my knowledge, but I'm not able to give you a
29 categorical answer on that, because I wasn't the manager of
30 the program for approximately two years in that period of
31 time.
32
33 Q. But to the best of your knowledge, you would say, no?
34 A. To the best of my knowledge, it hasn't been audited,
35 yes.
36
37 Q. Does that strike you as surprising?
38 A. To some extent, it does strike me as surprising, but,
39 again, without reviewing what the circumstances were, we
40 don't require audits to be done on every work instruction
41 every year. Again, within the quarantine programs there
42 are over 200 or more work instructions. So each program
43 has quite a large number of work instructions and does try
44 to schedule them to identify those that perhaps haven't
45 been looked at for quite some time, haven't been updated,
46 there hasn't been interaction in the regions, and to pick
47 those where perhaps there are identified higher risks, and

1 horses wouldn't have been in that category, I imagine.
2
3 Q. Do you know whether or not any of that process is
4 undertaken?
5 A. For a number of other elements, yes, it is undertaken.
6
7 Q. Do you know whether it was undertaken for this work
8 instruction?
9 A. No, I don't.
10
11 Q. Would you have expected Mr Ironside to have had any
12 input into the risk-management processes associated with
13 live animal importation, in particular in relation to
14 horses?
15 A. I'm not sure that I understand your question. The
16 identification of risk-management measures for the
17 importation of horses is done by Biosecurity Australia.
18
19 Q. But that wasn't undertaken before this outbreak of
20 equine influenza by Biosecurity Australia, was it?
21 A. There are two separate activities that I think we're
22 talking about here: one is the actual risk assessment that
23 sets the import conditions, so, for an example in this
24 case, that sets the requirements for the periods of free
25 entry quarantine, vaccinations, periods of post-arrival
26 quarantine. The other sort of risk assessment that I think
27 you're referring to is the practical implementation of
28 on-arrival procedures to manage risks.
29
30 Q. Yes, that is the risk assessment of which I'm
31 speaking.
32 A. Yes.
33
34 Q. That had never been reviewed by Biosecurity before
35 August of this year, had it?
36 A. Not to my knowledge, but the procedures had been
37 largely in place for a number of years prior to my arrival
38 in AQIS in 2000/2001, so whether Biosecurity had been
39 involved when they were first established I'm not in
40 a position to comment.
41
42 Q. Is there any document which would set out that risk
43 assessment that you assume had been undertaken and against
44 which performance could be measured?
45 A. I didn't say that I assumed it had been undertaken.
46 I said that I was not aware whether one had been done or
47 not and, no, I'm not aware of whether there is a document

1 that we could produce to the Commission for that purpose.
2
3 Q. Wouldn't you have expected some form of risk
4 assessment to have been undertaken?
5 A. There would have been a risk assessment undertaken.
6 Whether it would involve Biosecurity Australia, given that
7 these procedures have been in place, as I understand it,
8 back into the 1990s, the early 1990s - I'm not sure what
9 the procedures were at that point in time.
10
11 Q. And you don't know whether or not there is a document
12 recording any such risk assessment?
13 A. No.
14
15 MR AGIUS: Mr Commissioner, that is as far as I can take
16 the examination at this point in time.
17
18 MR MacSPORRAN: Mr Commissioner, I have one matter that
19 I would like to deal with now and then defer the rest of my
20 questions until Ms Gordon comes back, if that is
21 convenient.
22
23 <EXAMINATION BY MR MacSPORRAN:
24
25 MR MacSPORRAN: Q. Ms Gordon, you are generally
26 familiar, are you, with the AUSVETPLAN?
27 A. No, I'm not generally familiar with the AUSVETPLAN.
28 I'm aware that there is an AUSVETPLAN, because we have a
29 number of plans for different plants and animals for
30 emergency situations.
31
32 Q. Are you aware, at least, that it is a plan designed to
33 deal with an outbreak such as we had here with equine
34 influenza?
35 A. Yes.
36
37 Q. And there are various parties to the plan or to the
38 agreement that constitutes part of the plan?
39 A. Yes, it's part of the arrangements the Commonwealth
40 has in place with the States and Territories and the
41 various industries which is part of the preparedness,
42 surveillance and response mechanisms that have been
43 designed to address the fact that we don't have zero risk,
44 so if the a risk should eventuate, it enables us to
45 identify the risk and respond quickly.
46
47 Q. It's a very detailed set of procedures that come into

1 play to deal with such an outbreak?
2 A. Yes.
3
4 Q. One of the first things that needs to happen is that
5 there needs to be notification --
6 A. Yes.
7
8 Q. -- of an outbreak having occurred?
9 A. Yes.
10
11 Q. And is there a protocol that dictates when the
12 notification should occur?
13 A. Perhaps if I might ask you to clarify - notification
14 to whom? This is notification to --
15
16 Q. I suppose it would be a notification from the agency
17 that learns of the outbreak in the first instance to the
18 other parties who would need to be told to institute their
19 part in AUSVETPLAN?
20 A. It's my understanding, but you would need to clarify
21 with others, that the Chief Veterinary Officer of the
22 Commonwealth would notify the various parties to the plan.
23
24 Q. Do you know whether that occurred here in August?
25 A. No, I can't comment on that. I wasn't involved in
26 that part of the process.
27
28 Q. So you don't know anything about whether there was any
29 notification, and, if so, it was in a timely way?
30 A. I can't comment on that. It's not part of my
31 responsibilities.
32
33 Q. But you do know that there is a requirement to notify
34 set out in the plan itself, for obvious reasons?
35 A. I understand there is, yes.
36
37 Q. And what are the AQIS arrangements to let the
38 Chief Veterinary Officer know so that the notification can
39 occur?
40 A. In this particular circumstance, AQIS was advised by
41 an officer in the minister's office that the industry had
42 advised them that there apparently had been an outbreak of
43 equine influenza in Japan, and we immediately advised
44 Biosecurity Australia because it involved the conditions
45 for management of the horses. I think, but I cannot be
46 sure - I'd have to check on this - that we also advised the
47 Chief Veterinary Officer, who would have then taken up his

1 responsibilities.
2
3 THE COMMISSIONER: Q. Just excuse me a moment. You say
4 that AQIS was advised by an officer in the minister's
5 office.
6 A. Yes.
7
8 Q. Why would the matter not come directly to the
9 attention of the department initially? Is there no
10 international arrangement or --
11 A. There normally is an international arrangement,
12 Commissioner, where a country that has an outbreak of a
13 notifiable disease notifies it to the international
14 organisation, OIE, so that other countries that perhaps
15 might be affected by that outbreak, such as we might have
16 been in these circumstances, can take appropriate action.
17
18 In this case, we first became aware of the outbreak of
19 equine influenza in Japan when one of my officers had a
20 telephone call from the minister's office.
21
22 Q. I just don't understand why the minister's office
23 would get it before the officials would get it. Does that
24 suggest that there has been some breakdown in the
25 international arrangements or in your department or the
26 monitoring or something?
27 A. It's my understanding that Japan didn't notify that
28 they had an outbreak of equine influenza in Japan until
29 after Australia had in late August.
30
31 Q. But you can't throw any light upon why it wasn't
32 learnt departmentally or why it didn't come to the
33 attention of the department?
34 A. No, Commissioner, I can't. I can only tell you how
35 I personally became aware of it.
36
37 THE COMMISSIONER: All right.
38
39 MR MacSPORRAN: Q. I think there is material somewhere
40 at least that indicates that the official notification from
41 Japan to the OIE didn't occur until 28 August?
42 A. That's my understanding, but I can't be sure of the
43 actual date. It was my understanding it was later
44 in August.
45
46 Q. Which was well after the outbreak had taken place in
47 Japan?

1 A. As I'm advised but, again, I'm only reporting what
2 others have told me.
3
4 Q. AQIS were aware of an outbreak here from about
5 17 August?
6 A. That's when one of my officers received advice from
7 the minister's office that industry had reported to them
8 that there appeared to have been an outbreak in Japan.
9
10 Q. So what steps were then taken by AQIS to inform the
11 Chief Veterinary Officer and the appropriate notification
12 be made to other parties involved?
13 A. My understanding is that that officer notified
14 Biosecurity Australia and the Chief Veterinary Officer.
15
16 Q. When, though, do you know?
17 A. No. That was the weekend that I took leave.
18
19 Q. Do you know how long after 17 August that was?
20 A. No, I don't know for sure.
21
22 Q. Would there be documentation that would indicate when
23 those steps were in fact taken?
24 A. I think there would be documentation as part of the
25 CCEAD process.
26
27 Q. Those meetings started to be held around about that
28 time, didn't they?
29 A. As I understand it, yes.
30
31 Q. They involved the States and other agencies who were
32 party to the AUSVETPLAN?
33 A. Yes, I imagine - yes, I think that would be the case,
34 but again I can't comment directly.
35
36 MR MacSPORRAN: Thank you, Mr Commissioner.
37
38 THE COMMISSIONER: Who wishes to go next?
39
40 MR CHARRINGTON: Mr Commissioner, Charrington for the
41 Master Farriers of New South Wales and others. With your
42 leave, we would seek to defer cross-examination of this
43 witness until she is recalled and any of our members of our
44 association and employees of our company have given
45 evidence.
46
47 THE COMMISSIONER: Does anybody wish to cross-examine this

1 witness at present?
2
3 MR RICH: I do, Commissioner.
4
5 <EXAMINATION BY MR RICH:
6
7 MR RICH: Q. Ms Gordon, from December 2003 to December
8 2004, you were the national manager of animal programs in
9 AQIS; is that right?
10 A. Yes.
11
12 Q. And during that period, you knew that equine influenza
13 was a serious risk attendant upon the importation of
14 horses?
15 A. Yes, I was aware that equine influenza was one of the
16 diseases that we were seeking to protect Australia from.
17
18 Q. You were aware at that time, weren't you, that equine
19 influenza was a serious risk attendant upon the importation
20 of horses into Australia?
21 A. Yes.
22
23 Q. And do you recall that at about the time that you were
24 appointed the national manager of animal programs, there
25 was an outbreak of equine influenza in South Africa?
26 A. No, I don't recall that.
27
28 Q. Do you know that there was an outbreak of equine
29 influenza in South Africa in about late 2003?
30 A. I now know that there was one.
31
32 Q. You now know that?
33 A. Yes.
34
35 Q. When did you first learn that fact?
36 A. Since the outbreak of equine influenza in Australia.
37
38 Q. So you had no knowledge, is this correct, until after
39 17 August 2007 of the fact that there had been an outbreak
40 of equine influenza in South Africa in late 2003?
41 A. That's correct.
42
43 Q. Do I take it from that that you have no knowledge of
44 any consideration within AQIS of whether or not the
45 procedures followed in Australia ought to be amended in
46 light of what had happened in South Africa in late 2003?
47 A. I'm sorry, can you repeat the question?

1
2 Q. I will. Is it correct that, so far as you are aware,
3 there was no consideration within AQIS of whether the
4 procedures it applied to imported horses in Australia ought
5 to be modified in light of what had happened in South
6 Africa in late 2003?
7 A. I'm not aware of any consideration to be given to
8 that. Primarily consideration would have been given by
9 Biosecurity Australia if there had been matters that they
10 needed to take into account to amend the conditions on
11 which horses were coming into the country, and then we
12 would have amended our procedures post the advice from
13 Biosecurity Australia.
14
15 Q. Do you say that it is not AQIS's responsibility to
16 take into account on its own, that is, unprompted by
17 Biosecurity Australia, the fact that there has been an
18 outbreak of equine influenza in South Africa?
19 A. The arrangements are that when there is a change to
20 the disease risk, Biosecurity Australia would do an
21 assessment of whether that changes the arrangements for
22 importing horses into Australia or any other species, if it
23 applied to any other species, and would provide advice to
24 AQIS on what changes we needed to put into effect by way of
25 conditions on import permits or post-arrival management of
26 the horses.
27
28 We would seek advice from Biosecurity Australia before
29 we determined that we needed to change arrangements on
30 arrival in Australia or, indeed, to manage post-arrival
31 quarantine arrangements, as happened after equine influenza
32 occurred here.
33
34 Q. But is it or is it not part of AQIS's responsibility
35 to take note of the fact that there has been an outbreak of
36 equine influenza in another part of the world and to see
37 whether or not, in light of what has happened, it needs to
38 review its own procedures?
39 A. If in fact the information that was provided to us
40 about the nature of the outbreak in another part of the
41 world suggested that there needed to be changes to our
42 procedures, we would review those procedures. But as
43 I indicated earlier, I don't recall that we were given any
44 such advice and I certainly was not even aware that there
45 had been that outbreak in South Africa until after the
46 outbreak here in Australia and we were looking at what
47 outbreaks had occurred around the world and what the

1 circumstances might have been that caused those outbreaks.
2
3 Q. Might the witness please be shown or might we bring up
4 on screen DAFF.0001.069.2306, which is the document Review
5 of Staffing of Live Animal Import Offices, November 2003.
6 Do you have that document in front of you, Ms Gordon?
7 A. No.
8
9 Q. I apologise. We'll wait. Is it now on the screen in
10 front of you?
11 A. Yes, I have the first page, the title page.
12
13 Q. I'll take you to particular pages in a moment.
14 A. It would be helpful if I could have a copy of the
15 whole document so I could see it.
16
17 THE COMMISSIONER: We'll see what we can do, Ms Gordon.
18
19 MR MEAGHER: I expect that the witness has a copy of the
20 document among the bundle of papers in front of her.
21
22 THE COMMISSIONER: Q. Would you mind looking through
23 them to see if you can find it there, Ms Gordon, please.
24 Perhaps if you hand that bundle back and Mr Meagher might
25 be able to find it for you.
26 A. I think I have found it, Commissioner. Thank you.
27
28 MR RICH: Q. Ms Gordon, that is a document which you are
29 familiar with, is it not?
30 A. Yes, I'm aware of it.
31
32 Q. And you read it in late 2003 and/or in 2004?
33 A. Yes, I would have read it then. I don't recall
34 exactly when I read it.
35
36 Q. But at about that time, you read the document?
37 A. I would have read it, yes.
38
39 Q. And you read it at the time when you were the national
40 manager of animal programs?
41 A. Yes.
42
43 Q. Would you please go to electronic page 2323, which is
44 page 15 on the original document. It should be headed
45 "Horses from countries other than New Zealand". Do you
46 have that page?
47 A. Yes.

1
2 Q. At the time this review was conducted, that is, in
3 late 2003, it was the usual practice, was it not, that an
4 AQIS veterinary officer would view imported horses during
5 the unloading process at the airport?
6 A. Yes.
7
8 Q. If you would turn over the page to electronic
9 page 2324 and focus about halfway down the page, you will
10 see the heading "Recommendation for horses", et cetera.
11 A. Yes.
12
13 Q. And recommendation number 1 was that the airport
14 clearance of horses be performed by a "QO", and that means,
15 does it not, "Quarantine officer"?
16 A. Yes.
17
18 Q. The effect of that recommendation was, was it not,
19 that the only AQIS staff member which was required to be
20 present if this recommendation was to be implemented at the
21 airport whilst horses were being unloaded would be somebody
22 without veterinary qualifications; that's correct, isn't
23 it?
24 A. That's correct, yes.
25
26 Q. Would you please turn back to page 2323. Do you see
27 under the heading "Issues" that the first sentence says:
28
29 Horses are imported from the EU, USA and
30 certain parts of Asia. Australia regularly
31 imports and exports animals to these areas.
32
33 Then I would like you to focus on the next sentence:
34
35 Based on a long history of imports, AQIS
36 has confidence that the certifying
37 authorities would not export a consignment
38 of horses which were not healthy in the
39 export country.
40
41 Do you see that sentence?
42 A. I do.
43
44 Q. You were reading that statement, I suggest to you,
45 within months of there having been an outbreak of equine
46 influenza in South Africa. Do you now accept that to be
47 the case?

1 A. Yes, if that's when the outbreak occurred in
2 South Africa.
3
4 Q. Well, leaving aside South Africa 2003, were you aware,
5 when you were reading this document in 2003 or 2004, that
6 there had also been equine influenza outbreaks associated
7 with the importation of infected horses in the Philippines
8 in 1997, in Dubai in 1995, in Hong Kong in 1992, in India
9 in 1987 and in South Africa in 1986?
10 A. I'm not aware of the outbreaks of equine influenza in
11 those countries at the dates that you've nominated and
12 certainly some of those countries are not countries from
13 which we import horses.
14
15 Q. What I'm asking you is, at the time that you were
16 reading this document, were you aware that there had been a
17 number of outbreaks in a number of different countries
18 associated with the importation of infected horses?
19 A. I would have been aware that there had been outbreaks
20 of equine influenza in a number of countries. This
21 statement is in relation to the import and export of horses
22 from some particular areas. A number of those countries
23 that you mentioned are not countries from which horses are
24 imported to Australia.
25
26 Q. Yes, but, Ms Gordon, I don't want you to
27 misunderstand. The countries in which outbreaks have
28 occurred are the countries into which horses have been
29 imported from somewhere else. Do you follow?
30 A. No, I'm sorry, I don't.
31
32 Q. Well, the outbreak in Dubai related to horses which
33 had been imported to Dubai from somewhere else.
34 A. Yes, I understand that part.
35
36 Q. So the proposition, if it's true, that we don't import
37 horses from Dubai isn't relevant to what I'm putting to
38 you.
39 A. No, I'm sorry, what I'm saying is the statement about
40 "Based on a long history of imports, AQIS has confidence
41 that the certifying authorities would not export a
42 consignment of horses which were not healthy in the export
43 country" is in relation to the import of horses from the
44 EU, USA and those parts of Asia from which we import horses
45 and that we take the certifying documentation.
46
47 Q. Yes, but the fact that an outbreak occurred in South

1 Africa, for example, associated with the import of horses,
2 means that it imported horses from somewhere else, for
3 example, from the USA. Do you follow?
4

5 MR ROBERTSON: I object to that question. It is not
6 entirely clear whether it is meant to be a statement of
7 fact or a question.
8

9 THE COMMISSIONER: Yes, it might be better to express it
10 as a question.
11

12 MR RICH: I will try. Perhaps I will leave that
13 particular question.
14

15 Q. Were you aware at the time you read this document that
16 there had been outbreaks of equine influenza in other parts
17 of the world associated with the importation of infected
18 horses to those parts of the world?
19

20 THE COMMISSIONER: I wonder whether you might need to be
21 a little bit more specific, you know. You say "associated
22 with imports". It's a little ambiguous. Do you think you
23 could make that a bit clearer, please?
24

25 MR RICH: I'll try.
26

27 Q. Ms Gordon, the statement in the document that I drew
28 your attention to effectively states that because there has
29 been a long history of imports, AQIS has confidence in the
30 certifying authorities of other countries that they would
31 not export horses which were not healthy. Do you agree?
32 A. No, I think --
33

34 THE COMMISSIONER: No, Ms Gordon has said that the
35 reference there, as I understand her evidence, is expressly
36 to the three regions which were referred to in the
37 statement.
38

39 THE WITNESS: That's exactly it.
40

41 THE COMMISSIONER: Q. It's confined I think you said to
42 the EU, USA and certain parts of Asia; is that right?
43 A. That's right. Our experience of accepting
44 certification on horses from those countries over a long
45 period of time has given us a degree of confidence in the
46 integrity of the documentation that arrived with the
47 horses.

1
2 Q. You are saying that that paragraph doesn't purport to
3 deal with any other regions or countries apart from those
4 mentioned; is that right?
5 A. That's exactly right.
6
7 MR RICH: Q. Were you aware in 2003 or 2004 that the
8 importation of horses from the European Union, the USA and
9 certain parts of Asia had caused an outbreak of equine
10 influenza in another part of the world?
11 A. No.
12
13 Q. So that if that had happened at any time prior to 2003
14 or 2004, it would be news to you?
15 A. Yes, but as I said earlier, I rely on advice from the
16 technical officers in the programs that manage these areas
17 to advise me of information. This statement was written
18 and cleared by a senior veterinary officer, Narelle Clegg,
19 who would have looked at the history of the importation of
20 horses from these countries to Australia and the nature of
21 the documentation that we received with them to assure
22 ourselves that that documentation was material that we
23 could rely upon.
24
25 Q. To your knowledge, has AQIS ever audited the
26 compliance of an overseas pre-export quarantine facility
27 with the various requirements that are supposed to be
28 followed before horses are imported into Australia?
29 A. Yes.
30
31 Q. What is the audit to which you refer or audits?
32 A. I'm advised that audits were undertaken of some
33 facilities around the time of the Olympics and at the time
34 of the FMD outbreak in the UK.
35
36 Q. So in or about 2000 and --
37 A. And 2001, as I'm advised, but I haven't been
38 personally involved in it, and I was not managing the
39 programs back in that period of time.
40
41 Q. So you don't have a personal knowledge of what
42 happened on those audits?
43 A. No.
44
45 Q. Who would we ask about those audits and what happened
46 on them?
47 A. I can't tell you, but it's likely that Dr Clegg would

1 be able to tell you who might have been involved at that
2 time.
3
4 Q. Whilst we are still on page 2323, could I take you to
5 the part of the page under the heading "Examination", so
6 towards the bottom of the page.
7 A. Yes.
8
9 Q. It is the case, isn't it, that at the time of this
10 review AQIS veterinary officers examined and took blood
11 samples from horses at the commencement of post-arrival
12 quarantine and examined the horses before they were
13 released from quarantine?
14 A. Yes.
15
16 Q. So there were two examinations by an AQIS veterinary
17 officer at that time?
18 A. As I understand it, yes.
19
20 Q. If one turns to the next page, electronic page 2324,
21 one sees recommendation number 2 was that the examination
22 and blood sampling of imported horses in post-arrival
23 quarantine at the commencement of quarantine be performed
24 by a private veterinarian. Do you see that?
25 A. Yes.
26
27 Q. To your knowledge, was that recommendation
28 subsequently implemented?
29 A. My understanding is at the moment that the AQIS vets
30 still do that examination themselves, so I take it that it
31 wasn't implemented.
32
33 Q. Is it your understanding that that recommendation was
34 never implemented?
35 A. No, I don't know whether it was never implemented. As
36 I explained earlier, there has been a period of some years
37 when I wasn't responsible for this program, but
38 I understand at the moment that AQIS vets are doing that
39 examination, at least in Eastern Creek, so that's all I can
40 tell you.
41
42 Q. When you say "at the moment", do you mean as of today?
43 A. As of this year.
44
45 Q. But you can't speak to what happened in the period
46 from, the date of this review up until today?
47 A. No, I can't.

1
2 Q. If one goes back to page 2323, and again at the bottom
3 of the page under the heading "Examination", it is stated
4 that the disadvantages of AQIS veterinary officers
5 performing this task - that is, the initial examination and
6 blood sampling of horses - are OH&S concerns whilst
7 examining or blood sampling horses and, also, risks
8 associated with litigation because of damage to the horse.
9
10 If you turn over the page, just so that you get the
11 full statement, it states:
12
13 There are significant physical risks to the
14 individual in examining the horses ... AQIS
15 should mitigate the risk of injury and
16 litigation by transferring it to the
17 private equine veterinary surgeons.
18
19 Was that your understanding of why this change in procedure
20 was being considered at that time, that is, that those were
21 the reasons?
22 A. Yes, because our AQIS vets, as I explained earlier,
23 are not specialist equine vets; they're generalist
24 quarantine vets. These are very valuable horses, by and
25 large, and the assessment was being made that the
26 management of the horses was best done by specialist equine
27 vets who would be more skilled at doing these particular
28 tasks, and it could be done under AQIS supervision.
29
30 Q. This document doesn't say anything, does it, about
31 AQIS vets not being horse experts?
32 A. No, it doesn't say anything about AQIS vets not being
33 horse experts, but that is in fact the reason that sits
34 behind it. AQIS vets are not horse experts; they are
35 quarantine experts.
36
37 THE COMMISSIONER: Q. I suppose the importers of these
38 very, very precious horses might themselves have an
39 interest in their being attended to only by their own vets.
40 Was there any indication of that?
41 A. Commissioner, I can't say whether there is or not, but
42 I, like you, would assume that that might be so.
43
44 Q. I'm not saying that it is, but one could well
45 imagine that that might be so.
46 A. Exactly.
47

1 MR RICH: Q. Ms Gordon, hopefully you have page 2324 in
2 front of you. Do you see the third paragraph on that
3 page talks about the risk of spreading a quarantinable
4 disease to horses outside the quarantine station through
5 contact by a private veterinary surgeon?
6 A. Yes.
7
8 Q. And it states there that that risk is managed by the
9 current arrangements for requiring veterinarians to change
10 clothes and shower before leaving the quarantine station.
11 A. Yes.
12
13 Q. What is your understanding of what the arrangements
14 there referred to are?
15 A. My understanding is that the private vets going into
16 the quarantine stations to attend to the horses for
17 whatever reason were required to change clothes and shower
18 before leaving the quarantine station.
19
20 Q. When you say "they were required", what is your
21 understanding of where that requirement could be found as
22 at late 2003 when this report or review was authored?
23 A. My understanding is that they were provided with
24 advice that this would be something that they would be
25 required to do when they entered the quarantine station to
26 attend to the horses.
27
28 Q. So you are referring to, as it were, an advice being
29 given to the private veterinarian that they must shower
30 before they leave; that's the requirement to which you
31 refer, is it?
32 A. Yes.
33
34 Q. But you're not aware, are you, of any procedure being
35 in place, that is, a written procedure, whereby an AQIS
36 officer had to check whether the veterinarian in fact
37 showered before leaving the facility?
38 A. No, I'm not aware that there is that specific checking
39 mechanism.
40
41 Q. Do you now understand that it was not always the case
42 that persons leaving the facility showered and changed
43 before doing so?
44 A. I've been advised that that may be the case.
45
46 Q. Earlier today, you were taken to some documents
47 authored by Dr Nunn. We may not have to go to them. Do

1 you recall that, in those documents, mention was made of
2 the installation at the Eastern Creek Quarantine Station of
3 temporary showering facilities?
4 A. Yes.
5
6 Q. Do you know why it was considered necessary or
7 desirable to construct temporary facilities at Eastern
8 Creek Quarantine Station in August 2007?
9 A. It's my understanding that post the outbreak of equine
10 influenza, we were requiring people to shower in and shower
11 out, and that the existing showering facilities at Eastern
12 Creek weren't sufficient to manage the additional
13 requirements.
14
15 Q. Do you know why they were not sufficient?
16 A. My understanding was that it was sheer numbers and
17 there had been some complaints by private veterinarians
18 about the quality of the shower facilities.
19
20 Q. What, they were dirty? When you say "the quality",
21 what do you mean?
22 A. They weren't as modern as some private veterinarians
23 would have access to.
24
25 Q. There is one more matter. Might we have up on the
26 screen the document AQIS.2003.044.0349. Just to acquaint
27 you generally, Ms Gordon, it's a schedule to the New South
28 Wales region AQIS business plan 2007-2008. I think you
29 said this morning that that's a document with which you are
30 familiar; is that right?
31 A. Yes, I have seen it.
32
33 Q. I think you might find that the relevant page is now
34 up on the screen.
35 A. Okay.
36
37 Q. Do you see at the top of the page "Forward year budget
38 estimates" on the left-hand side?
39 A. Yes.
40
41 Q. It would appear from the middle of the page that three
42 columns in the table represent 2008 through 2009, 2009 to
43 2010 and then 2010 to 2011?
44 A. Well, it's blocked out on this particular screen, so
45 I haven't - I'm just looking to see whether I have a copy
46 of it.
47

1 Q. I just wanted to ask you whether you have any
2 knowledge as to why, in the first two columns, it's
3 estimated that revenue from government would be, firstly,
4 \$43.5m-odd; in the second column, it's \$39.5m-odd; and then
5 in the third column, it's \$9.4m?
6 A. Can you remind me - which particular plan is this one?
7
8 Q. Yes, it's a schedule to the New South Wales region
9 AQIS business plan 2007-2008. These are forward estimates,
10 and the column I've taken you to would appear to be 2010
11 through to 2011.
12 A. Right, okay. The government budget appropriation
13 cycle is generally in a period of three to four years, and
14 this would be one of the out years where government would
15 have to make a decision in a prior budget to this year
16 about what funding it would be making available for these
17 programs, so if it's revenue from government, we can only
18 indicate the revenue that the government has currently
19 indicated it would make available to us. A decision would
20 be made in one of the budget years, presumably next year or
21 the year after that, for the forward years.
22
23 THE COMMISSIONER: Q. Is it a kind of a rolling --
24 A. It's a recurrent budget funding. Government normally
25 makes its program appropriations through the Commonwealth
26 budget in May of each year for a period of out years, so
27 usually for three or four out years, which would be why we
28 have specific amounts in the first two years, but the third
29 out year is a year when the government has yet to make a
30 decision on how much funding would be made available.
31
32 MR RICH: Thank you, Ms Gordon. I have nothing further.
33
34 THE COMMISSIONER: Before Mr Robertson starts, do you have
35 some questions?
36
37 MR CHESHIRE: Yes.
38
39 <EXAMINATION BY MR CHESHIRE:
40
41 MR CHESHIRE: Q. Ms Gordon, am I right that there are
42 AQIS officers on the ground at the airport?
43 A. There are.
44
45 Q. And there are AQIS officers on the ground at the
46 quarantine station?
47 A. There are.

1
2 Q. At some time in the past, I believe it's right, the
3 grooms at the quarantine station were in fact employed by
4 AQIS; is that right?
5 A. I don't know that. If it was, it was well before my
6 time.
7
8 Q. Towards the end of your examination by counsel
9 assisting, you referred to the import conditions having
10 changed. I am right, am I not, that the import conditions
11 that are imposed upon the import permit are effectively
12 standard conditions depending on where in the world the
13 horses are coming from?
14 A. By and large, they are. Basically, when we receive an
15 import permit application, we make an assessment of the
16 nature of the goods to be imported, in this case horses,
17 which country they're coming from. We look to see if there
18 are any advices from Biosecurity Australia that are
19 generic, that apply, whether there's anything particular
20 about this particular consignment that would suggest that
21 we need to vary the conditions in any way. If we thought
22 that there was a particular circumstance, we would seek
23 further advice from Biosecurity Australia. But for the
24 most part, the conditions are generic conditions, because
25 for the most part the importations are fairly standard.
26
27 Q. So for the importation of racing horses or horses from
28 farms around the world of the type with which this
29 Commission is particularly concerned, I won't hold you to
30 in every case, but most likely in every case they would be
31 the standard import conditions?
32 A. Yes.
33
34 Q. May I show you a document which is taken from the AQIS
35 website, and I may be wrong, but I think this isn't on the
36 courtbook system. I'm afraid, Commissioner, that I don't
37 have my instructing solicitor with me, but I will endeavour
38 to provide some copies. I have handed up five copies
39 there, which I think will cover the witness, yourself, one
40 for e.law and two for counsel assisting. If I may hand
41 these along the Bar table.
42
43 If you look at the bottom of the first page, which is
44 page 1 of 16, these appear to have come from the AQIS
45 website.
46 A. Yes.
47

1 Q. And to have been printed on 18 July 2007, which would
2 have been before the import conditions changed; correct?

3 A. Yes.

4
5 Q. I want to take you in detail to some of them, but
6 before I do that, I will take you through the document in
7 general terms by reference to the headings. You will see
8 at the bottom of the first page "Condition C8400;
9 conditions of administration", and they go through from 1
10 to 12 at the bottom of page 2. There is a particular
11 biosecurity reference at number 10:

12
13 The use of hay or straw as bedding during
14 transport by air is not permitted; treated
15 wood shavings, sterilised peat and soft
16 board may be used.

17
18 Then if we go over the page you will see "Condition C8401;
19 format of the veterinary certificate". Then we come to
20 "Condition C8568; Pre-Export Quarantine". This document
21 I think relates to the EU or to a number of countries
22 within the EU. I see you nod. That's correct, isn't it?

23 A. That's as I read it, yes.

24
25 Q. And then pre-export quarantine is dealt with through
26 pages 3 and 4 and to the top of page 5. Then at the middle
27 of page 5 we have transport requirements, general
28 requirements through that page. On page 6, pre-transport
29 procedures. At the bottom of page 6, transit procedures.
30 So this is dealing with the actual transit of the horses
31 from where they leave to their destination. It refers to
32 touching down in the UAE, Singapore, Hong Kong.

33
34 Then on page 8 we have procedures for unscheduled
35 landings. At the bottom of page 9, countries in which
36 African horse sickness occurs, through to page 10. We have
37 at the bottom of page 10, veterinary certification. Then
38 through to page 11 - please ignore the highlighting. It's
39 not mine.

40
41 Then we come to pages 12 and 13, and then to page 14.
42 I want to come back in a moment to the top of page 14,
43 post-arrival quarantine requirements, but just so that,
44 again, we complete the layout of this document, in the
45 middle of page 14, condition of quarantine surveillance for
46 imported pregnant mares, which is clearly a particular type
47 of horse, and then that continues through page 15 and then

1 finally on page 16 reference to treatment and reference to
2 import permit fee.

3
4 I want to take you back to page 14, because these
5 appear to be the only post-arrival quarantine requirements
6 for the general horse population from the EU. That's
7 correct, isn't it?

8 A. These are the, as I understand it, general conditions
9 imposed on import permits for horses from the EU, yes, or
10 post-arrival quarantine.

11
12 Q. Yes, and they're numbered 1 through to 4. Number 1,
13 must undergo post-arrival quarantine for 14 days. Number 2
14 is examination for tics. Number 3 is that during
15 post-arrival quarantine, the horses may be subjected to
16 testing. Number 4 is that if any horse fails a test or
17 shows signs of disease, that horse and any or all other
18 horses in the PAQ premises may be detained in quarantine
19 for further testing and observation, exported at the
20 importer's expense or destroyed without recompense.
21 Number 4 is in fact what happened here, isn't it: once the
22 tests proved positive, the quarantine station effectively
23 was locked down?

24 A. That's correct, yes.

25
26 Q. So that's the position before the conditions changed.
27 I now want to show you another document, which is the more
28 recent conditions. Again, if I may hand up five copies of
29 those. Again, I'll take you through this document in a
30 similar way and it will be post-arrival quarantine that
31 we'll come to, but I'll just show you the general form of
32 the document. You will see that this has the AQIS website
33 again, this time at the top; do you see that?

34 A. Yes.

35
36 Q. And it was printed on 30 October 2007. You will see
37 that the date printed is confirmed in fact about four lines
38 down. We have again a similar layout. Condition C8400,
39 "Conditions of administration". They go through pages 1
40 and 2. They are similar, if not identical.

41
42 Then at page 3 - the numbers in are the bottom
43 left-hand corner this time - we have C8401, "Format of the
44 veterinary certificate"; "Pre-Export quarantine" at the
45 bottom of page 3, through page 4 to page 5, "Transport
46 requirements for importation of horses" from, effectively,
47 the EU. It goes through to page 6.

1
2 In the middle of page 6, pre-transport procedures.
3 Again, these are similar, if not identical. On page 7,
4 transit procedures. On page 8, procedures for unscheduled
5 landings. That goes through page 9.
6
7 On page 10, we come again to countries in which
8 African horse sickness occurs. On page 11, veterinary
9 certification, through page 13. On page 14, we come to
10 post-arrival quarantine. Do you have that?
11 A. Yes.
12
13 Q. Again, we'll skip that for the moment and come back to
14 it. At page 15, we come to conditions of quarantine
15 surveillance again for imported pregnant mares, and then at
16 page 17, treatment and import permit fee. Again, it's a
17 similar layout.
18
19 If you now turn back to page 14, and perhaps you can
20 have at the same time page 14 from the previous document
21 open, so that we can compare them. If you look on the new
22 document, number 1:
23
24 The process from the time horses arrive at
25 the airport to the completion of
26 post-arrival quarantine ... must be
27 auditable.
28
29 That is a new condition; correct?
30 A. Yes.
31
32 Q. Number 2:
33
34 Vehicles transporting imported horses from
35 the port of arrival in Australia to the PAQ
36 premises must be cleaned and disinfected
37 prior to loading the horses. Appropriate
38 biosecurity procedures must be implemented
39 for transport vehicles, freight containers,
40 equipment and associated personnel,
41 including transport operators, before,
42 during and after the transport of the
43 horses to the PAQ premises.
44
45 Again, that is a new condition?
46 A. Yes.
47

1 Q. Number 3:
2
3 Vehicles transporting imported horses are
4 not permitted to leave the PAQ premises
5 until thoroughly cleaned and disinfected.
6
7 Number 3 is new as well?
8 A. Mmm-hmm.
9
10 Q. Number 4:
11
12 Each imported horse must be identified upon
13 arrival at the PAQ and accompanying health
14 certification/passport examined and
15 checked.
16
17 Number 4 is new; correct?
18 A. Yes, in part.
19
20 Q. And number 5, I think, is similar to the previous
21 number 1 but slightly more detailed, but it has extended,
22 in particular, PAQ to 21 days for mixed consignments, but
23 for single PEQ it remains at 14 days; correct?
24 A. Yes.
25
26 Q. If we turn over the page, number 6:
27
28 Each imported horse must have rectal
29 temperatures measured and recorded on
30 arrival at the PAQ and again within four
31 hours and twice daily thereafter during
32 PAQ.
33 If at any time the rectal temperature is
34 over 38.5 C, a nasopharyngeal swab is to be
35 taken for testing by a PCR test for
36 influenza A virus (or equine influenza
37 virus) and the AQIS veterinarian notified
38 immediately.
39
40 Number 6 is again a new condition; correct?
41 A. Mmm-hmm. Yes. Sorry.
42
43 Q. Number 7:
44
45 A blood sample for reference serum must be
46 collected from each imported horse within
47 24 hours of arrival and despatched for

1 storage at a government laboratory.
2
3 That's a new paragraph?
4 A. Yes.
5
6 Q. Number 8 I think is the same as the previous number 2.
7 A. Yes.
8
9 Q. Number 9:
10
11 A PCR for influenza A virus (or equine
12 influenza virus) with negative results for
13 each horse must be conducted on
14 nasopharyngeal swabs taken 5 days after the
15 last horse arrives in PAQ.
16
17 That's a new condition?
18 A. Yes.
19
20 Q. Number 10 is the same as the previous number 3;
21 correct?
22 A. Yes.
23
24 Q. And number 11 is the same as the previous number 4.
25 A. Yes.
26
27 Q. And the final one, number 12, is again a new
28 condition:
29
30 Grooms that arrive with the horses and who
31 will be attending the horses at the
32 quarantine station must travel directly
33 from the airport to the quarantine station
34 with the horses. Grooms not going directly
35 to the quarantine station must shower
36 before leaving the airport in accordance
37 with AQIS requirements.
38
39 That is a new condition as well; correct?
40 A. Yes, yes.
41
42 Q. Shortly before AQIS became aware of the outbreak of
43 equine influenza, there was an outbreak or a further
44 outbreak of foot-and-mouth disease in the United Kingdom;
45 correct?
46 A. Yes.
47

1 Q. And you were aware of that at the time?
2 A. Yes.
3
4 Q. Which was about in July of this year; is that correct?
5 A. As I recall, yes.
6
7 Q. Were you involved in discussions with those above and
8 below you as to additional measures that might be taken or
9 should be taken in response to the further foot-and-mouth
10 outbreak in the UK?
11 A. Yes, I was involved in discussions to the extent that
12 I sought assurances from the respective branch heads that
13 we were putting in place additional measures on the advice
14 of Biosecurity Australia to address the risks that might be
15 attendant on FMD in the UK.
16
17 Q. Were you aware that changes were made to biosecurity
18 procedures?
19 A. Not specifically but I'm not surprised to hear we put
20 in place additional procedures. I was aware that we were
21 reviewing our procedures to ensure that any risks that
22 might be attendant on the FMD outbreak in the UK were
23 addressed for all goods and materials that were coming into
24 Australia.
25
26 Q. So just to make sure that I understood your answer, am
27 I correct that, at the time, you were not aware that
28 additional procedures were put in force?
29 A. In a general sense I was aware that additional
30 procedures were being put in force, but I don't normally
31 get down into this level of detail. This would be the
32 responsibility of the branch heads and the national
33 managers of the particular programs.
34
35 It's my responsibility, as an executive manager, to be
36 aware that there are additional risks because of changed
37 pest and disease status and to ensure that those who are
38 responsible for working with Biosecurity Australia and to
39 identify particular responses are doing that and to seek
40 assurances from them, obviously, that they are doing that.
41
42 For instance, with these particular import conditions,
43 I would not have been, and have not been, involved in
44 actually writing up these particular import conditions.
45
46 Q. Let me ask you this: would those new import
47 conditions, or at least a summary of the changes, have come

1 across your desk at some stage when they were being
2 implemented for your approval?
3 A. No, not necessarily.
4
5 Q. You are saying they may have done but you don't
6 recall; is that correct?
7 A. I don't recall. I don't believe those ones were, no.
8
9 Q. Continuing on with equine influenza, would there have
10 been a memorandum or something to you saying that import
11 conditions are being changed?
12 A. Yes, Biosecurity Australia put out "Interim Quarantine
13 Measures for the Importation of Horses". It was one of the
14 documents we were looking at earlier.
15
16 Q. And that would come to you, would it, before it was
17 published?
18 A. No, Biosecurity Australia would develop the advice and
19 provide it to AQIS at the time that they put it on their
20 website.
21
22 Q. And in relation to measures taken following the
23 outbreak of foot-and-mouth, would you have been made aware
24 in a similar way as to any changes in recommendations and
25 policy and conditions?
26 A. Yes, it would be normal for Biosecurity Australia to
27 give us formal advice that additional measures were
28 required in response to any particular pest or disease
29 outbreak.
30
31 Q. Were you aware, for instance, that following the
32 outbreak of foot-and-mouth in the UK, the procedure for
33 cleaning the air stables after their arrival in Australia
34 changed?
35 A. No, I wasn't specifically aware that that requirement
36 was made, or change was made.
37
38 Q. Were you aware that there was a facility that was set
39 up in Camellia so that the air stables were taken from the
40 airport across Sydney to Camellia where they were cleaned
41 and disinfected there before being brought back to the
42 airport?
43 A. No, I wasn't aware of that specific procedure.
44
45 Q. Were you aware of the facility in Camellia?
46 A. No.
47

1 Q. Are you aware of that now?
2 A. No.
3
4 MR CHESHIRE: Thank you. Commissioner, I should say, I'm
5 not sure whether you require me to tender those documents
6 formally. If I do need to do so, then I seek to do so.
7
8 MR MEAGHER: We are having them put into an electronic
9 form, and when they are, then we will advise the parties of
10 that fact and they can be taken to be in evidence.
11
12 MR CHESHIRE: Thank you, Commissioner.
13
14 THE COMMISSIONER: Is there anybody else before
15 Mr Robertson who wishes to ask questions? No. Would you
16 proceed, please, Mr Robertson.
17
18 <EXAMINATION BY MR ROBERTSON:
19
20 MR ROBERTSON: Q. Ms Gordon, you were taken yesterday,
21 I think, to AQIS policy standard operating procedures.
22 A. Yes.
23
24 Q. You were taken, I think, to a 2005 document and you
25 referred, in some of your answers, to a later document. Do
26 you remember that?
27 A. I do.
28
29 Q. Could I show you this document, which has a barcode on
30 it DAFF.0001.507.0132, and ask you whether that's the later
31 document to which you were referring?
32 A. It is.
33
34 MR ROBERTSON: As with other documents, I won't tender it
35 formally, Mr Commissioner.
36
37 THE COMMISSIONER: No, but it will go into evidence and be
38 part of the record.
39
40 MR ROBERTSON: Q. You were asked some questions,
41 Ms Gordon, about Dr Widders' response to the live animal
42 imports review. Do you remember that?
43 A. Yes, yes.
44
45 Q. And you were taken to a comment in his document, that
46 is Dr Widders' document, to the effect that work
47 instructions have now been drafted for a range of animal

1 commodities; recommendation 1, many of these will require
2 significant input from experienced regional officers to
3 ensure that they are operationally practical. Do you
4 remember that?
5 A. Yes.
6
7 Q. Do you know what recommendation Dr Widders was there
8 addressing?
9 A. My understanding is that he was addressing a number of
10 them but, in particular, some of those that were about the
11 implementation at the airports of the clearance procedures.
12
13 Q. Did you understand, when you read that document, that
14 Dr Widders meant, as was put to you yesterday, that, in his
15 view, the work instructions were operationally not
16 practical?
17 A. I did understand that Dr Widders thought there were
18 elements of it that wouldn't be able to be put into
19 practice.
20
21 Q. Were there any comments, so far as you know, after
22 that date on the topic of the operational practicality of
23 the work instructions for the clearance of imported
24 animals?
25 A. This is after October 2003?
26
27 Q. No, after June 2004 or mid-2004.
28 A. Sorry, yes, there were. Because the then regional
29 manager in New South Wales had raised with me the fact that
30 Dr Widders had been concerned about this new work
31 instruction, I had discussions with the regional manager in
32 New South Wales and agreed that we needed to bring the
33 national and the regional program people together to
34 understand what was being required.
35
36 Q. Can I show you this document, please, Ms Gordon, which
37 is an email from Mr Graham Turner to you dated 17 June
38 2004. It refers to a recent meeting in the first line.
39 Was that a recent meeting between you and Mr Turner?
40 A. Yes. Mr Turner, as the regional manager in New South
41 Wales, frequently comes to Canberra for executive-type
42 meetings to discuss matters and, as I recall, had raised
43 with me some concerns that Dr Widders had raised with him.
44 We had a discussion about those.
45
46 Q. You will see that he goes on to say in this email:
47 "We" - that is, you and he - "spoke about facilitating a

1 meeting with Phil, Sophia, Narelle and Ainslie to discuss
2 issues with a view to achieving an agreed position and
3 better understanding between the region and program". Can
4 you just assist the Commissioner with who those people are
5 who are referred to by their first names?
6 A. Yes. "Phil" is Dr Widders. Sophia is, I believe,
7 Sophia Emmi, a veterinary officer working with Dr Widders
8 in New South Wales. "Narelle" is Dr Clegg, who was the
9 then manager of the program. "Ainslie" is Ainslie Brown,
10 who is a veterinary officer within the program.
11
12 Q. And did a meeting involving you happen as suggested
13 here?
14 A. There was a meeting later in the year. I didn't
15 personally attend that meeting. I was, as I have indicated
16 before, focused at that time, and required to be focused,
17 on the development of new arrangements for live animal
18 exports, but I understand that Dr Clegg and probably
19 Ainslie Brown did have a meeting later in the year with
20 Phil Widders and Sophia Emmi to resolve their concerns
21 about the work instruction.
22
23 Q. And when you are speaking of "their concerns", it's
24 the concerns of mid-2004 about the review of the staffing
25 of the live animal import and the work instruction?
26 A. That's correct.
27
28 Q. It says at the end of the email, "Your thoughts?" Did
29 you communicate with Mr Turner to approve or facilitate a
30 meeting or meetings?
31 A. I did. When he says, "The idea would be to initiate a
32 frank and open discussion and ultimately sign on to the
33 agreed position", at that time I made it clear to him that
34 the work instruction that we were putting up had to be
35 complied with and that what we were meeting to discuss was
36 putting it into effect, what arrangements the region needed
37 to take to actually put that work instruction into effect.
38
39 Q. Do you know whether an agreed position and/or better
40 understanding was arrived at?
41 A. I understand that it was. I moved on from the program
42 later that year and, as nobody had raised with me later in
43 the year or has raised with me at all this year, when I've
44 resumed responsibility for the program, that there were any
45 ongoing concerns, I had accepted that in fact those matters
46 had been resolved.
47

1 MR ROBERTSON: The number of the document to which I was
2 taking Ms Gordon was DAFF.0001.069.0020.
3
4 Q. Ms Gordon, going to a different topic, you were shown
5 yesterday, I think it was, a coloured diagram setting out
6 various officers and positions and programs within AQIS.
7 Do you recall that?
8 A. I do, yes.
9
10 Q. Do you have that with you still?
11 A. Yes.
12
13 Q. What I want to ask you is this: which officers or
14 offices do you deal with, you yourself that is, directly in
15 terms of having them report to you or for you to give them
16 direction, instruction, and so on? Are you able to assist
17 the Commission in that respect?
18 A. Yes, the officers that report directly to me are those
19 in that orange circle, so the national manager of animal
20 and plant quarantine, Peter Liehne; the national manager of
21 cargo management and shipping, Tim Chapman; and the
22 national management, border, Andy Carroll. I would also
23 have frequent dealings with the regional manager in New
24 South Wales, as I would with regional managers of our other
25 regions.
26
27 Q. So the regional manager in New South Wales is
28 Graham Turner?
29 A. Yes.
30
31 Q. What about the level of communication, if any, between
32 you personally and, for example, the program managers who
33 are in the blue rectangles to the right of the orange
34 circle shapes that you referred to?
35 A. They would report to their national managers directly.
36 I would obviously have interactions with them from time to
37 time but only when significant issues arose where I needed
38 to get specific information and the national manager wasn't
39 available. I would also meet with them, obviously, during
40 the business plan review process which occurs twice a year,
41 and we have senior managers meetings where some of those
42 people would attend once or twice a year.
43
44 Q. Then going over to the left-hand side of the diagram,
45 which is generally under the box with the regional manager
46 in it, would you have personal communications with, for
47 example, the people below the slightly purple-coloured oval

1 shapes - that is, the chief vet program manager, the ECQS
2 manager, and so on?
3 A. No, not usually. From time to time, when I'm visiting
4 regions to keep in touch with what our people are doing on
5 the ground or to give them advices about requirements that
6 the senior managers of AQIS had of them, I might have
7 meetings with groups of officers and would interact with
8 some of these officers, but I would not usually deal with
9 them on a day-to-day basis or give them instructions or
10 even usually seek advice from them about their activities
11 on the ground.
12

13 Q. Why is that?

14 A. There are over 3,000 people in AQIS. As I said
15 earlier, about 2,200 plus or minus work within the
16 quarantine programs. The nature of my responsibilities is
17 really to look at the quarantine issues at a strategic
18 level, to identify what systems are required to be put in
19 place at a strategic level to ensure that we're able to
20 deliver effectively the government's policies. We have a
21 budget of close to \$300 million across all those quarantine
22 programs. There are quite serious obligations on us to
23 comply with government budgetary policies, to ensure that
24 we are meeting the requirements there and that we're
25 allocating the funding appropriately.
26

27 So my time is largely spent managing, in Canberra, at
28 a strategic level, relating to other parts of DAFF or to
29 other government departments, providing advices to the
30 minister which come to me on advice from officers reporting
31 to me about various matters that are of concern to
32 quarantine programs.
33

34 Q. Looking at the diagram above the rectangle that has
35 your name in it, I think you gave some evidence yesterday
36 about the extent of your communications with the officials
37 in Biosecurity Australia.

38 A. Yes.
39

40 Q. Do you on occasions deal directly with Mr Cahill or
41 Dr Nunn or Dr Martyn?

42 A. I meet regularly with Mr Cahill. Mr Hunter, who is
43 the deputy secretary, has a weekly meeting with me,
44 Greg Read, who is the other executive manager in AQIS; with
45 Mr Cahill, who is the chief executive of Biosecurity
46 Australia; and with the executive manager of our product
47 integrity animal and plant health, who is the area of the

1 department responsible for coordinating response
2 preparedness and surveillance activities with States and
3 Territories in response to disease outbreaks or issues of
4 post-border animal and plant health.
5
6 Q. Did you recall overnight what the significance of
7 Biosecurity Australia being a prescribed organisation is?
8 A. Biosecurity Australia was set up under a different --
9
10 Q. Prescribed agency, sorry.
11 A. -- was set up as a prescribed agency. Again, I can't
12 tell you under which particular provision of Commonwealth
13 legislation. But it was intended to ensure that there was
14 some independence about the development of the scientific
15 advice; that the import risk analyses and the scientific
16 advices that Biosecurity Australia provides are rigorous,
17 based on sound science and are able to be provided to AQIS
18 to manage the risks of various animal and plant issues.
19
20 Q. Those issues were, at some time in the past, within
21 AQIS policy, I think?
22 A. Up until about 2000, what is now AQIS and what is now
23 Biosecurity Australia were all part of one organisation,
24 which was a larger organisation encompassed by the
25 terminology "AQIS". In about 2004, the government made a
26 decision - Biosecurity Australia had already been separated
27 out into another division of the department in the
28 early years of 2000, 2001, I think. In about 2004, the
29 government made the decision to set it up as a prescribed
30 agency to give it greater independence from other
31 activities within the department.
32
33 Q. Then still above the line that your name appears in,
34 one can assume that you have frequent dealings with the
35 deputy secretary and the executive director of AQIS,
36 Mr Hunter?
37 A. I do, on a daily basis.
38
39 Q. And with the secretary, or not?
40 A. I do have dealings with him. I attend the weekly
41 business meeting that the secretary convenes each week for
42 all executive managers and above, the deputy secretaries in
43 the department, to ensure that we integrate our activities
44 across the department, that we're aware of issues that
45 might affect all parts of the department and are
46 coordinating our activities at that strategic level.
47 I wouldn't necessarily see the secretary frequently during

1 the week, however.
2
3 Q. Now I want to turn to another document of Dr Widders
4 to which you were taken yesterday, which was what I might
5 call a marked-up version or a "tracked changes" version of
6 a work instruction on the clearance of live horses.
7
8 When you were shown the document yesterday, did it
9 have attached to it an email which included a 31 October
10 2003 email to George Hughes from Dr Widders?
11 A. It did.
12
13 Q. That refers to "comments, suggestions for discussion,
14 not for inclusion as is into the instructions".
15 A. That's what Dr Widders has said in his email.
16
17 Q. And do you know whether or not these comments of
18 Dr Widders were or weren't taken into account in finalising
19 the work instruction?
20 A. I was advised by Dr Clegg that they were taken into
21 account in finalising the work instruction.
22
23 Q. So whether or not they were adopted, they were taken
24 into account, as you understand it?
25 A. They were certainly - I was advised they were taken
26 into account. Not all comments would necessarily have been
27 adopted. But I think as I mentioned earlier, it has been
28 our practice to consult quite extensively with our regional
29 colleagues when we are developing national work
30 instructions.
31
32 Q. At page 170 of the transcript - and this is my attempt
33 to clear up one or two questions about which of Dr Widders'
34 comments you were being questioned about - you were asked
35 about what Dr Widders had suggested in May 2004 and whether
36 that was a sensible suggestion. Do you remember those
37 questions this morning from Mr Meagher?
38 A. I do, yes.
39
40 Q. Do I take it that when you answered - that is, "In
41 hindsight", et cetera - you were referring to the mark-up
42 under email of October 2003 concerning the changing of
43 clothes, and so on, by the people at the airport?
44 A. Yes, yes, and I was getting confused about the dates
45 of the various documents.
46
47 Q. This is on a similar theme, Ms Gordon. You were asked

1 a question I think this morning, put perhaps somewhat
2 colourfully by my learned friend Mr Meagher, that you spoke
3 to the national program people who said, in effect, "Don't
4 worry about Dr Widders; his comments have been taken into
5 account. We know what we're doing." Which comments of
6 Dr Widders were you there referring to, do you recall?
7 A. My understanding - I think, if I can remember
8 correctly the sequence, these comments that Dr Widders had
9 provided in this 2003 document, and then the comments that
10 he had made on the live animal import review that sat
11 behind this document, which was brought to my attention by
12 the regional manager in 2004.
13
14 Q. Because I think you said that the marked-up document,
15 as I have been calling it, you hadn't seen at that time,
16 that is, in 2003.
17 A. No, I didn't see it, and this email indicates that it
18 went to George Hughes, who was an officer in the section
19 tasked with drafting up the work instructions and
20 consulting with the regional offices.
21
22 Q. I don't think you were clear on this yesterday, or
23 maybe I wasn't clear on it, but did you see the marked-up
24 document of Dr Widders in 2004 or is the position that --
25 A. No, I hadn't seen this marked-up document until it was
26 shown to me yesterday, today, or whenever I first saw it.
27
28 Q. In an answer to a question this morning when you were
29 being asked about, I think, the post-entry 2005-2006
30 business plan, and you were being asked about it in terms
31 of what was going on within the quarantine station and you
32 were asked what it was that the business plan or the
33 implementation told you, and there was a question about
34 what was going on within the quarantine station at that
35 level - do you remember that?
36 A. Yes, I do, I think.
37
38 Q. You then went on to say that you agreed with part of
39 what counsel assisting had put, which was along the lines
40 of not knowing what was going on with the quarantine
41 station. I don't think you ever completed that answer.
42 What was the part that you agreed with and the part that
43 you didn't, do you recall?
44 A. No, I don't recall particularly, but in 2005-2006
45 I wasn't responsible for the quarantine stations. I was
46 responsible, as the national manager, up to the end of 2004
47 and I resumed effective responsibility at the end

1 of February this year.
2
3 But, in any case, in terms of knowing what was going
4 on in a quarantine station at any particular point in time
5 in either of the positions that I was in - either the
6 branch head then or the executive manager now - it's
7 unlikely that I would be aware of particular issues on the
8 ground unless they were brought to my attention because a
9 judgment had been made that they were matters that I needed
10 to involve myself in.
11
12 Q. Then in relation to what the officers managing the
13 Eastern Creek Quarantine Station were following in terms of
14 work instructions, you referred this morning in part of
15 your answers to detailed management issues at Eastern
16 Creek, and I think you were distinguishing between national
17 work instructions and other things that happened at Eastern
18 Creek. Could you tell the Commission what you had in mind
19 in referring to detailed management issues at Eastern
20 Creek?
21 A. Yes. Earlier, and I don't know whether I can find it
22 now, I was shown a document which set out in some degree of
23 detail for an officer in Eastern Creek exactly what they
24 had to do to manage horses, to deal with documents, to
25 clear waste, et cetera. They are very detailed, specific
26 activity statements of things that have to be done.
27
28 Those sorts of instructions which would exist in many
29 work sites would not necessarily, at this point in time, be
30 on a national intranet. So I was distinguishing between
31 the type of work instructions that we were talking about,
32 the clearance of live horses, which are at a high level,
33 and very much more specific activity-type statements that
34 work sites might develop to ensure that everybody knows
35 quite precisely what they might have to do - where the bins
36 might be, for instance, at what time they're cleared - a
37 range of much more detailed matters
38
39 Q. Was that perhaps in the bundle of documents that you
40 were shown --
41 A. It was in a bundle of documents I was shown earlier
42 today.
43
44 Q. -- as coming to you about what happened in Eastern
45 Creek in August?
46 A. Yes.
47

1 MR ROBERTSON: Thank you, Commissioner.
2
3 THE COMMISSIONER: Mr Meagher?
4
5 <EXAMINATION BY MR MEAGHER:
6
7 MR MEAGHER: Q. I might clear up that last document by
8 having the witness identify it so that there is no argument
9 about it. Can we have up on the screen AQIS.0002.014.0042
10 at page 46. If you scroll forward to page 46, is that the
11 document you're referring to?
12 A. Yes, that's the document I am referring to.
13
14 MR MEAGHER: I have no further questions.
15
16 THE COMMISSIONER: Thank you, Ms Gordon. We will have to
17 ask you to come back, but that will be some time, I think.
18 Thank you for your attendance.
19
20 MR MEAGHER: For the record, the two documents which the
21 witness was shown and which have now been put into an
22 electronic form are IRT.0002.001.0001 through to page 16;
23 and the next document starts at page 17 and goes through to
24 a page I don't presently know.
25
26 THE COMMISSIONER: Thank you, Mr Meagher. Thank you,
27 Ms Gordon.
28
29 <THE WITNESS WITHDREW
30
31 MR MEAGHER: I think then we can call Mr Ironside.
32
33 <DAVID ANDREW IRONSIDE, affirmed: [3.35pm]
34
35 <EXAMINATION BY MR MEAGHER:
36
37 MR MEAGHER: Q. Your full name is David Andrew Ironside?
38 A. That's right.
39
40 Q. And your work address is Edmund Barton Building,
41 Barton, Australian Capital Territory?
42 A. Correct.
43
44 Q. You have made a statement for the purpose of the
45 inquiry, which is dated 12 July 2007?
46 A. Yes.
47

1 Q. The document is WIT.DAFF.002.0001. I have a copy for
2 you, Commissioner. Are the contents of that document true
3 and correct to the best of your knowledge and belief?
4 A. Yes.
5
6 Q. Mr Ironside, you are currently the national manager of
7 two programs: live animal imports, post-entry animal
8 quarantine?
9 A. That's right.
10
11 Q. And is the position that you have effectively managed
12 each of those programs since March 2006?
13 A. Yes, that's right.
14
15 Q. Did you have anything to do with animal imports before
16 2006?
17 A. No.
18
19 Q. None at all?
20 A. No.
21
22 Q. Do you have any professional training in relation to
23 animals or animal diseases?
24 A. No.
25
26 Q. Have you been given any professional training or any
27 training at all since you took the position as head of
28 those two programs?
29 A. I've certainly received guidance from the manager, my
30 branch head, that I report to or reported to when I started
31 in the position, and I also had numerous discussions with
32 technical experts within my area in relation to the job.
33
34 Q. Had you heard of equine influenza before August this
35 year?
36 A. Yes.
37
38 Q. Had you any particular knowledge about that disease
39 before August this year?
40 A. I knew that it was a particularly contagious disease
41 that affected horses.
42
43 Q. Did you know anything else about it?
44 A. I knew that it was a quarantinable disease and
45 something that we were concerned about and something that
46 we were trying to keep out.
47

1 Q. Did you have any understanding as to how it was
2 spread?
3 A. I think I was aware that it was a respiratory disease
4 that was spread via fomites and in that manner.
5
6 Q. Could you go to your statement. In paragraph 5 you
7 set out some of the matters that the live animal import
8 program is responsible for and in paragraph 6 you deal with
9 the post-entry animal quarantine program. Perhaps when
10 I am referring to these paragraphs, they could be shown on
11 the screen.
12
13 You don't in either of those paragraphs refer to, as
14 one of your functions, the formulation or implementation of
15 procedures, do you, that is, work procedures or operating
16 procedures?
17 A. No, I don't believe they're referred to.
18
19 Q. Nor do you refer to any responsibility in relation to
20 audit of procedures which may have already been formulated
21 and promulgated.
22 A. No.
23
24 Q. You do, however, refer to that, I think, in
25 paragraph 27, to the extent that you concede that you also
26 work to achieve national consistency in each program by
27 overseeing development and distribution of standard
28 operating procedures and work instructions.
29 A. That's correct.
30
31 Q. What does that mean - "oversighting"?
32 A. Well, it means that I would supervise the work of
33 people in my programs in Canberra to do those things. So
34 in referring to the points set out - point 5 is probably
35 deficient, in that it doesn't mention the development and
36 distribution of work instructions and SOPs.
37
38 Q. Well, do you accept that part of the responsibility of
39 your programs and your position as program manager is to
40 formulate and implement operating procedures and work
41 instructions?
42 A. To formulate and distribute, yes, that is.
43
44 Q. And audit?
45 A. Yes.
46
47 Q. What does that mean - audit?

1 A. Well, it means to ensure that the work procedures are
2 being followed.
3
4 Q. And how does one normally do that, in your position?
5 A. What would normally happen is that program resources
6 would be made available to go to a region and to view
7 certain processes being done and to determine whether those
8 procedures are being done in accordance with the work
9 instruction or SOP.
10
11 Q. Since you've been in the position, have you actually
12 supervised or implemented any audits of any procedures at
13 all?
14 A. No, there haven't been any audits of any SOPs or work
15 instructions while I've been in the program, no.
16
17 Q. Have you ever suggested that it might be something
18 which should be done?
19 A. Certainly, it was considered and it is in the business
20 plan for this year to audit the work instruction or SOP for
21 the live import of fish procedure, and that is because,
22 pre- August, that was considered to be an area that was of
23 some priority and some urgency and that required attention
24 and that that was, therefore, prioritised as an area that
25 would need to be audited as part of the strategy to address
26 the issues that were around that area.
27
28 Q. Had you, before August 2007, reported to Mr Liehne
29 that you had not conducted or supervised any audits of any
30 operating procedures or work instructions whilst you had
31 been in those two programs?
32 A. I don't believe that I did that, no.
33
34 Q. Did you have an obligation to do so?
35 A. In terms of what the program does, the business plans
36 are basically the work agenda for the year, and what I have
37 to do, both informally in various meetings with Mr Liehne,
38 and Dr Clegg before him, and also at bi-annual business
39 plan reviews, is explain what I have done in terms of the
40 business plan and if there are any areas where we haven't
41 achieved the milestones that are set out in the business
42 plan, why that is. So that was certainly done.
43
44 Q. Well, have you ever, in any of these meetings,
45 explained to Mr Liehne or others that you haven't conducted
46 any audits to see whether any of these procedures or work
47 instructions have been implemented?

1 A. No. It's in the business plan, as I said earlier,
2 that we are proposing to conduct an audit in relation to
3 the fish work instruction or SOP this year.
4
5 Q. Has he ever asked you whether you have conducted any
6 audits of procedures or work instructions to see whether
7 they're being implemented?
8 A. No.
9
10 Q. He hasn't?
11 A. No, not to my knowledge.
12
13 Q. What is the explanation for your not having
14 implemented any audits of any procedures or work
15 instructions since you started in these programs in March
16 2006?
17 A. Well, because with the program, we have a limited
18 number of resources and the challenge in managing the
19 program is to use those resources in the most effective way
20 to address the issues or concerns that relate to how the
21 program functions in the sense that the things that have
22 the highest level of priority are the things that have to
23 be addressed first.
24
25 So we have a process each year where we develop the
26 business plan, and that process involves the program and
27 regional staff, and a whole range of things that might be
28 done or could be done or should be done are considered, and
29 the things that are the highest priority are the things
30 that make it into the business plan as something that we
31 try to do for the year.
32
33 And then, using the resources that we have available
34 with the program, those are the things that we attempt to
35 do. Pre-August it was not considered to be something that
36 was a high priority to audit SOPs and work procedures
37 except for the one that relates to fish.
38
39 Q. But don't your business plans expressly address that
40 subject and put it forward as a thing which had to be
41 achieved?
42 A. Sorry, the business plans?
43
44 Q. Yes.
45 A. Put what forward, sorry?
46
47 Q. The auditing of work instructions.

1 A. The business plan talks specifically about the fish
2 SOP, but I don't know that business plans talk about
3 auditing of SOPs as something that we were going to do this
4 year in toto.
5
6 Q. I will come back to that. I want to ask you another
7 series of questions. Is Mr Hankins someone who reports
8 directly to you?
9 A. On technical issues he reports to me, but he's also
10 supervised by a regional management structure.
11
12 Q. Did you have anything to do with his appointment as
13 the manager of Eastern Creek Quarantine Station earlier
14 this year?
15 A. No.
16
17 Q. You had nothing to do with his choice to take that
18 position?
19 A. No.
20
21 Q. Were you consulted at all?
22 A. No. I was advised that he was going to be taking up
23 the position a little while before he took the position up.
24
25 Q. Were you involved in any process whereby he was to be
26 trained as to what he was to do in that position?
27 A. No.
28
29 Q. Is there any procedure whereby your program might have
30 some say in training or preparing someone for a job as
31 manager of Eastern Creek Quarantine Station?
32 A. Not specifically in the role of manager, no, but there
33 are work instructions that are available to program staff
34 or to people in the regions to assist them to do the job.
35
36 Q. But one of your programs is post-entry animal
37 quarantine.
38 A. Yes.
39
40 Q. And the principal quarantine station in Australia with
41 which that program is concerned is Eastern Creek; is that
42 right?
43 A. Yes.
44
45 Q. Does it take most of the resources of that program?
46 A. Well, most of the regional resources. It has the
47 largest number of staff, yes, it does.

1
2 Q. And your program has in place no process or procedure
3 for training him or instructing him as to what he should do
4 as manager of the quarantine station?
5 A. Not in terms of the day-to-day operation of the
6 station. The day-to-day operation of the station is really
7 a matter for the regions to manage themselves. The
8 program's input is really to do with the technical side of
9 the management of the place, obviously, managing the
10 budgets, the national budgets, which have some input from
11 regional budgets, and business plans and priorities in
12 terms of project work and that kind of thing.
13
14 Q. Do you remember when it was that you first met
15 Mr Hankins after he took up his position in March 2007?
16 A. Not specifically, no.
17
18 Q. Do you remember the context in which you first spoke
19 to him?
20 A. Not specifically, no.
21
22 Q. Do you remember speaking to him in April or May this
23 year after he had been appointed?
24 A. Yes.
25
26 Q. Was that a phone conversation or was it a meeting?
27 A. I think the first time I spoke to him was by
28 telephone. I don't remember the exact date of that nor --
29
30 Q. He telephoned you?
31 A. I can't recall.
32
33 Q. What did he say to you?
34 A. I can't remember the specifics of the conversation,
35 but it would have been, "Welcome to the program. I hope
36 you enjoy it. If there's anything we can do, let us know",
37 but I don't remember whether there was anything more that
38 was specifically discussed.
39
40 Q. Did you subsequently speak to him about any specific
41 subject?
42 A. Yes.
43
44 Q. When?
45 A. Well, at various times about a range of subjects.
46
47 Q. Do you recall that on one occasion he telephoned you

1 to find out what work instructions there were which applied
2 to operating Eastern Creek?
3 A. Yes.
4
5 Q. When did he make that telephone call to you?
6 A. I can't be specific, but it was possibly late March or
7 early April of this year.
8
9 Q. What did he say to you?
10 A. He said, "Are there any work instructions or other
11 instructional documents that relate to the clearance of
12 animals or the management of animals at the quarantine
13 station?"
14
15 Q. What did you say to him?
16 A. I said, "There are a number of work instructions that
17 are available on the AQIS intranet under the 'Live Animal
18 Imports' heading", but I said that there may be other
19 documents as well, other instructional documents that were
20 available, but that I wasn't sure and that I would get
21 somebody from my program in Canberra to find whatever other
22 documents there were and forward those to him.
23
24 Q. Did he say to you why he was asking whether there were
25 any work instructions?
26 A. He said that he had none available at the station.
27
28 Q. He said that he had none available at the station?
29 A. Yes.
30
31 Q. Did he say that he had made inquiries of the people
32 who had been working at the station?
33 A. Yes, I think he did say that.
34
35 Q. Just tell us what he said to you?
36 A. My recollection is that he said that they said they
37 hadn't seen any.
38
39 Q. Hadn't seen any?
40 A. Yes.
41
42 Q. At that time that he made that inquiry to you, were
43 you aware of the existence of any work instructions, that
44 is specific instructions, which dealt with the quarantine
45 station?
46 A. Yes, the ones that I mentioned to him that were on the
47 intranet. I mentioned to him that there were probably a

1 dozen or so, I think is what I said - a dozen or so work
2 instructions that are available on the intranet under the
3 "Live Animal Imports" heading, but I was aware that there
4 were some other documents around, but I wasn't sure of the
5 status of those documents and I wasn't sure that I knew all
6 of them, so I undertook to get one of the people in my
7 program to look into that further and to forward any
8 documents that they could find, any additional documents,
9 to Greg.

10
11 Q. Would it be correct to say that at the time he made
12 that inquiry, you were not aware of the status of any
13 specific work instructions or other documents relating to
14 import of live horses?

15 A. No, that wouldn't be correct. I was aware that the
16 work instructions on the intranet were final and finished
17 work instructions, but it would be correct to say that the
18 other documents, which I was aware that they existed but
19 I wasn't sure how many there were or what their status was,
20 the statement you made would be correct in relation to
21 those documents.

22
23 Q. And who was your offsider who you asked to respond to
24 Mr Hankins' request?

25 A. I think it was Grace Lam.

26
27 Q. And did she communicate with Mr Hankins by email?

28 A. I believe so, yes.

29
30 Q. Have you seen the email that was sent to Mr Hankins?

31 A. Yes.

32
33 Q. Recently?

34 A. Yes.

35
36 MR MEAGHER: Could I ask Mr Robertson at some stage to
37 produce it, if he could, because it's not among the
38 documents that have been produced to us.

39
40 MR ROBERTSON: Certainly.

41
42 MR MEAGHER: Q. Do you know what she sent to Mr Hankins?

43 A. I believe she sent three operations manuals. One was
44 for, I think, cats, one was for dogs and one was for
45 horses.

46
47 Q. And anything else?

1 A. No, I think that was all she sent.
2
3 Q. So she didn't send any work instructions?
4 A. Well, no, no, I didn't ask her to send those. I asked
5 her to send the - because I'd already had the discussion
6 with Mr Hankins about the work instructions that were on
7 the intranet, I asked her to send the others, the status of
8 which I wasn't sure about.
9
10 Q. Did you subsequently speak to Mr Hankins about what he
11 was to do with the work instructions and the other
12 documents the status of which you weren't sure about?
13 A. I don't know that I did.
14
15 Q. So that he was left up in the air as to what he was to
16 do with the documents that had been sent to him?
17
18 MR ROBERTSON: I object to that question.
19
20 MR MEAGHER: I press it.
21
22 THE WITNESS: I think the work instructions --
23
24 THE COMMISSIONER: I'm sorry. What is your objection?
25
26 MR MEAGHER: I will withdraw it and I will move another
27 way, Commissioner.
28
29 Q. It is correct, then, is it, that prior to September
30 you were on notice that, within Eastern Creek before this
31 inquiry had been made, no-one was apparently aware of the
32 work instruction in relation to horses - the other work
33 instructions on the intranet?
34 A. Sorry, I was on notice prior to when?
35
36 Q. September of this year.
37 A. I knew - when Mr Hankins rang me in either
38 late March or early April and he advised me that that was
39 the case, I --
40
41 Q. You were aware at that time, you must have assumed --
42 A. I was aware once he told me that that was the case,
43 yes.
44
45 Q. -- that the people in Eastern Creek were not aware
46 before that time of the work instructions or of this other
47 document?

1 A. Yes.
2
3 Q. And it would have followed, therefore, that they
4 couldn't have been complying with the documents in the
5 sense that they had the documents with them and were able
6 to obey them?
7 A. When Mr Hankins told me that, I have to say I found it
8 quite surprising that that was what he had been told,
9 because my understanding had been that the work
10 instructions had been developed not all that long ago and
11 that, at the time that they were developed, they had been
12 circulated quite widely and that people in the region of
13 New South Wales had been involved in their development. So
14 it seemed quite unusual to me that he had been advised that
15 that was the case.
16
17 Q. Could you have a look at paragraph 85 of your
18 statement, please. I want you to reconsider whether you
19 think that you can make that statement or make it
20 accurately.
21 A. Well, although Mr Hankins said to me that the staff
22 had told him that they hadn't seen the work instructions,
23 I was aware that there were obviously procedures being
24 carried out in relation to the horses, and in terms of the
25 content of the work instructions or the operations manual
26 I had no reason to believe that the content wasn't being -
27 or that the procedures set out in those documents weren't
28 being followed.
29
30 Q. You just didn't know one way or the other, did you, at
31 the highest; isn't that the position?
32 A. Well, as --
33
34 Q. Isn't that the position?
35 A. As the national program manager, I would expect to be
36 told if there was a problem with implementing the work
37 procedure or the instructions.
38
39 Q. But the manager had rung you up and said, "As far as
40 I can see, there are no work instructions to do with
41 horses."
42 A. Yes.
43
44 Q. Well, "None of the staff know about any"; that's what
45 he told you, isn't it?
46 A. He said that he had been told that they hadn't seen
47 work instructions and I said to him, "Well, there are these

1 ones that are available on the intranet and there are some
2 more that I'm aware of that I'll get sent to you", and
3 those were sent to him.
4
5 Q. And you say that you still had no reason to believe
6 that any staff member, at least at Eastern Creek, had not
7 complied with these specific work instructions or the
8 manual?
9 A. I had no reason to believe that the - that's right,
10 I had no reason to believe that the staff hadn't complied
11 with the procedures that were set out in the work
12 instruction or the manual.
13
14 Q. I suggest to you that the position that Mr Hankins'
15 inquiry put you in was that, at best, you just didn't know
16 one way or the other whether they had been complying with
17 the work instructions or not; that's correct, isn't it?
18 A. No, I - no, I don't accept that. I mean, the
19 procedures that are set out in the work instructions and
20 the manual had been circulated - my understanding was that
21 they had been circulated to the region before. I found it
22 difficult to accept that nobody at Eastern Creek had ever
23 seen the work instructions or the manual.
24
25 It's true to say that certainly prior to Mr Hankins
26 calling me, I did not know that nobody - that it was his
27 view that nobody had seen the work instructions at Eastern
28 Creek
29
30 Q. Or the manual?
31 A. Or the manual.
32
33 Q. Could I just show you the manual and I'll tender it.
34 It's AQIS.0001.001.0080-0134. I'll just show you, and you
35 can confirm that that's the version of the manual that you
36 understand was sent to Mr Hankins electronically.
37 A. That is the case.
38
39 Q. When you sent it, did you understand that it was on
40 the intranet?
41 A. I didn't send it. Grace Lam sent it at my --
42
43 Q. So you don't know where it was?
44 A. No, I wasn't certain where it was. I knew that there
45 were some draft documents on the intranet but I wasn't
46 certain that there were others that might be useful
47 elsewhere on the J drive or on some part of the drive, so

1 that's why I asked Grace to get together whatever was
2 around and useful and send that to Greg.
3
4 MR MEAGHER: Thank you. Is that a convenient time?
5
6 THE COMMISSIONER: Yes. We will adjourn until a quarter
7 to 10 tomorrow.
8
9 AT 4PM THE COMMISSION WAS ADJOURNED
10 TO THURSDAY, 15 NOVEMBER 2007 AT 9.45AM
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