

## EQUINE INFLUENZA INQUIRY

### SUBMISSIONS ON BEHALF OF THE STATE OF QUEENSLAND

#### 1. INTRODUCTION

- 1.1. It is neither necessary nor desirable for these submissions to canvas all of the areas the subject of submissions by Counsel Assisting. Those submissions provide a thorough, detailed and compelling analysis of the evidence before the Inquiry.
- 1.2. It is our submission generally that the findings suggested by the submissions of Counsel Assisting are the only ones reasonably open on the totality of the evidence before the Inquiry.

#### 2. HOW THE OUTBREAK OCCURRED AND THE CIRCUMSTANCES WHICH CONTRIBUTED TO THE OUTBREAK

- 2.1. We support the submission of Counsel Assisting that the source of the outbreak was the consignment of Japanese horses which arrived in Australia on 8 August 2007.
- 2.2. The evidence overwhelmingly supports this scenario to the exclusion of all others.
- 2.3. Significantly, this scenario highlights the inadequacies in the operational procedures at ECQS at the time. If, as seems certainly to be the case, infected horses from this consignment entered SQS and ECQS but the virus only escaped from ECQS, a direct comparison of the procedures operating at each quarantine station is telling.
- 2.4. At SQS, the manager and his deputy had been in those positions for many years and each actively supervised the arrival, processing and monitoring of live horse imports. Although SQS suffered from the same lack of a single consistent set of documented work instructions and standard operating procedures for the importation of live horses, nevertheless, with the skill base and knowledge fostered through continuity of management, SQS was able to contain the virus.
- 2.5. The irony of course is that had those at ECQS followed work instructions, the standard operating procedures or the operations manual for horses, which were essentially in draft form or not understood to be applicable as at August 2007, then it is doubtful that the virus would have escaped into the general horse population.
- 2.6. The work instruction entitled "Clearance of Live Horses" authored by George Hughes as early as October 2003 was provided for the AQIS Regional Manager to ensure that all quarantine officers involved with the import of live horses were aware of the work instruction and had access to it.<sup>1</sup>

---

<sup>1</sup> AQIS.0001.001.0014 – section 6 – Responsibilities of Key Personnel.

- 2.7. The work instruction provided that quarantine staff were to ensure that any equipment used on horses in PAQ was to be correctly disinfected prior to leaving the facility and that approved veterinarians and farriers were to be made aware of the post arrival quarantine requirements for veterinarians and farriers prior to entering the quarantine facility.<sup>2</sup>
- 2.8. There are a number of documents attached to the work instruction as “useful documents”. They include the “Groom Authorization to Enter the AQIS Quarantine Facility” which stipulates amongst other things that dedicated clothing and footwear must be worn in the facility and remain there following the visit; that grooms must undertake a complete head to toe 3 minute shower and change into fresh clothing and footwear immediately before leaving the quarantine facility; and that all horse equipment was to remain at the facility until the completion of the quarantine period or until disinfected by AQIS prior to removal.<sup>3</sup> The form was to be signed by the relevant groom acknowledging an agreement to be bound by the conditions of entry and separately by the AQIS representative.
- 2.9. The same requirements are reinforced in a further attachment which deals with post arrival quarantine instructions in relation to grooms, veterinarians and farriers.<sup>4</sup>
- 2.10. A further attachment “Policy for Access to Horses during Quarantine” provided that essential personnel visiting were required to wear protective clothing and shower prior to leaving the premises.<sup>5</sup>
- 2.11. Similarly, the draft “Operations Manual for Horses at Government Post Arrival Quarantine Station”<sup>6</sup>, provided for a range of biosecurity measures and precautions designed to contain any outbreak of the virus.
- 2.12. In particular, the manual provided, in Appendix 1, for a list of standard operating procedures (SOP’s) relevant to the PAQ period.
- 2.13. SOP 4 provided generally for full body showering and changing into street clothes and footwear and walking through a disinfectant bath prior to leaving the premises.<sup>7</sup>
- 2.14. Specific procedures stipulating a requirement for changing into work clothes and footwear which were to remain on the premises following the visit, showering out and walking through a disinfectant footbath

---

<sup>2</sup> AQIS.0001.001.0020 – Conditions under which horses must be kept at the QAP.

<sup>3</sup> AQIS.0001.001.0026 – Groom Authorization to Enter the AQIS Quarantine Facility.

<sup>4</sup> AQIS.0001.001.0032, 33 – Post Arrival Quarantine Instructions for Grooms and Veterinarians and Farriers.

<sup>5</sup> AQIS.0001.001.0029 – Policy for Access to Horses During Quarantine.

<sup>6</sup> AQIS.0001.001.0080

<sup>7</sup> AQIS.0001.001.0100 – SOP 4 – Personal Decontamination.

prior to leaving were provided for private veterinarians,<sup>8</sup> farriers and grooms.<sup>9</sup>

- 2.15. A form provided for the authorization for grooms to enter the quarantine station, and set out the conditions of entry which included a preparedness to change into dedicated clothing prior to entry, and a full head to toe 3 minute shower and change into fresh clothing immediately prior to leaving.<sup>10</sup>
- 2.16. There was a similar form required for veterinarians and farriers.<sup>11</sup>
- 2.17. Perhaps most significantly, the manual provides that AQIS management will carry out an internal review and internal audit simultaneously at least once during and then after each quarantine.<sup>12</sup> The Form which was attached provided a template to record the results of the audit.<sup>13</sup>
- 2.18. This manual has a date of 1 March 2004 on all of its pages. The manual was said to be still in draft form as at August 2007 and obviously no internal audit or review had ever been undertaken. Had such an audit been carried out, the deficiencies would have been identified and the virus potentially contained within ECQS.
- 2.19. The failure of management to ensure that there were documented, implemented and audited procedures in place has been highlighted in the submissions of Counsel Assisting.<sup>14</sup>
- 2.20. That this failure could have occurred in circumstances where a privately run facility at Sandown operated successfully under an exhaustively detailed set of documented procedures using the Hazard Analysis Critical Control Point principles, is difficult to understand. It is even more remarkable when one considers that it was a condition of the AQIS approval to operate the facility that it had in place such a system of documented hazard analysis.
- 2.21. It would seemingly have been a simple matter to adopt this system, at least as a working draft, following upon the approval to operate the Sandown facility from 2000.
- 2.22. Instead, the process of developing such documented procedures, which appears to have commenced in late 2003, was not complete even by August 2007.
- 2.23. Although the documentation that did exist seemed to appropriately acknowledge the measures necessary to preserve quarantine integrity, the disinclination or inability to implement and audit the procedures is

---

<sup>8</sup> AQIS.0001.001.0104 – SOP 8 – Procedures for Entry and Exit of Private Veterinarians.

<sup>9</sup> AQIS.0001.001.0106 – SOP 9 – Procedures for Entry and Exit of Authorised Personnel.

<sup>10</sup> AQIS.0001.001.0125 – Form 7 – Authorization for Grooms to Enter Quarantine Station.

<sup>11</sup> AQIS.0001.001.0127 – Form 8 – Authorization for Veterinarians or Farriers to Enter the AQIS Quarantine Station.

<sup>12</sup> AQIS.0001.001.0084 – 3. Internal Review and Audit.

<sup>13</sup> AQIS.0001.001.0128 – Internal Audit Review Schedule.

<sup>14</sup> Submissions of Counsel Assisting – Para. 16.29

suggestive of a failure to appreciate the magnitude of the risk that an outbreak of the equine influenza virus could occur.

- 2.24. A DAFF policy paper to cabinet in 2007 provides some support for this contention. The paper, in dealing with recommendations in relation to the future of government operated quarantine stations, promoted the view that only high quarantine risk material, said to consist of bees, birds and plants, be the subject of a post entry quarantine facility operated by AQIS at one combined national site.<sup>15</sup> The accompanying minute for the Minister summarized that:

*“All other lower risk material is to be managed in post entry facilities operated by State or Territory Governments, or private owners...”<sup>16</sup>*

- 2.25. Presumably, the lower risk material included imported horses.
- 2.26. This proposal is suggested in a draft letter to the Prime Minister as:

*“The cheapest option and is preferred,”<sup>17</sup>*

It was approved by Ms Gordon as Executive Manager, Quarantine and Plant Programs.

- 2.27. It is concerning that Ms Gordon viewed imported horses as not constituting a high quarantine risk as at 2007.
- 2.28. That this view was held within the senior management ranks at AQIS provides an insight into factors that contributed to the escape of the virus from ECQS.

### **3. OTHER ISSUES**

- 3.1. As mentioned earlier in these submissions, it is not proposed to canvas all of the areas of the submissions of Counsel Assisting. Where we do not specifically make comment it can be taken that we support the submissions of Counsel Assisting. Furthermore, we are in general agreement with the terms of the recommendations proposed in the material released for discussion purposes.
- 3.2. We propose in these submissions to only address issues where we can usefully add something to the submissions of Counsel Assisting or in some other way be of assistance to the Inquiry.

---

<sup>15</sup> DAFF.0001.578.0002 at p. 12.

<sup>16</sup> DAFF.0001.578.0002 at p. 14.

<sup>17</sup> DAFF.0001.578.0002 at p. 18.

#### 4. THE MONITORING OF HORSES' TEMPERATURES IN PAQ

- 4.1. The evidence is clear that the monitoring of a horse's temperature is a means by which there can be an early awareness of the potential infection with the equine influenza virus.
- 4.2. At para 10.39 of the submissions of Counsel Assisting, it is noted that Ms Christesen checked that the horses' temperatures were being recorded on the stable doors, but did not actually read, or record, what the temperatures were. Indeed, her evidence was that she was never informed that she should do so<sup>18</sup> and that she was not aware of the significance of any temperature reading i.e. the significance of a temperature over 38 degrees, until recent times.<sup>19</sup> Counsel Assisting further note that Ms Christesen was not checking any document meeting the description of an AQIS "health record sheet". Indeed, her evidence was that she had never seen any type of document meeting that description. Counsel Assisting note that Mr Hankins' evidence was that AQIS received a horse health record sheet from the senior IRT groom to go on file at the end of the post-arrival quarantine period. It appears clear from the evidence, e.g. that of Mr Hankins<sup>20</sup>, Ms Cushing<sup>21</sup> and Dr Widders,<sup>22</sup> that written health records were only created in relation to horses that received veterinary treatment whilst in quarantine and it would only be in relation to these horses that AQIS would receive a horse "health record sheet" at the conclusion of any quarantine period. Crucially, as noted in the submissions of Counsel Assisting, AQIS was not through its staff monitoring the health of any of the horses on a daily basis.
- 4.3. Mr Hankins gave evidence that, whilst the system has changed post-outbreak to require the daily notification to AQIS of any veterinary treatment of a horse, there was still no daily "health record sheet" prepared and kept in relation to every horse.<sup>23</sup> If this is the case, it would appear to be contrary to the requirements of para 6.20(c) of the Clearance and Quarantine of Live Horses Live Animal Import Standard Operating Procedure promulgated on 5 December 2007<sup>24</sup> and would be a concerning example of a continued failure on the part of AQIS staff to comply with quarantine procedures even after the outbreak.
- 4.4. The absence of oversight of the horses' health by AQIS in August 2007 was contributed to by a decision in mid 2004 to cease a practice of remote monitoring by AQIS of the horses' temperatures as recorded by the grooms. Counsel Assisting touch on this matter at para 9.50 of their submissions, but it is submitted that it is worthwhile to examine

---

<sup>18</sup> T1453

<sup>19</sup> T1415.

<sup>20</sup> T1422 – 1424

<sup>21</sup> T1513.

<sup>22</sup> T990 – 991.

<sup>23</sup> T1971 – 1974.

<sup>24</sup> DAFF.0001.780.0003.

this matter in some more detail as it graphically demonstrates a significantly retrograde step in the quarantine procedures, opposed by a veterinarian with operational responsibility for quarantine but enforced by the National Program for purely budgetary reasons.

- 4.5. Dr Widders gave evidence that prior to mid 2004, a Level 4 Quarantine Officer at ECQS would document the temperatures that the grooms had taken and record those on a spreadsheet that could be accessed remotely by AQIS veterinarians at their office at Crewe Place so that they could monitor what was happening with the temperatures of horses in quarantine.<sup>25</sup> In his statement<sup>26</sup> and his evidence<sup>27</sup>, Dr Widders stated that such practice was terminated from June 2004 by an instruction from the National Program with the reason given that it was not a high priority for such a practice to continue when there were other demands on that officer's time. Dr Widders estimated that the actual time spent by the officer in entering the data for the spreadsheet was of the order of about half an hour per day.<sup>28</sup> Dr Widders was of the opinion that the change in procedure removed an important oversight of the horses' health by AQIS veterinarians.<sup>29</sup> Dr Widders gave evidence that in a conversation with Dr Michael Hibbert, then acting manager of the LAI and PEAQ programs, he expressed his opinion that it was important that such a procedure continue, but that Dr Hibbert maintained that there were other priorities upon such quarantine officer's time. Email correspondence between Dr Widders and Mr Ray Williams of ECQS<sup>30</sup> confirms such cessation of remote monitoring occurred by about 3 June 2004.
- 4.6. Dr Michael Hibbert gave evidence that he was aware of the practice of remote monitoring of horses' temperatures in 2004. He understood the practice was that the head groom collated temperatures into a spreadsheet that could be accessed remotely by AQIS veterinarians.<sup>31</sup> He denied having given any instructions that such a procedure should cease.<sup>32</sup> Dr Hibbert agreed that either himself or Dr Clegg would have been the managers at the relevant time who could give such a direction.<sup>33</sup> Dr Hibbert did not accept the proposition that the contents of the Staffing Review of the Live Animal Import Program<sup>34</sup> were in terms suggestive of a view on his part that monitoring of temperatures by AQIS staff was unnecessary as grooms could be relied upon to bring any abnormalities to the attention of AQIS.

---

<sup>25</sup> T991.

<sup>26</sup> WIT.AQIS.006.0001 at para 15.

<sup>27</sup> T991 – 992.

<sup>28</sup> T992.

<sup>29</sup> T992.

<sup>30</sup> WIT.AQIS.006.0025.

<sup>31</sup> T3741.

<sup>32</sup> T3741 – 3743.

<sup>33</sup> T3755 – 3756.

<sup>34</sup> DAFF.001.213.0214 at page 0232.

- 4.7. As regards the conflict of evidence between Dr Widders and Dr Hibbert, it is submitted as follows. Dr Widders gave clear and forthright evidence as to his recollection of a conversation with Dr Hibbert on such topic. The fact that such a direction was given is corroborated by the e-mail correspondence with Mr Williams in early June 2004. Dr Hibbert agrees that such direction would have only come from himself or Dr Clegg. That such a direction was given for budgetary reasons is corroborated to some extent with the tenor of the contents of the Live Animal Imports Staffing Review Report.<sup>35</sup> It is submitted that the evidence of Dr Widders would be preferred over that of Dr Hibbert and that the Commission would find that an important oversight of horses' health and therefore biosecurity was removed at the direction of the national program in mid 2004. Such step was taken despite objection by a suitably qualified and experienced veterinarian. It had no purpose but to reduce staffing costs and was clearly a retrograde step.
- 4.8. Mr Hankins gave evidence as to his understanding of the procedure for AQIS monitoring of horses' temperatures post-outbreak.<sup>36</sup> He described a system whereby the level 4 quarantine officer would go around the stalls and make a written note of the temperatures that had been recorded on the stall doors by the grooms, and collate such information and record it in electronic form. He understood that such information could be forwarded to Canberra on request. He did not understand that the electronic spreadsheet could be monitored remotely by AQIS veterinarians or that it was part of the procedure that such temperatures be notified on a regular basis to Canberra. The system had changed such that the spreadsheet would give a visual notification of a temperature greater than 38.5 degrees. Mr Hankins gave evidence that in those circumstances the quarantine officer would raise the issue generally with Mr Hankins himself and, failing that, with Dr Widders.<sup>37</sup>
- 4.9. Such procedure does not appear to be documented in the Clearance and Quarantine of Live Horses Live Animal Imports Standard Operating Procedure promulgated on 5 December 2007.<sup>38</sup> Such an important safeguard should be dealt with in the standard operating procedure by appropriate directions as to its implementation and auditing.
- 4.10. On an associated topic, the narrative of events of the emergence of clinical signs of respiratory illness at ECQS at paras 12.65 – 12.83 of the submissions of Counsel Assisting do not appear to specifically address the timing and circumstances of AQIS first coming into possession of any knowledge as to health abnormalities of any of the horses. Given the lack of any monitoring of the horses' health by AQIS staff, such knowledge of course could only come through

---

<sup>35</sup> DAFF.001.213.0232.

<sup>36</sup> T1967 – 1969.

<sup>37</sup> T1969.

<sup>38</sup> DAFF.0001.780.0003.

contact from staff employed by the importers or veterinarians engaged by same. Dr Widders gave evidence that the first indication he had of anything being amiss was a phone call from Dr Greg Nash on the morning of 20 August 2007 advising him of a number of stallions having spiked temperatures and other symptoms of concern over the weekend.<sup>39</sup> Dr Widders gave evidence that he was surprised that he had not been notified earlier<sup>40</sup> and especially in light of the elevated temperatures of a number of horses during previous days.<sup>41</sup>

## 5. DEPARTMENTAL STRUCTURAL CHANGE

- 5.1. The Commission heard much evidence as to the apparent operational disconnection between AQIS and Biosecurity Australia. The Commission heard evidence as to the historical reasons for the separation of the functions of AQIS and Biosecurity Australia. An opinion was expressed by Mr John Cahill, CEO of Biosecurity Australia,<sup>42</sup> that the quarantine system would benefit from a closer integration of operations between AQIS and Biosecurity Australia and that its status as an independent statutory entity may need to be reconsidered.
- 5.2. The Exposure Recommendations in paras. 31 – 39 provide a means by which Biosecurity Australia could adopt a more proactive approach to assessing and bringing to notice any concerns with respect to the biosecurity of horses imported into Australia. The implementation of this proposal will not require any further alteration to the current status of Biosecurity Australia. Consideration should also be given as to how AQIS/ Biosecurity Australia can work effectively with state based biosecurity agencies.
- 5.3. There is a wealth of evidence before the Commission as to the administrative failures of AQIS in addressing biosecurity risks associated with the importation of live horses. Part of the cause of such failure of administration seems to have been the so called “matrix management” system. Mr Hunter conceded in evidence that AQIS would need to review the matrix management system.<sup>43</sup> The Commission has heard expert evidence from Ms Heald as to the inherent difficulties with such a management system which include a lack of clarity of lines of authority and role responsibilities. The Exposure Recommendations in paras 3 – 18 effectively address such issue in the context of the importation of live horses by the creation of the offices of Inspector General of Horse Importation and Government Quarantine Veterinarian for Horse Importation. Such recommendations provide a more hierarchical management structure to address concerns particularly in relation to importation of live

---

<sup>39</sup> T1093.

<sup>40</sup> T1093.

<sup>41</sup> T1094.

<sup>42</sup> T4004 – 4006.

<sup>43</sup> T4095/3 – 4096/35

horses and do so in a very practical and effective way. However, the Commission, necessarily given its terms of reference, cannot recommend similar, and what experience suggests are necessary<sup>44</sup>, structural changes to the other operations of AQIS which also are meant to provide important protections in maintaining plant and animal quarantine. Whether or not those particular changes recommended in paras. 3 – 18 of the Exposure Recommendations are the most appropriate for a management restructure in the context of a wider restructure of AQIS remains to be seen. Whatever approach is taken towards the restructure of the management system of AQIS the focus must be upon the implementation, performance and monitoring of compliance of procedures that are soundly scientifically based in striving to assure biosecurity in importation of animals and plants in all areas.

## 6. AIRPORT FACILITIES

- 6.1. It is agreed that at both Sydney Kingsford Smith Airport and Melbourne Tullamarine Airport there should be facilities for the unloading and transfer of horses which enables appropriate biosecurity measures and procedures to be carried out effectively and safely from the perspective of the horses and those handling them.<sup>45</sup> It is agreed that such facilities at the airports should include a showering and changing facility.<sup>46</sup>
- 6.2. The submissions of Counsel Assisting<sup>47</sup> appear to accept that the initial sampling of live horses upon arrival by way of nasal swabs and/or blood samples should occur after arrival in the quarantine station rather than as a screening process at the airport. Such an approach is consistent with the weight of expert opinion as to the utility of a rapid testing screening process at the airport.<sup>48</sup> In the circumstances, the provision at the airports of the type of testing, examination and treatment facilities referred to in paras 20 and 21 of the Exposure Recommendations, whilst desirable, may not be essential, provided that the relevant quarantine facilities have provision for separation of consignments within the facility.<sup>49</sup>

AJ MacSporran S.C.

JJ Allen

(Counsel for State of Queensland)

<sup>44</sup> See eg. Submission of the NSW Farmers Association, Section 1.1, SUBS. FARM.001.0001 at p.3.

<sup>45</sup> Submissions of Counsel Assisting, para 16.49.

<sup>46</sup> Submissions of Counsel Assisting para. 16.50.

<sup>47</sup> Para 2.33.

<sup>48</sup> T645 – T648 (Dr Hee Song); T897 – 899, T910 – 912 (Mr Bruce McDonald); T960 – 961, T1115 – 1119, T1135, T1233 – 1235 (Dr Phil Widders); T1566, T1610 – 1611 (Dr Greg Nash); T2652 – 2654 (Dr Ainslie Brown); T3010 – 3011 (Dr Patricia Ellis); T3913 (Dr Watson).

<sup>49</sup> As contemplated in para 16.54 of the submissions of Counsel Assisting.