

# TRANSCRIPT

## ENVIRONMENT, NATURAL RESOURCES AND REGIONAL DEVELOPMENT COMMITTEE

### Inquiry into the CFA training college at Fiskville

Melbourne — 23 November 2015

#### Members

Ms Bronwyn Halfpenny — Chair

Mr Tim McCurdy — Deputy Chair

Mr Simon Ramsay

Mr Tim Richardson

Mr Bill Tilley

Ms Vicki Ward

Mr Daniel Young

#### Staff

Executive officer: Dr Janine Bush

Research officer: Mr Patrick O'Brien

#### Witnesses

Dr Cameron Bell, Manager, Veterinary Science,

Dr Tony Britt, Manager, Major Projects,

Dr Charles Milne, Chief Veterinary Officer, and

Mr Gordon Nash, SAHO-NLIS/NORM abattoir coordinator, Department of Economic Development, Jobs, Transport and Resources.

**The CHAIR** — Good afternoon. Thank you for coming in today. I welcome all representatives of the Department of Economic Development, Jobs, Transport and Resources: Dr Cameron Bell, manager, veterinary science; Dr Charles Milne, Chief Veterinary Officer; Mr Gordon Nash; and Dr Tony Britt. I will read out the formalities before we begin with proceedings, but we do have a problem, which I will flag in a moment.

As outlined in the guide provided to you by the secretariat, all evidence at this hearing is taken by the committee under the provisions of the Parliamentary Committees Act 2003 and other relevant legislation and attracts parliamentary privilege. Any comments you make outside the hearing will not be afforded such privilege. It is an act of contempt of Parliament to provide false or misleading evidence to the inquiry, and the committee may ask witnesses to come back again or to provide further information in writing. All evidence taken today is being recorded and you will receive a proof of the transcript to check for accuracy before it is made public.

However, we do have a problem. I do not think we will be able to proceed to questions right now. At 10.30 this morning we received from the Victorian Government Solicitor's Office your statements which go to, I think, some 180 or more pages. I really have to say that we are not really in a position to ask any questions until the committee has considered the documentation that has been received very late, this morning. I understand that we are going to have PrimeSafe representatives coming at 12.15 p.m. but we are not in a position to give you any further information than that because, as I said, we need to meet as a committee and determine what we do with the documentation and when in fact you will come before the committee to answer questions. With that said, we will suspend for another 5 minutes while we prepare for PrimeSafe, and we will have to call you again later.

Can you shed some light on why we received the statements at such a late time?

**Dr MILNE** — My understanding is that the statements took longer than expected to put together and they are very detailed, as you can see. It was important to collate all that information to give you a comprehensive account and so it was only this morning that those documents were complete.

**The CHAIR** — But when were you first asked to provide the statement? When did you do the statements, or when were you interviewed on the statements?

**Dr MILNE** — Some of the witnesses have been called very late in the process, so just last week.

**The CHAIR** — Last week. As I said, it is very unfortunate that we get them at such a late time and then we are not in a position to follow the timetable that has been set well in advance. Anyway, we will suspend the hearing and be in touch in terms of when it is that we can hear evidence from you.

**Mr RAMSAY** — Even though you provided statements late — and it is late; I think we are about an hour or three-quarters of an hour late in relation to your being due to present to the committee — do the statements actually stop or deny us the ability to ask questions? I mean, you are here to respond to certain questions from the committee regardless of what statements you might make in a written form.

**The CHAIR** — I think we need to at least look at them and then we will consider what we do. We will now suspend the hearing until later. Thank you.

**Witnesses withdrew.**

# TRANSCRIPT

## ENVIRONMENT, NATURAL RESOURCES AND REGIONAL DEVELOPMENT COMMITTEE

### Inquiry into the CFA training college at Fiskville

Melbourne — 23 November 2015

#### Members

Ms Bronwyn Halfpenny — Chair

Mr Tim McCurdy — Deputy Chair

Mr Simon Ramsay

Mr Tim Richardson

Mr Bill Tilley

Ms Vicki Ward

Mr Daniel Young

#### Staff

Executive officer: Dr Janine Bush

Research officer: Mr Patrick O'Brien

#### Witnesses

Dr Cameron Bell, Manager, Veterinary Science,

Dr Tony Britt, Manager, Major Projects,

Dr Charles Milne, Chief Veterinary Officer, and

Mr Gordon Nash, SAHO — NLIS/NORM abattoir coordinator, Department of Economic Development, Jobs, Transport and Resources.

**Necessary corrections to be notified to  
executive officer of committee**

**The CHAIR** — We will now recommence the hearing. I will not go through the formalities again because we adjourned your evidence earlier. Perhaps just for the record, if each of you could briefly explain why you are the person who is here and for what area you will be answering questions.

**Dr MILNE** — I am Charles Milne. I am the Chief Veterinary Officer for Victoria. I work in the Department of Economic Development, Jobs, Transport and Resources. I have been in the post since 1 July 2014, so subsequent to the events that we are looking at today. In my role as Chief Veterinary Officer I report directly to the executive director, biosecurity branch, and I am responsible for providing technical advice in the fields of animal health and welfare. In terms of my previous experience, prior to this job I was director of the food standards agency in Scotland for five years, when we managed a number of food incidents, and prior to that was for six years chief veterinary officer in Scotland. I am here today not so much to speak about the events but more about the policies of the department in relation to contaminated stock notices and the safety of food as it occurs today.

**Dr BELL** — My name is Cameron Bell. I am the manager of veterinary science at the Department of the Economic Development, Jobs, Transport and Resources. I have held this position since 2014 and I have been an employee of the department in various names since 2007. In 2013 I was principal veterinary officer for disease surveillance of the Department of Environment and Primary Industries and reported to Malcolm Ramsay, the acting chief veterinary officer for DEPI. My role as principal veterinary officer, disease surveillance, involved managing animal health programs and providing technical advice to support animal health surveillance and endemic livestock disease management, with the aim of facilitating market access for Victorian livestock and livestock products. I attended the Lloyds' property as the incident controller, with Gordon Nash — —

**The CHAIR** — Sorry; this was just to get an introduction before we ask you questions about the incidents.

**Mr NASH** — I am Gordon Nash. I am a senior animal health officer of the Department of Economic Development, Jobs, Transport and Resources, and have worked with the department in its various names since 1971. I coordinate chemical residues and the national livestock identification system, abattoir compliance work, and also perform animal health duties as an animal health officer for the Geelong district. I attended the Lloyds' farm on 25 September.

**Dr BRITT** — My name is Tony Britt. I am the manager of major projects within the market access and reform group within biosecurity in the department. I have held my current position since 2014 and been with the department since 1987. In 2013 I was the director of animal biosecurity and welfare, with responsibilities relating to livestock biosecurity policy and strategy, animal welfare, livestock management policy and IT systems relating to animal biosecurity. I reported directly to Cassandra Meagher, the executive director of biosecurity. I was involved in discussions leading to the issuing of the contaminated stock notice but did not attend the property on 25 September, and I was involved in discussions which led to the revoking of the notice and I signed that revoking of the notice and delivered it on 28 September.

**The CHAIR** — First, Dr Britt, can you just explain to the committee the legislation that provides for the issuing of a contaminated stock notice and what are the requirements that must be fulfilled to issue a contamination notice?

**Dr BRITT** — The relevant legislation is the Agricultural and Veterinary Chemical (Control of Use) Act 1992. As I understand it, the act defines 'contaminated' and contaminated means the presence of a chemical in livestock or livestock produce in excess of the maximum residue limit or, if there is no maximum residue limit, it references the Food Act and talks in terms of compliance or otherwise with the Food Act. The act also provides the legal framework for the issuing of a contaminated stock notice.

**The CHAIR** — In the case of the Lloyds' property and the contamination notice that was issued there, you said that there had to be either a maximum residue limit. That is part of the legislation. But that was not the case in this situation, because we have heard from PrimeSafe that there is no reference to PFOS. So what was the basis in terms of the law for issuing a stock contamination notice?

**Dr BRITT** — In the context of my involvement in discussions about the contaminated stock notice, it was in the context of whether the levels of PFOS that were present, or likely to be present, in the sheep constituted an issue in terms of the Food Act and whether on reasonable grounds we had concern about whether those livestock complied with the requirements of the Food Act.

**The CHAIR** — So what does the Food Act say in terms of the contamination notice?

**Dr BRITT** — As I understand it, the Food Act talks about contaminants. If food contains a contaminant which is a metal or non-metal contaminant in an amount that does not contravene the permitted level for that contaminant in the Food Act, then it is fine; or if it contains any matter or substance that is permitted in the Food Standards Code, then that is fine. So it references the Food Standards Code for contaminants that — —

**The CHAIR** — As we understand, that does not talk about PFOS either.

**Dr BRITT** — That is correct.

**The CHAIR** — Was there any legal basis for issuing the contamination notice?

**Dr BRITT** — The issue at the time was the status of the livestock relating to the Food Act and the Food Standards Code, and the doubt that existed about whether the livestock that were present on the farm indeed were compliant with the Food Standards Code and the Food Act or not.

**The CHAIR** — So the department was so concerned about the levels of PFOS in the livestock at the Lloyds' farm that they actually went outside of the law to issue the contamination notice?

**Dr BRITT** — I cannot comment on whether the action was outside of the law. I can comment, however, that at that time we had advice that four sheep, as I understand it and as I recall, had been tested some weeks earlier on the farm, and that each of those four sheep had detectable concentrations of PFOS in their serum. We had received advice that the levels of PFOS in liver — edible tissue — would be many times higher than what was reported in the serum. They were considerations. We were also advised that — —

**The CHAIR** — Who reported that there were those high levels in the liver, in the serum? You said it was reported to you.

**Dr BRITT** — Reference is made to it in my statement, but I received a copy of an email that contained information that the department had received, not me personally but a senior executive within the department, from the CFA about this particular incident — the detection of PFOS. Within that report that I was copied into, it made a number of comments which I think are pertinent to your question. It said that four sheep had been tested some weeks earlier, each of those four sheep had detectable concentrations of PFOS in their serum and that the levels in edible tissue, particularly liver, could be expected to be many times higher. The advice also said that the farmer could not certify his livestock for sale and that the farmer sold his sheep for both domestic and export consumption.

**The CHAIR** — When you said the farmer could not certify his livestock, what did that mean and who told you that?

**Dr BRITT** — That was reported to me in an email.

**The CHAIR** — Would Mr Nash or Mr Bell have more knowledge of this issue?

**Mr NASH** — No.

**Dr BELL** — No.

**Ms WARD** — What was the certification process? Is it organic certification?

**Dr BRITT** — My reading and interpretation of that comment was that the producer felt that he was unable to complete a national vendor declaration form. The national declaration form is supplied by an organisation called Livestock Production Assurance, and it contains questions, amongst other things, about the chemical exposures of the animals and whether the withholding periods and so forth had been observed. It is a declaration that producers make. It is commercially expected, so buyers are looking for a declaration regarding the husbandry of the animals that they are bidding on or buying relating to chemical exposures. The advice that I received in the email that I was copied into — —

**The CHAIR** — Sorry, this is the advice from the CFA?

**Dr BRITT** — To a senior executive within the department, and that was then reported to me.

**The CHAIR** — Have you got a copy of that email, I guess, is the — —

**Ms WARD** — Who sent the email?

**Dr BRITT** — The email I am looking at here is dated 24 September at I think the time is 8.20 p.m. It is from Cassandra Meagher. It was copied to Cameron Bell and me, and copies were sent to others. It says:

Thanks for your quick mobilisation this afternoon. Ross and I have just got verbal advice from —  
a member of the department's executive —

... who has spoken with the CFA, and below are my notes on the conversation.

There is information here that relates to exactly what we were dealing with in terms of the sampling of the four sheep, the detection of the PFOS, some comments about the number of sheep on the property, that no lambs had been tested — —

**The CHAIR** — So we do not know who the senior officer or senior executive is?

**Dr BRITT** — The name of the senior executive that, according to this email, had contact and spoke to the CFA was Mr James Flintoft.

**The CHAIR** — Okay, thank you.

**Mr McCURDY** — That notice was revoked three days later?

**Dr BRITT** — That is correct.

**Mr McCURDY** — Did anything change in that time? Was it revoked because of new evidence or a change in evidence or did you believe that it had been issued without proper authority?

**Dr BRITT** — I should say that whilst I was party to a meeting that occurred on 24 September in the late afternoon and was copied into a number of emails, there were a number of other meetings that are pertinent, I think, to your question which I was not part of. Whilst I received some email traffic in regard to those meetings, I cannot comment on exactly what was discussed and the detail.

But at the time the contaminated stock notice was issued, we knew that sheep had been tested. There were detections in the four sheep — with higher levels likely in liver. The farmer could not certify, from what we were told, his livestock for sale. We also had a report from a senior department officer who had undertaken a literature search and raised concerns about the toxicity of PFOS. That is the context in which the contaminated stock notice was issued.

Subsequent to the issuing of the contaminated stock notice, we had the opportunity in the following days to learn more about it from both the CFA and the CFA's representatives, but importantly from my point of view in the context of my decision to revoke the contaminated stock notice was advice that I received in writing from the then chief health officer, Dr Rosemary Lester. There are a number of items of correspondence from Dr Lester that provided assurances about the safety, in particular, of the lambs, which were the issue of primary interest given that one would have anticipated, given the nature of sheep production, that those lambs would have been ready for turning off at some stage in the following weeks. So Rosemary — —

**The CHAIR** — Sorry, we understood that they were not going to be moving the sheep from the property until December, and this was in September, so there were a number of months. Mr Nash, were you advised that that was the case?

**Mr NASH** — I advised that there were no sheep to be moved off the property until, as Dr Britt said, our management team had a look at the situation. I was certainly under the impression that some testing was to take place in the near future on the property of livestock and possible source samples. I certainly was not involved in developing that, but that was the grounds — —

**The CHAIR** — Sorry, I thought Dr Britt was saying that one of the reasons for the notice was that the animals were going to be moved off the property, whereas my understanding was that there was no urgency. The livestock were not going to be moved off the property in the immediate days or weeks. That is all.

**Dr BRITT** — Chair, if I could respond to that. At the time, on 24 September and as far as I can recall on 25 September, when the contaminated stock notice was issued, we did not have information about the intentions of the owner vis-a-vis sale of those livestock. We had information about the detection, we had information about the potential importance or significance of the detection, the producers marketing strategy — —

**The CHAIR** — I think maybe Mr Nash or Dr Bell could clarify that, because you may not have had the information, but I understand and the information we have is that the farmers did advise that they were not going to be moving their stock until closer to Christmas, so that would be a number of months later, in terms of the contamination notice not being an urgent thing. You may not know, but perhaps Mr Bell could tell us, or Mr Nash.

**Dr BELL** — Certainly. When Mr Nash and I met the Lloyds on 25 September, Mr Lloyd did indicate that he was not intending on selling lambs until closer to Christmas, when they were ready for sale.

**The CHAIR** — Okay. Sorry to interrupt.

**Mr McCURDY** — I do not know who is the best to answer this question, but maybe Dr Milne. Were the stock contaminated? Regardless of the notice being issued and revoked and all that, in any language and in any time or space would you consider this stock to be contaminated, because the ramifications that have flown on from that have been quite severe for the Lloyd family? I am just trying to establish if the stock were ever contaminated.

**Dr MILNE** — I think you need to look at definitions here. Under the agriculture and veterinary chemicals control of use regulations there are two tests. The first test is, as you say, whether the contaminants are in excess of an MRL; but there is another test — that is, where there is not an MRL if there is an actual or likely risk that the product from those animals does not comply with the Food Act, that is also defined as contamination and provides a legal basis for serving a notice.

Then you have to turn to the Food Act to look at what the Food Act is trying to achieve. There are two tests in the Food Act. The first is whether a food is unsafe, and here there is a definition of the likelihood of causing harm — the actual or likely possibility of causing harm — and then the unsuitability. The unsuitability is linked to where there is a substance present in the food product which is foreign to the nature of the food. Taking that into account, can you say whether those animals are contaminated? Clearly there is an interpretation when there is uncertainty that there is a potential for risk, so it is quite, to my mind, legitimate to say that the animals are contaminated.

Once an assessment has been made to assess the tests in the Food Act, if it is then deemed that it is not appropriate for the Food Act, it is entirely inappropriate to remove that notice or revoke the notice. I think the really important thing to recognise in handling incidents of this nature is that you are working in a climate of uncertainty, and the primary test is always the protection of public health. It is under the precautionary principle that it is entirely appropriate to go in hard, and when the information becomes available that allows you to understand the risk better, then you relax the measures that you have implemented.

**Mr McCURDY** — That makes sense. Thank you.

**The CHAIR** — How often would you issue contamination notices on the concern that there may be a risk, say, in the last month?

**Dr MILNE** — I can tell you for the last year. For the last year we have issued or are about to issue 10 contaminated stock notices, all of which are associated with lead poisoning. Some issues are relatively common — —

**The CHAIR** — And that is in terms of the maximum residual amount?

**Dr MILNE** — No, that is to do with the maximum limits because it is not a prohibited substance.

**The CHAIR** — Sorry, yes.

**Dr MILNE** — We have worked through standard operating procedures for lead with the department of health so that everybody understands what the implications are. The situation with lead is that if animals are determined to be above a certain level, a notice is applied to those animals for two years. The notice is only lifted before those two years are completed if the owner undertakes sufficient testing to assure the department that the levels have fallen below the permitted levels, or below the acceptable levels, I should say.

**Mr RICHARDSON** — Thank you, gentlemen, for coming in. I just want to touch quickly on the statements that have been provided and take in a few points in those statements, if you bear with me for a moment, particularly going through the sequence of events, so we can lay that out. Looking at page 4, the issuing of the stock contamination notice on the 24th — and I am looking at your statement, Dr Bell, but I am also currently looking at yours, Dr Britt, which correlate with each other — I am just going through and seeing roundtable meetings occurring, but then a particular a flurry of activity on 24 September leading through to the evening, and quite late into the evening. I just want to make a point about the involvement of the chief health officer and the media strategy that was put together. What was the nature of that engagement and the media strategy that was put together?

**Dr BRITT** — The context in which the information was provided to the department about the detection in the sheep, as it was presented to me and as I recall, there was concern about imminent media coverage, that the media coverage was likely to be hostile towards the CFA, and that the media coverage would include concerns about the safety of the livestock given that there had been detection in the livestock.

**Mr RICHARDSON** — And there were teleconferences with representatives from the department and the CFA as well?

**Dr BRITT** — Not that I was party to.

**Mr RICHARDSON** — What about you, Dr Bell?

**Dr BELL** — I was just going to say that certainly my statement indicates that it was not until the following day, 25 September at 9 o'clock. Paragraph 22 details the teleconference that did involve CFA representatives. Later that morning, paragraph 23 refers to another teleconference with representatives from the minister's office, Roger Drew, the consulting toxicologist — —

**Mr RICHARDSON** — I note that at paragraph 28 acting secretary Bernie O'Sullivan had correspondence then with the Acting Premier and various ministers.

**Dr BELL** — That was on the evening of the 24th, yes.

**Mr RICHARDSON** — Yes. And that was during the period of a stock contamination notice being issued?

**Dr BELL** — No, the contaminated stock notice was issued the following day, on the evening of 25 September.

**Mr RICHARDSON** — So it was known that that was coming on the 25th?

**Dr BELL** — Yes. We first received information that there was an issue very late on the 24th. The first internal teleconference we had is detailed in paragraphs 10, 11 and 12. That was the first discussion internally that we had about the issue.

**Mr RICHARDSON** — Just taking you, Dr Britt, to your statement on page 6, at paragraph 24 it says that during the teleconference it was discussed with Mr Wootten, Ms Herman and to Dr Drew, who were going to meet the Lloyd family and explain the test results of the four ewes and that you explained the Australian government department's responsibility. Can you elaborate further on that conversation?

**Dr BRITT** — Sorry, was it point 34?

**Mr RICHARDSON** — No, point 24.

**Mr BELL** — I think that was my statement.



**Mr RICHARDSON** — Oh, that is your one there, yes. So what was the nature of that?

**Mr BELL** — That teleconference took place on Wednesday, 25 September at 10.20 a.m. There were a number of participants, including representatives from the minister's office and Roger Drew, Ms Sherry Herman from the CFA and a number of other people. At that meeting Ms Herman and Dr Drew indicated that they were going to meet the Lloyd family later that day and explain the test results of the four ewes and the dam water. My notes from that teleconference indicate that Dr Britt gave some background information. He explained that the Australian government's Department of Agriculture has responsibility for overseas exports and for certifying the health of livestock products and livestock being exported. This was being provided just to give general background.

My notes indicate, and as documented in my statement, Dr Britt went on to further explain that we would be contacting the Australian chief veterinary officer to alert him of the situation. Providing such a notification to the Australian chief veterinary officer is certainly a normal approach when there are potential or real implications for livestock health or the health of products being exported from Australia. Dr Britt also advised that PrimeSafe was the responsible agency for domestic abattoirs.

**Mr RICHARDSON** — And then reading through it and stepping through the evidence, there are a number of conversations and meetings and teleconferences leading up to the revocation of that stock notice. I think that is evident in the statements. And there is an involvement of ministers and relevant departmental officials. In those discussions, was the position or compensating the Lloyds ever discussed?

**Mr BELL** — No, I cannot remember it being discussed, although there is reference in a very early email. Do you mind if I just check?

**The CHAIR** — Is it an email that you received?

**Dr BELL** — It is, yes. If you refer to attachment CB-5 in my statement. This was an email from Cassandra Meagher, the Executive Director for biosecurity within our department. She was just providing details of a conversation that she had had with one of our senior executives, James Flintoft. I will read point 9:

CFA is planning to meet and discuss with farmer — go through testing and discuss financial position/compensation. Have advised James that it may be too early to start compensation discussions. Farmer has indicated he's unable to certify his stock for sale.

Certainly in the lead-up to the revoking of the contaminated stock notice, that is the only time I can recall that compensation was discussed.

**Mr RICHARDSON** — The reason I ask that is that some days later the Lloyds on record have said that were offered \$350 000 to walk away but then were given the condition that they were not able to consult any representatives or any legal advisers leading up to that. So can you confirm that there were no discussions with various advisers, with the department or with government ministers at the time to pay out the Lloyds to move this on?

**Dr BELL** — I certainly was not involved in any discussions to that effect.

**Mr RICHARDSON** — Dr Britt?

**Dr BRITT** — No, there is nothing that I can recall that I was involved with that mentioned compensation in that context.

**Mr RICHARDSON** — So those meetings and the teleconferences about the meetings — —

**The CHAIR** — So can I just clarify? When you say 'in that context', what do you mean by 'compensation in that context'?

**Dr BRITT** — As I understood the question — I might have misunderstood it — it was in the context of a payout to put the matter behind the CFA, I assume. There were no discussions that I was a part of where that was mentioned.

**The CHAIR** — Or any compensation at all?

**Dr BRITT** — The only recollection I have of any discussion was in the context of some remediation work on their dam, but I was peripheral to that discussion. It was not relevant to the department's involvement. It was to do with remediation work and it was not something that was relevant to the livestock issues.

**Ms WARD** — So that was in terms of somebody else paying to remediate the dam?

**Dr BRITT** — That is what I assume but, as I say, there was a meeting where my involvement was to talk about revoking the contaminated stock notice, but there were other things discussed at the meetings, which were not directly relating to my interests in that issue.

**Mr RICHARDSON** — The point I raised that for is that on the 24th you have got the first discussion in the evening of the stock contamination notice coming forth; on the 25th there is a media strategy that is prepped for that; two days later on the 27th there is a revocation of that; and a few days later the Lloyds are alleged to have been offered \$350 000 with the proviso that they take it that day and that night, otherwise it would not be on the table anymore and they were not to consult any third parties or legal advisers. So just to clarify it for Hansard, there was no discussion of that in the teleconferences or in the dialogue between various representatives?

**Dr BRITT** — I have no knowledge of that offer being made.

**Mr TILLEY** — Dr Milne, I appreciate that you have come on after this, but you did mention that you had done extensive work in Scotland. Had you come across any issues with PFOS in Scotland at all?

**Dr MILNE** — No, not PFOS, but a number of other different chemical contaminants that needed to be managed in a similar way.

**Mr TILLEY** — That is all I needed there. I just wanted to qualify with Dr Britt that the email you were referring to at the start is part of your statement, is it?

**Dr BRITT** — That is correct.

**Mr TILLEY** — Can I just get a reference for that one?

**Dr BRITT** — It is the same email as Cameron referenced as well regarding the compensation issue. It is dated 24 September at 8.20 p.m. from Cassandra Meagher to both Dr Bell and me.

**Mr TILLEY** — So which attachment is it? Can you help us out there?

**Dr BRITT** — Sorry, AB4.

**Ms WARD** — Is it common to issue and rescind notices in three days? Anyone?

**Dr MILNE** — Can I talk in general terms? In terms of the department, as I have said earlier on, it is very rare to serve stock contamination notices. The majority of them are served on substances that we are aware of, like lead. In terms of the principles, obviously the provision in legislation is there to manage the risk to public health, environment, animal health, trade — all these issues — and so it is entirely appropriate to serve a notice. As I say, often where there is uncertainty and a lot of information is not available on the chemical, then the appropriate action is to put on a notice immediately.

**Ms WARD** — No, I understand that. I think we have covered that quite well, thank you. Is it common?

**Dr MILNE** — Okay. No, that is okay. So in answer to your question, it is very uncommon.

**Ms WARD** — It is uncommon. So unprecedented?

**Dr MILNE** — No, I would not say unprecedented, but it is uncommon.

**Mr WATT** — So when was the last time that this has occurred?

**Dr MILNE** — In the department? I could not speak to that.

**Dr BRITT** — I have no idea.

**Ms WARD** — So not in your memory?

**Dr BRITT** — I will make, if it is okay, one observation. As Dr Milne has mentioned, the circumstances when contaminated stock notices are used most frequently is where cattle in particular access lead, usually a lead battery — an old car battery — and they start licking and chewing on the battery, absorbing the lead as they do it, until you get to a point where one or more of them has received a toxic dose and they die. The question is: what is the lead status of their companions, the cohort — the other cattle in the herd? Our procedure is clear on this. When you have a lead poisoning case, you have dead animals. A contaminated stock notice is issued, and a procedure is then followed to determine which, if any, of the companions have been exposed. Once you have established that there has been no exposure or that the level of exposure is inconsequential, then the contaminated stock notice is repealed, and that is discussed in our procedures.

**Ms WARD** — I understand, thank you.

**The CHAIR** — Do we have a copy of the procedures?

**Dr BRITT** — Yes.

**The CHAIR** — Thank you. That was in the documents that you provided today?

**Dr BRITT** — That is correct.

**Ms WARD** — But none of you can remember this occurring before, where it is issued and rescinded in three days?

**Dr BRITT** — In three days?

**Ms WARD** — Similar short turnaround.

**Dr BRITT** — Our use of contaminated stock notices is typically in the context of lead — —

**Ms WARD** — No, I understand.

**Dr BRITT** — and you cannot get results in three days.

**Ms WARD** — So it is unprecedented. Going back to what Bronwyn was saying, you were advised by the Lloyds that the stock was not going to be moved until December, so the immediate concern around the stock being moved off site was not there. Why was the stock notice still issued? Did you not trust what the Lloyds were telling you about them moving their sheep?

**Dr MILNE** — If it is helpful, it is good administrative procedure. Owners may tell you one thing and they may believe one thing, but the reality is that it is helpful in terms of clarity if you serve a notice specifically detailing what it is that the owners are required to comply with. This is not unique to chemical contaminants. We also use similar notices in disease control measures where we quarantine premises where there is a suspicion of disease. These notices can be lifted — as indeed was the case in January this year — within 24 hours, when you determine that actually that disease is not present. There is a direct parallel with these notices, but the serving of a notice actually provides clarity for the person on the premises.

**Ms WARD** — Were you concerned about this quick turnaround and its effect on the Lloyds and their livestock and their business?

**Dr MILNE** — Again, the principle is that you remove the notice as quickly as is proportional, bearing in mind the precautionary principle and the need to protect public health. In terms of my career and the incidents that I have dealt with, you always take that approach: you go in hard, and you relax as soon as it is safe to do so. Yes, that can have an impact on the owners, but actually if you do not take that approach and products get onto the market, then you can have a far more serious consequence where people's health or indeed their lives can be put at risk.

**Ms WARD** — I understand that one of your staff has done a literature search, has looked through and has found some articles that have concerned that person. You have issued the notice, and I appreciate that you were acting in a precautionary manner, as we would expect you to do, so how can these concerns then be alleviated in

only three days? There are such growing amounts of literature around this issue. There is a spectrum of thought on PFOS and PFOA and how it affects the community. How in three days could you be assured that it was safe and it was the right thing for you to rescind that notice?

**Dr MILNE** — I cannot speak for that specific event because I was not there, but in terms of if there was a similar incident today — —

**The CHAIR** — Perhaps somebody else.

**Ms WARD** — How about we get the person who was there to speak?

**Dr BRITT** — Chair, if I might, I am happy to respond to that question. In the days that had followed the issuing of the contaminated stock notice there was the opportunity to meet and engage with the department of health and the chief health officer, \*Dr Lester, and on — —

**Ms WARD** — Who was advising them?

**Dr BRITT** — Sorry?

**The CHAIR** — These meetings that were held, I think there was the CFA, Dr Drew, the former DEPI representatives and maybe one of you and some ministers might have been there. What was the thinking at the time? It would have been very concerning, I guess, for the government and departments to hear about something called PFOS and not know how extended it is, how many people it affects or how many properties it affects. So there must have been a lot of pressure to reverse that contamination notice. On what basis was it reversed? Not who said to do it — I guess that is another question — but on what basis was it reversed?

**Dr BRITT** — There was no pressure on me from ministers or ministers' offices or any other party to revoke the contaminated stock notice. The events that occurred after it was issued included the opportunity to talk with the department of health and to hearing Dr Drew. On 25 September at 6.40 I received an email from the then chief health officer, Dr Lester, which I refer to in my statement, which concludes with the statement:

However my summary advice is that lambs sourced from this property do not — —

**Ms WARD** — Sorry, are you reading from the stuff that we have already got?

**Dr BRITT** — That is correct. This is attachment AB12.

**Ms WARD** — What I am interested in, if you can talk us through briefly — so you have received advice from Rosemary Lester. Who has she got her advice from?

**Dr BRITT** — Sorry, you would have to talk to Dr Lester about the source of her advice.

**Ms WARD** — Sure. You have also sought advice from Dr Drew who was acting on behalf of the CFA?

**Dr BRITT** — No. I was present at a meeting on 27 September at which Dr Drew presented, and I obviously took into account his opinion, but the opinion that I valued was the opinion from the chief health officer.

**Ms WARD** — Did you continue to do a literature review yourselves, or did it just end in the days before it was issued?

**Dr BRITT** — I had a look — to the extent that I was able in the limited time I had available — at the literature, but there was considerable information that was becoming available and — —

**Ms WARD** — Sorry, considerable information was becoming available through your own search or through the information from Dr Lester and from Dr Drew?

**Dr BRITT** — No, Dr Lester and Dr Drew's presentation at the meeting on the 27th.

**Ms WARD** — Are you satisfied that you have comprehensive knowledge of PFOS and PFOA, their effects and what they can do in the community and to human health?

**Dr BRITT** — My decision to revoke the contaminated stock notice relied on the advice I received from the chief health officer.

**Ms WARD** — Are you satisfied that your department is across this chemical and its pollutant activities and how it affects people and livestock?

**Dr BRITT** — I think your question is in the context of the contaminated stock notice, and the decision that was made to revoke the contaminated stock notice on 28 September was based on advice from the department of health at the senior level.

**Ms WARD** — Thank you. I ask this because you may be confronted with this circumstance again. There may be other sites that have also got this issue. We know that there are emerging sites in New South Wales, we know that there are sites in Queensland, we know that there are sites in Western Australia, so this is something that you will be confronted with again, I suspect. So again that is my question to you: do you feel that your department has done enough of its own independent research to really understand PFOS and PFOA and how they can affect the environment and how they can affect livestock, fisheries and so on?

**Dr BELL** — I think it is important to note that the department of health has lead responsibility for public health matters. I guess we provide a supporting role, particularly where there are livestock involved or zoonotic diseases that are transmissible between animals and humans, but ultimately I think the department of health takes that lead.

**Ms WARD** — How much of your own research have you done in regard to lead, then?

**Dr BELL** — I think lead poisoning is a well-understood condition of livestock. It has been recognised for decades, and I think as a result we have well-documented procedures. This is quite a different matter.

**Dr MILNE** — If I can add to that, the original way that the lead issues were managed in livestock was that the notice remained in place until tests were undertaken to demonstrate that the levels had fallen below acceptable levels.

**Ms WARD** — I understand that, but I am asking about your own knowledge about lead.

**Dr MILNE** — No, but I am coming onto that, because it is really important.

**The CHAIR** — They had fallen below, the tests?

**Dr MILNE** — Yes.

**The CHAIR** — So the first fall was much higher?

**Dr MILNE** — Yes. So the way that we managed this when we had a lead incident was the notice stayed in place until tests demonstrated that the levels in the animal had fallen below acceptable levels. What happened then was a body of evidence through that testing emerged that allowed us to implement a change in procedure which said that we could put in place restrictions on the animals for two years and then the notice would come off, unless the farmer wished to do testing to lift it before that time. The point I am trying to make is, as more evidence becomes available, the policies and the procedures are refined.

**Ms WARD** — So, as we learn more and more about PFOS and PFOA, your attitude to this chemical could change again?

**Dr MILNE** — Absolutely. So we are monitoring literature out there. In terms of the public health impact, we will always take advice from the Chief Health Officer. That is his or her remit. In terms of animal health, there have been a number of developments recently with work being undertaken on ruminants that have increased our understanding of the levels that are found in ruminants, and we are monitoring that situation. The reality is to date, in the case of these farms that have been adjacent to this site, there have been no indications of animal health issues associated with PFOS. So from a veterinary perspective, we are not putting controls in place for animal health, but any controls that we put in place for human health and the food chain will be advised by the Chief Health Officer.

**Ms WARD** — I understand that on one of the farms there has been a birth defect, I think with the lambs.

**Dr MILNE** — A number of birth defects occur for a vast array of —

**Ms WARD** — A variety of reasons. Yes, I know.

**Dr MILNE** — and the evidence to date suggests that in terms of birth there can be indications of early birth and low live weight at birth.

**Ms WARD** — What is your process moving forward to understand how these chemicals do affect animals?

**Dr MILNE** — The study that Dr Drew undertook on the sheep was a very valuable one, though there were no cattle on that premises. What we are looking to do with cattle is we are working with another neighbouring premises to actually take samples from cattle at a time during the management process when these animals are slaughtered naturally, because we do need tissue samples and it would be unjustifiable to kill animals just to further the knowledge where there is no perceived risk. We are looking to take samples from stock, from cattle, as they are slaughtered, to increase our understanding. The current research in cattle would suggest that for short-term exposure, 28 days, there is a good correlation between the levels in serum and the levels in tissue, but what we are dealing with here is potentially a longer term contamination. That is why it is useful to take these additional samples. Monitoring the literature is one thing but also we are taking the opportunity, when it presents, of actually taking direct samples to inform our policies going forward.

**Ms WARD** — If there is no evidence of adverse health effects in livestock, then what message do stock contamination notices send to the public when it becomes aware that there have been issues?

**Dr MILNE** — Sorry — could you repeat that?

**Ms WARD** — If there is no evidence of adverse health effects in livestock, then what message does the stock contamination notice send to the public? I understand the predicament that you are in, but is there a better way to handle this process where it does not unnecessarily create concern?

**Dr MILNE** — The purpose of the Agricultural and Veterinary Chemicals (Control of Use) Act is, on one level, the protection of animal health but it is the protection of human health, the environment, trade and the impact on the food chain. So it is entirely appropriate to serve a contaminated stock notice to manage these other potential impacts of contamination of livestock.

**Ms WARD** — I understand, but how do you restore confidence?

**Dr MILNE** — I think you restore confidence by ensuring that you have a robust procedure to lift the notice.

**Ms WARD** — Is three days a robust procedure, do you think?

**Dr MILNE** — I think it varies. There are lots of instances I have managed in my lifetime that vary. If you look at BSE in cattle, it took years to determine what the impact on the human population was. There are other times when you can rapidly — because information is there, even though you do not have it immediately to hand — ascertain what the risk is like.

**Ms WARD** — But it is a concern, though, when it is continually emerging.

**Dr MILNE** — Absolutely, and that is the very nature of the game.

**Ms WARD** — And we do not have broad agreement here amongst scientists, amongst toxicologists and amongst epidemiologists of how this chemical works.

**Dr MILNE** — And that is why we as a department will take the advice of the Chief Health Officer, who will weigh all those different pieces of evidence and make a determination on whether there is a risk to human health.

**Ms WARD** — Thank you.

**The CHAIR** — It sounds like you are grappling, just as this committee is, in terms of the different information and evidence around PFOS. One of the things that we are hearing, as you were just saying with the mad cow disease — I am not comparing the two, of course — is that often things take a lot longer. This is one of the issues, is it not, that there are certain things that may be happening and it is to how great an extent do we do the proportional principle to ensure the protection of people? I think we would all hate to see in 10 or 20 years time, if we do not do anything about it now, that the evidence is that it has become of great risk to people. Thank you for presenting to us today. If we have any further questions, if you do not mind, after thoroughly going through your statement we may seek further information from you.

**Witnesses withdrew.**