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AGRICULTURE, RESOURCES AND ENVIRONMENT SUBCOMMITTEE

Members present:

Mr IP Rickuss MP (Chair)
Mr JN Costigan MP
Mr SV Cox MP
Ms MA Maddern MP
Mr MJ Trout MP

Staff present:

Mr R Hansen (Research Director)
Mr M Gorringe (Principal Research Officer)

PUBLIC HEARING—INQUIRY INTO THE BIOSECURITY BILL 2013

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 5 DECEMBER 2013

Brisbane

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Subcommittee met at 12.28 pm

BELL, Mr Patrick, General Manager, Strategy and Legislation, Biosecurity Queensland, Department of Agriculture, Fisheries and Forestry

CLARKE, Ms Marguerite, Manager, Biosecurity Legislation, Biosecurity Queensland, Department of Agriculture, Fisheries and Forestry

THOMPSON, Dr Jim, Chief Biosecurity Officer, Biosecurity Queensland, Department of Agriculture, Fisheries and Forestry

CHAIR: Welcome, ladies and gentlemen. I declare this hearing of the Agriculture, Resources and Environment Committee open. I acknowledge the traditional owners of the land this meeting is taking place on. I am Ian Rickuss, the chair of the committee. The other members of the committee are Jason Costigan, Anne Maddern, Sam Cox and Michael Trout. This is a subcommittee of the full committee that will hear this briefing this morning. December gets a bit difficult, as I am sure you are aware.

Please note that these proceedings are being broadcast live via the parliamentary website. The purpose of this meeting is for the committee to examine the Biosecurity Bill 2013. We will begin today with a briefing from the department. I remind honourable members that departmental officers are here to provide factual information, they are not here to give opinions on the merits or otherwise of the bill. Any questions about policy should be directed to the minister. Before we start can we make sure that phones are switched off. Would you like to start, Jim?

Dr Thompson: Thanks for the opportunity to present an overview of the Biosecurity Bill today. As you know, biosecurity is involved with minimising the impacts of pests and diseases principally on agriculture. Livestock and plants is the main area of concern for us, but we are also involved in weeds and pest animals. So biosecurity is a very broad business. We do this through a number of programs, particularly the preparedness, prevention, response and ongoing management areas of biosecurity. When Biosecurity Queensland first commenced in 2007 a range of diverse business groups from across government were put together and with them they brought many acts and regulations. We have continued to work with those instruments since then. That has been over the last seven years. We also brought with us in 2007 ongoing fire ant programs and programs dealing with electric ants, a range of weeds and citrus canker. All those were running at the time that Biosecurity was put together. Since then we have obviously dealt with a range of other pests and diseases. Principally equine influenza, nearly 30 hendra cases and a range of other pests and diseases of some prominence.

Queensland is undoubtedly the front-line state for biosecurity in Australia. We get more pests and diseases than any other state of national significance and we have dealt with many more incidents in the last seven years than any other state in Australia. During 2012-13 alone we responded to 11 new significant animal incidents, four significant plant biosecurity incidents and a number of invasive plants and animals. Other threats included the ongoing Bovine Johnne's disease case, which is still underway, the Australian bat lyssavirus case in the Southern Downs, red witchweed detection near Mackay and confirmed cases of avian influenza near in Toowoomba in poultry, confirmed cases of potato spindle tuber viroid in Toowoomba, exotic fruit fly detections and obviously, as I said before, the ongoing hendra case. They are very broad and cover a range of different areas. The total cost of responding to these have been many millions of dollars. It is really important that we have a system that allows us to deal with them effectively.

We are also involved in transition to management programs. These are eradication programs where nationally they have stopped the cost sharing arrangements, and those include Asian honey bees and myrtle rust. There are some difficulties associated with those programs as they go from national control to state control. We expect biosecurity threats over time to increase, particularly with Queensland's diverse geographic and climatic conditions which are suitable for the establishment of a range of pest animal diseases. Our extensive coastline and the proximity to

Asian and Pacific neighbours means that we are the most likely state to get the new pests and diseases in Australia. A lot of that is associated with increased passenger movement and global trade. A lot of the pests we see today come in with global trade movements.

The impact of any outbreak of any significant disease on Queensland's export industries could result in immediate market access restrictions and a range of problems for industry and associated industries. We really need to be able to move quickly and rebuild confidence and get brand image back if some of those things occur. Ongoing market access for Queensland is really dependent on us being able to respond very rapidly to managing new biosecurity threats. Of course, the biggest threat that we face and the one we always hold up as the one we have got to be ready for is foot and mouth. If that comes it will cost billions of dollars in Australia, there is no doubt about that, and have the potential, depending on how quickly we get it, to bring the cattle, sheep and pig industries to their knees.

CHAIR: Anthrax is the same as foot and mouth?

Dr Thompson: No, anthrax is a different disease. It is a completely separate disease. It has been in Australia in the past and we have managed to control those incidents.

CHAIR: I will ask you about that later.

Dr Thompson: Queensland really needs the best and most contemporary legislation it can have. As the minister indicated in his explanatory speech, the bill gives us the opportunity to develop a single cohesive legislative framework to deal with all the pests and diseases which I just spoke about and the flexibility to allow us to respond in a timely way. It also will be there to manage biological, chemical and physical contaminants associated with carriers such as livestock, plants, animals, animal feed and fertilisers. We put a lot of chemicals and a lot of other things into a range of different things. We need to be able to test for those and control those.

The bill will provide confidence that market access requirements to our animal industries are able to be met through effective testing. We need to be able to trace and register all properties where we think these things will be at risk. We need to be able to track, find and manage pests when they get there. That is a very critical part of biosecurity responses and the bill goes a long way to setting up a regime to allow that to happen. I guess the other thing that we need to be aware of is that Biosecurity Queensland works collaboratively under a strong and mature national biosecurity system overseen by what is called the Intergovernmental Agreement on Biosecurity and that is in turn linked to international agreements. So we do have a very mature approach to biosecurity across Australia. We have a number of national agreements in place that Queensland is signatory to and ones that we need to continue to be able to manage. Particular ones are the Emergency Animal Disease Response Agreement for animal pests and diseases and the Emergency Plant Pest Response Deed for plant pests and diseases. Both of those ones have industry as co-signatories so it is a very important document for us across the board in relation to our engagement with industries. For pests that fall outside of that in terms of the environmental impacts, we also have the National Environmental Biosecurity Response Agreement. That is a fairly new agreement that has been established and set up and it is one that has not yet been tested at the national level.

The bill will also be a key instrument for Biosecurity Queensland to implement the Commission of Audit's eight key principles including focusing on functions that other parties cannot or will not undertake, facilitating contestability in service delivery, greater workforce flexibility and building productive capacity. Traditionally a lot of the jobs in Biosecurity around certification assurance of goods and products that go from Queensland elsewhere or come into Queensland are done by Biosecurity inspectors. The bill provides a real opportunity for us to look at alternative delivery mechanisms in those areas. The bill will enable certification assurance schemes to be extended beyond plants to all biosecurity matter and enable the private sector to tailor risk management based on their best practice and their own unique circumstances. In effect, individuals and individual businesses will be able to help themselves in biosecurity and that in turn will provide benefits for government.

The bill provides flexibility for the private sector to voluntarily enter into compliance agreements with government to self-manage risks and certify that all regulatory requirements have been met. This goes towards the process of shared responsibility in biosecurity and that is very much the central tenet of the bill. Biosecurity Queensland currently audits businesses to ensure that their certification arrangements for trade across the country are working effectively and the bill will allow contestability in this area to allow others, other than government, to perhaps come into that process which we think can greatly help industry and speed things up.

The bill also will enhance the capability and flexibility of front-line resources to better deliver for clients and overcome previous inadequacies we had with emergency responses, prevention, surveillance, compliance and enforcement programs which we were trying to run across a range of different acts and regulations. It became quite difficult when we were dealing with a range of different pests. Part of that process will be comprehensive regulatory tools and associated powers such as biosecurity zones, surveillance and control programs and biosecurity audits that we can tailor to meet the needs of different industries. Tailoring these responses will be of great benefit for stakeholders to enable them to deal with their own situations.

The bill will provide the most comprehensive and complete approach to biosecurity legislation in Australia and is currently being copied in a lot of other places in Australia. A lot of other states are picking up some of the major elements of the bill. That is all I would like to say as an introduction. I will hand over to Pat Bell who will take you through the details of the bill provisions.

Mr Bell: I would like to thank the committee for the opportunity today to present an overview of the Biosecurity Bill 2013. The purpose, scope and the key concepts underpinning the Biosecurity Bill are provided in chapter 1 of the bill. As the Minister for Agriculture, Fisheries and Forestry, the Hon. Dr McVeigh summarised in his introductory speech, the purpose of the bill is to deliver a single, cohesive legislative framework with proportionate powers and the flexibility to respond in a timely and effective way to emergency events and ongoing animal and plant diseases and pests. This will help to reduce impacts on agricultural industries, companion and leisure animals, the natural and built environment, tourism and lifestyle industries and potential disease transfer between animals and humans. It will also manage the risks of biological, chemical and physical contaminants associated with carriers such as livestock, plants, machinery, animal feed and fertilisers.

Clause 3 of the bill provides an outline chapter by chapter of the main provisions of the bill, but given the size of the bill stakeholders have found it a lot easier to understand the structure and the interrelationships between the different concepts, our tools and powers, and generally to navigate the bill, by reference to a Biosecurity Bill framework that we have prepared. I have provided a copy of that for you today. It is a two-page document. The bill is on the front and there is some information about regulations, codes of practice and guidelines on the back. If it suits the committee, I will go through the bill according to the framework.

CHAIR: I might request that you table that.

Mr Bell: Certainly.

CHAIR: The committee is happy with that?

Mr Bell: Firstly I would like to look at the scope and definitions of the bill. Clauses 14 through 22 of chapter 1 define the key concepts and the definitions. As these terms are used extensively throughout the bill it would be good to take a moment to go through them before we proceed through the rest. 'Biosecurity matter' is a catch-all key term. It is defined in clause 15 of the bill as a living thing, other than a human or part of a human; or a pathogenic agent that can cause disease in a living thing, other than a human; or a human when it is associated with the transmission of a pathogenic agent from an animal to the human. It also includes a disease or a contaminant. Importantly, biosecurity matter is not in and of itself a human. We will get on to carriers shortly which can be humans.

Clauses 19 and 20 define a key type of biosecurity matter and that is prohibited biosecurity matter. They establish the criteria that prohibited biosecurity matter must satisfy. It must be matter that is not currently present in Queensland and there must be reasonable grounds that if it was to be in Queensland it would have a significant adverse effect. Prohibited biosecurity matter is listed in schedule 1 of the bill and clause 30 of the bill provides an opportunity to list additional prohibited matter in the future providing it meets those criteria that I have just mentioned. The second type of key biosecurity matter is restricted biosecurity matter.

Clauses 21 and 22 establish the criteria that it must satisfy. Restricted biosecurity matter is listed in schedule 2 of the bill. Schedule 2 also assigns categories to that restricted biosecurity matter that determine the restrictions or obligations that apply to any dealings with that matter. Clause 39 allows a regulation to list additional restricted biosecurity matter in the future, providing it meets the criteria and those criteria are that it must be present in the state and, similarly, there must be reasonable grounds to believe that it would have a significant and adverse effect on a biosecurity consideration if we did not place restrictions on it. It should be noted though that biosecurity matter

does not have to be prohibited matter or restricted biosecurity matter to place some regulatory measures around its use, movement or reporting or activities that a person has to undertake in relation to it under the act. A risk based decision making process is going to be used to determine the conditions and restrictions that will be placed on restricted biosecurity matter.

A contaminant is defined in clause 18 of the bill as anything that may be harmful to animal or plant health or pose a risk of any adverse effect on a biosecurity consideration. For example, contaminants could include pathogenic bacteria in irrigation water, it could be heavy metals in soil or it could be weed seeds in a bag of wheat that is ready for sowing. 'Carrier' is defined in clause 17 as a thing that contains or is capable of moving biosecurity matter. For example, a cow could be the carrier of mad cow disease; a banana plant could be a carrier of black sigatoka disease; farm machinery could be the carrier of foot and mouth disease if that virus has attached itself, for example, to the tyres of the machine; and a person's clothing or footwear could be a carrier or potential carrier of equine influenza, for example, if it is transferred through bodily contact with the body fluids of a horse that has been carrying the virus. In addition, a carrier can be an inanimate object that has a contaminant in or on it such as animal feeds or fertilisers.

A biosecurity event is defined in clause 14 of the bill as an event or potential event caused or likely to be caused by a biosecurity matter which has or may have a significant adverse effect on a biosecurity consideration. Schedule 5 of the bill has a range of other definitions which are important, but they are the key ones that are used throughout the bill and underpin the scope of the bill.

We will now move to the key obligations or requirements under the bill. Clause 23 of the bill imposes a general biosecurity obligation on all persons, which essentially requires them to take all reasonable and practical measures to prevent or minimise a biosecurity risk and its adverse effects on a biosecurity consideration. It is a general obligation because it applies to anyone who deals with biosecurity matter. It applies to a carrier of biosecurity matter or anyone who carries out an activity that is likely to pose a biosecurity risk. It is also general because biosecurity has broadened out from its previous narrow historical focus of dealing with agricultural pests to a more diverse range of pests and diseases threatening industry, the environment, broad economic interests, human health and social amenity.

It will result in more equitable sharing of the responsibility for minimising risks among those who benefit from prevention and response activities. There are significant penalties for not discharging the general biosecurity obligation. For a breach in relation to prohibited matter, the maximum penalty is 1,000 penalty units or one year's imprisonment. For restricted matter, the maximum penalty is 750 penalty units or six months imprisonment. Otherwise, the maximum penalty is 500 penalty units.

Biosecurity events have the potential to significantly impact on human health as well as the economy and the environment. Where deliberate or reckless acts or omissions cause significant damage to health and safety or the economy or the environment, a person can be charged with an aggravated offence and that carries a maximum penalty of 3,000 penalty units or three years imprisonment.

Chapter 2 also establishes other significant obligations in relation to prohibited and restricted matter, notification of incidents and feeding of animal matter. Prohibited matter could have serious effects if it entered the state, and generally it must not be dealt with unless you are otherwise authorised through a permit. If found, it has to be reported immediately and action must be taken or avoided as necessary to ensure the risks are not exacerbated. Restricted matter must generally be dealt with according to how it has been characterised under the bill, as I mentioned, unless otherwise authorised by a restricted matter permit. It is categorised from 1 to 7, and clauses 42 to 47 of the bill contain those specific requirements for how a person must deal with each category. For example, yellow crazy ants are category 1 restricted matter. If you find yellow crazy ants or any category 1 or category 2 restricted matter, you need to report that immediately. Many weeds including fireweed are category 3 restricted matter. To minimise their spread, a person cannot distribute or dispose of them except in a way that is prescribed by regulation. Some noxious fish such as tilapia are category 7 restricted matter. They must be killed as soon as practicable and disposed of in a way that is prescribed by a regulation.

Notifiable incidents also have to be reported to an inspector and must not exacerbate the risk. As well as other biosecurity events, the types of symptoms or conditions that are required to be reported include blisters on the mouth or feet of stock, abnormally high mortality rate or morbidity in plants or animals, a sudden and unexplained fall in production relating to plants or animals or other symptoms or conditions prescribed by a regulation. The bill also generally prohibits the feeding of animal matter to certain animals as this can spread diseases such as mad cow disease and, as Jim has mentioned, foot and mouth disease.

A significant obligation is imposed under chapter 7 in relation to property registration and animal tracing. The ability to trace the movement of designated animals is critical to eradicating and containing a large range of diseases. It also assists with the management of chemical residue issues. An entity has to register with the chief executive if they keep a certain number of designated animals such as cattle, sheep, goats, pigs, bison, camel, deer and horses. If you have more than 100 captive birds or a bee hive, you also need to register your property. An identifier will be recorded in the biosecurity register for each of those properties, and you will be issued either a property identification code, or a PIC, or for bee hives a hive identification number, or a HIN. Restrictions on the use of a place necessary to address a biosecurity risk will also be recorded in that register, and I will discuss those restricted place declarations later.

A record about the proposed movement of any designated animal has to be created before the movement starts. If an animal is a special designated animal—and I will come to those—any person who conveys or drives that animal must have that movement record in their possession at all times. Special designated animals are a subset of those animals that are subject to obligations that impose a higher standard of traceability. They include cattle, sheep, goat, pigs, bison, buffalos, alpacas and llamas. They have to be fitted with an approved device before they are moved from their property of birth, and their movements have to be reported to the National Livestock Identification Scheme, or the NLIS. For some animals, including cattle, the approved device has to include a microchip to enable the identification of each specific animal, and the movement of any of those animals must also be reported to the database. If the device does not need to include a microchip—and that is currently sheep and goats—the movement of a group of animals has to be reported to the database. The requirements in chapter 7 apply to all entities that keep designated animals including those who keep livestock on a small scale for non-commercial purposes—for example, hobby farmers. They are the key obligations under the bill.

Chapter 5 of the bill provides for a regulation to make codes of practice about biosecurity matter. That chapter also includes provisions for consultation and tabling and inspection of adopted documents. It also provides for the chief executive to make guidelines about ways of discharging that general biosecurity obligation I mentioned and complying with other requirements imposed under the act and administrative matters.

The next key area I would like to talk about is what happens when we get an emergency event. How do we manage emergency events under the Biosecurity Bill? As I mentioned at the beginning, one purpose of the bill is to provide proportionate powers and the flexibility to respond in a timely and effective way to emergency events. Immediate action can sometimes be required to avert the potentially significant and adverse impacts from an outbreak of a pest or disease or the presence of a contaminant. There will be times where it is possible but it is not definitive that an event relates to biosecurity matter. For example, high mortality rates in cattle feedlots and chicken sheds need to be investigated even though the cause of the deaths may be from an environmental factor such as heat stress.

Chapter 1, clause 31 provides for an emergency prohibited matter declaration. The chief executive may make an emergency declaration that a particular biosecurity matter is prohibited matter. This declaration will expire after three months. In practice, an emergency declaration would only operate as an interim measure until the declaration was transitioned into a regulation. The chief executive can only make that declaration if the biosecurity matter satisfies those criteria that I mentioned before and urgent action is required to declare the biosecurity matter as prohibited matter. This power is justified on the basis of the prevailing community expectation that swift action is to be taken to reduce the impact of any adverse biosecurity matter.

Chapter 10, part 3 provides for emergency powers of inspectors. When an inspector reasonably believes a biosecurity matter or an activity poses an imminent significant risk, they may enter a place without a warrant or consent and take necessary and reasonable steps to manage the matter or activity or to direct or authorise another person at the place to take those steps. For example, an inspector can require a person to remain at a place, to clean or disinfect a place, a structure or a thing, to destroy the biosecurity matter or a carrier of the matter at the place, or to remove it to another place for disinfection or destruction.

Chapter 6 provides for the management of biosecurity emergencies and risks. Part 1 of that chapter provides for the chief executive to make biosecurity emergency orders. These are key tools under the bill. A biosecurity emergency order can be declared only if the chief executive is satisfied that an emergency response is necessary. He or she has to take into account the seriousness or the potential seriousness of the event and the extent of its impact or likely impact. A biosecurity emergency order must be primarily directed at taking emergency action to isolate the biosecurity

emergency area, to stop the spread of biosecurity matter associated with the event, and, if practicable, to eradicate the matter. Before making a biosecurity emergency order, the chief executive must, if practical, consult with the minister and, if it involves human health, consult with the Chief Health Officer. The same considerations need to be taken into account if the chief executive is to amend or revoke the biosecurity emergency order.

Clause 115 of the bill allows an emergency order to prevail over other provisions in the act. This is necessary because in an emergency certain things under the act may be otherwise inappropriate. An example of that is it is an offence under the bill to feed animal matter to designated animals, but there are some exemptions to this provided in the bill. Certain exotic animal diseases such as mad cow disease cause significant health risks, and they could trigger the declaration of an emergency biosecurity order if they were introduced into Australia or Queensland. Mad cow disease is spread by feeding animal matter to stock. If we had an outbreak, it would likely be necessary to impose an absolute ban in Queensland on feeding animal matter to stock regardless of any exceptions of the prohibition that would normally apply under the act.

A biosecurity emergency order can impose duties and obligations on occupiers or other persons in the vicinity of the area to which it primarily relates. For example, it can prohibit dealing with biosecurity matter or a carrier. It can require specific actions to be taken including the treatment or destruction of the biosecurity matter or carrier, and it can prohibit or restrict movements or other activities in the area and adjacent area or across the state. A biosecurity emergency order enlivens certain powers of inspectors, such as the power to enter and re-enter a place without consent to the extent reasonably necessary to manage the biosecurity event.

Chapter 10 also provides for the appointment of Queensland police officers and Queensland transport authorised officers as inspectors or authorised officers respectively under the biosecurity act for the purposes of that biosecurity emergency order. These officers have specialised training in managing vehicles travelling on main roads and highways, and it might be required to use those powers in situations where there is a designated checkpoint established for stopping vehicles or where there is another need to stop vehicles. An inspector can grant a permit to authorise activities that would otherwise breach the biosecurity emergency order if satisfied that it would not exacerbate the risk. The biosecurity order stays in force for 21 days—three weeks—unless it is provided that it ends sooner or it is revoked.

Chapter 6, part 2 provides for movement control orders. The chief executive can make a movement control order restricting the movement of biosecurity matter or the carriers of biosecurity matter for up to three months. For example, stock movements into or out of areas could be restricted to constrain the spread of a disease. An order can only be made if the chief executive is satisfied the risk is serious enough to justify the order. It can be directed at managing, reducing or eradicating the relevant matter over a limited period. It can then be replaced, if necessary, with another tool for addressing the ongoing risk.

As soon as practical after making a movement control order, the chief executive must publish a notice in the gazette and make sure that the people who are likely to be directly affected are made aware of it. Again, permits could be issued to authorise activities that would otherwise breach the movement control order.

We now move on to ongoing biosecurity risk management. That was those tools for how we manage emergency situations; now we will move on to how we manage day-to-day biosecurity threats outside of an emergency.

Chapter 6, part 3 provides for biosecurity zones. A regulation can establish the whole or part of Queensland as a biosecurity zone and include arrangements for managing, reducing or eradicating regulated biosecurity matter inside or outside that zone. It is important to note that this regulated biosecurity matter does not need to be the prohibited biosecurity matter or the restricted biosecurity matter we mentioned before. A biosecurity zone could prohibit or regulate how a person deals with regulated biosecurity matter or a carrier, it could provide directions that regulated biosecurity matter or a carrier needs to be eradicated in a particular way, or it could prohibit or regulate movement of restricted biosecurity matter into, out of or within a biosecurity zone. It can also require records to be kept about those movements. It can also require certain steps to be taken to prevent the introduction, establishment or spread of regulated biosecurity matter.

The regulation that establishes that zone may allow the chief executive to establish particular areas within the zone where the restrictions that are imposed are less than would otherwise apply. This power provides the flexibility to respond to the evolving biosecurity risk, so as it changes the status changes. The zone arrangements could change without the need for a regulator to amend the regulation.

Mrs MADDERN: Could you just give an example of regulated biosecurity matter?

Mr Bell: Cattle ticks. That is the main one.

Mrs MADDERN: Something like that just helps me. Thank you very much for that.

Mr Bell: So we can have a biosecurity instrument permit again. So, again, there is a permit which can be issued to authorise activities that would otherwise breach the biosecurity zone provisions.

Chapter 7, part 2 provides for restricted place declarations, which I mentioned before. To address a biosecurity risk the bill allows the chief executive to declare a particular place as a restricted place and to record any restrictions on that biosecurity register. For example, the potential exists for plants grown on contaminated land to become contaminated and thereafter enter the food chain. The chief executive could place restrictions on growing plants or grazing animals at that place to prevent heavy metals in the soil entering the food chain. An entity can apply to remove that declaration from the register on the basis of steps they have taken to remove that risk posed by the place or posed by designated stock kept at the place.

Mrs MADDERN: So an arsenic dip would be an example of where you would—

Mr Bell: Yes, or lead acid batteries left out in the field which subsequently were dismembered by a slasher or something like that. That could lead to a heavy metal lead poisoning. There might be cases, for example, where there was arsenic in a fertiliser. It is an extreme event, but you might find that there was a heavy metal that had contaminated a field through fertiliser. That is the sort of thing we are talking about.

Chapter 10 provides for the appointment of and powers of authorised officers. There are two types of authorised officers: inspectors and authorised persons. Most powers provided under the bill can be exercised by both types of officers. Inspectors have a few additional powers such as emergency powers, the power to stop or move travelling animals and the power to issue a biosecurity instrument permit. Inspectors can only be appointed by the state, whereas the state, a local government or a pest operational board can appoint authorised persons.

The bill provides for the appointment of various classes of person as authorised officers and it allows persons on a contract to the state to be appointed. This will provide the flexibility in the employment of persons who may assist in an emergency response or in day-to-day compliance matters where it is more feasible to employ contract staff on a short- or long-term basis. It also allows for industry partnering in co-regulation where industry may nominate staff who can provide assistance in compliance.

Chapter 10 also provides powers of entry for an authorised officer to a place in a range of circumstances. Under clause 296, authorised officers have a range of general powers once they enter a place including search, inspection and sampling and destroying biosecurity matter or a carrier with the consent of the owner. An authorised officer can stop a vehicle, require them to be moved if they reasonably suspect or are aware that a thing in or on the vehicle can provide evidence of commission of an offence against the act or it may pose a biosecurity risk. Similarly, an inspector can stop animals travelling on a stock route or a reserve or require them to be moved if they believe they pose a biosecurity risk. Authorised officers can carry out or direct aerial control measures as well under a biosecurity program—so fire ants for example. Chapter 10 also provides for powers of seizure, principally where a thing has been used in the commission of an offence.

Certain powers can be exercised by barrier fence employees, as I will discuss later. Inspectors, authorised persons and barrier fence employees under the bill are termed 'designated officers'. There are some provisions which apply to all designated officers including that they have to show their identity cards. They have duties to avoid inconvenience, duties to minimise damage and there are provisions for court ordered compensation in circumstances where loss or damage has resulted from the exercise of their powers.

Chapter 10 also includes several offences relating to designated officers. A person cannot give a designated officer anything such as a document or information that they know is false or misleading, they cannot obstruct a designated officer or someone helping a designated officer in the exercise of their power and they cannot impersonate a designated officer.

We will move on to surveillance programs and prevention and control programs, which are listed as biosecurity programs on the framework. Chapter 9 deals with these programs. They enable the state, local government or an invasive animal board to be proactive in monitoring for or responding to a pest, disease or other biosecurity risk. A surveillance program can be authorised to monitor for the presence of biosecurity matter, or to monitor compliance with the bill or the

effectiveness of measures that have been taken. A surveillance program, for example, could be authorised to verify that the state remains free of a pest or disease. That is absolutely vitally important to maintain market access for our goods—live animal, live plant, animal and plant products—in entering other markets.

A prevention and control program can also be authorised to prevent the entry, establishment or spread of biosecurity matter in an area or to manage, control or eradicate biosecurity matter that could pose a significant biosecurity risk. For example, a prevention and control program could be authorised for fire ants. There is no time limit on the duration of those programs in the bill. However, the duration must be limited to a period reasonably necessary to achieve the program's purpose. There are consultation requirements before a program can be established, and a notice on the program has to be published at least 14 days before the program commences.

Finally in that area, chapter 13 provides for biosecurity orders and injunctions. If a person has failed to meet their general biosecurity obligation, an authorised officer can give the person a biosecurity order requiring them to take specific action to reduce the biosecurity risk. So if a person has allowed weeds to grow near a watercourse which could spread to properties downstream that are not currently infested with that weed, a biosecurity order could be issued requiring the person to destroy those weeds. A period of compliance must be reasonable having regard to the biosecurity risk, and at the end of that period the authorised officer can enter that place to check whether the order has been complied with. If it has not, action can be taken that was ordered and the cost of that action can be recovered from the person who failed to comply with the order.

The chief executive or a chief executive of a local government may apply to the court for an injunction restricting a person from doing something or requiring the person to do something else to stop contravening the proposed act and to mitigate the effect on a biosecurity consideration.

I will now move to local government, who have a key role under the bill. They can make local laws for the management of invasive plants and animals in their area. Chapter 3 of the bill provides that the main functions of local government are the management in their area of those invasive plants and animals listed in schedules 1 and 2. The state will continue to provide support to local government in the management of those activities. A local government or several local governments acting together can appoint authorised persons to assist in managing the pests and diseases in their area. The facility to authorise prevention and control or surveillance programs, which I just mentioned before, will provide local governments with more flexibility and improved capacity to manage the pests in their area. The state can also use other regulatory tools, such as biosecurity zones, codes of practice and guidelines, to support local government management activities.

Consistent with local government requests, we have reduced the red tape and provided more flexible planning options. They can now be developed and resourced jointly by two or more local governments where they have similar biosecurity matter within their areas. The efforts of local government will be supported by activities funded by the Land Protection Fund. That will be transitioned from the Land Protection (Pest and Stock Route Management) Act 2002. The bill will authorise annual payments to and expenditure from that fund for activities to help local governments. Those activities could be research, education and training programs, surveillance or prevention and control programs, or the activities of an invasive animal board.

Chapter 4 then provides for the maintenance of Queensland's barrier fence. It is composed of sections of fence managed by building authorities. These are the wild dog barrier fence, the wild dog check fence—they are managed by relevant local government areas—and the rabbit fence, which is managed by the Darling Downs-Moreton Rabbit Board. The building authorities for the fence that have the powers appropriate to maintaining the fence can delegate those powers to a barrier fence employee. There is some flexibility to vary the management arrangements for the fence by regulation, for example establishing a new invasive animal board.

They are the key tools for managing ongoing biosecurity risk and emergency biosecurity event management. I will now quickly move to the agreements, which are an important area of providing flexibility for the private sector under the bill.

Chapter 14, part 2 of the bill provides for government-industry agreements. The chief executive can enter into arrangements with entities for the purpose of advancing an objective of the act. Those sorts of entities include the Commonwealth government, other state and territory governments, local governments or a group of local governments, or natural resource management organisations. They can also include industry organisations, for example primary producer organisations.

As Jim mentioned earlier, Queensland is currently a signatory to three such emergency response agreements: the Emergency Plant Pest Response Deed, the Emergency Animal Disease Response Agreement and the National Environmental Biosecurity Response Agreement. Intergovernmental agreements that recognise biosecurity certificates within the framework of an interstate certification assistance scheme also fall under chapter 14, part 2.

Chapter 15 of the bill concerns biosecurity certificates. As well as providing certificates to be issued under an interstate agreement, the bill will extend these to intrastate activities—for example, to a circumstance where likely carriers must be free from biosecurity matter before they can move into or out of an area within Queensland.

The biosecurity certificate is intended to be a convenient basis for which a producer can be taken to comply with their particular requirements under the act or a corresponding interstate law about biosecurity. They can be issued by a third party—a private sector accredited certifier for example—and, subject to those accreditation conditions, the accredited certifier can issue a biosecurity certificate for their own activities. They will enable industry to tailor their arrangements to their own unique circumstances and use best practice. Currently Biosecurity Queensland audits all of these certification schemes. Chapter 16 of the bill will now provide for the private sector to actually audit the arrangements of accredited certifiers and compliance agreements.

Chapter 14 part 3 provides for compliance agreements between a person and the chief executive. It will provide flexibility for the state to enter into an agreement with another party about preventing or managing biosecurity risks and it could authorise a person to issue a compliance certificate stating the procedures to prevent or manage a biosecurity risk have been carried out, so this is a new provision under the bill. It will allow an individual business to reduce their costs by streamlining and undertaking their procedures to prevent or manage a biosecurity risk without needing an inspection by an authorised officer. It is a voluntary arrangement. You can enter into this at your own will, but once it is executed a compliance agreement is a legally binding agreement between the government and the other party and noncompliance with the agreement is an offence.

We then move to the administrative arrangements chapters of the bill. Chapter 17 provides for the amendment, suspension and cancellation of prohibited matter permits, restricted matter permits, accreditations and auditors approvals under the act. Chapter 18 deals with miscellaneous administrative issues. While there is no sunset clause in the bill, clause 501 does require the minister to review the efficiency and efficacy of the act within five years of its commencement. Clause 503 provides a regulation-making power and examples of those regulations that can be developed are indicated on that second page on the flipside of your framework document.

Chapter 19 and schedule 3 provide for the repeal of particular acts. They also provide for savings and transitional measures. Chapter 20 provides for the amendment of the Chemical Usage (Agricultural and Veterinary) Control Act 1988, the Fisheries Act 1994 and the Land Protection (Pest and Stock Route Management) Act 2002. Part 4 of that chapter also provides for the amendment of a range of other acts that are included in schedule 4. That brings us to the conclusion of the explanation of the bill itself. If the committee is willing to grant me a few more minutes, I would be keen to talk about some of the fundamental legislative principles within the bill.

CHAIR: Sure.

Mr Bell: Given that the bill provides powers to respond to biosecurity emergencies, there are some potential breaches of fundamental legislative principles, and we think these are unavoidable. Chapter 28 does provide the defence of due diligence and it provides that it is a defence in a proceeding against the general biosecurity obligation if the person can prove that they took all reasonable precautions and exercised proper diligence to prevent the commission of an offence. For example, they could prove that what they did or failed to do was due to another person or information another person supplied; that they made all reasonable inquiries about the risks of carrying prohibited or restricted biosecurity matter and how they could be treated; that they undertook all reasonable health checks that had been required; and that they took precautions that were reasonable under the circumstances to prevent the spread of biosecurity matter. A person can also prove that they acted diligently if they prove they followed a way that was either stipulated in a regulation or a code of practice for minimising the risk.

Many decisions under the bill are going to be risk based. That will provide for more flexible and proportional decisions to be made. For example, the bill requires that evidence of the likelihood and consequences of risk are considered before an inspector exercises their emergency powers or an emergency prohibited matter declaration. Risks are also going to be considered when exercising a range of other powers such as deciding applications for a compliance agreement or a permit. The

bill includes accountability measures for risk based decisions. For example, the chief executive has to consult with the minister and in some cases the Chief Health Officer when they are making that biosecurity order. The minister must also table a report within the Legislative Assembly within six months after the biosecurity emergency ends.

Permits can be issued, as we have mentioned throughout the presentation, that would authorise activities that otherwise breach the act. Chapter 6 part 1 division 4 provides for biosecurity emergency order permits. Chapter 6 part 4 provides for biosecurity instrument permits to be granted by the chief executive to enable activities that would otherwise not be allowed under either a movement control order or regulatory provisions for a biosecurity zone. Chapter 8 provides for the chief executive to grant permits for prohibited and restricted matter activities, and they may be issued for scientific research or controlled dealings. Similar permits may be used for restricted matters for scientific research, biological control or commercial use.

The bill provides for internal merits review and external merits review by the Queensland Civil and Administrative Tribunal for most administrative decisions, including those decisions about statutory compensation. In the case of seized or forfeited property, those decisions can be appealed to the Magistrates Court. With the exception of some biosecurity emergency powers, the full range of grounds for judicial review under the Judicial Review Act apply to administrative decisions under the Biosecurity Bill. Emergency biosecurity orders, emergency prohibited matter declarations and movement control orders are intended to facilitate swift and decisive responses to emerging situations. A legal challenge to a decision to exercise one of those powers could seriously cause delays which would jeopardise the efficacy of a response. For example, an emergency biosecurity order could be made in order to enable a swift and decisive response to an outbreak of mad cow disease or foot-and-mouth disease. A legal challenge to such an order could delay the response and jeopardise the prospects of disease eradication, and that would lead to disastrous economic consequences. The bill provides for the application of judicial review to these emergency powers, but only on the grounds of jurisdictional error.

I mentioned before that if a biosecurity emergency order is made clause 123 requires the minister to table a report in the parliament about that emergency. That ensures that any decision on those is subject to appropriate scrutiny despite being judicially reviewable only on those limited grounds. Clause 31 and clause 24 provide that a notice about the making of an emergency prohibited matter declaration or a movement control order respectively has to be published in the *Gazette* and all reasonable steps need to be taken to ensure persons likely to be affected are made aware of that order. Clause 88 requires that an invasive animal board provide a report on its operation each financial year to the minister, and that report has to be tabled in parliament. Clause 52 enables the minister to require a local government to provide a report about its functions performed or powers exercised. Under clause 21 where the minister has required a local government to pay an amount to the Land Protection Fund, he must provide that local government with a report on the outcomes of the services provided. Clause 106 requires the minister to table in parliament a copy of all adopted provisions of a code of practice if they are not part of or attached to a regulation within 14 days of notification. If there are any amendments, then they also have to be tabled in parliament within 14 days of the adoption of those amendments. They have to be available for inspection free of charge as well.

There are a range of identification tags, which I mentioned before, which are referred to as approved devices for special designated animals that have to be fitted in a way that complies with technical requirements. Clause 176 requires those requirements be published on the department's website. Clause 54 requires that a local government biosecurity plan for its area be available for inspection. Clause 240 requires that, at least 14 days before a surveillance program or prevention and control program is established, the chief executive or the chief executive of a local government or invasive animal board has to provide notice of that program, including publishing that program on the website of the department of the local government. That can also be published in other ways such as broadcast on radio or TV.

The bill also importantly includes a number of provisions relating to loss, damage and compensation. I mentioned before that clause 332 requires designated officers to take all reasonable steps to cause as little inconvenience and do as little damage as possible. If an officer or a person acting under the direction of an officer damages something in the exercise or the purported exercise of a power, they need to give notice of that damage. A court can order the state, local government or barrier fence board to pay compensation for those actions of an authorised officer. However, court authorised compensation is only payable by the state for accidental, negligent or unlawful damage.

Chapter 11 is the chapter that deals with compensation for loss or damage as a result of a biosecurity response. There are two types of compensation schemes for losses incurred during a response, and they can be paid under biosecurity response agreements between the states and territories, the Commonwealth and particular industry sectors, as Jim mentioned in his introductory speech. Statutory compensation is the second form of compensation, and that is a limited safety net for loss or damage that is not covered by a compensation scheme or a policy of insurance. That statutory compensation is only available for loss or damage that was not or would not have become infected or infested such as stock or crops destroyed to create a buffer zone around an outbreak. It is deliberately narrow in scope, and it is deliberately narrow to reflect the principle that those who benefit from a biosecurity response should bear their proportionate share of costs.

Entry to a place used as a residence is not permitted under the bill without consent or a warrant. In addition to the powers usually exercisable by an inspector under standard enforcement provisions, the bill also gives an inspector additional powers to manage a biosecurity emergency. These emergency powers under chapter 10 part 3 include entry under clause 279, but they are limited to what is necessary to avoid an imminent and significant biosecurity risk. An inspector has to notify the chief executive officer as soon as practicable after invoking those powers, and that will enable the chief executive an opportunity to be appraised of the situation and determine any further appropriate course of action. An inspector can only use their emergency powers for the time reasonably required to abate that emergency and for no longer than 96 hours. Under an emergency biosecurity order, an inspector has additional powers of entry to places other than a residence without consent or warrant. These powers are in clause 119, but again they are limited to what is reasonably necessary in the circumstances.

In circumstances where entry without a warrant or consent is permitted, such as under a biosecurity program or checking for compliance with a biosecurity order or taking action where a person has failed to comply with a direction, these powers are limited by safeguards, including procedures that need to be followed by the officer. An officer needs to take reasonable steps to locate the occupier and obtain consent to entry, even before exercising a power of entry without consent. In terms of outside emergency situations, entry by authorised officers will generally be made by consent. Thank you, Chair and members. That concludes the presentation. Departmental officers will be now pleased to take any questions you may have.

CHAIR: That was very comprehensive. Of course, it is a large bill. I notice in 2007 the Biosecurity Bill was starting to be put together. On reading the notes, quite a number of acts have been amalgamated. So they will be repealed. Is there going to be another tranche? We are trying to reduce red tape in acts. Will there be another tranche later on in a few years time?

Mr Bell: Not at this stage. The key area of additional review that will proceed over the next couple of years will be in relation to agricultural and veterinary chemicals. The legislation for that is being undertaken at a national level. It is expected to take another 18 months to two years before we get the conclusions from that review. That is the other key piece of biosecurity legislation in Queensland.

CHAIR: From looking at your briefing, it is all after the event has happened. But if you think about hendra and citrus canker, the events happened and, for instance, with hendra, there have been deaths. Citrus canker spread to numerous orchards. Is there planning in the bill to try to prevent those outbreaks at an earlier stage? I have just had a horse vaccinated for hendra virus. Is there something in place to try to beat the event, to be a step in front? For instance, a nurseryman up my way had a nursery down at the port. The fire ants came off containers at the port. He has then shipped plants all over South-East Queensland before realising what has been going on. We are one step behind the game.

Mr COX: Mr Chair, do you mean better surveillance?

Ms Clarke: Probably the key innovation in this legislation is the general biosecurity obligation. If you look at the existing legislation, a lot of it works that, once we list something, we can put some obligations in there around it. Typically, we get an outbreak of something that we have not had in Queensland before and so then the first thing we have to do is scurry and list it and then we decide how we are going to deal with it. Prior to listing people basically have no obligations in relation to that potential threat.

The general biosecurity obligation will probably take everyone a little time to get their heads around, but it represents a complete change in the way we address biosecurity, because it essentially says that if you are going to deal with something or conduct an activity that creates or

exacerbates a risk, then you have a responsibility to minimise that risk. That applies whether that is a listed threat or not. As I say, it will take a little while to get people's minds around this, but it will lead to a whole change and, hopefully, a change to a more preventive approach.

The bill allows a regulation or a code of practice or guidelines to be made explaining to people what their general biosecurity obligation means in particular circumstances. So you could have, for example, a code of practice around movements of soil that will minimise the risks associated with the movement of soil. That does not have to be in relation to any particular threat. So, yes, the bill takes a completely different approach. It is more of a shared responsibility approach, where people need to be looking at what potential risks they are creating by the activities they are doing and, certainly, an approach where we move away from that listing, which has been really restrictive in the way we respond to events.

Dr Thompson: I think there was a real focus on emergency events. You can see that in the yellow there, but the blue area is very much about trying to prevent other things happening through codes of practice and regulations and those types of things. So despite the fact that we have to focus heavily on those emergency areas, we were pulling a whole lot of different provisions together from a range of different acts. That is where we had the battle in getting that. We have spent a bit of time explaining that and Pat has spoken about some of risks that are in there, but there is a big focus on prevention in the future.

CHAIR: So we are moving to that quality assurance type of method that, for instance, the ice-cream industry has. You do not have inspectors there anymore. They have a quality assurance in that they are not going to kill us all when we eat their ice-cream. So it is there to prevent that happening. That is where you are wanting the biosecurity industry to go a bit, too.

Dr Thompson: A good example is the nursery industry. There are quite strict restrictions on the movement of certain plants and they have to follow certain certification assurances to get plants moved around the country. They are now developing their own program to certify their own people. Right now, we have to come in and sign the forms to say, 'Yes, we are happy with what you have undertaken,' but in the future that will be up to them in partnership with governments around Australia to make sure that they have certified that these are free to move.

CHAIR: That is a great example because, unfortunately, the nursery industry, where lot of its plants are more for show and looks, has managed to move spiralling white fly and those sorts of insects around the place, which has been devastating for the tomato and capsicum industries and that sort of thing, but it has not worried their ornamental plants. So if they have their own self-assessment and quality assurance in place, that would be a great asset to the community.

Dr Thompson: Can I just pick up one thing on the question you asked before about is there anything else to come? There is the exhibited animals bill, which is not covered by the Biosecurity Bill. Its provisions are in a number of acts at the moment. We are trying to bring those together. That is about zoos and things like that—about exhibited animals. That will commence at the same time, we hope, as this act, because the provisions for it are in a number of other acts such as the land protection act.

CHAIR: It will not be an amendment?

Dr Thompson: No, it will not affect the Biosecurity Act as it will be at that point; it will be a separate act on its own. As Pat said, apart from the chemical area, we do not see any major changes coming in here.

CHAIR: There are a number of acts amended here. You feel that you have tidied this up. If you put all of those acts together I would imagine it would be that high.

Ms Clarke: Yes. In fact, there are quite a considerable number of pages—I think it is over 100—of this bill that are provisions related to how we transition from one act to the next. For example, the whole of schedule 3, which is a fair bit, and one of the chapters of the bill is all about transitioning from the existing legislation to the new legislation. It is not restrictive provisions; it is just about that transition.

CHAIR: And a fair bit of it was just virtually cut and paste out of the old bills?

Ms Clarke: The current legislation ultimately has very similar tools, but one of the great advantages is that, under the current legislation, the tools often differ slightly between the different acts. So an inspector has to be very aware of exactly which piece of legislation they are acting under; otherwise they can accidentally breach one of the provisions. So it has given us the opportunity to cherry pick, if you like—to go back through the responses that we have done and say, 'Probably the Plant Protection Act does this particular thing the best. So we will model on that.'

The Exotic Diseases in Animals Act manages this the best, so we will cherry pick that.' So a lot of the tools, particularly in relation to emergency response, are there in existing legislation, but they vary under the existing acts.

Dr Thompson: Can I give you an example of that particularly around hendra virus, where the powers under the Stock Act and the Exotic Diseases in Animals Act allow us to operate in slightly different ways? Over time, depending on where we were and the experience of officers, we operated from both acts. A review by the Ombudsman of us in 2009, and one that we have been addressing for a number of years, was highly critical of that approach of being able to pick and choose. At the time we thought very hard about which way we would go and we thought we would pick the correct and appropriate way but, having alternatives is not a good option in that sense. So this will remove those problems.

CHAIR: I noticed in some of the acts you have no right to enter premises without warrants. Under some of the environmental protection acts there are a lot more right to enter premises without warrants. From memory, with some of the EPA acts, there are a lot more rights. I feel that you have taken the right approach under the EPA Act. You can enter premises without warrants and all of that sort of thing.

Ms Clarke: This provides the power to enter premises without warrant in emergency situations but, outside of that, it is reasonably limited. You can enter, for example, where there is a biosecurity program provided you have given notice.

Mr Bell: A biosecurity order.

Ms Clarke: Yes. If someone has breached their general biosecurity obligation and you give them an order, you can then enter to check that that order has been complied with without consent. Similarly, with a direction under a program—

CHAIR: I think you mentioned houses, places of residence.

Ms Clarke: Places of residence would only be with consent or a warrant, yes.

Mrs MADDERN: Obviously, there are a lot of acts that have been revoked and you have already set out that this general obligation is a fairly major shift from where we were before. But with a lot of the rest of the stuff, is it pretty much the same or are there other areas where there has been a major shift from the old acts to this new one that we are drafting now?

Mr Bell: I think the agreement section is certainly a significant new area under the bill. As I mentioned, the ability to enter into compliance agreements with the state is a fundamental change. It is a new area. As Jim mentioned, the nursery and gardening industry association is piloting a scheme, BioSecure HACCP, where they will be responsible for training their own inspectors and training their own auditors. The government will still approve those auditors and inspectors but, essentially, they will have procedures, policies and an industry based risk management plan. So that is quite a new area of endeavour.

Ms Clarke: Probably the other thing is that almost all of the existing legislation requires you to list something. Here, you will have a power to, for example, impose a biosecurity zone even if something is not listed and we are not attempting to list, because that is just so problematic. You never get everything. So that is another area.

The other thing is that our existing legislation is often focused on industries. There is a biosecurity act relating to animals. There is a biosecurity act relating to threats to plants. We sometimes get things that fall between the gaps. A good example of that is fire ants, where probably its greatest threat is to social amenity, but we do not have a biosecurity for social amenity act. So we are regulating it as a threat to plants. The act is comprehensive. It talks about threats that could affect the economy, social amenity, human health and the environment. Essentially, it can pick up anything that affects those things and there is no longer this sort of segmented approach.

Dr Thompson: I think the other change that we have seen over the years is that we have seen a very regulated approach to biosecurity and, as industries mature and start to take on those responsibilities—the concept of shared possibility—they see the benefits of it themselves. There will always be people who see the short cuts and want to take the short cuts, but on the whole an industry knows that a biosecurity event is not good for them. So they will take responsibility for their own actions. Industries such the poultry industry and others have really ramped up their own biosecurity practices over the years and government has been able to step back in those areas.

There are a couple of industries that remain that rely on regulation and would still like to see regulation in there. Sugar and bananas are two of those that want to see the government with them involved in regulation. As we develop the regulations, there will be a lot of discussion about what level we need to go to. Many industries are deregulating in a sense, but I do not think that they are presenting a greater biosecurity risk in many areas.

Mrs MADDERN: I was just going to follow on with that. Has there been much—it sounds like there has been—consultation with these particular groups or with the general public? Do you anticipate much in the way of objection to the changes that are being made?

Mr Bell: The department started off with public consultation through a discussion paper back in July 2008 and then went through another 'Modernising Queensland's biosecurity legislation' paper, which was released in September 2009. There was a biosecurity legislation reference group, which comprised all the major stakeholders in Queensland who met on a regular basis to go through the bill chapter by chapter. Over the last two and a half years, we have been meeting with all of the representative groups that the department has—stakeholder groups—and have held individual meetings across producer organisations, the Local Government Association of Queensland, some natural resource management groups and other interested parties. So there has been extensive consultation. I not aware of any outstanding issues.

Mrs MADDERN: Thank you.

Mr TROUT: While we all really compliment you on biosecurity, quite a few farmers or individuals can be affected by biosecurity. In the past I have been one of those with hendra virus. With BJD and hendra, is there a sufficient framework here? Compensation is one thing, but to get people back on their feet again, I just see a lot of regulation. I just want to make sure that we have a sufficient framework where officers can help and direct and make sure that we get people back on their feet as quickly as they can.

Dr Thompson: There is no doubt that in big biosecurity events individuals, and I know where you were involved, can really take a pounding in terms of what happens early on. BJD is an interesting case because it is an endemic disease and there is no compensation available for that. Queensland is a protected zone, but BJD is quite rife in other states, particularly Victoria. So there are no compensation provisions for that. We have been working, and other states have been working, with industries to set up funds, I guess, to be able to be spent in different ways. One of those we think that there is advantage of is in biosecurity, and BJD has led to the development of the Cattle Industry Biosecurity Fund and that is to provide compensation, or some sort of financial assistance is probably the better term, for those landholders who are affected. Unfortunately, unless it meets the requirement of the nationally agreed response and is signed off at the national level, the compensation provisions do not necessarily kick in. We have got a number of responses running at the moment in Australia, one is on banana freckle in the territory, one is on highly pathogenic avian influenza in New South Wales. Both of those are text book ones that run according to the deeds and there will be compensation for those owners. For many endemic diseases that are here and will always be here unfortunately people do have to wear some of those costs. Hendra falls into that category in relation to incidents that have been occurring in the last couple of years.

Mr TROUT: I understand the compensation side. My question was also aimed at is there provision where Biosecurity could assist in management plans going forward to alleviate it as much possible. For example, Biosecurity was very good in our circumstances where we had 1,200 acres and we quarantined just a small area and we were able to operate the rest, which was unbelievable. But at that time there was no framework to do that, it was just that they understood the plight and the decision was made at a very senior management level. I guess what I am trying to say is, is there a section of the act that will say that we can look at minimising the impact on the operation?

Ms Clarke: I guess one fairly innovative aspect of this bill, that we did not speak about except in Pat's presentation, is risk based decision making. Instead of having hard and fast rules about how we respond to certain things—we will do this, we will close down a whole property—a lot of the provisions of the bill provide for decisions on the basis of risk. Why that will really assist you is because it means that decisions can be proportional and it means that there is a lot more flexibility. There would be cases where, for example, there is an outbreak and initially we go in but then the industry themselves or the property owner might come up with suggestions about how they could manage the risk and we then would have the flexibility of being able to put in place appropriate measures around that. That is one of the advantages of having a lot of these risk based decisions. There is the other side of that: being accountable. Pat outlined some of those accountability measures. But not having such hard and fast responses is exactly what we have.

Mr COX: In the BJD outbreak that would have helped a lot.

Dr Thompson: We very much learnt that in BJD. We had not had an outbreak of that scale. We went in and quarantined everything at the start, which is what we had to do according to the national protocols, but we were not operating with the flexibility we needed at the start. Witchweed is another good example where we have gone into four properties. Our national partners said you better quarantine those places and nothing should come on and off. We said hold on I think we can manage these and we did work closely with those individual producers to try to get a harvesting regime in place, which we finally managed to get through. There were a few battles there. Exactly what you are saying is a very relevant issue.

Ms Clarke: Perhaps a good example of that is with prohibited matter. Any dealings with prohibited matter are banned and you have to notify an inspector, but in this bill, compared to the 2011 bill that was introduced into parliament, we have provided that a permit could be issued for controlled dealings. Say, for example, we had an aquaculture operation and a disease was discovered in that aquaculture operation but we could, for example, allow the emergency harvest of those fish and have them sent to market under controlled circumstances without risking the rest of the industry then we could give a permit to allow that. We have tried to build in systems of permits, again with risk based decision making around them, where we can provide exceptions where otherwise we might need to impose quite strict conditions.

Mr TROUT: Could you give us where that is later on?

CHAIR: I think some common sense has prevailed. I had a bentonite producer in Willowbank. It was a fire ant issue. Fire ants hate bentonite because it upsets their walking. He had a couple of nests. You stopped him for a week, but after that when you realised there was not an issue with the moving bentonite he was allowed to do it. I think it does work.

Mr COX: In chapter 9 under part 2, clause 237, giving a direction for prevention and control program, are you not leaving yourselves open when you use words like 'direct an occupier of the place to take reasonable steps within a reasonable period'. Why would you not use the word 'determined' there? When you use the word 'reasonable' are you not leaving yourselves open later on to someone coming back and saying they thought that was reasonable?

Ms Clarke: In fact, the direction would be quite specific. What it does not limit is the authorised officer in what they can put in that. So the limit on what the authorised officer can put in the direction is that it has to be reasonable. Does that answer your query?

Mr COX: Yes. There would be some consultation to determine what is reasonable before it happens.

Ms Clarke: Exactly. The reason there is no specific time frame is that it would depend on the nature of the problem.

Mr COX: I understand.

Ms Clarke: There would be something stated in the direction around the time period. At the conclusion of that time period if they had not taken the action they could come and take the action.

Mr COX: It has been predetermined, that is what I am getting at. I have a question in relation to clause 240, notice of proposed biosecurity program. In the beginning of the BJD outbreak, obviously we had to act quickly. Forgetting the politics of it between industry what was going on, there is that initial scare and angst amongst people about what is happening, and this is not necessarily a criticism—again it was something we did not know about—but the communication was not out there quick enough about what was really happening, for whatever reason. That is the general feedback I got. The way I read 240, and this may not relate to BJD, when it says notice of proposed biosecurity program, I presume this would be talking about, for example, when BJD came out, a program to restrict it through quarantine. It talks a lot of notifying departments, local governments, chief executives, animal boards authorised to do it, but there does not seem to be any mention there with the particular industry or the people themselves involved. I am worried that we could be missing the point of what happened with BJD. It says the notice must do the following things, but then it says the notice also may be published in other ways. If this was Thursday Island, and we have learnt this through the committee, trying to contact these people when something is happening, sending them emails, letters or whatever is just not sufficient. I may be wrong, but I do not feel we are emphasising enough the importance of getting this information out. At all costs it has to be done to the maximum level.

Ms Clarke: I guess there are some things that are quite difficult to legislate, and a requirement for consultation is difficult to legislate. The danger is if you be quite prescriptive in the legislation—

CHAIR: It is limiting as well.

Ms Clarke: You could actually hamper yourself. Having said that, right up at the very beginning of the bill there is a very strong commitment to the way that the act has to be administered.

Mr COX: You can get back to us later on that.

Ms Clarke: It is very easy to find. It is clause 12 of the bill, community involvement in administration of act. It is right up there at the very beginning of the bill to make it very clear that it is intended that the act is administered in consultation with—and it gives a whole list: public sector entities, local governments, industries, Aboriginal and Torres Strait Islanders, interested groups and persons in the community generally. Often times it talks about consultation and notice, but it does not tie us necessarily to very specific things because we could then really cause ourselves some problems. But there is a definite commitment that the way that this would be administered is in consultation.

Mr Bell: The bill does require us to consult with relevant groups whenever we put in place a code of practice. Obviously we need to consult when a regulation is being prepared, if we prepare a guideline on administration of the act or how to meet your obligations on the act. We are also required to consult prior to making a biosecurity program. So a surveillance program or prevention and control program we need to consult with relevant affected people and to seek their joint involvement, particularly joint involvement with local government. The minister also needs to consult before he gives local government a notice around performing a function under the act, as I mentioned before, approving and authorising a biosecurity program.

Can I just go back to your question of risk. You asked for some information on risk. There are a number of arrangements where risk needs to be considered. An inspector needs to consider the impact of risk or the likelihood and consequences of the risk before exercising emergency powers, before an emergency prohibited matter declaration is made, before a biosecurity emergency order is made or a movement control order is made. Risk is also considered in relation to applications for compliance agreements, the powers of destruction, auditors' responsibilities, suspension of authorities and before granting any permit such as a restricted matter permit or a prohibited matter permit. So risk assessment is going to be fundamental to the bill and we will be preparing risk assessment guidelines as part of the implementation of the bill.

Dr Thompson: Can I comment on your BJD communication issue. I think the minister and myself have both publicly stated that the communication in the early stages of BJD were not good enough. The volume of properties we were dealing with was huge. We had never had such a case of BJD in Queensland and probably not one in Australia that had that volume and it was a disease that was not overly familiar to us in terms of managing it on that scale. I think we are probably far better prepared now.

Mr COX: As I did emphasise, it is not meant to be a criticism, it was just feedback. They did not know what was going on. I explained to people at the time that everyone is a bit new to what was happening. It was not meant to be a criticism. I know it has been noted.

Mrs MADDERN: It has been brought to my attention that under the previous bill that was put into parliament there was a fair bit of criticism about the movement of horses and also some criticism about the management of bees as well. Has this bill addressed those issues, is what I am asking, or are we likely to get whacked with that again?

Mr Bell: We have been working very closely with both the horse industry and Cattle Tick Management Queensland, which is the policy advisory group to the minister on cattle ticks, to try to find a pathway for them, a simpler process for horses to move across cattle tick zones. We are still working through that. We are getting closer. There has been an exchange of papers between Cattle Tick Management Queensland and the horse industry. We would expect those to be implemented through regulations, through a biosecurity zone perhaps, and through guidelines and codes of practice.

Mrs MADDERN: Rather than being incorporated in the bill?

Mr Bell: It will not be in the bill, but the bill provides the heads of power for a more flexible arrangement for horse owners to move their animals across cattle tick zones with more appropriate circumstances. You mentioned the bee industry, there were a couple of challenges with the bee industry in relation to the amount of red tape that was in the previous bill. I consulted personally with the bee industry committee and they agreed to remove around seven or eight pages of red tape that was imposed on them but on no other industry under the Biosecurity Bill.

Mrs MADDERN: Again we go back to this risk based management system. The removing of the red tape would be on the basis that we are doing a risk based management system?

Ms Clarke: It was around them requiring approval to keep bees. For example, if you want to keep cattle you need to register but you do not need approval to keep cattle. The main red tape removed in relation to bees was that you no longer require approval to keep bees in Queensland.

Mr COSTIGAN: I have one quick question, perhaps directed to Ms Clarke, going back to the concept of shared responsibility. How would these reforms play out in our \$1 billion-plus sugar industry? This is very important to the Queensland economy and very important to my electorate. Dr Thompson has touched on the red witchweed outbreak affecting four of my constituents. It is a huge concern and a big worry. The flexibility that you talk about, how would you see that playing out hypothetically?

Ms Clarke: Perhaps others could chime in on this, but at the moment there is quite a lot of very specific regulation around the sugar industry. One of the issues perhaps more for the development of the regulations than the bill itself is how much specific regulation we should put in place around the sugar industry. That is something that we will need to consult extensively on, because the sugar industry has been a highly regulated industry in terms of biosecurity measures. That is something we will be working through over the next year probably. There will be a regulatory impact statement released for the regulations that will look at options for regulation, but even prior to that we will be working through various options with the sugar industry.

Dr Thompson: The bill does not allow us not to have a regulated approach. There can still be a regulated approach to those industries that require it. There is no doubt we are looking at less regulation in the long term. As I mentioned before, a couple of industries, sugar being one, are very keen to see the regulations developed because that will be the detail they are most interested in. The options that they have in the bill they are comfortable with. The regulations and how they come out will be their great area of interest.

Ms Clarke: The other thing worth mentioning is that the move from what you might call hard regulation to what you could call soft regulation which is perhaps less specific but no less effective is something that has happened across a number of areas over the years. Perhaps the first area to move to this sort of duty of care would be workplace health and safety. When it happened it was revolutionary. It took a lot of people to get their mind around not necessarily having rules about what you had to do in this industry or that industry, although in some circumstances there were, but there being a general obligation.

CHAIR: The food industry is another one.

Ms Clarke: Yes. So this is a transition that has happened. Typically, when that transition occurs, even those who potentially could benefit from a deregulated approach will have some concerns about some aspects of deregulation. It is possible, for example, that with some industries we will be trying to encourage more deregulation than they are currently comfortable with. That will be something we will need to work through, and also looking at other precedents and perhaps looking at what happens in other states where a less regulated approach occurs in some areas.

Mr Bell: I can specifically talk to the sugar industry. We have had three meetings with the sugar industry already around the regulation framework and where it will head. They are pretty keen to take the bit between the teeth and drive the reform. My understanding is that the sugar industry representatives are going to develop the first paper on the reform areas that they would like to see. Early in the new year we will be starting to put those policies before the minister for consideration.

CHAIR: I have saved the easiest one till last.

Mrs MADDERN: Don't believe him.

CHAIR: Myrtle rust: how are we going to solve it?

Dr Thompson: Myrtle rust is not able to be saved in terms of preventing myrtle rust from spreading in Australia. Because of the way it spreads and the extent of the disease at the moment, it is something that we now have to live with. That is a shame. We always realised that myrtle rust was going to be a massive challenge to Australia. The aim here is to prevent future myrtle rust, but we will not be regulating around myrtle rust. We will be putting in place programs where we are trying to do research to develop alternative tree varieties that will be less susceptible to myrtle rust. We will be looking at control measures in areas where you want to keep trees alive. You can spray, but it is a pest that is unfortunately something we have to live with.

CHAIR: Have we done a 'what if' scenario of what the landscape will look like in 50 years time?

Dr Thompson: Yes. There have been a number of 'what if' scenarios. I guess 10 years is the time frame we are looking at. There could be quite a changed environment in certain areas. The heat has gone out of the response so people are not necessarily looking but we get a lot of views from certain areas where a number of trees in a number of areas of bushland and other areas have been quite substantially impacted and will continue to be.

CHAIR: Will it cover most of Queensland eventually?

Dr Thompson: Its host range is hundreds of species. Yes, it will cover most of Queensland. It predominantly affects the moister, wetter areas so there will be a more coastal impact, but it will be significant over time and it will be slow.

CHAIR: It is a difficult one, I know.

Dr Thompson: Yes, it is. When it came in, particularly in New South Wales, there was a full-blown program to try to prevent it. It was in a nursery, but because it operates on spores and they blow in the wind we could not stop it

CHAIR: Do they feel it came in on nursery plants?

Dr Thompson: We believe so, yes.

CHAIR: They do a pretty good job, that nursery mob!

Dr Thompson: There have been a lot of issues around nursery plants in the past. That is why they are such a critical industry for us to be working with.

CHAIR: Is there anything else from the committee?

Mrs MADDERN: No.

Mr TROUT: No.

CHAIR: Thank you very much. This will be good reading over Christmas. It will save us buying a book. That brings this briefing to a close. Thank you to the departmental officers for your very useful information. I do not think there were any questions taken on notice, were there?

Mrs MADDERN: I thought there was one or two.

CHAIR: If we have any questions, we will send them to you.

Dr Thompson: We are happy to answer them.

CHAIR: I declare the public briefing closed.

Subcommittee adjourned at 2.06 pm