

REPORT OF INVESTIGATION INTO THE TREATMENT OF CATTLE & HORSES AT CHARLES DARWIN UNIVERSITY MATARANKA STATION



VOLUME 1

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EXECUTIVE SUMMARY

This report is about an investigation into the manner in which Charles Darwin University (CDU) managed livestock and conducted operations at the University's Mataranka Station. The investigation was instigated on the Ombudsman's Own Motion because of complaints made by people disturbed by the condition and treatment of cattle and horses at that property throughout 2009 and continuing into 2010.

At Mataranka Station from about August 2009 to December 2009 animals died from malnutrition, lack of water and others were destroyed. In many cases, livestock were tick infested¹, emaciated², thirsty, dehydrated, victims of attack from wild animals and meat ants. Some would have died an agonising death and those that survived were distressed, probably for months. *Distress* in this context is described in the 2008 *National Health and Medical Research Council Guidelines* to promote the well being of animals as follows:

Distress occurs when, in magnitude or duration or both...Significant changes in biological function must occur for the animal to survive...

*Distress is not necessarily associated with pain although pain will cause distress...the notion of suffering includes pain, distress, anxiety, fear...*³

In other instances at Mataranka Station, downer cattle – those animals no longer able to stand before dying – had their eyes and rear ends eaten by meat ants⁴ and/or were attacked by wild dingos/dogs or pigs, too weak to escape these painful attacks. Downer animals can survive for as long as five days after going down. In response the university (1 October 2010) wrote that *the reference to attacks by wild dogs implies that this is a cruelty confined to the weakened state of the cattle. In fact, the death of stock from wild dogs is prevalent in all pastoral operations in northern Australia regardless of body condition and is the reason for frequent baiting programs.*

Mataranka Station is a 77,000 hectare Vocational Education and Training (VET) facility and commercial cattle station which is leased to the University by the Northern Land Corporation until 30 September 2013. In 2006 CDU decided that the station should be operated as a commercial venture, not just an educational facility.

At 31 December 2008, Mataranka Station had 4124 head of cattle⁵. In September 2009 the station was said to have approximately 36 horses and was thought to have approximately 4500 head of cattle. By the end of 31 December 2009 the Station was said to have 4207 head of cattle⁶.

¹ Cattle tick (*Boophilus microplus*) is the most dangerous external parasite of cattle in Northern Australia. It transmits tick fever and if uncontrolled can cause serious losses to cattle. *Bos Indicus* cattle and their crosses develop greater resistance than *Bos Taurus* cattle – Reference Cattle & Land Management Best Practices in the Katherine Region 2009.

² BCS 1: Emaciated – Bone structure of shoulder, ribs, back, hooks and pins sharp to touch and easily visible. Little evidence of fat deposits or muscling.

³ NHMRC – Guidelines to Promote the Wellbeing of Animals, June 2008, www.nhmrc.gov.au

⁴ Meat Ant (*Iridomyrmex purpureus*).

⁵ Reference: Mataranka & Katherine Stud Stock & Valuation Sheet year ended 31 December 2008.

⁶ Reference: Mataranka & Katherine Stud Stock & Valuation Sheet year ended 31 December 2009.

I have expressed these figures as I have because during the investigation it was apparent that there were no reliable records of the number of cattle, even after mustering.

There is a raft of legislation, standards, agriculture notes, codes of practice⁷, best practice manuals and guidelines for the purpose of protecting animals from cruelty and setting minimum standards of care, as well as describing best practices.

In the Northern Territory, the *Animal Welfare Act* places a positive legal duty on all persons in charge of animals to provide food, water and shelter that is appropriate and sufficient.

CDU, and specifically the Mataranka Station Manager, is responsible for the welfare of the cattle and horses at Mataranka Station. This report illustrates that CDU's management of Mataranka Station caused conditions that put livestock on that Station in a physically distressed state by failing to provide the fundamental necessities required to sustain life⁸.

In relation to Mataranka Station, evidence was found of serious neglect occurring in September and October 2009 and in May and June 2010.

Depriving cattle and horses of food and water to the extent that they become so weak that they drop⁹ to the ground, unable to stand or protect themselves is, in my view, neglect as defined in the *Animal Welfare Act*. In one case neglect was so severe that the hoof of a horse fell off. That only occurs when there has been a long period of neglect and months of suffering by the horse.

When the serious neglect of animals was made known to middle management and senior CDU staff in September 2009 actions taken to remedy the suffering and neglect of the animals were tardy¹⁰, inadequate, and not proportionate to the degree of suffering of the animals.

CDU is one of Australia's higher education institutions. This places CDU in a relatively privileged position with a corresponding duty to ensure best practice for its students, for its funding agencies, and for the animals it controls. CDU had opportunities to address the neglect of cattle and horses at Mataranka Station, even if senior officers could claim that they were not aware of it until about September 2009. They had a duty to enquire about and oversee the Station Manager's performance before then.

It is disturbing that the leading higher education provider in the Northern Territory failed to monitor the condition of livestock at Mataranka Station and failed to take adequate action to alleviate animals' suffering on receiving reports about the condition of the cattle. I quote from several reports and witnesses who alerted CDU to the situation in late 2009.

⁷ NHMRC – Guidelines to Promote the Wellbeing of Animals, June 2008, www.nhmrc.gov.au PCIS Code; *Animal Welfare Act*; NTGOV – Welfare of Extensively Managed Livestock During Dry Periods May 2008

⁸ All photographs contained in this report were supplied to my investigation and were taken at CDU's Mataranka Station in 2009 and 2010 except for the photo of the dehorned bleeding cow which was taken at KRC.

⁹ Known as downers.

¹⁰ *CDU acted as soon as it became aware of the problem in September 2009, but the university's response should have been more robust. The university regrets not doing more to address the problem at the time.* – Reference: CDU News Room 01/02/10

On 4 September 2009 two animal welfare inspectors acting on a complaint made to the Department of Resources (DOR) inspected the cattle at Mataranka Station. The reports they produced were provided to CDU personnel. The reports included the following statements:

- *We inspected the Highway paddock [04/09/09] for 2kms ... it was devoid of feed. The cows and calves were crowded around the watering point ...too poor to venture...*
- *The cows that were wet¹¹ were generally in a very poor condition and unless immediate action is taken there will be losses. Some animals had difficulty in getting to their feet*
- *...No supplementary feed or blocks ...*

DOR Report 5 September 2009, after describing the conditions of food, water and the condition of the stock:

- *Both Mr ...and myself were amazed that the manager had difficulty in coming to terms with the fact that the animals were not just in poor condition, but were being held in a starving situation.*

DOR Report 25 September 2009 after another inspection, the DOR inspectors, after describing in detail what they saw, reported:

- *The overall condition of the station stock is very poor and ... is an Animal Welfare issue*
- *Inadequate amounts of ... supplement are being provided*
- *There [is] a failure to adequately dispose of downers*
- *...shortage of staff ...for the care and feeding of stock*
- *Inadequate amounts of hay available for the starving stock*
- *...18 animals shot due to the effects of starvation in the last 11 days [not including] weaners dying.*
- *In the interests of the Animal Welfare of all animals an immediate solution is required*
- *The situation is very urgent. Management need ...an agenda as to how they intend to solve the present problem.*

¹¹ Lactating

PHOTOGRAPHS 2009¹²



Broken bore



Inadequate water supply



Lack of adequate water for many cattle



Poor condition

¹² No photograph has been stretched/alterd to make animals appear longer and or thinner. All photographs shown were provided by DOR or CDU employees/ students.



Poor BCS



Bore - lack of adequate water



Downer cow



Downer - flesh eaten from rear – meat ants



Deceased cow



Deceased next to water trough



Mataranka Station tip



Several deceased cattle at tip



Poor condition



BCS < 1



DOR photo - Downer



DOR photo - Poor condition weaners



1 dead weaner the other destroyed by DOR



DOR photo - Calf stuck in lick tyre



On 24 September 2009, a group of CDU students complained, the next day Dr Brian Heim, the Director of Vocational Education and Training (VET) at Katherine Rural Campus (KRC) was told by the Katherine Campus Administrator of the following information from these students:

On the first day [the Station Manager] dragged 2 x dead weaners from the yard on the motorbike ... Found weaner in dump looking for food on 2 occasions, had to physically pull them out of the dump as they were too weak to get themselves out ...had to drag several dead cows away.

There are cows down ...still alive and being eaten by meat ants, students asking why they have been left to suffer.

Several little calves trying to drink from cows that are down and too weak to get up.

Weaners in yards ... ever since students have been there [8 weeks] and not being fed regularly. Other cows have been left in the yards without access to a trough for 2 days at a time.

Spoke to 4 girls and one boy...They are all extremely distressed.

Cows getting trampled when feed put out as they are hungry.

A list of concerns about what the students had observed was provided to Dr Heim and concluded:

During time in practical placement we had interactions with the station staff regarding concerns from our observations however, no action was taken.

We the Certificate II students in Semester 2, 2009 at CDU believe that we have witnessed animal welfare issues and poor cattle management. In learning about Agricultural Studies cattle care we believe standards of care have not been maintained.

We have all been concerned and distressed in working in this environment...

Against this background of complaints known to Dr Brian Heim, Director, the Animal Ethics Committee (AEC) commissioned a report from an independent expert (Mr Thomas Stockwell) on animal husbandry delivered to the AEC Chairman (Professor Robert Wasson) dated 10 November 2009: The report in part stated:

A failure in ...basic principles of livestock management and husbandry has occurred at Mataranka and

- *the health and welfare of the Mataranka livestock has paid a heavy price*
- *staff members have been traumatised*
- *CDU's reputation ... is potentially severely compromised*
- *financial losses from the cattle operation will be significant*

A management system which starved animals to death, then left them for crows, dogs and ants to finish off is frankly distressing in the highest order.

The report further stated:

1. *The management and husbandry of cattle appears to fall well below any acceptable standard, resulting in a severe loss of productivity and a catastrophic failure in ensuring reasonable animal welfare.*
2. *There has been slow, grudging and ineffective management responses to a situation which has been going on for some time.*
3. *Explanations for the situation appear glib and exhibit some ignorance and naivety of beef cattle production in the monsoonal zone of the NT. (e.g. Continuous mating and out-of-season" calves are the industry norm in commercial herds and the nutritional requirements of the situation are managed.)*

There appears to be a range of contributing factors which may include:

1. *insufficient staff and potential inability to recognise and deal with husbandry issues.*
2. *inflexibility in administrative and management systems which results in insufficient, ineffective and untimely provision of resources to ensure proper management.*

Clearly however there needs to be some significant and urgent changes to the whole system of station management on Mataranka.

I have come to the same conclusions as Mr Stockwell and the DOR inspectors in September and October 2009.

The legislative framework and arrangements designed to monitor compliance with the *Animal Welfare Act* and accountability of the persons involved consists of the following roles and functions of the persons and entities:

THE ANIMAL WELFARE ACT AND REGULATIONS

The *Animal Welfare Act* and *Regulations* is the umbrella legislation.

- The *Animal Welfare Act* creates offences and sanctions for breaches, provides for the licensing of persons as inspectors/officers.
- The *Animal Welfare Act* requires that teaching or research involving animals by an institution be licensed. It imposes on the Department of Housing, Local Government and Regional Services the administrative responsibility for assessing applications for a licence by an educational or research institution, granting the licence, ensuring compliance, carrying out inspections, revoking a licence and initiating prosecutions if there are breaches of the licence standards or of the *Animal Welfare Act*.
- The *Animal Welfare Act* establishes the Animal Welfare Authority (AWA) as the entity responsible for most functions. There is also an Animal Welfare Branch within the Department of Housing, Local Government and Regional Services.
- It is a condition of receiving a licence from the Animal Welfare Authority that a teaching or research institution establishes an Animal Ethics Committee (AEC).
- The AEC must ensure that all animal care within the licensed institution is conducted in accordance with the *Australian Code of Practice for the Care and Use of Animals for Scientific Purposes*. This Code was promulgated by the National Health and Medical Research Council (NHMRC) in 1997. It was updated by a Code with the same name in 2004. It is this Code, together with the *Model Code of Practice for the Welfare of Animals – Cattle* promulgated by the Animal Welfare Committee within the Primary Industries Ministerial Council which sets the minimum standards and obligations of CDU and its AEC. These codes stipulate the lowest benchmarks to maintain cattle and horse welfare and have become incorporated into the law of the Northern Territory by Regulation 5 of the *Animal Welfare Regulations* and by Section 24 of the *Animal Welfare Act* and a notice in the Government Gazette dated 3 May 2006. Guidelines to assist the AEC are published by the NHMRC from which I have quoted earlier.
- The AEC must issue a permit to anyone at CDU to use animals for teaching or research purposes if the teacher meets the required standard. It is an offence for a person to use animals for teaching without a permit.

THE ADMINISTRATIVE ARRANGEMENTS ORDER UNDER THE INTERPRETATION ACT

The administrative responsibility for the operation of the *Animal Welfare Act* is assigned to the Minister for Local Government and the agency is the Department of Housing, Local Government and Regional Services (DHLGRS).

The *Livestock Act*

The *Livestock Act* prescribes a number of requirements for the movement, transport, control of disease, branding of livestock, including tagging and transport by land, sea or air. Its provisions are not as detailed as the *Animal Welfare Act*. The Chief Inspector of Livestock (usually a veterinarian) and other stock inspectors are authorised as inspectors under the *Livestock Act*.

As the Animal Welfare Branch (AWB) had only one staff member for many years, it has been the practice of inspectors under the *Livestock Act* to also be authorised to exercise the powers of inspection of an authorised person under the *Animal Welfare Act*.

Administrative responsibility for the *Livestock Act* is assigned to the Minister for Primary Industry, Fisheries and Resources and the agency is the Department of Resources (DOR) (previously the Department of Primary Industries - DPI).

The whole scheme for promoting the welfare of animals, with its mix of sanctions and standards, in theory ought to have been sufficient to ensure that when complaints were made in late 2009 by staff and students about the emaciated¹³ condition of cattle at Mataranka some action would be taken by CDU to investigate and take remedial action and for the inspectors of DOR, on behalf of the AWB, to inspect and take action for any breaches. The system appears to have failed, as the facts in this report disclose. The contributing factors to the failure of the scheme's processes to intervene effectively and improve the welfare of the cattle and horses identified by this investigation were:

1. There was confusion about who was responsible for:
 - Identifying any problems at Mataranka Station;
 - Taking adequate action to assess the situation of the cattle;
 - Listening to and objectively and forensically managing or resolving the complaints being made;
 - Reporting frankly to the Vice Chancellor or the Council.
2. The AEC Chairperson was in an irreconcilable conflict of interest. Professor Robert (Bob) Wasson was the Chairperson of the AEC. He was also the Deputy Vice-Chancellor of Research CDU. In addition, he was the holder of the licences under the *Animal Welfare Act* that had been issued for CDU. Professor Wasson's duty as a senior member of CDU management team was to protect CDU's interests and advance the standing and prestige of CDU. This also included its commercial interest, as Mataranka Station was designated a commercial venture for profit. This duty to serve

¹³ BCS1 Emaciated – Bone structure of shoulder, ribs, back, hooks and pins sharp to touch and easily visible. Little evidence of fat deposits or muscling. Reference – Douglas Daly Research Farm.

the interests of CDU would seem to any reasonable person to cause potential, if not actual tension when the AEC had to approve a research or teaching proposal from a researcher at a facility of CDU.

In Professor Wasson's case the topic of him having a conflict of interest was raised by a member of the AEC, who is a lawyer, on 9 October 2009. When the minutes of that meeting were circulated in draft the AEC member emailed the Executive Officer (EO) of the AEC asking that the minutes note that she had said at the meeting that there was a clear conflict of interest in CDU staff on the AEC being involved in decisions about Mataranka Station. I agree with the member. The Chair, Professor Robert Wasson and Professor (name withheld) were present at the meeting. The AEC considered a draft report following inspections of Mataranka Station by two members of the AEC on 17 September 2009 and 7 October 2009. Another item on the agenda was an application by Dr Brian Heim to make variations to an ethics application he had submitted for an activity that he would conduct. On both of those topics Professor Wasson had an obligation to step down from the Chair and both he and Professor (name withheld) ought not to have taken part in consideration of those items. There would still have been a quorum of other members. Professor Wasson's response¹⁴ to the request that it be noted in the minutes that the legally qualified member thought there was a conflict of interest was sent to the EO of the AEC as follows:

If we accept the words that [AEC member] wants we are prima facie accepting a potential conflict of interest. I do not believe there is any so I do not want the words to appear.

No mention was made in the approved minutes of the dissenting view. Professor Wasson also sent to the Vice Chancellor a copy of the draft report of the AEC about its inspections of Mataranka Station before it was approved by the Committee or circulated to it. On 25 September 2009 the draft of this report was emailed to Dr Brian Heim and to Mr Ian Gray the Station Manager of Mataranka Station for their comments prior to giving the draft to the AEC for approval. Emails indicate that Dr Brian Heim made changes and insertions into the report. These actions demonstrate that not only was there a potential conflict for Professor Wasson but he created an actual conflict between himself and the other members of the AEC in his role as Chairman, and the interests of CDU. There are also ample examples of Professor Wasson filtering the information that was to reach the AEC by giving directions to the EO about what information could and could not be given by her to the other AEC members. The EO was an employee of CDU and to her/his credit s/he objected on occasion but s/he was obliged to follow Professor Wasson's directions.

3. The division of responsibility and functions between the DOR and the DHLGRS resulted in inspections being carried out by DOR, reports being produced, which when sent (belatedly on some occasions) to the AWB were merely filed by the AWB. The DOR believed that it was the responsibility of the AWB to take action to prosecute those responsible for the cruelty to the cattle. The AWB had no training, no experience and little knowledge that it was their duty to initiate action.

¹⁴ Professor Wasson's email to AEC EO 20 October 2009 (16:47).

4. The biggest contributing factor, however, was the lack of action and management by the Station Manager, Mr Ian Gray. CDU are responsible for not supervising his activities, not managing his performance on an ongoing basis, taking no action on complaints about the consequences of his management even in the face of the DOR reports, staff and student complaints, photos and clear evidence of emaciated¹⁵, dying and starving cattle, and especially taking no action to remove him from his position or place a resident overseer to supervise his actions after receiving the independent report of Mr T Stockwell. Mr Stockwell himself, in an email to Professor Wasson, after he delivered his report (10 November 2009) and Mr Ian Gray was reinstated as Station Manager (10 December 2009), summed up CDU's failure as follows:

I think the process that came up with this result [keeping Ian Gray as Station Manager] is badly flawed. You have kept an incompetent manager and potentially lost everything else, and I fear our whole pastoral community will be the poorer for it in the long run.

After months of investigation CDU has not rebutted Mr Stockwell's view, which I endorse. I determined to conduct an investigation on my own motion into the allegations under the provisions of the *Ombudsman Act 2009* (NT). As required I sent notice of my investigation to the Vice-Chancellor of CDU (Professor Barney Glover) and to the Minister for Education (the Honourable Chris Burns MLA) on 4 February 2010. The parameters of the investigation were:

- The manner in which CDU conducted the operations of the Mataranka Station throughout 2009 and continuing into February 2010;
- The capacity of the person managing the operations of CDU at the Mataranka Station during 2009 and continuing, including his qualifications, experience, training, and performance;
- The adequacy and standard of the University's plans, budget allocation, staff skills, supervision, monitoring and management of all aspects of the welfare and treatment of cattle at the CDU Mataranka Campus;
- The quality of the University's management processes and practices necessary for Mataranka Station to receive, manage and respond to adverse events, such as drought and pasture shortages, or the ability to purchase supplementary feed, manage the movement, sale or destruction of cattle in times of shortage, or the capacity to respond to reports of cattle at risk of harm;
- The capacity of those responsible for managing CDU's Mataranka Station to recognise the need to put practices, processes and standards in place to prevent or, at least, remedy the visible neglect of cattle over a prolonged period during 2009;
- The standard and the actual practice of CDU's risk management strategy for managing cattle at Mataranka Campus;

¹⁵ BCS1 - Emaciated – Bone structure of shoulder, ribs, back, hooks and pins sharp to touch and easily visible. Little evidence of fat deposits or muscling. Reference Douglas Daly Research Farm.

- The level of coordination between CDU senior management and the management of Mataranka Station and with the Department of Primary Industries;
- Questions of whether or not CDU breached the *Animal Welfare Act* in the University's management of cattle at Mataranka Station during 2009, and in 2010.

In addition to the neglect of cattle, the focus on CDU's management capacity was expanded within this investigation to include the neglect of horses held at the Mataranka facility once the investigation revealed complaints about the condition of the horses. The production of CDU records and information revealed the systemic nature of management problems which combined to contribute to the condition of livestock at Mataranka Station, including:

- Poor record keeping practices.
- An outdated Strategic Plan (2001).
- Poor recruitment strategies and staff shortages.
- Failure to repair infrastructure in a timely manner.
- Failure to act on conflicts of interest within senior management.
- Practices that raise questions of the University's compliance with the *Animal Welfare Act*, *Veterinarians Act* and *Codes of Practice*.
- A lack of documented procedures, policies and standards in place designed to prevent the neglect of animals by evaluating outcomes against the policies and standards.
- Failure to adhere to best practice or to recognise the need for urgent action to respond to the emerging crisis at Mataranka Station by at least September 2009.
- Breaches of the *Livestock Act*.
- Breaches of the *Animal Welfare Act*.
- Failure to obtain a licence between 2005-2009 for Mataranka Station to conduct research or teaching using animals as required by the *Animal Welfare Act*.
- Failure to obtain a licence between 2005-2008 for Katherine Rural Campus to conduct research or teaching using animals under the requirements of the *Animal Welfare Act*.
- Failure to obtain AEC permits between 2005-2009 for all staff at Mataranka Station who conducted teaching using animals.
- CDU's failure in 2010 to adhere to the approved conditions of the AEC. In this instance, in early 2010, the Station Manager continued to teach pregnancy testing and branding to students.
- Overstocking the Mataranka facility beyond its capacity aggravated by no attempt ever having been made by CDU to ascertain its stock carrying capacity prior to 2010.
- Inadequate planning and budget allocation, eg: in 2009 the annual feed budget was cut by \$49,156 less than the 2008 budget even though there was an increase in the number of cattle. On a per head of livestock basis this was a cut of 22 percent per animal.

- Failure to appropriately immunise the cattle against disease or to treat animals for worm/tick/buffalo fly, or to adequately record this information.
- Failure to secure or a loss of prescription medications (in this case xylazine¹⁶ and dexamethasone¹⁷).
- Failure to follow procurement procedures or to obtain written quotations for such essential activities as helicopter mustering, fence repairs, or fire breaks.
- Failure to obtain written estimates or values prior to the sale of cattle.
- Lack of knowledge by staff about who is responsible for what duties involving the animals at the Mataranka Station.
- Throughout the period 2005 – 2009 no suitable training in methods to humanely destroy livestock animals.
- Poor induction for new staff members.
- Inadequate and ineffective supervision.
- Confusion and misunderstanding by Mataranka Station staff of relative legislative provisions.
- Failure in certain circumstances to demonstrate and teach best practice in dehorning methods.
- Misplacing important documents requested by this investigation which good management practice required to be readily available.
- Failure to report adverse events to the AEC despite the requirements of the Code.
- Failure to adequately denote duties in position descriptions.
- Failure to comply with section 29 of the *Animal Welfare Act* between 2005 and 2009. No licence for Mataranka Campus.
- Failure to comply with section 43 of the *Animal Welfare Act* between 2005 and 2009. That section requires all persons employed who provide teaching must have a permit.
- Mr Ian Gray (Station Manager) failed on occasion to comply with section 6 of the *Animal Welfare Act* in 2009 and 2010. '*A person must not neglect an animal*'.
- Mr Ian Gray (Station Manager) failed on occasion to comply with section 8 of the *Animal Welfare Act* in 2009 and 2010. '*A person in charge of an animal must provide appropriate and sufficient food and drink*'.
- Failure to comply with the *Firearms Act* in the following aspect:

CDU's Mataranka Station was deficient in relation to compliance with the *Firearms Act*, evidenced by Mr Ian Gray (Station Manager) on occasion not storing or carrying firearms as required by provisions of the *Firearms Act*, in addition some CDU staff using the stations firearms were not listed on the CDU corporate licence.

¹⁶ **Xylazine** is a drug that is used for sedation, anesthesia, muscle relaxation, and analgesia in animals such as horses, cattle and other non-human mammals.

¹⁷ **Dexamethasone** is a potent synthetic member of the glucocorticoid class of steroid drugs. It acts as an anti-inflammatory and immunosuppressant. Its potency is about 20-30 times that of the naturally occurring hormone hydrocortisone and 4-5 times of prednisone.

RECOMMENDATIONS

I make the following recommendations:

1. That the Vice Chancellor of CDU immediately review all aspects of the operation of Mataranka Station and within three months provide to the CDU Council:

An analysis of the past economic and commercial performance of Mataranka Station that has been audited by a qualified auditor independent of CDU.

A business plan for the future operation of Mataranka Station covering:

- research
 - teaching
 - management structure and lines of responsibility and reporting clarifying who within CDU has operational and management responsibility for Mataranka Station
 - proposed staffing including the number and qualifications of each staff member
 - the carrying capacity of Mataranka Station currently and proposed for the future
 - the plan for the provision of water supply in each paddock
 - plan for the management of forage grasses or crops in each paddock
 - the plan for determining and providing the amount of supplementary feed needed in any year, taking account of the number of animals at the station, weather conditions, fire or other unanticipated adverse events and including strategies and procedures to enable timely action in response to any risk to the well being of stock and horses at Mataranka Station
 - anticipated benefit for CDU in continuing to operate Mataranka Station covering financial, research and teaching implications.
- 1.2 That within one month of CDU Council considering the review report and business plan the Vice Chancellor inform the Ombudsman, the Animal Welfare Authority and the CDU Animal Ethics Committee of whether or not CDU Council accepts or rejects the review report and business plan (or any part of them), and of all decision(s) made by CDU Council about the future operation of Mataranka Station.
 - 1.3 That the Vice Chancellor provide to the Animal Ethics Committee and to the Animal Welfare Authority a copy of the business plan; and provide to the Ombudsman copies of the review report, the analysis of financial and commercial performance and the business plan.

2. That the person nominated by CDU to hold or apply for a licence under the *Animal Welfare Act* shall be the Vice-Chancellor, unless the CDU Council approves in any particular instance some other person.
3. That the person nominated to hold a licence for CDU under the *Animal Welfare Act* to use premises for teaching or research purposes shall not be a member of the Animal Ethics Committee while holding the licence but should receive a copy of the minutes of the meetings of the AEC and, on request, shall be given any papers or information considered by the AEC relating to any decision of the AEC.
4. That CDU make available to the AEC immediately on request a person with expertise in stock and station management, animal welfare and with knowledge of the PIMC Code for the welfare of animals and the NHMRC Code for the Care and use of Animals for Scientific Purposes. The person shall report only to the AEC and be authorised by CDU to require all CDU staff, or researchers approved by the AEC, to provide information to the AEC inspector. The AEC inspector should be engaged on terms commensurate with his/her qualifications and market rates.
5. That if the recommendation in 4 is accepted, all approvals for research or teaching involving animals by the AEC contain a condition that the applicant co-operate with and provide information on request to the AEC authorised inspector.
- 5.1 That if recommendation in 4 is accepted the AEC be allocated sufficient funds to engage someone external to CDU on its own initiative, and sufficient to cover travel and other expenses. The AEC to be responsible for the proper management of the allocated funds but have the freedom to use the funds without seeking prior approval from CDU for each inspection or activity it undertakes.
6. That any senior officer of CDU appointed as the Chair of the Animal Ethics Committee have no management or supervisory duties or authority over any person granted a permit by the AEC to use animals for teaching/research purposes other than the authority of the AEC.
- 6.1 That the Chair of the Animal Ethics Committee be directed not to provide information or reports to any CDU employee who is not a member of the AEC except with the approval of a majority of the other members of the AEC, not including the AEC Chair or any other AEC member who is an employee of CDU.
- 6.2 That the terms of employment of the Executive Officer of the AEC be amended to specify that the Executive Officer is not required to comply with any direction from the Chairperson or other member of the AEC to not divulge information to members of the AEC that the Executive Officer in his/her absolute discretion considers appropriate subject only to the requirements of the *Information Act*.
- 6.3 That as soon as practicable after appointment the AEC Chairman undertake training on how to manage a potential, or perceived or actual conflict of interest from a person with experience as a probity auditor.

- 6.4 That CDU engage a probity auditor to prepare for the AEC guidelines on how to avoid or manage a potential, perceived or actual conflict of interest.
7. That CDU immediately review the procedures and processes in operation at Mataranka Station with respect to knowledge information and document management, with a view to ensuring that records of cattle and horse numbers, the amount of feed as forage and by supplement, veterinarian services, plant and equipment condition, agricultural chemicals, disease control measures, pharmaceuticals and substances available and used are available at all times. Records of NLIS tagging of cattle should also be regularised. Included in this information, to be accessible to the Station Manager as well as the supervisors of the Station, should be copies of any licence under the *Animal Welfare Act*, permits for all staff granted by the AEC and copies of approvals for teaching and research from the AEC.
8. That CDU review within two months its complaint and grievance procedures and determine whether or not it was fully complied with between August 2009 and June 2010 for complaints about animals at Mataranka Station. If it was complied with, in my view it was ineffective and led to dissatisfaction about the treatment of complaints by those complaining and ought to be reviewed. I refer CDU to complaints by Toby Gorringer being dismissed by Dr Brian Heim as *trivial and vexatious* without undertaking enquiries; complaints by students receiving a response from Dr Brian Heim that what they observed and considered cruelty to animals was normal; insistence by Dr Brian Heim that grievances of staff could only be made verbally to a supervisor; a response to an Aboriginal student who made a complaint about racist comments that he was the prejudiced one; and no evidence provided that action taken was taken on a written complaint about the Station Manager's inappropriate behaviour.

In response to receiving a copy of the draft report the AEC responded '*This brings up the point that the procedures and responsibilities of the AEC as compared to the Animal Welfare Authority, and DPI inspectors needs to be clearly outlined. Agreements as to who reports what to who and when. The AWA is aware of this need and is keen to work on it with the AEC*'. The separate responsibilities are contained in legislation and agreement is inappropriate. CDU as the licenced entity under the legislation has an obligation to report anything that affects its licence under the *Animal Welfare Act*. It is for CDU to determine how and if AEC reports or action are to be divulged. There should be no direct reporting or delegation of responsibilities of the AEC to the AWA. That is a management action of CDU. The confusion that is evident in the circumstances of this report about what the AWA and AEC and CDU management were responsible for would continue if the approach suggested by the AEC continues. If the complaint and grievance procedure was not complied with I recommend that managerial guidance and instruction on the procedures be given to the relevant identified staff.

- 8.1 I further recommend that the procedures for complaints or grievances should be revised with specific reference to complaints or grievances about animal well being. If there is substance to a complaint about animal welfare it may involve a matter that goes beyond the interaction between CDU and a student or staff member. It involves the AEC's responsibility, CDU's obligations under the *Animal Welfare Act*

and various Codes of Practice. Any complaint or grievance about animal wellbeing ought to be notified immediately to a Deputy or Pro Vice-Chancellor who should make the decision to inform the AEC. The management of the complaint should at least be recorded and monitored at the higher level and taken over if potentially serious.

In response to the draft report the AEC wrote (23 September 2010) '*Any serious animal welfare complaints should be immediately referred to the animal welfare authority. CDU would only deal with minor issues of a teacher/researcher not following what they set out in their application, if alerted to this fact by the CDU AEC*'. I disagree. This confuses management responsibilities with the AEC role and sets up a framework for conflict of interest as occurred with Professor Wasson.

I have made other recommendations to the Animal Welfare Branch (DHLGRS), the Department of Resources and to the Minister for Local Government and the Minister for Primary Industry, Fisheries and Resources.

I would have recommended that Ian Gray, Station Manager at Mataranka Station of CDU be prosecuted for breaches of the *Animal Welfare Act*. It is, however, too late as there is a 12 months time limit for such a prosecution. I have been told that Mr Gray has left the jurisdiction of the Northern Territory.

As I did not fully investigate the administrative actions of DOR and the DHLGRS any recommendations I have separately made to them aim to improve public administration and have no validity under the *Ombudsman Act* as recommendations that can be made public and tabled in the Legislative Assembly.

ACRONYMS and DESCRIPTIONS

AEC	Animal Ethics Committee
AI	Artificial Insemination.
AWA	Animal Welfare Authority
AW Act	Animal Welfare Act
BCS	Body Condition Score
BOS	Board of Science
CDU	Charles Darwin University
CVO	Chief Veterinary Officer
DHLGRS	Department of Housing, Local Government & Regional Services
DOR	Department of Resources
DPI	Dept of Planning & Infrastructure (now known as DOR)
EBV	Estimated Breeding Value
FAS	Finance & Assess Services
KRC	Katherine Rural Campus
MS	Mataranka Station
NHMRC Code	National Health & Medical Research Council Code of Practice for the Care & Use of Animals for Scientific Purposes
PICS	Primary Industry & Community Services Industry Division (VET)
PIMC Code	Primary Industries Ministerial Council, Model Code for the Welfare of Animals 2 nd edition
PMD	People Management & Development
Podder/Poddy	Orphan calf
PVC	Pro Vice Chancellor
VC	Vice Chancellor
VET	Vocational Education Training/Trainer
Woody	Term used to describe poor condition calf

BACKGROUND

In September 2008 an anonymous report was made to the Department of Resources (DOR) that livestock at Charles Darwin University's (CDU) Mataranka Station were starving and neglected. The Department of Resources visited Mataranka Station and found that the report was justified. CDU management promptly arranged for food and supplement to be purchased and fed to the cattle. Cattle were also sold to reduce the herd and the burden on the paddocks which could not sustain the cattle.

On 28 August 2008 (17:18) Dr Brian Heim emailed Mr Ken Suter:

I went down to the station on Sunday, drove around most of the paddocks and had a pretty good look at the livestock and what is happening there. What I saw indicates that we are going backwards somewhat from where we were 6 months ago. It is not a case of mismanagement but more an issue of going back to old style management of the cattle after we had been much more progressive under Brett Krafft. This method of management coupled with a suboptimal wet season is beginning to show in the cattle and will only progress over the next few months unless some measures to mitigate it are put in place soon.

When the station was separated from training a few years back I stepped right back from being involved in the management of it. Brett was an experienced and competent operator and didn't need my advice or assistance in most matters. I don't think this will be the case with the new manager. While I have plenty to do at present, I would like your permission and support in allowing me to take a more active role in managing the station manager and assisting with the decisions made on running the station. I do not want to see the quality of the operation slip backward and feel it would be advantageous to the University for me to be more directly involved again in the management of the station. I am happy to discuss this further with you to talk about details of my proposal.

Mr Ken Suter responded on 1 September 2008 (10:15), he wrote:

Thank you for these comments and your interest as always it is appreciated. Can you kindly elaborate on what you mean by the old style of management and how this is now showing in the livestock. Any examples would be of benefit.

Dr Heim on 2 September 2008 (09:39) replied:

What I mean by old style management is going back to running all classes of stock together rather than drafting by age and condition and specifically focusing supplementation efforts on those animals that need it most. Calvin is also relying very heavily on helicopter for mustering (almost entirely) rather than using it as an adjunct to mustering in addition to trapping and horse/quad use. Brett had steadily been moving toward more management to decrease costs. This would be even more appropriate now with the rises in fuel and supplement prices that have recently occurred.

A few examples:

1. *When I did my drive around, I noticed that many gates are open so that cattle have access to multiple paddocks. This encourages them to flog out areas that may have preferable food sources while leaving other areas underutilised because of the presence of less palatable grass species. Managing the herd and forcing them to utilise paddocks is a more appropriate system for a variety of reasons.*
2. *Cattle of multiple classes are in the same paddock. Younger cattle or those with less size (and therefore less ability to compete for grass and supplement) are in with older cattle and those in better body condition. When supplement is put out the larger and more fit cattle will get it while the ones that need it most are unable to do so due to competition. The alternative is to put out more supplement which costs more money and ends up heavily supplementing the cattle who don't really need it just to make sure that the skinny cattle get enough.*
3. *Similar to 2 above, weaners of multiple sizes are co-located in the same paddock. The larger weaners are in good nick while the smaller ones are scruffy and poor. Even if supplement is provided, the larger ones who don't need it will push the smaller ones out of the way. Good management dictates that they be drafted by size and then supplemented appropriately. They are not far from the yards and this could be easily accomplished even by a small workforce.*
4. *Calvin has stated that he does not believe in trapping cattle. Trapping is an extremely cost effective way of mustering during the dry season in almost all of the paddocks at Mataranka because most of them don't have permanent water other than the bores. It only requires that someone goes out to set the spears a few days before the muster so that when cattle come in to get water they cannot return to the larger paddock. If done properly, you can easily trap 85-90 percent of the cattle in a paddock and thus only require the helicopter to bring in the stragglers rather than the whole herd.*
5. *A couple of years ago we got a grant to fence off the creek on the east side of the highway in order to conserve the riparian environment by keeping cattle off of it. The gates are open now so that cattle have access to the entire creek. This shouldn't happen except in times of dire need such as other paddocks being burnt out.*
6. *Supplement which should have been out in June has only just arrived last week (August). Many cattle have lost enough body condition that they will be very late getting pregnant (eg: not until March or April). They will calve in January or February of 2010, won't have the calf weaned until 2nd round in 2010 and it would be unlikely that a pregnancy rate greater than 40-50percent will be achieved. Ultimately, that means that in 2012 there won't be enough yearlings to sell which will affect the bottom line.*
7. *Calvin was feeding phosrite supplement blocks until just recently. These blocks are intended only for the wet season as they simply provide phosphorus and not urea. Their use should have discontinued no later than May and the switch to dry season*

lick made. Brett purchased enough phosrite blocks for two wet seasons while the prices were still low. However, because they were continually put out into August more will have to be purchased later this year.

8. *Bulls are still in the paddocks even though they should have been mustered out in May. In one paddock I saw 4 bulls, all with our brand so it can't be said that they are mickey's that jumped the fence. This does not work well with our controlled mating that we have been doing for at least the past 5 years and is a return to the old style of running the bulls all the time and year-round mating.*

In addition to some assistance from me in managing, I strongly recommend that whoever the new station manager is, that person be encouraged and supported in attending the Grazing Land Management and Nutrition Edge courses that are offered through the Dept of Primary Industries. They offer excellent management training for progressive cattle properties looking to improve their bottom line.

On 9 October 2008 (14:11) Dr Heim on-forwarded the above emails to Professor Wasson, he wrote: 'FYI – notice that this was in August/September of 2008'.

That Station Manager's contract was not renewed past 2008. An acting Manager was installed at the Station. At the onset of the wet season, and following improvements to the condition of the cattle, circumstances were '*monitored*'. No further concerns were raised about the condition of cattle at Mataranka Station in 2008.

Between September 2008 and January 2009, Mr Douglas Jenkins, Livestock Lecturer at CDU, was the Acting Station Manager. Mr Jenkins continued his employment as advisor to Mr Grant Parker, a Vocational Education Trainer (VET), who was acting in the position of Station Manager for the period January 2009 to April 2009.

On 13 January 2009 an application¹⁸ was made by Dr Brian Heim to the CDU Animal Ethics Committee (AEC) seeking *Approval for Projects Involving Animals for Research and Teaching* at Mataranka Station. In his application Dr Heim stated that Mr Jenkins had extensive pastoral industry experience with at least 10 years experience in agricultural related enterprises. There was no mention of mismanagement in the project application to the AEC. The application to the AEC did not mention that, in 2008, there was evidence that some livestock at Mataranka Station were *starving* or that a fire had caused *substantial stock losses*¹⁹ and about 200 cattle needed *hospital* care.

In April 2009 CDU Vice Chancellor Professor Barney Glover visited Mataranka Station. In an email dated 1 May 2009 (08:19) the Vice Chancellor advised several staff involved with Mataranka Station, including Dr Brian Heim, Director, VET and Mr Don Zoellner Pro Vice-Chancellor VET, that he had *enjoyed his trip* to Mataranka Station. There were no concerns raised by the Vice Chancellor or anyone else at this time about the condition of animals at Mataranka. The Vice Chancellor (1 October 2010) stated *he did not inspect cattle during his visit to Mataranka Station in April 2009, nor does he have any expertise in assessing the body condition of stock in northern Australia*. He was however accompanied

¹⁸ Reference: Email of Brian Heim to EO AEC dated 13 January 2009 08:42 with application attached.

¹⁹ Reference: Document of Ken Suter dated 24.12.2009

by Dr Heim the author of the above information in the email of 2 September 2008 who was so experienced. I mention this because of the later claim by the Station Manager that in May 2009 the condition of cattle was concerning.

On 4 May 2009 a permanent Mataranka Station Manager (Mr Ian Gray) took up his position. Mr Gray's probation period was to end on 4 November 2009, this was extended for a further period. Mr Gray's probationary supervisor was the then Senior Manager of Major Projects, Mr Ken Suter.

Station Manager Mr Gray in response to the *Stockwell Report* of November 2009 stated that on his arrival at Mataranka Station in May 2009 he had concerns about the condition of cattle. He claimed to have mentioned these concerns to his supervisor/s. There was nothing provided to my investigation either in a document or when interviewing CDU staff to support that Mr Gray's concerns were recorded. Nothing was produced to show that Mr Gray took any measures to provide extra feed, attention, or management to any cattle that were in poor condition as a reasonable person would expect from a competent station manager if he had concerns.

Mr Douglas Jenkins in interview said that in May 2009 the normal standing condition of cattle at Mataranka Station was between 3-4 body condition score (BCS – a maximum BCS equals 5). Messrs Walters, Gorringer, Parker and others corroborated Mr Jenkins' view of the condition of cattle in May 2009.

On 1 July 2009 an email to Mr Gray from Mr Parker informed Mr Gray that three (3) weaners out of 145 weighed were below 100kg and these three (3) weaners were all over 80kg.

In June 2009 Dr Brian Heim attended Mataranka Station. In interview he stated that he did not recall having major concerns about the condition of cattle.

The documented view of the AEC EO as of 8 September 2009²⁰ was that:

...there needs to be one person responsible for the facility and that person is indicated in the Code of Practice as the Facility Manager (Ian Gray). He needs to know everything that happens to those animals, any events or adverse events that happens. Yes others may resolve the problem but they must report back to him, who should then report everything to you (Dr Heim), being the Animal Ethics Applicant holder...

On 14 September 2009 Dr Heim emailed²¹ the AEC EO stating that he was to be removed from the permit application as the Chief Investigator and replaced by Mr Tim Biggs.

Between May 2009 and October 2009 it was alleged by CDU staff working at Mataranka Station that insufficient feed and/or water was being provided to animals and in some cases staff stated that no feed was provided to animals for days at a time. It was reported that cattle were kept in yards for long periods with no access to adequate feed, water or

²⁰ Email of EO AEC to Dr Brian Heim regarding the draft document - livestock monitoring protocols.

²¹ Reference: Email of Dr Heim to EO AEC 14 September 2009 17:35.

space. It was reported that this lack of feed and/or water resulted in the suffering and/or death, of many cattle and a few horses.

From documents provided to my investigation I note that the Vice Chancellor was aware of animal welfare concerns at Mataranka Station on or before 4 September 2009²².

On 13 October 2009 (13:09) the AEC EO sent the Vice Chancellor a copy of the first AEC inspection report. It is not apparent the DOR reports were provided to the Vice Chancellor in 2009 despite them being provided to the AEC, and to Mr Ian Gray and Dr Heim. The Vice Chancellor had been informed on 5 September by Mr Ken Suter that DOR had reported finding 424 emaciated cattle at Mataranka Station.

INTERVENTION BY ANIMAL WELFARE INSPECTORS

On 4 September 2009 Mr Ken Suter, Senior Manager Major Projects, Finance & Asset Services (FAS) sent an email to Mr Rob Brelsford-Smith, Executive Director, FAS and CDU Vice Chancellor. In this email Mr Suter advised that he had spoken with a DOR officer from Katherine who had notified him that an inspection of Mataranka Station would be made on 5 September 2009. That email is shown below:

I need to advise that around 1600 today I had a telephone call from the animal welfare group at Katherine to advise that they will be undertaking a full review of Mataranka cattle tomorrow as they believe the conditions of some of the cattle may be poor. Mataranka has been on ongoing watch from the animal welfare group following cattle deaths as a consequence of the fires in 2008.²³

I have spoken with the Cattle Station Manager, Ian Gray and he is aware that there are cattle which have calved out of season due to mismanagement from the former cattle station manager and consequently those cattle are having difficulties coping with a calf and the normal impacts of the dry season. Ian has been supplying supplementary feeding to the cattle at considerable cost but given this time of the year it is difficult for cattle to put on condition if they have calves to contend with. Mataranka is not short of cattle feed. However the areas around the water troughs are fully eaten out and if cattle become weak then they can experience difficulties in travelling from water to feed. Consequently they just become weaker. Ian is a very experienced beef farmer and I have no reason at this time to doubt that he is not taking all steps to safeguard the welfare of the animals. We will be in a better position to determine what needs to be done next when Ian reports tomorrow. However we do need to be aware that any adverse news does become general knowledge very quickly hence the need to be forewarned.

I can not agree with the comment that Mr Gray was providing supplementary feeding at a considerable cost to CDU. In my view the expenditure was within the allowance of the allocated 2009 feed budget. Between 1 February 2009 (nil purchases in January) and 1

²² Reference – email of Mr Suter to Vice Chancellor 4 September 2009

²³ This was a misleading statement. The *watch* was a consequence of the discovery of starving cattle – not a fire.

September 2009 \$114,762.88 of the total annual budget²⁴ of \$142,000.00 had been spent on feed. If Mr Gray was providing supplementary feeding it was indisputably not enough. If it was, the cattle would not have been in the distressed and starving condition seen by the inspectors from DOR on 4 September 2009. The cattle in photographs taken in September 2009 at pages 7 - 9 of this report are more than *'having difficulties coping'*.

In relation to the comment that due to mismanagement the cows had calved out of season, my Office was advised that bulls were placed into paddocks in December 2008 and it was expected that birthing would occur in September/October prior to the start of the wet season. This would suggest that birthing was occurring close to the expected time. During mustering operations in 2009 *'Mickey bulls'* were found in paddocks.

Unless 100% of bulls are removed from herds there will always be some *'out of season'* birthing. Expert advice sought by my Office and information from the owner of a cattle station in the Mataranka region confirmed that removing 100% of bulls is not feasible on stations the size of Mataranka Station.

I cannot accept that, even if out of season calving was the cause of a subset of poor condition cattle, any explanation has been given for the number of bulls, heifers, steers, weaners and horses found in neglected and deprived condition at Mataranka Station between September and December 2009, and later in May and June 2010 (cattle).

I am not sure why Mr Suter in his email of 4 September 2009 advised that it is *'difficult for cattle to put on condition if they have calves to contend with'*, as in his next email a day later - 5 September 2009 he wrote *'The cattle have been receiving feeding supplements including hay and in Ian's view will be back to reasonable condition within two weeks'*.

In my view inadequate feed/forage and/or supplement was available/provided in the months before September 2009 which led to the emaciated condition of animals. My view appears to be supported by the inspections conducted by DOR on 4, 5 and 25 September 2009 which identified that no hay or insufficient hay had been provided.

I note that on the inspection on 5 September 2009 the attending DOR staff directed the Station Manager to feed the animals, and shortly thereafter DOR staff returned to the station and fed out 12 bales of hay to *'starving cattle'* because the Station Manager had not put out anywhere near enough.

²⁴ Reference: Mataranka Station Feed Purchases Period 1 Jan 2009 – 31 Dec 2009.



DOR feeding cattle at Mataranka Station Yards - 25 September 2009

Mr Douglas Jenkins was asked how much feed/supplement was provided to cattle in 2009. He advised that when he acted as Station Manager the shed feed would diminish noticeably as feed would be taken out regularly. Mr Jenkins stated in Mr Gray's tenure feed was rarely fed out and the majority remained within the shed. Ms Nichola Walters a Station Hand at Mataranka Station 23 March 2009 – 18 December 2009 confirmed Mr Jenkins' view of the amount of feed provided and her notebook and diary entries confirm that little was fed out. The view that feed was being left in the shed rather than distributed is also supported by DOR staff who attended Mataranka in early September 2009, their inspection findings are documented further within this report.

I am satisfied from the records of feed purchased for Mataranka Station in 2009 that prior to the complaints in September an insufficient amount of feed/supplement was purchased during the height of the dry season. Considering the herd size was approximately 4500 cattle and 36 horses the amount purchased would not have supported all the animals held at the station. Feed requirements are discussed further in this report.

In another email (5 September 2009 - 21:17) from Ken Suter to Rob Brelsford-Smith and the Vice Chancellor, Mr Suter advised that an animal welfare veterinarian had completed a full review of the cattle:

...In summary there are 424 emaciated cattle and one sick weaner. The emaciated cattle are not in Ian's view short of feed they are simply stressed due to calving and/or being in calf at this time of the year...

This acceptance by Mr Gray's supervisor of his explanation and down playing of the DOR report ignored the fact that for whatever reason there were 424 emaciated cattle seen by DOR. The Vice Chancellor has not commented on his views when informed of 424 emaciated cattle seen by DOR.

It should be noted that animal welfare officers (veterinarians) or inspectors did not, on any inspection, view the entire cattle herd or horses held at Mataranka Station. DOR staff who attended on 4 September 2009 viewed cattle held in the Laneway Paddock (sometimes referred to as Highway Paddock) and an adjacent paddock which they drove through for a distance of about 2km.

On 5 September 2009 the DOR returned to Mataranka Station viewing 350+ animals held in the Laneway Paddock. Suffice to say the concerns reported by CDU staff members Toby Gorringe, Grant Parker and Nichola Walters were confirmed by the DOR after their inspections of 4 and 5 September 2009.

COMPLAINTS TO THE OMBUDSMAN AND TO CDU

On 29 January 2010 a complaint to my Office was received from Mr Toby Gorringe, CDU VET Lecturer – Beef Cattle/Horse Production. Mr Gorringe was employed on 25 June 2007 and his probationary period expired on 25 June 2009. Mr Gorringe's probationary supervisor was Dr Brian Heim. Mr Gorringe at the time of complaint resided at Mataranka Station.

Mr Gorringe's complaints related to neglect of cattle by CDU held at Mataranka Station. Over the next few weeks more complaints were received.

The first complaint identified by this investigation made to CDU is documented as being 28 August 2009. Mr Gorringe advised he had observed cattle that had been locked in the Highway Paddock with insufficient food, and that weaners locked in cattle yards were not being fed regularly. Mr Gorringe stated that on 28 August 2009 he reported his observations to his 'superior' (Dr Brian Heim). Mr Gorringe stated he subsequently left Mataranka for a short period to take interstate travel. Mr Gorringe stated he was aware that at this time another person had called the DOR to make a similar complaint.

Mr Gorringe advised that when he returned from interstate on 13 September 2009 he remained concerned that the same weaners remained in the yards and the same cattle remained in the paddock. Mr Gorringe also stated that DOR inspectors on their visit (5 September 2009) to Mataranka Station had directed the Station Manager to feed these cattle (confirmed in DOR report). This should not have been necessary if sufficient feed had been provided.

Mr Gorringe advised that he is a stockman who has dealt with cattle and horses his whole life and that in his view the majority of cattle were not being fed regularly and/or insufficient supplement/lick was provided, which was the reason for their poor condition. This view is supported by several DOR reports; Mr T Stockwell; the view of CDU employees Messrs Jenkins, Walters, Parker; contractor Spud Thomas; the view of the AEC Executive Officer of 14 December 2009²⁵; and an independent veterinarian. If any further evidence is needed it is the cattle themselves and their condition in September 2009. That condition is depicted in the photographs earlier in this report.

²⁵ Email of AEC Executive Officer *I still ask myself why did the cattle get in such an emaciated (sic emaciated) condition in the first place. I don't believe the truth has properly been revealed* - email replicated page 113.

Mr Gorringer stated he complained *'again and again and got nowhere'*. He then complained to Mr Don Zollner, a CDU employee *'above Dr Heim'* which according to the response provided by the university²⁶ was the appropriate next step. That occurred on about 8 October 2009. Mr Gorringer advised that 3 days later he was sent a letter²⁷ by Dr Heim telling him to move from Mataranka to Katherine because *'the house he was living in was needed for farm staff'*. This was despite Mr Gorringer being offered fully subsidised housing at Mataranka Station upon employment²⁸. As at 8 April 2010 the house that Mr Gorringer eventually vacated remained empty.

Mr Gorringer also advised that he received a *'bullying email'* from Dr Heim telling him to *'basically pull his head in'*. Mr Gorringer believed that the *'order'* to move out of the CDU house was a reprisal for him making complaints. He was further concerned about the additional travel that would be imposed on him moving to Katherine, stating that a good percentage of his teaching is conducted at Mataranka and he had been helping at that Station since his appointment. His major concern was that in moving from Mataranka Station he was moving away from cattle and horses that required attention.

Mr Gorringer also advised that the treatment of the CDU animals was a *'gross act of animal cruelty'* and that there was a *'cover up'* going on. The Executive Officer of the CDU AEC also had reservations. S/he wrote on 14 December 2009 *'I don't believe the truth has properly been revealed'*.

Shortly after receiving Mr Gorringer's complaint my Office was directed to YouTube²⁹ and a PowerPoint presentation depicting starving, dying and dead cattle allegedly photographed at Mataranka Station. What was not known at this time was the extent of the problem and the number of animals that had died or were euthanised at Mataranka Station during September to December 2009.

Additional media reports began to surface with CDU admitting that *'...a small number of cattle at Mataranka in September 2009 were in distress during the dry season...'*³⁰ as a result of *'...late calving out of season which put stress on some of the cows and calves...'*

Considering the first reported numbers of emaciated³¹ cattle were around 424 animals this would have been approximately 9% of Mataranka Station's stock in extremely poor condition. In my view this is not *'a small number'*. Subsequently my investigation revealed many more starving animals than the reported 424 emaciated cattle.

Over several more weeks additional complaints were received at my Office. One complaint was that the number of cattle at Mataranka Station was substantially over what should have been there. In 2009 there were reportedly approximately 4500 cattle at Mataranka Station. An assessment of the property for its carrying capacity by DOR in

²⁶ See page 177. CDU response to question 21.

²⁷ Letter of Dr Heim to Toby Gorringer dated 11 October 2009

²⁸ Reference: Email of Dr Heim to Maryanne McKaige 9 February 2010 17:20.

²⁹ On 27 January 2010 Professor Wasson emailed the Vice Chancellor & others regarding the YouTube footage, he wrote: *I have looked at the utube item and the photos are clearly from last dry season. They were posted on 24th January and appear to focus on why nobody has been prosecuted.*

³⁰ Reference - ABC Rural

³¹ BCS1 or under.

March 2010 reported that due to the current land condition and water point development, the estimated actual carrying capacity of Mataranka Station was 2638. With the improvement of land condition, forage and better access to water the carrying capacity could be increased to 3394.

Another complaint received at my Office was from a contractor employed by Mr Ian Gray to educate³² cattle at the station over a two week period in October 2009. This contractor stated he was *horrified* at what he observed and refused to return and be a *part of that situation*.

Subsequently another complainant advised that not only were the *'cattle dropping but so were the horses'*.

Mr Douglas Jenkins advised that he raised concerns about the poor condition of cattle held in Highway Paddock with Mr Tim Biggs and Dr Brian Heim. Mr Jenkins, concerned about the reputation of CDU and the amount of feed available, stated that he told these gentlemen *'to get the cattle out of Highway Paddock so people passing cant see them'*. In removing the cattle from this paddock the cattle could forage for food that was apparently available in other paddocks.

Mr Grant Parker (temporary Station Manager January 2009 to 3 May 2009 prior to the appointment of Mr Ian Gray) advised that when he raised his concerns about the condition of the cattle and horses with Dr Heim he was told that it was *'not his concern'*. Mr Parker advised that cattle should not be held in a holding paddock for longer than 2 weeks. In this case he stated the Station Manager held cattle in Highway Paddock for approximately 28 weeks.

Mr Douglas Jenkins advised that the cattle held in Highway Paddock were placed there in late April and early May 2009 for sale. He stated that on placement in the yard the cattle were a blend of fat cows, coloured cows, cows with calves and weaners. Mr Jenkins stated he had arranged for sale at a flat rate of \$480/head regardless of size, colour, age, etc. Mr Jenkins advised that on the appointment of Mr Gray, Mr Gray wanted the fat cattle removed from the sale, however he wanted the buyer to pay the same rate for the remaining coloured, weaners, cows and calves. The sale fell through. Mr Gray in response to this issue stated that a written quote had not been obtained by Mr Jenkins and when the buyer later offered \$400/head Mr Gray discussed the matter with Mr Suter and it was determined not to sell at this price. Mr Suter in contrast stated that it was Mr Gray's decision not to sell the cattle despite being instructed to do so.

Mr Parker advised that when Mr Ian Gray (Station Manager 4 May 2009 to June 2010) was *stood down* 17 November 2009 - 10 December 2009 Mr Parker relieved as Station Manager. Mr Parker said he had to purchase 20 tonnes of lick in the first 2 weeks and that the cattle *'downed this quickly due to hunger'*.

A previous employee of CDU, Ms Nichola Walters (Station Hand 23 March 2009 – 18 December 2009) advised that in some instances she was *'putting down 6-7 cattle per day'*. She advised that she was so traumatised by the state of the majority of cattle (amongst

³² Term to describe working with cattle.

other things) that she suffered from post traumatic stress syndrome requiring her to take leave from work.

Subsequently Mr Grant Parker also took leave from CDU when he was directed to return to Mataranka to work under the direction of Mr Ian Gray. Mr Parker subsequently resigned from CDU on 30 April 2010 after advising that he was willing to work anywhere but not under the supervision of Mr Gray. He was not given that option. This theme was repeated with the resignation of Mr Robin Files being tendered in 2010 citing that he could not work for or with Mr Gray.

Mr Gorringer also took leave from work for related reasons. Messrs Parker, Spence, (male staff member name withheld), Walters and Files departed CDU during the period of this investigation citing Mr Gray as the reason for their departure.

The numerous complaints about animal neglect; an alleged lack of processes, practices, procedures, plans, staff skills, supervision; the monitoring and management of all aspects of animal welfare; concerns about the operations at Mataranka Station; concerns about the qualifications, experience, training and performance of the Station Manager; conflict between the Station Manager and staff, allegations of a conflict of interest and the allegation of a cover up led me to decide to investigate the actions of CDU and its staff.



Two weaners in the Yard. One was dead on the arrival of DOR Inspectors; the other was shot by DOR shortly after arrival.

INVESTIGATIONS BY THE DEPARTMENT OF RESOURCES (DOR)

As previously stated, this investigation relates to allegations of cattle and horse neglect at Mataranka Station from 1 January 2009; however for background and a proper appreciation of the facts there are references within this report about cattle neglect at Mataranka Station in 2008.

In early September 2009 the Department of Resources (DOR) received a complaint of neglected cattle held at Mataranka Station.

DOR has several staff who have been appointed as either inspectors (Section 57) or officers (Section 58) under the *Animal Welfare Act*. The difference between an officer and inspector is that an officer must be a veterinarian.

At the time of the 2009 complaint two DOR stock inspectors³³ (Officer 1 and Inspector 2³⁴) were tasked with conducting an inspection of Mataranka Station.

These two inspectors were expected to hold the requisite appointments of officer and inspector under the provisions of the *Animal Welfare Act*.

This investigation revealed that Officer 1 had never held an appointment under the *Animal Welfare Act*. This oversight was rectified in May 2010. Inspector 2 did hold an appointment as an Inspector under the *Animal Welfare Act*.

Officer 1 is a Senior Field Veterinary Officer based in Katherine, he incorrectly held the belief that an authorisation issued under the *Livestock Act* had also been issued to him under the *Animal Welfare Act*.

The power to enter (Section 62) Mataranka Station to investigate neglect complaints in September 2009 was authorised under section 62(1)(a)(i). Inspector 2 had right of entry at the time as Mataranka Station was not a licensed premises pursuant to the requirements of the *Animal Welfare Act*. Had Mataranka Station held a licence in 2009 the exercise of a power by an Officer is required pursuant to section 62(1)(b)(i).

Apart from the first DOR inspection conducted on 4 September 2009, advance notice³⁵ was given by DOR to CDU of all other proposed inspections.

Officer 1 undertook several further inspections of Mataranka Station with other DOR employees who held the appropriate appointment. The findings of these inspections are accepted.

³³ Appointed under the *Livestock Act*

³⁴ Inspector 2 also appointed an inspector under the *Animal Welfare Act*

³⁵ Inspections of 5 & 25 September 2009 by phone and 9 & 22 October 2009 were notified to CDU verbally and by email on 26 September 2009 (16:55) from DOR Susanne Fitzpatrick to Dr Brian Heim.



DOR inspection 25 September 2009. Downer weaner.

Below are the replicated reports submitted by DOR employees:

REPORT 1: On 4 September 2009 an 'anonymous' person reported 'Starving Stock at Mataranka Station' to the Northern Territory Government Department of Primary Industry, Fisheries and Mines (DPIFM now known as DOR).

The details of complaint are shown below:

It was reported that a large mob of cows and calves were being held in a laneway paddock close to the Stuart Highway and that they were in a very poor state indeed.

There was basically no paddock feed available and supplementary feed and lick blocks were apparently not being provided. The animals were congregated around the watering troughs and were basically too weak to move from this situation and graze. The paddock appeared to have been 'flogged out' by the sheer no's of stock being held there.

There were also a mob of weaners being held in an adjacent paddock. Again they were congregated around the watering point.

It was also reported that mobs of weaners had been held in the yards for some considerable time often without hay or supplements being provided.

The investigation by DPIFM revealed:

On receiving the complaint DPI Inspector 2 tried on three occasions to contact the manager Ian Grey leaving messages on both his office and mobile phones on the 3rd and 4th of September, however there was no reply, so it was decided to visit the station.

On 04/09/09 DPI Officer 1, R.V.O Katherine and DPI Inspector 2 the Regional Biosecurity Officer visited Mataranka Stn, however the manager was not present.

We inspected the cows and calves in the Highway Paddock and drove through it for 2kms. The paddock to that point was basically devoid of feed. The cows and calves were all crowded around the watering point and it appeared that these stock would have been too poor to venture away from this watering point.

The cows that were wet were generally in a very poor condition and unless immediate action is taken there will be losses here. Some animals had difficulty in getting to their feet when approached.

There appeared to be no supplementary feed or blocks being provided.

Most of the weaners in the adjacent paddock appeared to be in fair condition, however there were some poor doers in this mob as well. Again there was no sign that supplementary feed was being given and the paddock appeared to be fairly well flogged out.

The weaners held in the yards were generally in fair condition but again there was a percentage that needed to be drafted out and provided special attention.

Under the heading of 'Actions' is written:

It was apparent from our initial inspection that an immediate and thorough investigation of the entire property was required. The property manager, Mr Ian Grey was contacted and an inspection logged for the next day, Saturday 05/09/09.

Under the heading of 'Comments' is written:

This is not the first time that an animal welfare issue has been raised against Mataranka Station. In approx. the same time last year (18/09/08) a complaint was lodged re Starving Stock on the station.

The complaints were immediately investigated by the animal welfare team at Katherine and recommendations were made re improved husbandry methods to be adopted.

It is a serious situation to again receive complaints from the general public re apparent neglect on the property.

REPORT 2: A subsequent follow up report was submitted on 5 September 2009. The investigation findings are shown below:

This is a follow up examination of the reported Animal Welfare situation on the property which was initially investigated on the 04/09/09.

On the 05/09/09 at approx 0900hrs the Regional Veterinary Officer DPI Officer 1 and the Bio-security officer DPI Inspector 3 visited the Station. We identified ourselves to the manager Mr Ian Grey and I alerted Mr Grey as to the purpose of our visit as well as his right of reply to our questioning. He was initially very defensive as to what was happening on the property, especially after reading my report of the previous day, which I had given to him. I stated to Mr Grey that it appeared that the situation was indeed very serious and as this was a repeat offence we may very well instigate legal action, although I could only make recommendations as to this course of action.

It appeared that there had been no attempt to adequately feed the stock being held in the yards or those 350+ animals (cows/calves/weaners) that were being held in a laneway adjacent to the Stuart Highway. The stock in the laneway had only limited access to water, simply a 2 metre long trough. The next watering point was some 10kms away in Wire Hill paddock, to which they had access. The laneway paddock as mentioned in the initial report of 04/09/09, held almost no available feed for the stock for at least the first 2-3kms from where the stock had congregated around the water trough. Basically nothing much of any nutritional value would have been available for the stock in this laneway, in the condition that we had observed them in, would have been able to walk the 4-5kms to the very sparse available feed and then make the same journey back to the water trough.

Taking into account the very debilitated state of most of the stock in the laneway the manager should have realised the urgency of the situation. Immediate action should have been taken to commence feeding hay and providing high protein supplements, so that the animals didn't decline any further from their already debilitated state. However it appeared that there was only very limited action taken by management to alleviate the extremely stressful situation that these animals were in.

When questioned as to why he had not taken any action and fed the starving stock with some of the stored hay available on the station, the manager was adamant that in the cooler times of the day the stock were moving out along the lane way and receiving adequate feed as far as he was concerned. We were simply looking at the stock after they had returned to the watering point after their morning 'graze'. However, it was pointed out to him that there was no evidence of 'cudding'³⁶ at all in the stock and the stock were indeed starving. The manager was unable to admit that the situation was indeed serious and that immediate corrective action was required. Both Mr and myself were amazed that the manager had difficulty in coming to terms with the fact that the animals were not just poor, but were being held in a starving situation.

I questioned the manager as to why he was reluctant to immediately start 'emergency feeding' to the starving stock. He replied that the situation would be solved come the following Tuesday (three days time) when they would all be

³⁶ A cow has 4 stomachs (ruminant) consisting reticulum, rumen, omasum and abomasum. Feed is consumed quickly, and then regurgitated from the rumen for further chewing (cudding) whilst the cow rests. It then passes further along the digestive system.

moved down to Wire paddock, which was some 10kms to the watering point there. Movement was to be effected by the use of a chopper. He appeared to have no intention of feeding the stock at all, as he regarded the situation to be under control regardless of the evidence patently obvious to both myself and DPI Inspector 3.

Nearly all the stock being held in the stock yards were in a stressed state and it appeared that some pellets had been fed to the weaners at some stage. However, on closer examination all the feeding troughs were found to be empty. There was some evidence that only limited amounts of hay had been fed, even though there was ample baled hay in a shed not more than 150 metres away.

Under the heading of 'Actions':

It was insisted that immediate action be taken by the manager to feed all the severely stressed stock. When asked what he intended to do regarding this demand Mr Grey stated that perhaps he'd provide the stock in the laneway with a single square bale of hay. To be more on the realistic side we insisted that initially six bales be provided and that we'd re-examine the situation when this had been done. Mr Grey was left to carry out this task.

On returning to the property an hour or so later Mr Grey stated that he'd fed out three bales already. We were not convinced that this had actually taken place considering the few hay dump sites noted and the residual amount of hay left in the paddock.

The manager was also having trouble with the loader, so to ensure that the stock were fed, both Mr and myself decided to physically help out. The end result was that approximately 6/7 bales were fed to the lane way stock and 5/6 bales to the animals in the stock yards.

An inspection was made of various other paddocks on the station as well as any other available station stock. All these animals were generally found to be in fair to good condition. A full inspection of the station was not able to be carried out due to time constraints. However, we were fairly confident that we had addressed the two areas of serious animal welfare neglect. Obviously further ongoing feeding needs to take place and to ensure that this carried out further inspection will be done.

Under the heading of 'comments' was written:

The boundary fence along the paddocks Yellow Waterhole and Tiger Hill urgently need to be reconstructed so that these paddocks can be utilised. This would reduce the grazing pressure on the property considerably. The Manager concurs that this is essential and to be done ASAP.

If it is the intention of the management to hold weaner and younger stock in the yards then adequate feeding and monitoring of their situation needs to be done.

The broken water pipe at the yards has produced a large swamp area which indicates that it has been an ongoing problem. This doesn't auger well with 'good management' practices.

Please Note - Considering what has been observed at the station I am going to recommend that under the Animal Welfare Act the Manager Mr Ian Grey and his supervising officer Mr Ken Suter be held accountable. Pursuant to Section 67(1) of this Act both Mr Wait and myself believe on reasonable grounds that:

- a) The animals held in the lane way and the yards have not been provided with appropriate food or water for an extended period up to the 05/09/09.*
- b) That treating the animals in such a manner is likely to cause their suffering.*

The actions of DOR employees feeding the cattle during inspection 2 is supported by the Animal Welfare Act which states at Section 8(3) that *If an animal has been confined for a period exceeding 24 hours without appropriate and sufficient food or drink, any person may enter the premises where it is confined to supply the animal with food or drink and the person incurs no liability for entering the premises.*

REPORT 3: A follow up report was submitted by DOR Officer 1 on 25 September 2009, this reads:

The station was visited by the Regional Veterinary Officer (DPI Officer 1), Regional Bio-security Officer (DPI Inspector 2) and Bio-security Officer (DPI Inspector 3).

This is a follow up examination of the situation on the property which was investigated on the 04/09/09 and again on the 05/09/09.

The manager Mr Ian Grey (IG) was not able to accompany the inspection team as he was not able to be contacted prior to the visit. A Mr Wayne Spence (WS) conducted the general station visit and 'Toby' (To) and 'Nicky' (Ni) conducted the visit to the yards.

The Stock Yards:

Hungry underfed stock have been held in the station yards for long periods of time. Calves/Weaners have been held here for approx 4 months now – 3 animals had to be destroyed and there were 2 already dead.

*Animals were ticky – apparently most of the weaners were from the 1st round weaning. There is **no further hay available** and we were told that IG has advised staff that a further order is being processed in Alice Springs. The stock had not been fed today and the feeding troughs were all empty [My emphasis].*

*There was another yard holding 80+ cows that were being held there pending inspection by a stock agent, **they hadn't been fed on Mon/Tue/Wed of this week**. When they are fed only 2 bags of Adelaide River Weaner pellets are given for the day, for the whole 80+ animals [My emphasis].*

Ni (Nicky) not able to keep up with the feeding out.

General Station Inspection:

Station Tip not fenced off from stock intrusion from Toms pdk.

Downers not being humanely destroyed even though been reported that being badly attacked by meat ants. Refusal for the destruction of such animals is often given.

Cash cows appear to be the only animals (apart from the station horses) that are being managed with a feeding programme.

The station inspection included a run out to the watering points of Desert and Kuttain Paddocks. There was no lick placement sighted and at the laneway bore for Desert Paddock where there were about 300/400 head of stock congregated, 50 percent were in v.poor condition. There were lots of calves and 25 percent (approx) of the cows had weaners on them. Lick blocks have only been put at 2 of the three watering points in Desert Paddock and not at the laneway watering point.

It is suggested that the stock be left here at the laneway watering point in Desert Paddock, where they have accumulated and fed hay and a protein rich supplement. Cattle in the adjoining Crater and Bernies Paddocks were noted as being in poor condition as well.

Desert Paddock has the other ½ of the cattle that were originally in the laneway leading up to Wire Hill Paddock. At the swamp area the cattle were in better condition. Still no lick being given to these animals.

In Kuttain paddock stock were found to be in v.poor condition. No lick been provided the water points are 6-7kms apart. Approx 70 percent cows had young calves/weaners and 65percent were noted to be in v.poor condition and the remainder only in poor to fair condition.

It appears that management intended to muster these v.poor conditioned animals. It is strongly recommended that prior to applying any additional stress to these animals that they be supplementary fed until such time that they would be able to cope with such treatment.

It appears that there are various bores that are u/s which severely limits the grazing area of such paddocks as Desert and Crater. The fence line is still down along the boundary of Yellow Waterhole and Tiger Hill Paddocks which had totally prohibited their use for grazing.

Inspection continued to the Wire Hill paddock and the laneway leading to it which runs along the Stuart Highway. It appears that most stock have been moved into the better grassed area of Wire Hill Paddock. However there are still nos. of stock in the laneway, these are all in v.poor condition. The stock in the Wire Hill Paddock are also in poor condition and at best appear to be

inadequately supplemented or not supplemented at all. Some of the weaker animals were heavily infested with tick.

Summary:

- *The overall condition of the station stock is very poor and the current management of which is an Animal Welfare issue.*
- *Inadequate amounts of supplementary lick blocks or loose supplement are being provided.*
- *There are additional Animal Welfare issues of failure to adequately dispose of downers.*
- *There appears to be a shortage of staff to provide for the care and feeding of the stock.*
- *Inadequate amounts of supplementary hay available for the starving stock. There is an immediate need for at least a road train of hay to be delivered to the station. Evidence of this order being placed will be required.*
- *These issues of animal welfare are NOT to be viewed as a 'carry over' from last year, as has been stated. There has been a wet season between the problems of last year and the issues that have been seen in the last 3 reports.*
- *There have been 18 animals shot due to the effects of starvation in the past 11 days and this doesn't include weaners dying in Toms pdk. It is the collective view of the inspection team that unless the management of the station stock drastically changes immediately, severe losses will occur in the next few wks.*
- *In the interest of Animal Welfare of all the animals involved an immediate solution is required.*

Comments: *The situation is very urgent. Management need to provide the inspection team with an agenda as to how they intend to solve the present problem. This will be audited on a weekly basis.*

REPORT 4: Another inspection was conducted and submitted on 9 October 2009 by S Fitzpatrick the DOR Senior Veterinary Officer Biosecurity. The 'investigation findings' are documented as follows:

Sue Fitzpatrick (Senior Veterinary Officer Biosecurity) and (DPI Inspector 3) (Livestock Biosecurity Officer) visited Mataranka station on 9 October 2009 at 8am.

*The property had been visited by Animal Welfare Inspectors/Officer from Department of Regional Development, Primary Industry, Fisheries and Resources on three separate occasions on 4th, 5th and 25th September to investigate animal welfare reports and to monitor the condition of the cattle. Investigation reports for these visits are attached. Although there has been appropriate action taken in the past two weeks, **timely access to resources appears to have limited the ability of management to implement immediate actions to address the animal welfare concerns.** [My emphasis]*

On 26 September a meeting was held between Charles Darwin University (Manager of Mataranka Station and Director of Vocational Education and Training) and investigating officer and inspectors to discuss the response to the report and plans for future management.

Members from the Animal Welfare Committee (AEC) conducted two facility inspections of Mataranka Station on 17 September and 7 October 2009. Reports may be available at request from AEC. The following general recommendations were made:

- *Additional staffing required to adequately manage current conditions.*
- *Additional supplementary feed and monitoring of breeder cattle and early weaned calves.*
- *Replacement of burnt fences to provide additional paddocks for feed.*
- *Repair or replacement of tractor for feeding out hay.*
- *Sheeting of feed shed to protect feed from weather.*
- *Supplement troughs require holes to allow drainage.*
- *Repair water trough in north-west corner Tsumengeri paddock.*
- *Segregate breeder cattle based on condition.*
- *Limited 2nd round mustering opportunity due to poor condition of breeders.*
- *Additional watering points to utilise dry standing feed and reduce overgrazing.*

A number of other long term management recommendations were also made.

Actions taken by CDU to improve animal welfare outcomes:

- *Two additional staff members are currently working at Mataranka station and students are assisting with management activity.*
- *Breeder cattle are receiving ad lib loose mix supplement, and breeders in yards are receiving hay, pellets and boost blocks. Supplement is being fed where dry standing feed is available away from water points.*
- *Paddocks with a higher proportion of breeders in poor condition are being monitored twice daily.*

[OMBUDSMAN NOTE: This would not be possible based on the Station Manager's comment in interview when asked how often cattle were observed: *In the dry season cattle would be observed at least three times a week during a routine water and bore run and in the wet season cattle were observed, where possible at least twice a week in the wet.*].

- *Weaners are receiving ad lib weaner pellets and hay.*
- *The burnt fence has been repaired in Yellow Waterhole and Tiger Hill paddocks which provide a source of additional feed not previously available. A contractor will replace the fence.*

[OMBUDSMAN NOTE: This investigation has revealed that 8 months later (June 2010) the fence repair had not occurred.]

- *Supplement blocks have been ordered to reduce the potential risk of urea toxicity associated with rain in supplement troughs.*
- *Some breeders in poor condition with calves have been drafted into the yards to allow for an improvement in strength. This will continue on a paddock by paddock basis where breeder cattle are in a suitable condition to be mustered. These cattle will be moved to Yellow Waterhole paddock.*
- *An additional bore has been started in Desert paddock to reduce the grazing impact around other watering points in the paddock.*
- *100 Heifers from Hill paddock had been mustered and sent to export.*
- *80 pregnant cows (BCS 2.5-3) are being held in Roper paddock for sale.*
- *40 heifers from Wire Hill paddock to be drafted into Roper paddock for sale.*
- *100 calves early weaned from 220 cows in Bernie's paddock.*
- *130 calves early weaned from 290 cows in Crater paddock.*
- *150 bulls segregated from cows in Ammo paddock to manage future calving.*
- *Weaners are being segregated into 2 groups. Weaners less than 150kg are being transported to Phoenix Park feedlot (approximately 1hrs transport time) to be placed on weaner ration. Weaners steers greater than 150kg would be moved to Tiger Hill paddock with a good supply of feed. Weaner heifers greater than 150kg would be moved to the adjacent Moray Hill paddock.*
- *Weaners from first round (No.8) are being educated to join No.9 weaners.*
- *Weaners from Moray Hill paddock will be mustered and processed through a neighbouring properties yard to reduce mustering distance.*

CDU indicated that they have engaged an independent consultant to review the condition of the cattle at the facility. A report may be available at request from CDU.

[OMBUDSMAN NOTE: This report was the Stockwell Report to the AEC which CDU did not in my view appropriately act on.]

In addition, a monitoring protocol for the welfare of Charles Darwin University livestock at Katherine Rural Campus and Mataranka Station has been developed. This may also be available at request from CDU.

Inspection on 9 October 2009

Background

During the end of the dry season cattle can loose body condition associated with declining nutritional value of dry standing pasture and/or shortage of feed. Additional stressors include maintaining large unweaned calves, and/or pregnancy. These factors can lead to poor body condition. During August and September a number of paddocks were mustered, and weaners drafted from the cows. Management made the decision to wean calves down to 50kg. This is not normal industry practice, but was carried out to allow the cows in poor condition the opportunity to maintain condition throughout the remainder of the dry season. Some breeder and calf mortality would be expected if this was not done

under current conditions. Early weaning of calves also places additional stress on weaners. A number of weaners were in light condition when weaned and were at risk of developing disease with the change of feed and stress at weaning. Losses were reported on previous inspections.

Cattle inspected during the visit:

- *Trucking yards*
- *Holding paddock*
- *Tsumengeri bore*
- *Wire Hill paddock*

Condition of cattle in the yards and paddocks had improved since the previous visit two weeks prior. No recumbent (downer) cattle were observed during the Inspection. Ad lib feed (hay/pellets) and supplement was observed in the yards and holding paddock. Cattle in the paddocks had access to dry standing feed and water. Supplement had been moved away from the water points to encourage cattle to utilise dry standing feed available in the paddocks. A proportion of cattle in the paddock were congregated around the water points at the time of inspection.

A range of condition scores of cattle were noted in paddocks inspected. A proportion of cattle were in very light condition, but were able to stand and walk to feed and water. Cows in Wire Hill paddock were in lighter condition than other paddocks.

A large proportion of cows were either heavily pregnant or had recently calved. Cattle in this group in light to very light condition will require close monitoring and additional high energy/high protein supplement to maintain condition over the next 2-3 months. Options for additional supplement were discussed with management.

Feed available

There was a store of large square bails for hay, weaner pellets, custom loose mix supplement, Boost blocks (molasses mineral supplement). Supplement blocks had also been ordered to accommodate for the early rains to minimise the risk of urea toxicity associated with wet loose mix supplement.

Trucking Yards

Three mobs of cattle were segregated in the yards:

- *Cows and young calves — from Toms 1 & 2 paddock*
- *Weaners*
- *Empty dry cows (pregnancy tested empty)*

All stock had sufficient feed and water. Two weaners in light condition were noted, but were able to stand and walk to feed and water. An improvement in the condition of cattle in the yards was noted from the prior visit. The plan was to move cows and calves to Yellow Waterhole paddock when in a suitable condition, weaners to Phoenix Park feedlot or Tiger Hill (steers >150kg), and empty dry cows to Katherine Campus for export.

Holding paddock

Weaners (430) in the holding paddock were inspected. Weaners had access to ad lib weaner pellets in feed troughs and fresh water. A small proportion of the weaners were noted to be in very light condition (CS 1-2). All weaners were able to stand and walk. Weaners were being mustered into yards on 9 October 2009 and segregated into 2 groups. Weaners less than 150kg were being transported to Phoenix Park feedlot (approximately 1 hrs transport time) to be placed on weaner ration. Weaners steers greater than 150kg would be moved to Tiger Hill paddock with a good supply of feed. Weaner heifers greater than 150kg would be moved to the adjacent Moray Hill paddock.

Any light weaners unfit to travel would remain in the yard on a ration of hay, weaner pellets and boost supplement.

Tsumengeri bore

A high proportion of breeders at the bore were heavily pregnant or recently calved. Cows and calves had access to fresh water and feed was available in the paddock. No loose mix supplement was available at the bore. Management indicated that the supplement was placed away from the bore to encourage cattle onto available feed. Condition of cattle ranged from CS 1.5 — 3. All cattle were able to stand and walk.

Wire Hill paddock

A small number of cows (20) were in the Wire Hill laneway. These cattle were in very light condition (CS 1-2). Cattle had access to hay and fresh water. No supplement was seen along the access road. These cattle were to be moved into Wire Hill paddock.

Cattle in Wire Hill paddock (360) varied in condition (CS 1-3) but a greater proportion were in light-very light condition compared with other paddocks. A large proportion of breeders at the water point were heavily pregnant or recently calved. Cows and calves had access to fresh water and feed was available in the paddock. A gate was open into Yellow Waterhole paddock with a good supply of feed. No loose mix supplement was available around the water trough. Management indicated that the supplement was placed away from the water point to encourage cattle onto available feed. All cattle were able to stand and walk, it was noted that cattle had improved since the last inspection two weeks prior.

The manager advised that there had been further mortalities in Wire Hill paddock since the previous visit. Some mortality may have been associated with bullying weaker cows when supplementary pellets were being fed to cattle. The manager was advised that providing additional trough space may reduce further mortality; however cattle appeared to be in stronger condition during inspection.

The decision to transport weaners less than 150kg to Phoenix Park feedlot shows that management have considered the welfare of weaners and addressed the potentially limiting resources to manage weaners effectively under the current

conditions. This action will allow more time to monitor breeders and new calves, and provide the supplementary feed required to maintain condition. Management agreed to consider options for additional high energy/protein supplement for lactating cows.

ACTIONS

Request written report outlining short term management strategies adopted to address current conditions.

Recommend additional options to prevent future welfare concerns. Arrange re-visit on 23 October 2009 to monitor strategies and condition of cattle.

REPORT 5: On 24 October 2009 S. Fitzpatrick DOR documented a visit to Mataranka. The report reads:

Sue Fitzpatrick (Senior Veterinary Officer Biosecurity) and (DPI Inspector 3) (Livestock Biosecurity Officer) visited Mataranka Station on 22 October 2009 at 1pm. The property had now been visited by Animal Welfare Inspectors/Officers from Department of Regional Development, Primary Industry, Fisheries and Resources on five separate occasions. These visits occurred on 4th, 5th and 25th September and 9th and 22nd October 2009 to investigate animal welfare reports, monitor feed availability and the condition of cattle.

*While the problems with sourcing feed and appropriate permanent labour to work on the station are acknowledged, **the actions taken by Charles Darwin University to address the animal welfare reports have not been adequate.** [My emphasis] The time taken to initiate a response when notified of the animal welfare report and consistent feeding and monitoring of livestock is a major concern.*

***The feed sources appear to have been available on the station on visits, but the distribution to the cattle appears to have been sporadic.** [My emphasis] Maintaining a consistent feed source to cattle in yards and supplement to cattle in paddocks is essential to prevent animal health and welfare problems.*

Inspection on 22 October 2009

Cattle inspected during the visit:

- *Trucking yards*
- *Wire Hill laneway/Wire Hill paddock*

Feed available

*A road train of hay was due to arrive, weaner pellets, phosphorus³⁷ supplement blocks and boost blocks (molasses mineral supplement) were **in the shed.** [My*

³⁷ Phosphorus is an important nutrient, with about 70percent of Northern Australia considered to be phosphorus deficient. Phosphorus is critical to growth and lactation so supplementation will be most effective when there is sufficient protein and energy in the diet for animals to be growing or when their demand is highest (lactating females). Reference: NTG Douglas Daly Research Farm Ruminant Nutrition 2008.

emphasis] Supplement blocks ordered at the last visit were being distributed in the paddock to replace the loose supplement to minimise the risk of urea toxicity.

Trucking Yards

Five mobs of cattle were segregated in the yards:

- Cows and young calves – New
- Young weaners – same weaners as last visit
- Empty dry cows (pregnancy tested empty) – New
- Weaner heifers – New
- Weaner bulls – New

All stock had sufficient feed and water. The young weaners showed significant improvement in energy since the prior visit. Two weaners were ill (one with diarrhoea and one downer). The manager was aware of the problem.

Holding paddock

The holding paddock had been destocked. The weaners in the holding paddock on the last visit had been segregated into 2 groups. Weaners less than 150kg were being transported to Phoenix Park feedlot (approximately 1 hrs transport time) and placed on weaner ration. There were approximately 200 weaners in this group. Phoenix Park has reported one loss since arrival. Weaners steers greater than 150kg had been moved to Tiger Hill paddock with a good supply of feed. Weaner heifers greater than 150kg were in the yards, waiting to be branded. These heifers will be moved to Moray Hill paddock.

Wire Hill/Yellow Waterhole paddocks

Most of the cattle had been moved out of the laneway to Wire Hill/Yellow Waterhole paddocks. Approximately 6 head remain in laneway (unable to muster) and are being fed hay, pellets and supplementary blocks.

Majority cattle have moved into Yellow Waterhole paddock with good feed and water supply. The gate remains open between the two paddocks. Cattle remaining in Wire Hill paddock vary in body condition. Approximately 15-20 are in very poor condition. These cattle may have been the cattle moved from the laneway. Boost supplementary blocks and phosphorus blocks are available to cattle in the paddock.

There had been one mortality in the paddock since the last visit. The cow was in good condition and the cause of death is unknown.

Management advised that the decision had been made to provide boost blocks to the cows in poor condition with calves to assist with the high energy demand while lactating³⁸.

³⁸ If the quality of pasture is poor and/or there is not enough grass available, a lactating heifer will lose weight and will not be in sufficient body condition score to cycle and get in calf again. Reference NTG Douglas Daly Research Farm 2008.

Bernie Paddock

The manager advised that the cattle in Bernie's paddock were the second concern following cattle in Wire Hill/Yellow Waterhole. The cattle were being monitored closely and boost and phosphorus blocks were being provided. A new watering point was being established to reduce the grazing pressure on the one watering point for the paddock.

Actions since last visit

- *Written report outlining short term management strategies to address current conditions provided.*
- *Decision made to provide boost blocks to cows in poor condition with calves.*
- *All holding paddocks (Toms 1&2, Big Horse, Holding paddock) destocked.*
- *Weaners less than 150kg transported to Phoenix Park feedlot.*
- *Recruitment initiated for another permanent employee (3 month contract).*

Actions – Maintain contact to ensure permanent labour is sourced. This is essential to provide feed, check waters and monitor cattle to the standards outlined in the management plan.

On 8 December 2009 Ms Mel Frousheger an appointed Stock Inspector and DOR Inspector 3 attended Mataranka Station following a complaint to the Minister for Local Government about the mistreatment and neglect of cattle on the property³⁹.

It is documented⁴⁰ that Ms Frousheger found that the cattle were still in poor condition, however as Inspector 3 had advised her that cattle were significantly improved since the last visit by DOR she did not consider further action was necessary at that time. The complaint itself remained 'open' with DOR monitoring the situation. The Vice Chancellor stated that the understanding of the University, at that time, led senior management to the conclusion that the actions being taken, such as supplementary feeding, were effective.

On 2 February 2010 the Vice Chancellor was seeking a copy of the 8 December 2009 joint inspection conducted by staff from DLGHS and DOR. On 2 February 2010 (16:57) Dr Heim reported by email that he had discussed the matter with Ms S. Fitzpatrick who advised Dr Heim that no formal report was produced as the visit was a DLGHS Welfare Branch inspection. Ms Fitzpatrick is documented as advising Dr Heim that she will contact DLGHS to see if they had produced a report, otherwise Ms Fitzpatrick would request an email advising of their informal comments.

OMBUDSMAN COMMENT: In interview and whilst discussing the 2008 DOR Inspection Report DOR Senior Veterinary Officer S. Fitzpatrick was asked what DOR 'monitoring' consisted of. She stated that in her opinion it was informally driving past the property to observe cattle in the roadside paddock whilst travelling in a car. In my view this would not be considered by a reasonable person to be 'monitoring'.

³⁹ Reference email of DLGHS Ms Meryl Gowing to DOR Ms S Fitzpatrick 10 February 2010 at 11:05

⁴⁰ Email of Ms Meryl Gowing to Ms s Fitzpatrick 10 February 2010 (11:05)

On the day of the inspection by Ms Fitzpatrick, before her arrival, students advised that Mr Gray directed them to 'put feed in front of everything'. I note that Ms Fitzpatrick inspected the Western side of the Station when the majority of emaciated cattle were on the Eastern side.

INTERVIEWS WITH DPI/DOR INSPECTORS/OFFICERS

Officer One

On 4 May 2010, two of my investigators attended Katherine to interview Officer 1 and Inspector 2 who had been served with Notice to Provide Information to this investigation.

Officer 1 stated that on receipt of a complaint about cattle at Mataranka Station contact was made with CDU KRC to obtain a contact number for the Mataranka Station Manager. A number was supplied and several messages left on that phone on 3 and 4 of September 2009. Officer 1 advised that due to the urgency of the complaint attendance was necessary without further delay. It was later revealed that the phone number provided was not a number that the Station Manager would check.

Asked what was observed on attendance at Mataranka Station on 4 September 2009 Officer 1 said: *A great accumulation of cattle around the water trough which is only about two and a bit metres long. Pictures were taken, a lot of pictures were taken. I was absolutely horrified by the state of, the condition of the animals. I mentioned to Ian Gray that the cattle were starving, and asked just how often he had been feeding these cattle supplementary feed or what had been going on, was there any urea blocks out. He stated there was some blocks out further and there was no evidence of any feeding going on in that area at all. It's a paddock called Wire Paddock which runs along the left hand side of the Stuart Highway. We went for a drive and we probably drove out about four kilometres, there was just nothing there. Ian seemed to be content that there was forage there and what he pointed out to us as feed was just totally inedible. There was wire grass and there was various other plants that I've since had identified by people that know anything about grasses. In fact I've got the nutrient value of a lot of grasses up there and it's almost zero in the dry season for all these grasses and the cattle just won't eat them. For cattle in that condition to go out, to wander out with their calves in excess of four kilometres probably six kilometres to get feed and then back for six kilometres is just not on. Any cow that's got a calf on it has got to, needs to be watered at least twice a day. She would have to go out 6K, back 6K and then back out again. I mean you're talking 24K or more, and when you get out there, there was nothing that was really edible anyway.*

Asked about availability of water Officer 1 said: *There was water there, in the trough, but insufficient water.*

Asked how many cattle were observed in poor condition Officer 1 said: *Well, in this mob Ian wasn't aware of just how many there were, he mentioned four hundred and fifty, but I would say there would probably be a bit more than that. He didn't seem to be aware of the total numbers at all. The sad thing with all this is that the most productive animals are the ones that have got calves and they're under the greatest amount of stress. Any cows that were looking in good condition didn't have a calf. So what's happening in a place like Mataranka was eventually you're going to lose all your productive cows to*

starvation as well as the calf and the only thing that's going to survive is going to be old barren cows. On the drive we said to Ian there's no feed available at all. I said, do you realise that most of the stuff that you're pointing out to me is just totally inedible, that's why it's still there. But he was unaware of this, he was not sure of what was what. Anyway, I said what are you going to do with all these cattle over here? He said, well they've come back, they originally did go up the other end there, we've opened that up, the other end of the paddock and for some unknown reason they've come back here. I said, why have you kept these animals here in the first place? He said that there was another pregnancy diagnosis course. Ian didn't want the students to be stuffing around with the cash cows, so that's why they were kept there because it was close by the yards.

Asked about the condition of the cows put aside for testing Officer 1 said: *I wouldn't have thought you'd put animals through that stress at all. Animals in that stress should not have been used at all for the pregnancy testing. The sad part is that some of our people from DOR or from Kidman Springs went there and commented about the very poor state of the cattle, but nobody ever complained to us.*

Asked to elaborate he said: *I was there to represent the animals, they weren't being bloody well fed, I wanted them fed. These cattle shouldn't have been used for a pregnancy testing course at all.*

Asked how many downers were observed on this inspection Officer 1 said: *I wasn't prepared to wander through the property and stress the animals to that degree. We looked at them from afar as you can see from the photos. We weren't going to try to count the numbers, they were under enormous stress and as far as I was concerned the less we interfered with them the better. I said to Ian when are you going to feed these animals, he didn't have a bloody clue. Ian was umming and ahing and talking about two or three days time he was going to do something. I said it's essential that they're fed now, these cattle are starving. He was a bit shaken by that, he couldn't believe it. These cattle were in a diabolical state, so I said they've got to be fed right now, if you have anything else planned today forget it. I insisted that they were fed and we're going to come back and see that it's done. After a couple of hours he'd got out one or two bales, he grossly exaggerated the amount he put out. I think he told us he put four out, but he was lucky if he had put one out and spread it around a bit. So I said, looks like it's us, we're going to have to do it, I'm not leaving this station until these cattle are fed. ...throwing the stuff out and the cattle were just swarming in on us. We put twelve bales out and we inspected the yards where the cattle were, they hadn't been fed and Ian gave some lame excuse how he hadn't fed them. There was enough feed a hundred yards away in a feed shed. Another 12 bales were dropped into the yards.*

Asked how long it would take for cattle to slip from body condition score 3 to body condition score 1 Officer 1 replied: *If you're fed insufficient food, it depends on the amount you've been feeding. I mean it's an indeterminate time, it would depend on a variety of issues, the amount of forage available and so on. I've never been in a situation where I've starved an animal and then sort of progressively looked at its loss of body condition, it's pretty obvious when you look at them that they were in extremely poor condition, weren't cudding, hadn't obviously been fed for a period.*

Asked about a meeting held on 25 September 2009 in which CDU employees Brian Heim and Ian Gray were present, Officer 1 referred to his diary notes:

The main issue, I'll just read some of this out, the main issue was to solve the problem of stock at Mataranka. Brian Heim's categorically denied that any stock were dying of starvation and became very vocal and demonstrative that I should state this. Sue Fitzpatrick intervened as she must have felt the situation was getting out of hand... I asked Ian Gray if he had prevented Nicky from destroying various downers. She had reported to me how distressed she was on one particular occasion when she came across a cow that was covered with meat ants and she had been stopped from shooting it. She'd got some water and washed all the meat ants off but they'd come back. He denied that this was the case and in fact had encouraged the downers to be shot... Ian Gray denied that the stock had been left in the yards for days without food. At the meeting (26 September 2009) Brian Heim did not question Ian Gray regarding the various accusations made by CDU staff, he at all times was very supportive of Ian Gray. Sue Fitzpatrick hosed down the accusations being made against CDU to the point where Scotty openly stated 'well, Jesus, if that's the... case what's the point of ever doing an animal welfare case, why are we doing it'. And Ian Gray and Brian Heim listened to this, they could hear there was division in the ranks. It was a hopeless meeting, there was no-one in charge, no-one recording. What's the point of doing any of these investigations if no action was going to be taken. I stated to Brian Heim that if he was dealing with me by now serious charges would be laid...

Asked to describe how Susanne Fitzpatrick 'hosed down the proceedings' Officer 1 said: *You know, she sort of sided with them, I'm buggered if I know, just reluctance to take them on. I was in a situation where I'd only been on the job six or seven months, it's been laid on the line to me that I don't understand the situation here. These guys must just get used to seeing animals bloody dying of starvation... the people out here don't seem to care, I mean you just have to see the way they use that bloody electric prod, some people just go right over the top, it's just ridiculous.*

Asked if feedback is provided after submission of a DOR report he said: *I was given the impression that I'd overstepped the bloody mark. There's no point in telling someone like Ian Gray to do something and not check up that it's done... the guy doesn't seem to be able to organise himself, there was a huge puddle of water from a broken pipe around the yards and an old pig dragged itself out on the first day we were down there, the pig wallowing near his yards. I took photos to show the lack of maintenance, this guy just didn't have a clue.*

Asked how many people were needed to successfully run a station the size of Mataranka Station he said: *'The Manager plus two other full time people'.*

Asked why the Officer read Ian Gray his rights during the inspection of 5 September 2009 he said: *Well it is a requirement of the position to read them, read him his rights. I introduced myself and said we're here regarding an anonymous call regarding animal welfare. I showed him my card, I said I'm going to ask you certain questions about the case that we've just been notified about, the starving stock, that I've just seen across the road. You are not obliged to say anything or answer any questions unless you wish to do*

so, but anything you do say will be recorded or may be given in evidence. Do you understand that? He had no trouble with that at all...

When asked if the Officer read everyone he dealt with their rights, he said: *Oh no I don't because they're not serious condition... if I regarded it as a serious thing I would... And as far as my reading of the Act it was the right thing to do.*

Asked about what Ian Gray showed DPI on their visit the Officer said: *...he took us on a merry old goose chase. He got basically lost in one paddock, we were just bush bashing for about half an hour. It was just a total waste of time, he just didn't seem to know where he was going and I just said to (Inspector 2), this is just either filling in time to try to distract us ... But we spent a lot of that time bush bashing...He sort of had us driving around and around in circles out there, he was mowing down scrub, we weren't even on a track, we were just on all this regrowth that we were just knocking down...he did tell us that part of the problem was there had been a fire apparently on the better part of the property and it had burnt out one of the back fences and that's why he couldn't put the stock there. There was about 25 kilometres of fence missing...At that stage he had made no attempt to reconstruct the fence and so the animals were pulled in.... to my understanding, feed was available on certain areas on the property but weren't being used, they had been closed off. In fact probably a third of the property wasn't even being grazed according to my understanding.*

Asked if the Officer questioned staff about how long the cattle had been held in yards the Officer said: *Yeah we did. You know, they weren't too sure but, weeks, I mean... bloody weeks and was just fed bugger all, almost nothing.*

Asked to elaborate on the comment ticky⁴¹ that had been written into a DOR report the Officer said: *Oh ticky, they were just blown... I've got a photo of that...Ian Gray mentioned that he had given them a shot of Detramex and I just said, well, they're still pretty heavily infested. He made some sort of snide remark that it takes a couple of weeks for this thing to actually work anyway, about three weeks for it to work.*

Asked why a prosecution did not occur when this was the Officer's report recommendation he said: *I'd only been here seven months and this was my first investigation. I would have thought it would have been taken seriously and there would have been action taken, that the animal welfare people in Darwin, they'd come down and do an inspection themselves a follow up of mine immediately...*

Asked whether feedback was provided to the Officer after submission of the report he said: *No, not really... I was made to believe that I didn't understand the situation in the Northern Territory, the way cattle perish and cattle do get in very poor condition in the dry season and so on...*

Asked if several months after the event the Officer still believed that the situation was serious, he said: *Oh definitely, even more so, I worry about them. I worry I didn't do enough.*

⁴¹ The cattle tick (*Boophilus microplus*) is the most serious external parasite of cattle in Australia. It is instrumental in transmitting tick fever and, if uncontrolled, can cause serious losses to the beef and dairy industries. Reference DPI

Inspector 2

Inspector 2 corroborated what Officer 1 had stated in interview adding that about 60% of the 'mob' (cattle herd) that he viewed were in poor condition. Inspector 2 could not understand why prosecution had not been undertaken. He stated that after 28 years of conducting inspections this was the worst case of neglect he had seen on such a large scale. He voiced concern as to why the DPI employed inspectors/officers if their recommendations are not considered.

Inspector 3

This inspector advised he had worked in Katherine for 3 years and had been employed as a Stock Inspector for 4 years. Inspector 3 repeated much of the same information provided by Officer 1. Inspector 3 stated the contents of the inspection reports of which he was one of the inspectors were true and correct.

Asked for further observations the Inspector said he didn't see the actions taken in response to DOR reports as being undertaken expediently. He believed that much of the problem stemmed from in-house fighting at Mataranka Station and as such the requirements of the animals were not met.

Inspector 3 advised that the only difference he saw on his visits to Mataranka Station was when Grant Parker was relieving at the Station (whilst Ian Gray was stood down). *'Grant did what needed to be done to rectify the problems of cattle neglect'*. He said that resolving the problems at the station didn't occur until the appointment of Grant Parker. In the view of Inspector 3 Mr Parker should have been retained as the Manager and Ian Gray should not have been reinstated.

Inspector 3 stated that Mataranka Station had insufficient troughs and a lack of staff. He advised that in his view the pregnancy testing conducted on the cattle in late 2009 should not have occurred due to their poor condition. This Inspector stated that 50% of the cattle he observed at the station were in poor condition.

Inspector 3 added that he tried hard to work with Ian Gray to rectify the problems at the station. Asked for a final comment Inspector 3 said: *'You would have to go a long way to find such incompetence on such a large scale'*.

CDU COMMENTS REGARDING DOR INSPECTIONS

On 9 September 2009 (11:50) after receiving a copy of a DOR report Dr Heim emailed the AEC Executive Officer:

There is supplement in the paddock. They didn't drive far enough. It has to be placed a considerable distance from the water source. If it isn't, the cattle will eat it, have a big drink and then fall over dead.

They are correct in saying that the paddock has very little feed close to the water but there is feed further out and that is what the cattle were eating. They happened to show up when most of the cattle had come in for a drink. Had they

shown up two hours earlier or later, there would have been few animals around the water trough. Ian also informed them the following day that these cattle had previously been walked out to a fresh paddock but had broken through and returned to the yards where their calves, which had been early weaned to prevent further drawn down on the cows, were being fed.

What is disturbing is the lack of understanding of how northern pastoral stations operate and particularly the behavioural patterns of Brahman cattle. Most upsetting is drawing potentially damaging and erroneous conclusions without a full knowledge of the situation.

OMBUDSMAN COMMENT: Dr Heim's belief that there was supplement in the paddock and that the DPI did not drive far enough is information provided to him by Mr Gray. It is not known whether Dr Heim confirmed the accurateness of this information by conducting his own inspection. On 4 September 2009 the DOR drove themselves through parts of the property and saw no supplement. On 5 September 2009 the same view remained after Mr Gray took the DPI staff for a drive. If there was supplement in the paddock surely Mr Gray would have pointed this out to the inspectors to provide evidence that it was being fed out.

What is also concerning is the comments of the AEC EO after reading the above email. In part s/he responded to Dr Heim as follows: *'... I found it hard to believe myself, and yes you do have to go looking for them (cattle). Gee's you would think they (DOR Inspectors) would know this fundamental rule. What about (DOR Inspector 2)? You would think he would know better? Thank you for the elaboration, I wasn't judging the situation just stating how the report raised all these questions...'* In my view the AEC should be judging the situation. In taking for granted what person/s under investigation state without verifying the information is unacceptable.

It is documented by Dr Heim that DOR Officer 1 at a meeting (25 September 2009) *'was openly confrontational and accusatory'* which Dr Heim found was unhelpful. Dr Heim requested that DOR Officer 1 not attend any further inspections unless required to do so by Mr Brian Radunz or Ms S. Fitzpatrick. Also documented in Dr Heim's email is that Ms S. Fitzpatrick stated that the management of cattle is CDU's concern as *'long as we do so in a humane manner'*.

OMBUDSMAN COMMENT: In interview on 10 May 2010, Ms S. Fitzpatrick disagreed that she told Dr Heim that the management of cattle is *CDU's concern as long as CDU do so in a humane manner*. She said that the discussion referred to was that she said *'management of the Station was a CDU concern'*.

In an email dated 26 September 2009 (17:21) from Dr Heim to the Vice Chancellor, Mr Scott Snyder, Mr Don Zoellner and Professor Robert Wasson the strategy for *'moving forward'* was set out.

Another email from Dr Heim dated 26 September 2009 (16:47) was sent to Mr Brian Radunz and Ms S. Fitzpatrick titled *'Katherine Veterinary Officer'*. In this email Dr Heim

requested that Officer 1 not attend future inspections without the authorisation of either Mr Radunz or Ms Fitzpatrick.

On 28 September 2009 (06:54) Ms S. Fitzpatrick emailed Dr Heim, she confirmed receipt of Dr Heim's email and advised that DOR Officer 1 would not be conducting further visits to Mataranka.

On 16 October 2009 (13:22) four DOR reports were provided to Dr Heim. On 16 October 2009 (13:33) Dr Heim emailed these four reports to the AEC EO and Professor Wasson. Dr Heim wrote:

Attached are all of the reports from DPI. You will note the change in tone between the first three and the final report. Both Ian and I would strongly rebut many of the statements in the first 3 reports especially as there is no substantiation of many things and the reports are highly subjective and prejudicial. Further, you will note that none of them have been endorsed by the senior vet (Sue Fitzpatrick) and she said she would not, given the emotive nature of the reports.

COMPLAINTS OF MR TOBY GORRINGE

Mr Toby Gorringer was employed by CDU in the position of VET Lecturer – Beef Cattle/Horse Production which took effect 25 June 2007. His probation period was for 2 years ending on 25 June 2009. His probation supervisor was the Director of Science & Primary Industries which, at the time, was held by Dr Brian Heim. If there were any concerns about Mr Gorringer's experience relevant to beef cattle/horse production, knowledge, and aptitude in rural industries including horses, cattle and farm maintenance procedures they should have been raised with him prior to his probation ending. My investigation was not provided with any evidence to indicate that Mr Gorringer was not a capable and competent person to undertake the roles and responsibilities of the position in which he was employed.

In 2009 Mr Gray responded to an independent expert's report ('Stockwell Report') commissioned by the AEC to report on Mr Gorringer's complaint to CDU. Mr Gray adversely reported that Mr Gorringer's ability and skills were lacking. This was the only information provided to my investigation that any concerns existed about Mr Gorringer's ability to undertake his role/duties and was not reported until after Mr Gorringer's complaints. Mr Gorringer remains in his employment with CDU.

As a result of Mr Gorringer being concerned about the welfare of animals at CDU's Mataranka Station, in addition to his discussions with his supervisor (Dr Heim) on 7 October 2009 (16:08) Mr Gorringer wrote an email to Mr Don Zoellner (Pro Vice-Chancellor VET) titled 'Mataranka Station'. He wrote:

In case you are unaware I wish to draw your attention to the serious nature of the animal welfare state of the cattle at Mataranka Station of CDU.

All endeavours for help thus far over the past few months have fallen on deaf ears, and slow agonising deaths continue, in particular the animals locked in the yards and Toms Paddock.

I would hate to see the repercussions for us all as Territorians if this made media headlines. Help is urgently required. Maybe seeing is believing!

The health risk to students and workers is one thing but the damage to the ethics and best practice of an educational/training property is another and then there is the unnecessary and totally unacceptable neglect and suffering of the animals. I have attached photographs, most of them taken on the same day, this is happening daily. Thankyou in hope.

On 7 October 2009 at 17:07 Mr Zoellner on-forwarded the above email to Dr Heim. At (18:27) Dr Heim emailed Mr Gorringer copying in Mr Zoellner and Mr Tim Biggs. He wrote:

Let me reiterate the points I made with you on the phone last Thursday and again in the attached email on Friday

- 1. We are meeting the requirements of the Dept of Primary Industries and the CDU Animal Ethics Committee and working to solve the issues within the constraints of management. You may have a different opinion on how it should be managed, but Ian and myself have to make decisions on the best course of action and it may not be the same as your opinion. That does not mean it is wrong. We are taking guidance from both DPI and the AEC.*
- 2. You need to be supportive of the station staff in solving the issues. Continually going to new and different people within the University and raising issues that are being dealt with is counterproductive, causes a great deal of work and angst, and accomplishes nothing. You are entitled to your opinions but they do not need to be voiced to any and all parties. If you continue to do so I will be forced to take action.*
- 3 I don't understand how you can make comment on the current situation at Mataranka Station when you are in Alice Springs and have been there for several days. At best you are passing on second hand information and that is fraught with risk. I urge you to stop.*

At this point of time Mr Gorringer had complained about the condition of cattle for over 2 months. His first report to Dr Heim was on 28 August 2009 which was not documented. Mr Gorringer had not voiced his concerns to anyone outside of CDU.

At 19:38 on 7 October 2009, Mr Zoellner emailed the Vice Chancellor attaching Mr Gorringer's email of 07.10.2009 (16:08). Mr Zoellner wrote:

...I had a phone call from one of our Alice Springs lecturers about 'unaddressed problems at Mataranka' this afternoon. I explained our actions to date and plans for the future. About two hours later I received the email below (Mr Gorringer's email of 7 October 2009). I forwarded this to Brian (Heim) and I will forward his response to Toby (Gorringer) in a separate email. It seems we may have to develop a different response as this is not going away.

Brian (Heim) may require some assistance as it appears that the developing positions are saving every animal regardless of cost at one end to risk managing the overall herd under normal seasonal conditions as the other end. Happy to assist where I can, but it seems Robert (Wasson) is already involved at our level.

On 8 October 2009 (08:22) Mr Zoellner responded to Mr Gorrings' email of 7 October 2009. He wrote:

I have noted your email regarding your views of actions being taken at Mataranka Station. I can guarantee you that the University is taking the matters you raise very seriously and is dedicating significant resources to resolve this issue. The Director VET, Dr Brian Heim, has stepped in to deal with the more direct response and it is appropriate that you deal directly with him on these matters to ensure that you are receiving the most accurate and timely information.

If you are not satisfied with the management of the current situation at Mataranka that pertains to animal welfare issues, I strongly suggest that you contact the Chair of the University's Animal Ethics Committee - Professor Robert Wasson. The AEC has extensive powers to compel the University to take action should it believe that the University is not doing enough to meet its animal welfare obligations. We are all distressed by the state of some of the animals and we have been devoting considerable resources to addressing these concerns in close discussion with the NTG veterinary officers and our AEC. The AEC visited Mataranka yesterday.

If other staff are concerned or if you would like to meet with me directly, please let me know.

OMBUDSMAN COMMENT: Mr Gorrings believed that the complaints he made about animal welfare resulted in him being unfairly treated by Dr Heim and forced his removal from residing at Mataranka Station. To refer Mr Gorrings back to Dr Heim, considering the history of this matter, was a questionable decision, especially since Mr Gorrings outlined to Dr Heim on 28 August 2009 how serious the situation of the cattle was.

On 18 October 2009 (14:27) Mr Gorrings emailed Professor Wasson. This email referred to a conversation they had on Tuesday 13 October 2009 and had attached photographs in support of that conversation. Mr Gorrings also provided the names of employees who could be interviewed further. He referred to DPI reports in support of his allegations and another staff member who held written student concerns. Mr Gorrings would not have been aware that Dr Heim had received the students' written concerns and that Dr Heim had dismissed them as being caused by 'normal conditions' in that region of the Northern Territory.

On 20 October 2009 (12:28) Professor Wasson emailed Mr Gorrings (copied to the Executive Officer AEC). He wrote:

I now have your email and photos. Thank you for sending me this material.

My problem is that there are no specific complaints in your email, of the kind raised with me in person. Unless you can supply specific complaints I have very little to work with other than the inference in your email and photos that some cattle are in poor condition. We already know that and two investigations by the CDU Animal Research Ethics Committee (AREC) and three investigations by DPI have confirmed this.

If you wish to pursue your complaint I will need much more specific information with as much proof as you can supply. I have copied this email to the Executive Officer of the AREC for information.

This reply from Professor Wasson is almost contemptuous of Mr Gorringer given the extent of information already known to Professor Wasson from his own inspections and from the DPI reports and photos.

On 20 October 2009 Mr Gorringer emailed Professor Wasson. He wrote:

*Further to your email request, please find the following specifics.
Here are some of the areas of my concern.*

- 1. The length of time weaners were held within the yards and holding paddocks without sufficient roughage and supplementary feeds (Lick & Calf pellets). On notification of the DPI inspectors visit the feed was made available before arrival. Normally the feed is not consistently available.*
- 2. The Cows that were previously in the road lane were moved there, initially for sale (approx 4 months ago). When these cows were drafted off for sale by Doug Jenkins, Grant Parker and myself they were all in saleable condition and fit for transport. The sale then fell through after circumstances changed. However an unreasonable number of stock (approx 1000 head) were held for an extended period of time in the Highway Lane without supplementary feed (lick) and watering on 1 trough 2 meters long.*
- 3. The cattle for the 2nd preg-testing school held at Mataranka were sourced from the cattle held in the Highway Lane. These cattle due to insufficient supplement and feed were in a declining condition and therefore should not have undergone the management practice of preg-testing. It is clear and understood in industry that preg-testing and poor nutrition can cause abortion and early calving especially in Bos Indicus cattle. If more information is required on this point please contact the participants of this preg-testing school.*
- 4. I'm aware that out of season calves is being blamed by management for the poor condition of cows. However this doesn't explain the poor condition of dry cattle such as the Bulls in Ammo Paddock and the weaner steers that were previously held in Bottom Beswick. These cattle have all gone without supplementary feed such as lick. The available standing feed in the 2 above mentioned paddocks is reasonable considering the time of year but cattle still require supplement. It is this lack of supplement that is causing the decline in condition of all stock.*

5. Recumbent⁴² stock are not being dealt with in a timely manner. If management decides to give a downer some time to see if they will recover they should at least be provided with some water and maybe some feed if available. There have been on a number of occasions, stock left in a recumbent state over a period of days without access to at least water, which only adds to their suffering through dehydration and decreases their chances of recovery. If recumbent stock aren't going to be supplied at least water for recovery then they need to be humanely destroyed immediately to prevent further suffering.

A copy of Mr Gorrings' email (20 October 2009 15:03) was sent from Professor Wasson to the AEC Executive Officer 'For our records and my action'. Why this information was not presented to the AEC at this time and why Professor Wasson wished to have it recorded for his **[my emphasis]** action rather than that of the AEC has not been divulged. It strongly suggests confusion arising from Professor Wasson's dual roles as Chairman of the AEC and Deputy Vice Chancellor Research at CDU.

On 21 October 2009 Mr Gorrings, by reply email to Professor Wasson, advised that he was happy for his emails to be provided to an independent investigator (Mr Tom Stockwell). This independent investigator was sourced by Professor Wasson to undertake an assessment of Mataranka Station. Mr Stockwell's report can be found in full in volume 2 (CDU annexure A1-3) of this report.

On 28 October 2009 Professor Wasson emailed Mr Gorrings. He wrote:

Your complaint will be investigated by Tom Stockwell of Sunday Creek Station. I will be in touch soon to discuss your concerns. In addition I have supplied your complaint to Brian Heim and to Ian Gray, both of whom will be spoken to by Tom Stockwell. I have taken this action both in the interests of natural justice and also so that Brian and Ian know what they will be discussing with Tom Stockwell.

In an email to Mr Gorrings on 17 November 2009 Professor Wasson confirmed that Mr Stockwell had Mr Gorrings' complaints and Professor Wasson would be able to report back to Mr Gorrings 'soon'.

On 10 February 2010 (14:29) the Office of the Vice Chancellor emailed Professor Wasson noting the email from Professor Wasson to Mr Gorrings of 17 November 2009. The Office of the Vice Chancellor was seeking information as to whether Professor Wasson responded to Mr Gorrings. Professor Wasson wrote: 'I relied upon the memo⁴³ to all staff at Mataranka and KRC to inform Toby (Gorrings) of the results of our investigations'.

During the investigation nothing was produced to me to establish that any report was ever given to Mr Gorrings following the *Stockwell Report*. Dr Heim and Mr Gray were provided with a copy of the *Stockwell Report* with Mr Gray stood down from duties for three weeks due to the seriousness of the matter and to enable him to prepare responses to the *Stockwell Report*. Those responses are included in full later in this report.

⁴² Lying down.

⁴³ Memo of Professor Wasson to all staff 11 December 2009 – CDU Annexure A19-9

On 31 March 2010 (15:41) Mr Gorringe emailed the Vice Chancellor, (cc to Dr Heim and Mr McKnight). Mr Gorringe wrote:

I have a few questions that I would like you to answer.

- 1. Do you believe in Natural Justice?*
- 2. If you do, why wasn't myself and a number of other people given the opportunity to respond to the allegations made by Ian Gray in his report?*
- 3. For the decisions that have been made in regards to Mataranka's management, CDU senior management must have believed the allegations made by Ian Gray. Is this correct?*

Mr Gorringe advised my Office on 19 April 2010 that the Vice Chancellor did not personally respond to his email, and that Professor Wasson phoned him to discuss the points raised in his email.



DOR photo - Calf described as 'woody'

STOCKWELL REPORT

In October 2009 DOR Inspector 2, contacted Mr Tom Stockwell stating that he couldn't get anyone to listen to him. In frustration this inspector asked for Mr Stockwell's involvement. Subsequently Mr Robert Wasson, AEC Chairman, contacted Mr Stockwell advising him that an independent investigation was required. The AEC commissioned a report to be promulgated by Mr Tom Stockwell which was completed on 10 November 2009.

CDU AEC subsequently provided Mr Stockwell with Terms of Reference for '*Investigation of Concerns about the Management of Cattle at Mataranka Station*'. This document set out the following:

Aim: Determine if a prima facie case exists for any or all of the allegations regarding cattle management on Mataranka Station.

To this end, it is proposed that the independent expert:

- *undertake field work, and*
- *interview relevant people identified in the letter, as well as*
- *those otherwise involved in management of the herd, as well as*
- *the Mataranka Station manager Mr Ian Gray and his line manager Dr Brian Heim.*

The independent expert should also consider

- *a report of the CDU Animal Research Ethics Committee on the same topic,*
- *reports by the DPI, and*
- *the (CDU) Station Management Plan.*

The expert is to provide findings relevant to determining if a prima facie case exists in a report to the Vice-Chancellor within two weeks of completing the field work and interview.

A list of CDU employees to be interviewed was provided to Mr Stockwell. Prior to Mr Stockwell being able to interview Dr Heim and Mr Gray, Professor Wasson sent Dr Heim and Mr Gray (email 28 October 2009 - 14:16) notice that the complaints about Mataranka Station were about to be investigated by Mr Tom Stockwell. At the same time Professor Wasson also forwarded a copy of Mr Gorrings's complaints to Dr Heim and Mr Gray.

Whilst Professor Wasson had sought Mr Gorrings's authorisation to provide his written complaints to Mr Stockwell, he did not seek Mr Gorrings's approval to forward them to any other person.

Professor Wasson subsequently emailed Mr Gorrings on 28 October 2009 – 14:24 hours explaining that he had provided Mr Gorrings's emails to Dr Heim and Mr Gray *'in the interests of natural justice and also so that Brian and Ian know what they will be discussing with Tom Stockwell'*.

Mr Stockwell is the owner and manager of Sunday Creek Station, owner and manager of Andobri CLP, owner and manager of Stillwater CLP and part owner and manager of Birdum Creek Station. He is also a member of the Board of the Tropical Savannas Management Cooperative Research Centre (as is Professor Wasson); a member of the NT Pastoral Land Board; and a member of the Bushfire Council of the NT. In addition, Mr Stockwell undertakes private consultancies involving property development and planning including herd projections and grazing plans. Mr Stockwell's qualifications relating to cattle and agriculture includes a Batchelor of Agricultural Science and a Masters for research carried out on grazing systems in the NT.

Mr Stockwell provided his CV to my investigation which sets out an extensive history that supports that he would be considered an expert in the field of cattle husbandry amongst other things.

EXTRACT FROM THE 'STOCKWELL REPORT'

TITLED 'INVESTIGATION OF CONCERNS ABOUT THE MANAGEMENT OF CATTLE AT MATARANKA STATION'

Mr Tom Stockwell's report documented as being commissioned by the Animal Ethics Committee, Charles Darwin University. Prepared by: TGH Stockwell, M.Agr.Sc.

The 5 points of complaint of Mr Gorringer (shown below) were addressed by Mr Stockwell:

1. *The length of time weaners were held within the yards and holding paddocks without sufficient roughage and supplementary feeds (lick & calf pellets). On notification of the DPI inspectors visit the feed was made available before arrival. Normally the feed is not consistently available.*

Conclusion: Far from being frivolous and vexatious, as described in the management response, the staff, contractor and animal welfare officers all concurred that serious mismanagement and animal cruelty has occurred with these weaners. All of the witnesses gave credible evidence and impressed as competent stockmen and professionals with genuine concern for the animals in their care. The station inspection and interview saw no evidence to contradict the complaint.

2. *The cows that were previously in the road lane were moved there, initially for sale (approx 4 months ago). When these cows were drafted off for sale by Doug Jenkins, Grant Parker and myself they were all in saleable condition and fit for transport. The sale then fell through after circumstances changed. However an unreasonable number of stock (approx 1000 head) were held for an extended period of time in the Highway Lane without supplementary feed (lick) and watering on 1 trough 2 metres long.*

*Conclusion: The evidence in pasture condition, subsequent animal condition, station hand records and animal welfare reports is **compelling [my emphasis]**. This complaint appears **clearly justified [my emphasis]**. In May/June of this year, these cows were in good enough condition to sell. From this point, they have been, on average, **starved to the point of death and beyond [my emphasis]**. With 32 deaths and 15 animals euthanised as recorded by one person over a 3 week period, and the number of cows visibly still in vulnerable condition, one can only guess at the real mortality figure but a figure of 100-200 seems probable. This will not be known until mustering figures are recorded in 2010. Apart from the animal welfare considerations, this represents an estimated direct loss of \$40,000 to \$100,000, without considering the live weight loss of survivors, subsequent reduction in productivity and the like.*

[OMBUDSMAN NOTE: Mr Stockwell elaborated (17 September 2010) that his estimation of loss was from 100 head @ \$400 and 200 head @ \$500. In July 2010 the estimate of dead cattle in addition to this 100-200 'probable' was approximately 800. Mr Stockwell calculates 800 dead would amount to a loss of approximately \$320,000 to \$400,000.]

3. *The cattle for the 2nd preg-testing school held at Mataranka were sourced from the cattle held in the Highway Lane. These cattle due to insufficient supplement and feed were in a declining condition and therefore should not have undergone the management practice of preg-testing. It is clear and understood in industry that preg-testing and poor nutrition can cause abortion and early calving especially in Bos Indicus cattle. If more information is required on this point please contact the participants of this preg-testing school.*

Conclusion: It is clear that the majority of cows used for the preg testing school were not in suitable condition for the process. Whether the preg testing caused subsequent reproductive losses or not seems secondary to the ongoing mistreatment of these animals, the unnecessary suffering and loss of weight, and associated periods of starvation in yards and grazed out holding paddocks. A similar conclusion was reached by experienced station managers, staff of Mataranka Station and NTRC, and apparently to students new to the NT.

4. *I'm aware that out of season calves is being blamed by management for the poor condition of cows. However this doesn't explain the poor condition of dry cattle such as the bulls in Ammo Paddock and the weaner steers that were previously held in Bottom Beswick. These cattle have all gone without supplementary feed such as lick. The available standing feed in the 2 above mentioned paddocks is reasonable considering the time of year but cattle still require supplement. It is this lack of supplement that is causing the decline in condition of all stock.*

Conclusion: In all likelihood cattle have been significantly under-supplemented during 2009. The management philosophy on the role of supplementation, as outlined in the response to the complaint, is inappropriate for the nutritive value of pastures on Mataranka in 2009, does not meet district industry practice, much less Best Practice. This might reasonably be expected from an institution charged with training new industry participants.

5. *Recumbent stock are not being dealt with in a timely manner. If management decides to give a downer some time to see if they will recover they should at least be provided with some water and maybe some feed if available. There have been, on a number of occasions, stock left in a recumbent state over a period of days without access to at least water which only adds to their suffering through dehydration and decreases their chances of recovery. If recumbent stock aren't going to be supplied at least water for recovery then they need to be humanely destroyed immediately to prevent further suffering.*

*Conclusion: While there was no actual evidence seen of downer cows that were without water at the time of inspection, it seems reasonable on the balance of probabilities that the treatment of downer cattle was haphazard and ineffective. Given the litany of poor welfare management described for previous complaints, it seems entirely probable that little attention would be paid to downer animals, when others were routinely left without feed. **A management system which starved animals to death, then left them for crows, dogs and ants to finish off is frankly distressing in the highest order. [My emphasis]***

Mr Stockwell's report conclusion and summary of 10 November 2009 in part reads:

CONCLUSIONS and SUMMARY

It is my opinion that a prima facie case exists for all of the five points raised in the letter of complaint by Mr Toby Gorringer.

The management of a significant proportion of the livestock on Mataranka during the dry season of 2009 has been below any acceptable industry/community production and welfare standards.

While there appears to have been significant flaws in the overall strategic and operational management of Mataranka Stn leading up to this dry season (in 2008 in particular) thus leaving the cattle herd vulnerable to poor management, recent management decisions appear:

- *Haphazard at best,*
- *Ineffective with respect to the ethical and moral demands of reasonable animal husbandry and welfare,*
- *Almost certainly putting the people and organisation at high risk of being found culpable under the Animal Welfare Act, and*
- *Economically unsuccessful with respect to significant loss of value of the herd and the subsequent requirement for crisis feeding strategies.*

Condition of a proportion of all classes of cattle referred to in the complaints remains critical and any further systemic failure (even short term) in the supplementation program, grazing management, or the provision of drinking water will result in losses greater than already witnessed. At the time of inspection apparently reasonable levels of supplementation was in place.

Animal health, herd productivity and economic performance of the herd has been severely compromised and will take a number of years to recover to full productivity.

The manager Mr Ian Gray:

- *Appears earnest and hard-working in his approach,*
- *At the time of the inspection was operating the station single-handedly under considerable duress,*
- *Has apparently proven skills in beef cattle reproductive techniques, and orally presented a reasonable strategic view of management for the future.*

However the:

- *Planning and implementation of the nutritional and grazing management of the cattle,*
- *Organisation and management of people resources,*
- *Absence of a timely response to the severe nutritional stress being placed on cattle, to the point of starvation and death, and prioritisation of activities accordingly,*

- *has been the major contributing factor to the failure of the production system and animal welfare issues as described in the DPI reports and complaints listed by Mr Gorringer.*

This investigation was able to obtain only a summary of approximate numbers per paddock and estimates of condition. There was no formal written herd, pasture, supplementation or vaccination records available on which to base production or mortality rates and the like. The only recent station operational records provided were from the diary and notebooks of station hand Nicky Walters.

The formal management response to the complaints also failed to offer any substantive further data or records to refute the claims.

With respect to nutritional management in particular, the management response was inaccurate with respect to existing nutritional knowledge and current industry practice and attitudes for the surrounding district.

CORRESPONDENCE RELEVANT TO CDU AND TOM STOCKWELL

An extract from an email dated 3 November 2009 from Mr Tom Stockwell to Professor Robert Wasson, AEC, reads:

Summary of Interpretation of Documents and photos provided

1. *The management and husbandry of cattle appears to fall well below any acceptable standard, resulting in a severe loss of productivity and a catastrophic failure in ensuring reasonable animal welfare.*
2. *There has been slow, grudging and ineffective management responses to a situation which has been going on for some time.*
3. *Explanations for the situation appear glib and exhibit some ignorance and naivety of beef cattle production in the monsoonal zone of the NT. (e.g. Continuous mating and out-of-season" calves are the industry norm in commercial herds and the nutritional requirements of the situation are managed.)*

There appears to be a range of contributing factors which may include:

- *insufficient staff and potential inability to recognise and deal with husbandry issues;*
- *inflexibility in administrative and management systems which results in insufficient, ineffective and untimely provision of resources to ensure proper management.*

Clearly I would like/need to talk to the people on the ground to confirm /clarify the evidence I have seen so far, and to get a better appreciation of the whole herd situation. Clearly however there needs to be some significant and urgent changes to the whole system of station management on Mataranka.

Options:

1. *Extend the deadline.*
2. *Rely on review of documents only.*
4. *Other?*

I would appreciate your advice on how to proceed from here.

Initially it would appear that Mr Stockwell's findings were accepted by Professor Wasson. On 16 November 2009 Professor Wasson had a conversation with Dr Heim. Dr Heim recalled:

'Bob (Robert Wasson) said...that CDU had to take action based on the report. It is my opinion that CDU has already done that in an effective, sustained and appropriate manner. It may not have been as quick as it could have been as identified in the report, but the initial complaint happened in early September under a different management structure'.

The action that was going to be taken based on the *Stockwell Report* did not transpire.

Five weeks after Mr Stockwell's email (3 November 2009) to Professor Wasson, on Thursday 10 December 2009 (08:24), Professor Wasson emailed Mr Stockwell. He wrote:

First of all, thanks for your report on the complaints from Toby Gorringer. We now have the responses to your report from Ian Gray (4 December 2009) and Brian Heim (2 December 2009). We have also taken our investigations further and spoken with many more people involved in management of the station. The conclusion is that the problems at Mataranka have been several years in the making and that Ian Gray is not responsible for the entire situation.

Accordingly the Vice Chancellor upon my advice has reinstated Ian Gray as Manager of the station. There are some conditions attached to this decision including heightened monitoring of Mr Gray's performance, management training for him, and appointment of a pastoral consultant to work with him for at least the next six months. Also the responsibilities and line management for all staff involved at Mataranka are being clarified and a detailed management plan for the station is being prepared.

I believe that these decisions are consistent with natural justice and our processes of investigation of complaints. Thanks again for your help, and please treat this email as confidential.

During Professor Wasson's interview with the Deputy Ombudsman, he was asked about his email of 10 December 2009. Professor Wasson was asked about his comment: *'We have also taken our investigations further and spoken with many more people involved in management of the station'*. The Deputy Ombudsman said *'Can you tell me who those persons were?'*

Professor Wasson replied: *'Well Doug Jenkins was one of them, I hadn't spoken to Doug very much prior to that. Tim Biggs, Brian Heim and that's about it actually... Oh and*

what's his name, the guy, the contractor (Spud Thomas) who was brought in by Ian Gray...Spud Thomas, that's the one... '

The Deputy Ombudsman said: *'OK...What additional information was provided to you from these particular persons that took your investigations further?'*

Professor Wasson replied: *'Well it goes back to my earlier remarks that I'm just trying to get a chronology of events and what happened when linked to the situation we were in, and I just a moment ago went through the list of things like the animals were in a very poor condition, it takes them longer than Ian Gray's term to get to that state, the whole issue of the opening of the interior gates, the issue of feeding regimes, bulls being left in there all the time, the lack of rotational burnings so you end up with good grass rather than rank grass and the prospect of wild fire destroying, you know, infrastructures...But nonetheless the absence of rotational burning within the station does create a hazard there's no question about it. So, and Gray was getting onto that. So, I mean I'd come to the, and when I saw Ian Gray's response to Tom Stockwell's report it was entirely consistent with, sorry, it was consistent in outline with what I'd been told though there were deviations of opinion about what had happened. And the conclusion, to repeat myself the conclusion I reached was you could not sheet home blame to Ian Gray alone. He'd made some mistakes, he admitted to them but there had been a whole series of errors of judgement and errors of practice that had lead up to, that had occurred before Ian Gray took up the role as manager and that's why I came to the conclusion, that's what I was obliquely referring to in my email to Tom, I wasn't going to go into detail about that in an email particularly or any other means for that matter. That's what I was referring to, that I'd come to this conclusion that all sorts of people had in fact... So that's been dealt with but, and the sale issue, the cattle sale issue was one, well, it wasn't in Ian's hands but he might have, he might well have argued the case more strongly. I wasn't there, I don't know. He doesn't communicate very well, he's not terribly articulate, it takes him a long time to finish a sentence and he goes off on tangents. You know, we're all fallible in a whole lot of ways that happens to be his difficulty. And he admits to this. And the management coach that we employed to help him actually has helped him, he's now talking to his staff in a much better way. I saw him on Friday, much better communication with staff than was previously the case. And that was an issue, nobody could find him, he was out in the paddock, you know, at sunrise and the people who were looking for him, where in the hell is he, what do we do now and there were real problems of that kind. Plus differences of view about animal welfare coming from Toby (Gorringe), shall we say the Toby camp...'*

In short Professor Wasson's further investigations appears to have consisted of speaking with 1 staff member (Mr Tim Biggs) not on the *'to be interviewed list'* provided to Mr Stockwell.

[OMBUDSMAN NOTE: Dr Heim and Mr Gray provided a written response to the *Stockwell Report*].

On 10 December 2009 (15:43) Mr Stockwell emailed Professor Wasson. He wrote:

Despite my initial shock of your email this morning, I was determined to make no further comment on the issue. However after coming back from a morning in the

yards to a number of phone messages expressing incredulity at the decision, the sick feeling at the bottom of my stomach only got worse.

A few things if I may.

- 1. I would appreciate in the interests of natural justice, some indication of which parts of my report you found inaccurate or false.*
- 2. I caught up with some friends recently at the School of the Air Break-up. They had sold a cattle operation earlier in the year. The new absentee owners employed the bloke who managed Mataranka last year (this is not a reference to Mr Gray). He left recently and out of compassion the ex-owners were back there trying to save the lives and ease suffering of the cattle he had mismanaged perhaps similarly to what happened at Mataranka last year. That particular cattle-killing B (bast**d) went on doing exactly the same thing - just at someone else's and other livestock's expense.*
- 3. If staff, or other people involved in this episode enquire, I would like it known that my conclusion was there was a case to answer. Apparently Ian (Gray) has been telling people that he has no case to answer. Some independent explanation of the situation to the staff involved may be wise.*

On 10 December 2009 (16:19) Professor Wasson emailed Mr Stockwell. He wrote:

I am afraid that it is not simply a matter of reflecting on your report. I had to take into consideration a wide range of information in reaching a decision. And I fear that there is no way that I can give a simple answer to your question. My finding is that there is no case of misconduct that Ian Gray has to answer. But he knows that he will be managed closely and the condition of the animals monitored randomly. Also, the Animal Welfare Branch visited on Tuesday [refers 08/12/09 AWW inspection] and decided that management is now heading in the right direction.

I am just about to send a memo to staff at Mataranka and Katherine explaining the reasons for the decision.

No memo of this nature was produced to the Ombudsman. It should be noted that this is another instance of Professor Wasson being involved in a vital decision of CDU management and confusing his role as AEC Chairman.

On 10 December 2009 (17:21) Mr Stockwell emailed Professor Wasson. He wrote:

No misconduct?

I think killing and starving and then leaving downer cattle to die when you are a manager of livestock goes beyond misconduct to something like criminal negligence.

I only mention this because I am absolutely boiling about this emotionally - and I only had to look at the results for a brief period of time. I suspect the various good people on your staff and outside helpers that tried to do the right thing will be burnt beyond repair.

I think the process that came up with this result is badly flawed and I suspect your troubles are only just beginning. You have kept an incompetent manager and potentially lost everything else, and I fear our whole pastoral community will be the poorer for it in the long run.

Of course the welfare people were happier - someone else was managing the cattle.

On 11 December 2009 (07:07) Professor Wasson finalised this matter in an email to Mr Stockwell:

I respect your concerns but please respect the fact that I have much more information than was available to you.

If Professor Wasson did have more information that was relevant to Mr Stockwell's investigation it was incumbent on him to provide it to Mr Stockwell.



DOR photo - Flogged out paddock – Mataranka Station 2009

DOUGLAS JENKINS

On 21 January 2008 Mr Douglas Jenkins was appointed as a VET Lecturer Beef Cattle/Horse Production. His probationary period expired on 21 January 2010, and his supervisor during this period was Mr Tim Biggs. Mr Jenkins' previous employment included being the owner/manager of Jenkins Cattle Trust; a Senior Livestock Salesperson with Landmark; a Manager of Porters Transport; a Livestock Freight Sales Manager with Queensland Rail; a Manager of deer farming and cattle management and husbandry at Cervidae Hill and a Livestock Manager with Dalgety Livestock Department.

Mr Jenkins was the Acting Station Manager of Mataranka Station from September 2008 to January 2009. Mr Jenkins also oversighted the Management of Mataranka Station by phone from January 2009 to April 2009 when Mr Grant Parker acted as Station Manager.

As part of my investigation Mr Jenkins was interviewed on 8 April 2010. Mr Jenkins stated that he did not apply for the Station Manager position when it was advertised and that he currently works at Katherine Rural Campus (KRC) as a CDU Livestock Lecturer.

Mr Jenkins advised that Mr Gray, in addition to being the Mataranka Station Manager, is also the Station Manager of KRC. Mr Jenkins' view in April 2010 was that:

'...in the next 5-6 weeks the problems encountered regarding animal welfare at Mataranka Station will present themselves at KRC'.

Mr Jenkins' view that these problems will present at KRC was passed on to Ms Meryl Gowing from the Animal Welfare Branch of the Department of Housing, Local Government and Regional Services on 21 April 2010 and Ms S. Fitzpatrick from DOR on 10 May 2010. Mr Jenkins view that the problems of animal welfare would present themselves at KRC was corroborated by photographs taken of animals held at KRC and Mataranka in May and June 2010 which depicted animals in near emaciated condition. At this time, further complaints were received at my Office.

One of these complaints appears to have been investigated by DHLGRS. On 11 June 2010 Ms Mary Gearin-Smith a Senior Animal Welfare Inspector wrote to Professor Wasson (cc to Professor Glover, Dr Radunz and the AEC EO). Within this letter three concerns were noted. One of these related to a *failure to provide adequate and sufficient food to some of the cattle*. Ms Gearin-Smith wrote that in this instance, management responded to the need to isolate the lighter cattle and treat the buffalo fly before the animals were subjected to suffering. She further wrote: *"It is the responsibility of the Animal Welfare Branch to investigate reports of animal cruelty or neglect. It is not however, our role to monitor management practices unless they cause suffering or result in neglect. If this was to occur, the abuses could potentially lead to prosecution for animal welfare offences. In my opinion, the animal welfare content of (name withheld) complaint does not warrant further investigation..."* On 19 June 2010 photos were sent to my Office with another complaint about the poor condition of cattle and a concern about buffalo fly. On 4 August the University sent an email advising that following mustering there were *4232 cattle and 17 horses at Mataranka Station with 175 cattle in light condition*.

Mr Jenkins continued stating that he could not comprehensively comment on the situation currently (June 2010) at Mataranka Station nor provide a view as to whether conditions have improved there as he *'has not been back to that station'*. He did however know that a new tractor had been purchased and a new house delivered for the use of the Station Manager.

In response to questions about fire mitigation strategies and management, Mr Jenkins stated that some of the fencing damaged in the 2008 fires still required repairs. In early 2009 Mr Jenkins advised that a contractor (Mr Morgan Lorrimar), with grader and dozer, was tasked to create appropriate fire breaks. Apparently it was still too *'wet'* when this contractor was sourced. Mr Gray was subsequently appointed as Station Manager and Mr Jenkins reported that on seeing the cost involved Mr Gray cancelled Mr Lorrimar seeking a cheaper quote elsewhere. (Mr Gray stated 4 October 2010 that at no point was a quotation from Mr Lorrimar ever made available to him). This apparently resulted in fire breaks not being undertaken prior to the 2009 dry season. As of April 2010 Mr Jenkins was aware that fences damaged in the fires of 2008 remained in need of repairs. The fences were insured but any increase in costs since the 2008 fire would not be paid by the insurer.

CDU advised me in response (10 February 2010) to my Notice that a *'Management Advisory Committee'* was to be established. Mr Jenkins on 8 April 2010 was asked if he was aware of that *'Management Advisory Committee'*. He responded *'no'*. On 10 May 2010 Ms S. Fitzpatrick (DOR) advised that this Committee had not yet been formed and that the first meeting was to be held in June 2010. This was corroborated by Professor Wasson who advised the committee's first meeting would be held on 2 June 2010.

Mr Jenkins was asked if accommodation was a problem at Mataranka Station and whether this contributed to a lack of staff. Mr Jenkins stated that there was a station hand house; a lecturer's house; a single men's donga; staff quarters with 5 rooms and a station manager's house. He did not see accommodation as an issue at Mataranka.

Mr Jenkins was asked if communications impeded his duties when he was acting as Station Manager. Mr Jenkins said that there was a landline phone in the lecturer's house, the office and the kitchen. The internet is also available, *although storms (like everywhere else) can interrupt its usage*. There was also a satellite phone provided to the Station Manager, however this required repairs. Mr Jenkins advised that normal mobile phone coverage was adequate, however in many areas of the station there is no reception.

Mr Jenkins agreed that managing the station required additional assistance. He stated that when he asked for assistance he was always given it. He advised that people went out of their way to help and he viewed the issue of Mr Gray writing that there had been a lack of assistance from staff misleading. Mr Jenkins stated that if Mr Gray had asked, help would have been provided.

As the Acting Station Manager in 2008 Mr Jenkins was asked if he was provided with supervision from his manager. He replied that the only supervision he was given was what he asked for. Mr Jenkins advised that as far as he was aware no monitoring of the Station Manager took place.

Asked about receiving practices/policies/procedures on his appointment or thereafter relating to receiving, responding and managing adverse events, Mr Jenkins advised that he was unaware there were such documents.

Asked what the processes and practices of CDU were relating to receiving, managing and responding to drought at Mataranka Station, Mr Jenkins advised that there were none.

The same question about processes and practices for pasture shortages, supplementary feed, movement or destruction of cattle, the risk management processes, and the processes and standards for preventing or remedying neglect of cattle/horses Mr Jenkins said there were none documented that he was aware of. After sifting through hundreds of documents requested from CDU I agree that no such documents existed.

Mr Jenkins was asked what training he received from CDU in 2009 relating to animal destruction, he replied 'zero'. Training, albeit insufficient, was provided in 2010.

Mr Jenkins was asked to respond to CDU's view that the situation of poor cattle was caused by calving out of season. Mr Jenkins said there is no such thing as calving out of season; he said that many cattle stations in the NT do not separate the bulls from the herd. Mr Jenkins said that due to a cow's cycle they are not constantly mating and are not usually producing at less than optimal times. He did state that there is an optimal time to calve and whilst CDU do attempt to separate bulls from the herd, it is expected that not all bulls will be caught during mustering and there will always be calves born at different times of the year, (unless the station can clear 100% of the bulls from the herd every year).

Mr Jenkins pointed out that CDU suggesting the poor condition of cattle was due to '*out of season*' calving does not account for the bulls, steers, heifers, weaners or horses that were found in poor condition.

As part of the remedy to the cattle problem CDU trucked several hundred animals to Phoenix Park. Some of these cattle were weaners. Asked if the '*very light*' weaners should have been trucked Mr Jenkins replied that there was feed available in the paddocks and, as such, sending them to feedlots was unnecessary if they were provided with sufficient supplement. One of these weaners died on arrival at Phoenix Park.

GRANT PARKER

In 2009 Mr Grant Parker was the Acting Mataranka Station Manager from February 2009 to 3 May 2009. Mr Parker had taken over station management from Mr Jenkins who had been the Acting Station Manager from September 2008 to February 2009.

Mr Parker also relieved as Mataranka Station Manager from 17 November 2009 to 10 December 2009 whilst Mr Gray was stood down.

On 20 April 2010 Mr Parker advised that he was away from his office on '*stress leave*' caused by being ordered by Mr Barry McKnight and Mr Tim Biggs to work at Mataranka Station under the direction of Mr Ian Gray.

Mr Parker stated that he refused to work at Mataranka Station whilst Mr Ian Gray was the Station Manager and that he had told this to his executive (McKnight and Biggs). Mr Parker also said that: *'he can not work with Ian Gray, further that things are just wrong at Mataranka and as such he will not be a part of it'*.

Mr Parker was one of seven employees who subsequently declined to work at Mataranka Station whilst Mr Gray was Station Manager.

Mr Parker advised my Office that he would be the first to admit that the Station was not in a good state of affairs on the arrival of Mr Ian Gray. Fences needed repairing, fire breaks were required, bores needed repair etc. However, the cattle and horses, in Mr Parker's view, were in good condition in May 2009.

Mr Parker stated he did not wish to be associated any further with CDU in relation to the cattle and/or horse neglect at Mataranka Station and the direction to return to work at Mataranka Station in 2010 went against his morals and ethics.

Mr Parker was advised during one of the calls to my Office that a formal interview was required with him to extract further information about the situation at Mataranka Station in 2009. A Notice to Provide Information to my investigation was served.

On 27 March 2010 Mr Parker was interviewed. Mr Parker was sometimes teary when discussing the condition of the cattle at Mataranka Station and he voiced his frustration at feeling helpless to resolve the situation. He brought to the interview diaries and other documents to support his version of events.

Mr Parker expanded on information already provided to my Office. He stated that in 2009 (apart from one request) Mr Gray did not want his input or assistance at Mataranka Station. He said *'I would call him and offer help and he would respond 'no we're right'*. Mr Parker added that Mr Gray was extremely hard to communicate with on all aspects relating to the station, but socially he was fine.

Mr Parker stated on one occasion in August 2009 Mr Gray sought assistance from him to attend Mataranka Station with students to finish off the pregnancy testing (after the 2nd course run by Dr Heim). Asked, at interview, if Mr Gray wanted Mr Parker to stay and help with this testing he was allegedly told: *'no I don't need your help, take the trailer and go get hay'*.

On his return Mr Parker said that this was the first time he saw the poor condition cattle and didn't know what to do.

Mr Parker stated that after the *DPI inspection* conducted on 4 September 2009 he called Dr Heim. He believed that this conversation was private, but later found out (diarised - 1 October 2009 at 1pm) that Mr Gray was in the office. Mr Parker said that Ian Gray told him that he overheard the conversation with Dr Heim. Mr Parker voiced dismay and betrayal as he believed Dr Heim should have advised him.

Contrary to the information provided to the Ombudsman's investigator by CDU management, Mr Parker advised that after the pregnancy testing course a number of

premature calves were born. Mr Gray allegedly stated to a hay contractor (Mr John Ramsay, with Mr Parker present) that 'slipping calves' (premature births) were due to mouldy hay. Mr Parker said that the hay wasn't mouldy and he knew this because he cut and baled it. Mr Parker admitted that the hay was moist because it needed an additional day for drying, however mould was not an issue and feeding the cattle was more important than waiting another day for drying.

Mr Parker's diary entries and excerpts from his affidavit are, in part, replicated below:

27 September 2009 – Around this time the students and I had to pick up a prolapsed cow in 17 Mile Paddock and put it in the yards she was in a down condition. We put her in the yards using the float. Later that afternoon three students, myself and Ian went to her and Ian pushed the prolapse back in and then proceeded to preg test her while she was still down. She never recovered – she was in extremely poor condition at the time. Throughout this whole experience we saw a larger number than usual of prolapses in the herd. I have spoken to a number of experienced stock inspectors and vets and they said it is not uncommon to see this in malnourished herds.



Student photo - Ian Gray with prolapsed cow

28 September 2009 – 6am start. Ian Gray said I don't have anything for you to do, so the students and I went fencing – eastern side of Highway – finished off these, Laneway at Tiger Hole and Yellow Water Hole.

29 September 2009 – More fencing Yellow/Tiger. Tailed 200 weaners that afternoon with students. 50% were in poor condition. Didn't see Ian Gray there and no feed was seen. Cattle not getting sufficient feed.

30 September 2009 – (Name withheld) South Cabbage Gum Paddock. (Name withheld) cant ride well – given 'Rusty' a quiet horse usually used by students who cant ride. I cantered off to muster cattle, then heard screaming, 'Rusty' was cantering up to my horse, (Name withheld) couldn't pull it up. Doesn't know how to work stock, cant start bores, doesn't understand tables for feed that Cert II students learn.

5 October 2009 – 08:30 moved 46 poor cows out of Highway into Ammo with students. Bulls were in Ammo, Ian Gray told me the cows wouldn't be cycling and it was okay to put them there. 2 weaners need to be shot in yards and 1 cow needs to be shot in paddock around yards (diary). Affidavit: I drove down to Mataranka with students at 8:30am we moved 46 poor cows out of Highway Lane into Ammo Paddock with the bulls. I didn't think that was a good idea. I asked Ian was he sure that he wanted to do that and he said yes as they wouldn't be cycling. When I was around the yards there were two weaners that needed to be shot and one cow that needed to be shot. Ian and Nikki were doing the shooting I had student with me and I notified them of the animals condition. During the same trip to Mataranka I helped Spud Thomas move the weaners through the yards we were picking the cattle up as they were falling over from being too weak and also trying to explain to students and train the weaners.

6 October 2009 – Tailed weaners with Spud and students. 1 to be destroyed Bottom Toms watering square, 1 to be destroyed 17 mile watering square, Ian Gray informed.

7 October 2009 – 1 to be destroyed in paddock around yards.

8 October 2009 – Diary - Mustered Bottom Toms – no lick. 1 cow to be destroyed. Mustered Bottom Beswick, went via Ammo – no lick evident. Weaners fell in creek, 1 down there next day dead. Hay turned up about 8pm on Road Train, no hay all week, at least 5 days stock had gone without feed. (addendum DPI turned up next day). Affidavit: at around 10:30am I mustered bottom Tom's holding paddock, there was no lick present in the paddock. One cow to be destroyed in this paddock. 1pm I went with Spud Thomas to muster Little Roper Paddock (also called Bottom Beswick) we went via Ammo Paddock there was no lick in either of these paddocks. When crossing little roper river a large number of the steers fell over as they were extremely weak. We were working frantically to stop them drowning, this was Nikki, Spud and myself. This was the first time that I had seen the horses in the paddock and they were poor. The horses that I saw were the mares, the foals and the pensioners, the foals most particularly looked shocking and they looked to be all under 6 months of age. They looked stunted woody and wormy. Hay turned up on road train at 8pm the station, there had been no hay for the week previous. So all the cattle in the yards had not been fed for at least 5 days.

9 October 2009 – Mustered Bottom Beswick, Ian Gray said he wanted the students to put feed in front of 'everything'. DPI turned up at 9am, majority of cattle in poor condition on eastern side, Sue Fitzpatrick (DPI) observed cattle on western side.

12 October 2009 – around this time I mentioned to Tim (Biggs) outside the kitchen at the KRC campus that something needed to be done about the mares and the foals as their condition was poor.

13 October 2009 – 5:30am mustered Bottom Beswick, still no supplement. Steers into yards and educated heifers at Parnell, started education of cattle in Toms Paddock, pulled dead weaner out of water to stop it fouling.

15 October 2009 – we walked the poor cows out of Highway Paddock into Wire Hill they were in extremely poor condition we left some behind as they were unable to walk.

16 October 2009 – Walked 404 steers to Tiger Hill. Left heifers out of Parnell water square, started bore – told Ian he would need to fill it up with fuel. 5 head around yard requiring destruction.

Mr Parker spoke in detail of conflicts of interest and other concerns he had relating to Mataranka Station. He provided examples in support of his view.

Mr Parker views the following as a conflict of interest. He stated that prior to the appointment of Mr Gray, a Mr Clinton Brisk was the Mataranka Station helicopter mustering pilot and that Mr Brisk did an excellent job. He said that when Mr Gray took over as Station Manager, one of Mr Gray's referees, Mr Phil Irlam, was employed as the helicopter mustering pilot. During the period that Mr Gray was stood down, Mr Parker said that Mr Brisk was again contracted to helicopter muster the cattle. Asked if there was a documented CDU contract in relation to helicopter mustering Mr Parker said 'no'.

Mr Parker said that there were occasions when he got into CDU's Toyota with Mr Gray and that one of the station rifles was on the car dashboard. Mr Parker said that this is a breach of the *Firearms Act*.

Mr Parker was very upset when discussing Mr Gray's dehorning technique. He said that Mr Gray when dehorning cattle would make 3 or more cuts on each horn which resulted in him cutting through skull and meat on the heads of the animals. Mr Parker said the cattle would be bellowing out in pain and that blood would be running down their faces and necks. Mr Parker's description of the blood running down the faces and necks of some dehorned cattle is supported by other staff. The following photo taken by staff at KRC depicts the description as provided by Mr Parker. Mr Parker said that Mr Gray would direct Nikki (station hand) to hold up the cattle heads to check for evenness and if he was still dissatisfied further cuts would be made. Mr Parker in tears said *No one needs to be that savage*. Mr Gray, in interview, admitted that he took 3 cuts to dehorn cattle, however viewed nothing wrong with dehorning in this manner.



Staff photo - Dehorned cow May 2010 - KRC

In relation to the actions proposed by Mr Gray on his return to Mataranka relating to the bulls, Mr Parker, who had concerns about the proposed actions, sent emails to Mr Gray, Mr Biggs, Mr Luttig, copied to Professor Wasson and the AEC Executive Officer:

12/12/2009 (10:08am)

As per our discussion at Mataranka yesterday, you mentioned that you have planned to muster the bulls in Ammo Paddock and semen test them. Since our meeting I have had a chance to think about this and would like to raise some concerns about this plan with you. As per Robert Wasson's memo I thought this the most appropriate way to raise these issues.

Semen testing the bulls at this time, considering their varying conditions and their recent past, would not provide an accurate result and would cause undue stress to those animals still recovering. These bulls were only mustered a week ago to remove the cows in poor condition and weaners and should now be given chance to recover in the paddock.

During the DPIs last inspection, I spoke with both inspectors, welfare officers and vets as well as Tim Biggs about considering not putting the bulls in for this year's breeding season. This would allow both bulls and cows time to recover fully. The DPIs opinion was that if CDU could afford to do this it would be the most sensible option. In support of this option, there should be an adequate number of unmarked stock to reach training objectives over the next couple of years. I am happy to discuss this matter further if required.

Mr Parker's view that semen testing of the bulls would cause further stress to the bulls is supported by the AEC EO in her email of 14 December 2009 to Professor Wasson. In part this email states:

When we saw the bulls at Mataranka they did not look in good condition and were still lying, being shot, which means they are still recovering. When we saw the bulls at Douglas Daly for example, not a hip bone or sunken belly to be seen, they were proud and magnificent looking.

Any time animals are bought into the yards and processed, it is extremely stressful, then to add this intrusive procedure is not good.

Why do they have to do the semen testing if they aren't going to be breeding next year?

CDU provided to my investigation a draft letter prepared by Mr Gray. It was not sent to Mr Parker, and is purported to have been written on 13 December 2009. It reads:

As the University is currently participating in Meat & Livestock Australia's flagship project, Cash Cow, I envisaged an ongoing commitment to data collection from the two Cash Cow herds would in some way assist to maintain or raise the credibility and reputation of University staff and also the University itself, as highlighted in the memorandum from Prof Wasson and Dr McKnight.

On 14 December 2009 (06:46), Mr Gray responded to Mr Parker's email of 12 December 2009 by email, copied in was Professor Wasson, the AEC EO, Mr Luttig, Mr Biggs and Dr Heim. He wrote:

Thank you for your Email. The management team of Katherine Rural Campus and Mataranka Station, Dr Brian Heim, Messrs Danie Luttig, Tim Biggs and myself, met yesterday afternoon.

During the course of the meeting your concerns were given due consideration. Please feel free to telephone me if you wish to discuss this or any other concerns.

OMBUDSMAN COMMENT: Considering the view of the AEC Executive Officer (email of 14 December 2009) written three hours after Mr Gray's email of 14 December 2009, I fail to understand why this issue was not taken further and why the AEC Executive Officer's concerns were not written into the AEC report.

Mr Parker finished his interview by advising that the situation in KRC and Mataranka Station was intolerable.

Mr Parker resigned from CDU in April 2010 *after receiving threats of violence from another employee.*

SPUD THOMAS

On 27 March 2010 Mr Thomas was interviewed as part of my investigation. He advised that he has 20 years of experience in cattle husbandry and is currently a private contractor who uses working dogs to assist him with cattle education.

Mr Thomas advised that he received a call from Mr Gray asking him to attend Mataranka Station to educate some weaners in the Highway Yard. Mr Thomas said that during this phone call he said to Mr Gray that if he wanted any of his staff to be there for training that would be fine with him.

Mr Thomas stated he arrived at Mataranka Station on 5 October 2009. The staff present were Ms Walters, Mr Parker and some students. It is to be noted that in interview Mr Parker and Mr Walters confirmed the version of events as described below.

Mr Thomas said that on arrival he had '*stepped into an animal cruelty situation*', observing about 250 weaners within the yard in BCS 1. Further, that there was no feed close by or in paddocks close to the yards. Mr Thomas said it was the most difficult situation he had ever been in.

Asked why he didn't raise the condition of the animals with Mr Gray, he said Mr Gray was not there and at the time he was embarrassed. Mr Thomas said that he normally videos when he educates cattle but, on this occasion, due to the poor condition of the cattle decided not to. Mr Thomas said in hindsight he should have reported the matter and videoed his observations.

Mr Thomas said that on arrival there were two dead weaners in the yard and one downer. He said that during '*education*' almost 20 of the 250 weaners fell and were trampled by the other cattle. He said that he and the CDU staff physically picked them up to try to keep them moving. Mr Thomas recalled that there were also about 100 cows in the yard '*cooler*' and that during the two weeks he was working Mataranka Station about 3 were dying per day. He said that he had to '*convince*' Mr Gray to move cattle from the cooler and that he and Mr Parker moved them across the road with the assistance of Mr Gray and '*Tom*' (son of Mr Gray's partner).

Mr Thomas recalled that these cooler cows were BCS1 and that he observed Mr Gray arriving once every 3 days to feed them. Mr Thomas said he asked Mr Gray *what's the go with them?* and was advised that they were wanted for preg testing. Mr Thomas said that as these cows were being drafted two fell down with one getting back up. The other was allegedly left down in the full sun. Mr Thomas said he then saw another fall near the shed and that there was an additional downer weaner in the yard. Mr Thomas said that Mr Gray was, over a two week period, there for a total period of three days and at no time were these downers given food or water. Mr Thomas stated that when he left the station on the Friday these three cattle were still down in the full sun without food or water. Mr Thomas stated that what he saw *horrified* him.

Mr Thomas stated that whilst the cattle were in the Road Paddock across the road from the yards one went down and that Mr Gray was told that '*she was down and kicking on the ground trying to get up*'. Mr Thomas described the Road Paddock as starting at 100m

wide and gradually increasing to 1km wide. Mr Gray told Mr Thomas that he would put hay down to entice the cattle from the small end to the wider end. In the morning Mr Thomas said he found another downer and a few dead cattle in the road paddock. He said that he asked Mr Parker if he had seen the hay Mr Gray was supposed to have put out and was advised 'no'. Both men stated that they saw no sign that hay had been placed into this area and as they were leaving they saw a trailer outside of the fence boundary with hay still on it.

Mr Thomas said that he told Mr Gray of the other downers, but does not know if these downers were tended to.

Mr Thomas stated that on another occasion he asked Mr Gray about feeding the weaners. Mr Thomas stated Mr Gray had said *Oh yea, the pellets are there* referring to a shed at the homestead. Ms Walters was sent to get the pellets. Mr Thomas stated he began feeding the weaners whilst he was educating them and that some of them began to 'pick up'. Mr Thomas said he asked Mr Gray where these weaners could be placed and was told to take them to the horse paddock. During the day these weaners were taken to this paddock and then at night returned to the yards and fed pellets.

Mr Thomas believes he did a good job in educating these weaners referring to a day when Mr Gray walked them by himself to the paddock allegedly telling Mr Thomas 'they're good'.

On one Wednesday in October 2009 Mr Thomas stated he had a conversation with Mr Gray about taking the weaners out on the Thursday and bringing them back to the yards on the Friday for drafting. Mr Gray replied *No I want them out of there on Friday*. Mr Thomas stated that the Friday in question was a day that Animal Welfare arrived.

[OMBUDSMAN NOTE: DPI inspectors were required to give notice of when they were coming to inspect – Section 62(3) *Animal Welfare Act*.]

Mr Thomas in traversing the property states he saw that the weaners, approximately 300, in Toms Paddock had no feed and were in BCS1 with the best being BCS2.

The following Monday he said he went to Toms Paddock and didn't see any weaners in the paddock where they had previously been viewed. Concerned, he and Mr Parker drove around ending up in the centre of the paddock. Mr Thomas stated that the weaners were in the centre, hidden from view and unless the inspectors were taken there they would not know the paddock housed cattle. In his opinion these poor condition weaners had been taken there to hide them from the view of the animal welfare inspectors.

During another period of educating weaners Mr Thomas expressed that he spent half the time off his motor bike lifting up weaners that had fallen. On this occasion he said that six (6) were left behind as a couple managed to get up but were too weak to move further. He said that Mr Gray was advised of the four (4) downers and two (2) weak weaners. Returning a few days later Mr Thomas observed these six (6) and said that Mr Gray had left these weaners to die without food or water.

Mr Thomas said that Mr Gray had also asked him to muster a paddock of steers, and that in his view the steers were in poor condition. Mr Thomas referred to this paddock as Little Roper but said that Mr Gray refers to this paddock as Bottom Beswick. Mr Thomas said that a creek runs through this paddock and that there was plenty of forage available. Mr Thomas advised that Mr Gray drove him around and Mr Thomas asked Mr Gray *is there any lick?* Mr Gray allegedly responding *no lick out in this paddock due to the horses.*

The next day Mr Thomas said that he, Ms Walters and Mr Parker mustered these steers to another area with many of them ending up in a creek (which needed to be crossed). Ms Walters and Mr Thomas reportedly picked up many, however one died.

A couple of days later Mr Thomas stated he spent time educating these steers. He said they continually fell down, as nutrition (lick) was not being provided, and in turn the cattle were weak.

Mr Gray is also reported as asking Mr Thomas to work on heifers in Parnell Paddock. Mr Thomas said there were about 200 heifers in this paddock and there was only 1 lick tyre observed in the paddock. He had expected to see at least 8 or more as lick draws cattle towards the forage. He said he had not seen a similar situation anywhere else in the 20 years he had worked with cattle.

Mr Thomas said about 20% of the heifers were in BCS1 and the rest in BCS2. Mr Thomas said that many of the cattle were so weak if they tried to step over a log they would trip and fall. He also said that many were knocked over, couldn't get up, and he had to leave them there.

Mr Thomas said that at about 8:30pm one night a road train arrived with hay and weaner pellets. He believed this was due to a pending animal welfare inspection.

Mr Thomas stated that due to his concerns for another group of cattle known as 'clean skins' (as they had not been branded) he asked Mr Gray if he could take them to a paddock to feed. Mr Gray allegedly replied *'no leave them, I'm going to brand them over the weekend'*. Mr Thomas said he returned after the weekend, the clean skins were still in the yard and had not been branded.

Mr Thomas advised that he was asked to help truck woody weaners. He recalled that the truck arrived at 7am. Mr Thomas said that Mr Gray arranged the woody weaners and that Ms Walters had said they should not be trucked due to their condition. Mr Thomas said he agreed with Ms Walters, however stated that what was the option: *'leave them there to starve?'*

Mr Thomas said he assisted in getting the weaners into the truck, saying he did this as many were too weak to stand and that he and others were carrying them to get them in.

Asked for his opinion on what caused the condition of the animals he saw at Mataranka Station Mr Thomas said that feeding was sporadic and *'they just weren't getting enough lick or appropriate feed'*. Sporadic feeding is a term also used by Ms S. Fitzpatrick from DOR in her 22 October 2009 report and a term used by DPI Inspector 3, in his interview on 10 May 2010.

Mr Thomas added that Mr Gray was almost impossible to communicate with. This view is supported by CDU employees Messrs Gorringer, Parker, Jenkins, Wasson, Files and DPI Officer 1 and DPI Inspectors 2 and 3.

Mr Thomas said he had spoken with Mr Andrew Vodic saying that what he saw at Mataranka Station was not best industry practice and that the students were seeing bad practice. He recalled Mr Vodic responding *'this is not a witch hunt'*.

NICHOLA WALTERS

On 23 March 2009 Ms Nichola Walters started work as a station hand at Mataranka Station, a position she held for approximately 9 months. Ms Walters was served with a *Notice to Attend* my Office and provide information to this investigation.

Copies of diary notes, emails and other documents were supplied to my investigation prior to interview with Ms Walters on 15 April 2010. In interview Ms Walters also provided A4 notes, notebooks and a statement made during her employment at CDU.

Ms Walters explained that she has worked with cattle for 11 years, employed on stations such as Cave Creek, Lonesome Dove, and various stations in the Douglas Daly district.

Mr Jenkins initially employed Ms Walters for a 3 month contract which was extended for a further 2 periods. In interview she was asked to describe Mr Jenkins' ability as Acting Station Manager. She said Mr Jenkins was very professional, a good cattleman and provided her with *'good verbal instructions'*. In contrast she advised that Mr Gray was not any of these things and was difficult to get along with.

In a statement to my Office Ms Walters reported that on about 20 May 2009 Mr Gray placed about 250 weaners into Toms Paddock as they had not been tailed. Within a month the weaners began to run out of food and their condition went from good to poor. Several died and some became downers. She would try to stand the downers up and, if she couldn't, she would inform Mr Gray, with Mr Gray instructing her to give them water. This could be appropriate if the weaners had 3 day sickness, an illness spread by insects which may cause cattle to be sick for a 3 day period in which they would sit down. Ms Walters reported that these weaners were *'at a point where they had no strength as they were so weak'*. Ms Walters reported that it wasn't until she found one being eaten alive by meat ants that she took it upon herself to put down stock that were in such poor condition.

Ms Walters described an incident in early June 2009. She went to the yards and noticed cattle standing in Bottom Toms Paddock near a closed gate which, if opened, would allow these cattle access to water. Three days earlier cattle work had been done in the yard and at this time cattle may have been blocked off from the water. Mr Gray was managing the cattle egress and ingress whilst the cattle work was undertaken. Ms Walters caught up with Mr Gray that afternoon and enquired of him about the cows being blocked off, *'Ian replied along the lines of, oh yeah, that's right'*.

Ms Walters in interview stated that in June/July of 2009 Mr Gray asked for records of deaths of cattle due to a number of them (approx 20) having been disembowelled by dingos whilst they were still alive. She stated these numbers were provided to Mr Gray at the time.

Ms Walters reported her observations on or about 12 June 2009 when Mataranka Station held a pregnancy testing course. She wrote that half the cows from the Highway Paddock were brought over to the lanes. The lane is next to Toms Paddock which leads to the yards. These cows were placed in the lane for 2 nights. Noticing the very poor condition of the cows she drafted off the poorer cows. The pregnancy testing course ran for about 2 days, and after the course the cows were put back in the lane to find their own way up to the Desert Paddock. Mr Gray directed her to let them go into the lane leading to Tsumengeri bore. These cows stayed in the lane for about 3-4 days without food. After this period Mr Gray moved these cows on foot through the lane to Desert Paddock. Many of these cows were weak and in poor condition. She also noted that they had not been injected to protect them from Botulism. Ms Walters noticed that some of the stronger cows began to walk to other bores, however she stated others began to die and she found cows with clear indications that dingos had pulled their bowels out when they were alive and unable to rise. She wrote:

'I also found a couple of cows still alive with their bowels ripped out, these I destroyed. This made me feel terrible because it was all avoidable and did not have to happen'.

Ms Walters related that on 18 June 2009 Mr Gray opened a gate between Highway Paddock and Wire Hill Paddock hoping that the cows would slowly filter out. These cows didn't know where to find water as they had not been shown. She observed that food in the Highway Paddock was scarce to none, yet food in Wire Hill was sufficient at that time, except the cows failed to leave the trough in Highway Paddock.

These animals were, approximately 2 weeks later, driven by helicopter out of Highway Paddock into Wire Hill. These cows were in Wire Hill for about 2 weeks before they were brought back in for a second pregnancy course. She noted that they were in poor and weak condition and should not have been subjected to testing. Ms Walters said that on the way to the yards one of these cows died.

I knew this was wrong to bring the cows back in as they were in no condition to be brought back in. The cows did not need to be in this state, I was upset and angry... Ian was 100% aware of the poor condition of the cows. Prior to moving these cows I suggested to Ian that we should not use these cows because we had some other cows in Tsumengeri Paddock that were in top condition to be used in the course. Ian said nothing, I did not say anything else and continued doing what I was doing... During the course I asked Brian Heim whether we could draft off the weakest cows, however I was told send them up. As the course progressed I began to start to draft off some of the weaker cows because I could not bring myself to put them up the race as I knew this would cause the cows stress... This course lasted about 2 days and then the cows were placed into the Highway Paddock for another couple of weeks, some of these cows started calving... Cows were dying giving birth to calves...

In retort to Mr Gray's response to the *Stockwell Report* Ms Walters provided hand written notes to support her view of the situation at Mataranka Station. In relation to the '*Bulls remaining in Paddocks*' she wrote:

To my knowledge it is difficult to muster large natural bush paddocks cleanly by helicopter. I do remember when Ian had Ammo Pdk mustered (bulls, horses...) I kept hearing (what I thought) was the helicopter backfiring! Later I was told by Ian that he had instructed the pilot to shoot any bulls that would not muster out of creeks etc, the pilots that mustered pdks prior to Ian's personal preference pilot were not instructed as such. Bulls that were trapped were brought back to yards with help from panels and ramp in water square, still a bit difficult to cut out and load with only 2 of us, but by that stage Ian did not want help from lecturers for station business. Toby (Gorringe) did come and help one day but only because he overheard us talking and wanted to help. Ian also had 3 go's at getting a bull cut out and loaded by himself. He ended up shooting the bull and perishing the cow that was with him (this Ian told me himself). I had seen bulls in 3 pdks – Crater – Desert – 17 Mile we removed bulls out of all these pdks to a point that there was only 2 bulls that I then saw regularly 17 Mile and Moray Hill...

In relation to shooting downer cattle, Ms Walters said that initially Mr Gray had informed her she was not allowed to shoot downer animals. She provided examples from her diary and memory. Ms Walters also provided a verbal example, saying that she came across a heifer caught in a barb wire fence and removed the beast from the wire. She said this animal was quite badly injured and she advised Mr Gray of this. He allegedly told her to give it water and leave it there. She stated she left it there with Mr Gray subsequently leaving the station to attend to other matters over the next few days. Ms Walters said the cow did not improve and she was later questioned by 'Adam' from KRC as to what was happening with '*that cow*'. Ms Walters said that after Adam's conversation she then shot it, and on return of Mr Gray he questioned her as to why she took that action.

On another occasion she said she came across a downer cow in 17 Mile Paddock at the centre bore. Ms Walters stated she was horrified when Mr Gray arrived and put a halter on the cow, pulled the cows head around and pregnancy tested the distressed animal whilst it was on the ground. She states he then talked about *needling her* and that he couldn't do this if she was pregnant. Ms Walters stated the cow was left on the ground. The next day Ms Walter said that Mr Gray went back and the cow was gone. He is alleged to have returned to the Station accusing Ms Walters of shooting it. Ms Walters from these two incidents at the time formed an opinion that no matter what condition cattle are in they should not be shot.

Ms Walters said that she questioned Mr Gray's actions constantly. She advised that Mr Gray, over time, became un-approachable, failing to speak with her days at a time. She said that Mr Gray would often drive past her without saying anything.

Concerned about Mr Gray's ability to manage the welfare of cattle Ms Walters stated that she started checking on cattle he had dealt with during the day or areas where he had

been throughout the day. She said she became obsessive in checking and rechecking cattle and areas in case Mr Gray had left cattle without access to water.

Ms Walters advised that her workload increased dramatically during Mr Gray's appointment. She said that, in her view, this was due to Mr Gray creating situations that were unnecessary. As an example, she said that the Station had few staff in 2009, yet Mr Gray would still leave the Station to run an artificial insemination course, or leave frequently to collect small quantities of feed from Katherine. She said he was almost always difficult to find. She advised that she told Mr Gray many times that if he kept increasing her duties she would not be able get around to all the other jobs.

When Ms Walters was advised that Mr Gray had written that he had discussed her '*poor performance*' with her she said this was incorrect. She advised that on one occasion she was given a list to do whilst Mr Gray went to Queensland. She said the least important chore on that list was to clean the tractor and motorbike. Ms Walters advised that Mr Wayne Spence had requested her assistance during this time and therefore the last 2 tasks were not undertaken. She said that Mr Gray came back the next day very unhappy that the tractor and motorbike had not been cleaned. She explained to Mr Gray why the tasks had not been undertaken with Mr Gray responding that she should not have assisted Mr Spence and that Mr Spence should have sought his approval for Ms Walters to assist. She said after this the only discussion she had with Mr Gray related to the number of hours she worked.

Asked about the poor condition of some of the bulls, Ms Walters said their condition was due to insufficient supplement. Asked about '*out of season calving*' Ms Walters said that Lonesome Dove and Cave Creek Stations leave bulls in all year round but, because they feed adequate supplement, cattle do not decline to the state of many of the cattle held at Mataranka in 2009.

Ms Walters stated that Mr Gray did not advise her of any strategies in place for adverse or any other situations at Mataranka Station and '*made nothing clear to me*'. She said that cattle would go 4-5 days in some instances without feed, and these cattle, including calves, would '*curl up under trees and die*'.

Ms Walters also said she was concerned and horrified about the horning techniques used by Mr Gray. She said that she and others tasked to undertake dehorning would do a one chop technique to minimise the pain and stress to the animal, however stated Mr Gray would do 3 chops on each horn to give the cattle a '*round face*' look. Ms Walters said that Mr Gray would have her hold the face of the cattle so he could stand back and check the roundness and in her view this was '*barbaric and unnecessary*'. Mr Parker confirmed Ms Walters' statement about the technique used by Mr Gray to dehorn cattle and that the only reason it was done was for aesthetics.

Ms Walters said that eventually due to complaints, officers from DOR arrived (Officer 1 and Inspector 2). On one of these visits she recalled that she was driving towards 17 Mile Bore when she saw them. She stopped and advised the officers that the cattle next to the truck parking bay had been without feed for almost 2 weeks. She said to them *Thank God you're here, this is all going to end now*. She said she told them where to look for neglected animals and advised them of the empty paddocks. She also stated that she

pointed out 3 bulls that had been in a yard for 7 days that hadn't been fed. Ms Walters advised that when she had previously pointed out these bulls to Mr Gray he said *'They'll be right'*. Ms Walters stated that one of these bulls went mad suggesting that it was from a lack of food. Ms Walters recalled that DPI Inspector 2 shot two *'woodys'* at the Station during this visit.

Ms Walters also stated that after the initial visit DPI would announce their intention to visit. On one occasion she said that Mr Gray approached her and contractor Spud Thomas stating *I have got to go, DPI and that will be here soon. I have to go and put food in front of everything.*

She estimated that in 2009 approximately 200 cattle died from malnutrition and/or lack of water or were shot due to being *'downers'*.

In late 2009 Ms Walters took leave from CDU due to:

'ongoing stress and worries due to observing animals in avoidable distress; participating in the destruction of these animals; others in ongoing distress; concerns and efforts are trivialised even anger inducing to direct management; anxiety over approaching Manager with problems or messages, as often met with anger; feeling intimidated when threatened with my job and when my efforts are made to appear less than truthful'.

Ms Walters stated that she could not return to work under the supervision of Station Manager, resulting in the station hand position being vacant in late 2009.

On 7 September 2009 an employee (Name withheld - based at KRC) was employed by Mr Gray to work at both KRC and Mataranka Station. Mr Gray was this employees supervisor. Ms Walters said that Mr Gray had told her that this employee was a friend of his from Queensland. Ms Walters challenged this appointment because this person was to be her supervisor. In interview Mr Gorringer and Mr Parker also voiced concerns about (name withheld) ability. Ms Walters stated that (name withheld) is scared of cows and can not ride horses. When asked how she knew that (name withheld) could not ride a horse and was scared of cows, thereby unable to adequately undertake the duties at Mataranka, she said *Ian Gray told me.* On 5 October 2010 Mr Gray stated that he failed to see the relevance of this. He wrote that whilst this employee may have lacked some skills in the area of horsemanship it is only a very minor aspect of the task required to be performed. I note that as Ms Walters' supervisor, Mr Gray failed to provide any notes or other document to my investigation to support his premise that Ms Walters was an ineffective employee or that he had spoken to her about her performance.

Ms Walters continued that all duties assigned to the Station Hand could not be completed within a working day. She said that this left no time in the majority to undertake bore runs and/or put out lick.

Ms Walters' claimed that she sent a complaint (28 October 2009) about the situation she was experiencing at Mataranka to Mr Andrew Vodic, however the problems continued.

In support of her claims of unwarranted treatment by Mr Ian Gray, Ms Walters submitted notes relevant to Mataranka Station, shown below:

10 October 2009 (Saturday)

- *Spoke to Ian (Gray) in morning, Ian's lady friend's son here for visit. Ian informed me they would go for a drive and start bores today.*

12 October 2009 (Monday)

- *Checked on Wire Hill cows first thing after loading motor car with loose lick.*
- *Found a cow stuck in trough at Wire Hill which was dry.*
- *Got cow out of trough, took a while.*
- *Trough only has water trickling in, cows drinking faster and pushing each other around, will be how cow got in trough.*
- *Went back to Station, found Ian and told him of problem.*
- *Ian told me he never got to bores until Oct 11 Sunday night and 17 Mile tank (that feeds this trough) was empty and the outlet to this trough was above water.*
- *Ian then told me he thought the float valve outlet was too small and couldn't keep up with cows drinking. He was going to change it for a bigger one.*
- *Ian hooks up fire trailer and heads off to fix problem after lunch.*
- *Ian speculated to me that he thinks trough would have ran out of water Saturday afternoon.*
- *I see Ian later and he said cows were just drinking faster than trough can fill and he will go back down with fire trailer to give it a hand.*

13 October 2009 (Tuesday)

- *I go straight out to check cows in Wire Hill after loading up motor car with loose lick.*
- *Found trough still dry.*
- *Went back and got fire trailer and took to trough to see if I could blast water back through pipe to see if maybe a blockage was the problem.*
- *Cows extremely thirsty.*
- *Realised as water blasted up and through trough valve, when it came back out, was of a sufficient flow to fill trough, but my efforts did not improve water flow.*
- *I realised that an air lock in line was the problem.*
- *It is a fair distance from the tank to this trough and I had not seen any breathers or the like.*
- *I was also not aware of procedures in place for this trough under these circumstances, although I was sure there was a way.*
- *I rang Toby Gorringe (in Darwin at time) as he has lived and worked here for 2 years, for advice.*
- *Toby (Gorringe) told me that I had to find the taps from bore to tank, bore to trough, tank to trough and set them so when bore is pumping water is pumped directly to trough.*
- *This I did, also had to use shovel to find taps as covered with dirt by cattle traffic.*
- *Went back to trough to find water entering trough at a more reasonable (encouraging) rate albeit spluttering due to air in water line.*

- *I waited with cattle while air left line and continued to wait as desperate animals jostled for position at trough. My presence preventing another cow being pushed into trough.*
- *I informed Ian when done, around 3 or 4pm, of my actions and the outcome.*
- *Ian was extremely angry and blew up at me for ringing Toby (Gorringe).*
- *I told Ian that I'd figured that he would have exhausted all avenues that he was aware of on Monday to fix problem and had failed.*
- *I took it upon myself to ask Toby (Gorringe) and was successful in restoring water to herd, Ian was very unhappy with me but I told Ian I regarded that as being most important was the cattle.*

This incident was the last in an ongoing ordeal I was/am going through in trying to do my job and the best for the cattle, after 13th Oct starting 14th Oct up until now I am on stress leave for anxiety and post traumatic stress disorder, brought on by events, actions I have had to undertake and things I've seen...

Ms Walters in response to the allegation that poor condition cattle were pregnancy tested when they shouldn't have been (student complaints) she agreed.

Ms Walters in response to questions about the condition of cattle in the Highway Paddock said that the 1000 head were moved there over a two week period in April 2009 as these cattle had been sold and were awaiting collection. Ms Walters advised that the sale fell through when Mr Gray intervened and about 2 months later the paddock that held these cattle ran out of forage.

Asked about how much feed was provided to the animals at Mataranka, Ms Walters said that the majority of the feed ordered was delivered to KRC. She stated that Mr Gray regularly took the truck to Katherine to collect small quantities of food and then returned to Mataranka Station. In support of her opinion she referred to the Mataranka Station Feed Purchases spreadsheet. On this sheet she pointed out several 'small purchases'. For example, on the 08/07/2009 a purchase of one bag of Denkavite milk supplement was made; the next purchase made was 18 days later on 26/07/2009 and was one NZAG top calf milk replacer. Ms Walters said purchases prior to the cattle complaints were sporadic and insufficient to provide the nutritional requirements for the animals held at Mataranka Station.

In relation to the poor condition bulls, Ms Walters stated that the bulls did not get supplements until Mr Gray was stood down. Also at this time she said the steers and heifers (weaners) were taken to Roper Paddock which had adequate forage.

Ms Walters returned to Mataranka Station for the three weeks that the Station Manager was stood down.

In relation to bullying allegations Ms Walters advised that every time she questioned Mr Gray he would remind her that her contract was '*running out*'. She also said that if she started a sentence with '*I think we should....*', Mr Gray would respond '*You are not here to think*'. Ms Walters said she felt threatened by Mr Gray adding that if any staff member shows initiative Mr Gray displays behaviour that is inappropriate.

Asked about Mr Gray's management style she said he would not communicate with staff; would openly '*rubbish*' the manner in which Mr Gorringer worked and the way in which Mr Gorringer conducted training; openly '*rubbish*' Mr Parker stating that Mr Parker doesn't know what he is doing (in relation to growing hay); and challenged the loyalty of CDU staff.

Ms Walters stated that Mr Gray would rarely attend meetings relating to the operations of Mataranka Station and was eventually told by Mr Andrew Vodic that he must attend.

Ms Walters said that she had no faith in Mr Gray's fire mitigation skills, stating that in her view he was responsible for an accidental fire in Wire Hill Paddock (2009) after he moved dead cattle there for burning.

Ms Walters also questioned the reasoning behind Mr Gray placing steers into a paddock with the horses. She stated in relation to this Mr Gray said to her '*Toby's put these horses into a paddock and they will starve*'. She questioned him why in these circumstances he would put steers in the same paddock.

Asked if Spud Thomas' dogs were a problem in relation to cattle or horses, Ms Walters stated that these dogs were very well trained and had never caused a problem.

Asked when the cattle were inoculated, Ms Walters advised she never saw this occur.

Within Ms Walters' statement she wrote:

I have no idea why Ian would neglect the stock. I recall another incident where 3 Drought Master Bulls in the yards were not fed for 7 days, I approached Ian daily about feeding them which Ian advised me 'they will be right'.

Asked if she would return to work at Mataranka Station, Ms Walters stated that she would return on the condition that Mr Ian Gray was removed.

NOTEBOOK ENTRIES OF NICHOLA WALTERS

DOWNER CATTLE

10/09/2009 cow down at 17 Mile Bore.
 14/09/2009 cow head under body, lot of blood out of anus.
 15/09/2009 - sitting up, head turned towards rear, animal activity at rear, lot of blood around rear, BCS2.5.
 17/09/2009 - cow still down at 17 Mile bore.
 21/09/2009 - cow down Highway Paddock. And Cow down Wire Hill.
 21/09/2009 - cow in Highway Paddock unable to get up, meat ants eating alive – put down.
 30/09/09 - Crater cow unable to rise BCS2. And Yards Woody emaciated unable to rise BCS.5
 01/10/09 - Yards woody weaner.
 02/10/2009 - cow Crater/Bernies.

POOR CONDITION CATTLE

15/07/2009 – weaner woodies.
 14/09/2009 – weaner steer on belly, animals at rear, tail and ear missing.
 02/10/2009 – white heifer (red tag) has prolapse, bit poor drinking without problems.
 05/10/2009 - two prolapse 1 at Centre Bore the other at 17 Mile.
 05/10/2009 - cow down on road to 17 Mile. And 2 x weaners in yards.
 06/10/09 - 17 Mile 2 x cow, Desert/Highway cow and weaner, Bottom Toms cow.
 07/10/09 - Yard cow
 08/10/09 - Yard cow

DEATHS

14/09/2009 – two dead weaners in Tsumengerri.
 15/09/2009 – cow base of tail swollen, animal activity around anus fresh blood, still bubbling from nose, BCS2.
 16/09/2009 - Wire Hill cow laying out straight, no struggle marks, lots of blood. And Weaners in Toms
 17/09/2009 - heifer calf spread eagle on belly ear chewed off. And Yards 1 dead weaner and 1 dead calf.
 21/09/2009 – cow Wire Hill down for days is now dead. And Heifer Roper paddock dead for a week.
 25/09/2009 – 3 x woodies; 1 x heifer and 1 cow shot in yards.
 28/09/2009 – cow dead centre bore – been down a while.
 29/09/2009 – Parnell Paddock heifer dead a few days. And Honey cow in Roper just outside cooler a lot of blood from anus before death, blood on tail buttocks and run down backlegs and over udder, appears to be not too long dead, a lot of blood on ground, animal activity.
 30/09/09 – cow and calf dead centre bore.
 31/09/09 – calf dead centre bore.
 02/10/2009 - Weaner killed by dogs/dingo.
 05/10/09 - cow dead centre water square 17 Mile, cow dead centre bore 17 Mile, calf dead 17 Mile homestead.

07/10/09 - 2 x cows dead desert next to each other.

08/10/2009 - 16 cows and 2 calves dead in Highway. And Dead bull (ammo) next to Little Roper tag D155



Staff photo - Deceased calf – Mataranka Rubbish Dump 2010

Mr Gray was advised of the complaints made by Ms Walters. He responded to some of these in the *Stockwell Report* and on 2 July 2010 in his response to CDU. Some of his responses are the same as his response to the *Stockwell Report* and in part his latest response is:

At no time did I ever threaten Ms Nichola Walters. This is yet another of the blatant untruths Ms Walters used in the vendetta she and Messrs Jenkins, Parker and Gorringe have waged against me and Dr Brian Heim since mid 2009. The statement that I threatened her by telling her that her contract was running out and by saying words to the effect 'you are not here to think' are blatant untruths... I endeavoured to make Mataranka Station not only a pleasant work environment for Ms Walters but also a pleasant residential environment, however, it would appear any effort I made in this regard was misconstrued or not appreciated.

In relation to the complaint that Mr Gray was difficult to communicate with he wrote:

This is hearsay and opinion from a person with a demonstrated vendetta for whatever reason against me. Ms Walters rarely reported to duty at designated start times. I discussed the issues I was experiencing in regard to Ms Walters inability to meet expected work standards with Cath Taylor, Senior Consultant, People Management and Development, Charles Darwin University, on numerous occasions.

In relation to the complaint that Mr Gray left cattle without access to water, he wrote:

If Ms Walters was aware the cattle did not have access to water why did she not open the gate in order to allow the cattle access to water or if she was unable to open the gate, why did she not advise someone who may have been able to open it for her. Clearly a responsibility for this event lies with Ms Walters as part of her duties as Station Hand.

Mr Gray provided 29 pages of response to allegations put to him by CDU. Throughout this report, I have endeavoured to fairly set out his position.

PREVIOUS EMPLOYEE

On 8 June 2010 a previous CDU employee who worked at Mataranka Station and KRC in 2009 was spoken to. He left CDU in September 2009. This person requested that his name be withheld from this report.

The witness advised that in his view the College at KRC and Mataranka Station is fantastic and that with the removal of Mr Gray he would return without hesitation.

This person also advised that he had previously worked with Mr Gray in 2004 at Mataranka Station and KRC. He advised, from what he observed then and recently, that whilst Mr Gray is a *'smart man'* he is not a manager.

The witness advised that Mr Gray is irresponsible in cattle management and provided an example of his view from 2004. He advised that at KRC there is a paddock called 'Grey Box' that Mr Gray placed 60 cows in. He advised that this paddock had no feed and, to compensate for the paddock being flogged out, Mr Gray was feeding grain. After Mr Gray and the second station manager left this employee said it took him 2 years of spelling the paddock to bring it back.

He stated that in October 2009 he was at KRC for another matter and noticed about 180 cows with calves had been placed into an unsuitable paddock for that number of cattle. He said he quizzed Dr Heim why this had been done with Dr Heim replying *'Yea they've been there 4 weeks'*. The witness stated this paddock should only hold 40 head and that overstocking is one of Mr Gray's problems.

The witness advised that he left CDU in September 2009 as he didn't agree with Mr Gray's husbandry practices, as well as Mr Gray allowing paddocks to become flogged out and overstocking at the Station. He added that Mr Gray communicated angrily, was sulky and moody. He advised that if he or another employee saw something that needed repair they would undertake the task and in return Mr Gray would react badly stating that they had done it wrong. He advised that whilst he tried hard to be supportive of Mr Gray it was *'just too hard'*.

Asked whether any cattle held at Mataranka Station in May 2009 were in poor condition, the witness said *'no, Doug Jenkins and Grant Parker had done a good job after the station manager had left and no cattle were of concern'*.

The witness said that in late August 2009 he observed *'dead cattle all over the place'*. He said that he had never seen such a situation at Mataranka from the time he started working there (2004). The witness said that you don't expect to see that many dead animals on one property.

He believed that Mr Gray did not know what he was doing stating that on one occasion Mr Gray said to him that there was no longer any need to graduate cattle onto lick. He advised Mr Gray said that lick can be put in with the cattle in one hit and the cattle will

judge their own intake. Mr Gray apparently referred to a report that would support his view, and stated he would provide it to the witness, however, it never was provided.

On 5 October 2010 Mr Gray elaborated *'This practice was put forward by an industry expert during a Meat & Livestock Australia funded forum in Townsville, Queensland in later 2008 with representatives from across the entire North Australian cattle industry'*.

The witness said this was not unusual as Mr Gray would often refer to a document, say he would provide it, and then not do so. I note that Mr Gray in interview advised my investigators that he would supply documents referred to or requested, but these documents were not provided.

The witness also said that he saw Mr Gray treat Ms Walters very poorly. He said that he observed Mr Gray *'ripping the guts'* out of Ms Walters on several occasions.

The witness finished his interview by saying that he respects Dr Heim but believed he had a poor understanding of cattle. He believed Dr Heim relied a lot on information provided to him by Mr Gray and failed to confirm or check other information. He concluded that Dr Heim had protected Mr Gray for so long that he was in too far to pull out.



Downer – photo taken by DOR

CDU STUDENT CONCERNS 2009

On 25 September 2009 (09:30) an email was sent from Ms Vicki Williams the Katherine Campus Administrator to Dr Brian Heim. The email is titled 'Re Mataranka' and contained an attachment.

This email reads:

Sue Edwards, Toby's wife is employed by Residential Services to provide some after hours support to the girls when at Mataranka.

Sue visited the CII and III (?) girls last night. Sue advises that they are very distressed about the situation they have observed and been involved in during their practical experience time there. They apparently state that if this is the industry, then they don't want to be a part of it. They will finish the course, only because they are so close to finishing, but are unlikely to seek employment. I have attached the fax of items that Sue sent to me of the issues the students were raising with her.

Item 1 is missing from the fax, but Sue advises it states:

- 1. On the first day Ian dragged 2 x dead weaners from the yard on the motorbike.*

The students have asked to see me, and I have advised that as I am at the Town Centre that they can call in and see me on the way back to KRC this afternoon. Do you want to teleconference into this?? I don't have a time as yet. I have asked them to call just before they leave Mataranka, and I can email you. Or I will take notes and send them to you. Whatever suits you best.

Let me know if you require me to do anything else.

The attachment reads as follows (part of line one is missing):

...found weaner in dump looking for food on 2 occasions, had to physically pull them out of the dump as they were too weak to get themselves out. Lauren said she had been with Nicky last week and had to drag several dead cows away.

There are two cows down at the moment, still alive and being eaten by meat ants, students asking why have they been left to suffer.

Several little calves are trying to get a drink from cows that are down and too weak to get up over the road.

Weaners in yards have been there ever since the students have been here and are not being fed regularly. Other cows have been left in the yards without access to a trough, for 2 days at a time.

Spoke to 4 girls and one boy, they all state that if it wouldn't affect the outcome of their course, they would drop out from the cattle work. They are all extremely distressed by the state of the cattle, especially the ones that they walked away on their first day, they all state that they have all gone down hill ever more.

Lauren said that last week they walked cattle away and 2 calves got left in the yards. She went with Nicky that afternoon and Ian said 'F...ing Toby (Gorringer) left 2 calves in the yard, I've had enough of his stupid games, I'm going to ring the Vice-Chancellor'.

Cows getting trampled when feed put out as they are so hungry.

On 25 September 2009 (14:32) a hand written document was attached to an email sent by Ms Williams the Katherine Campus Administrator to Dr Heim. This email is titled 'Students Concerns'. The email reads:

Here are the concerns raised by the Certificate II students at Mataranka.

I was just taking notes, but as we went along their concerns became more extensive, and I feel it was better to not rewrite them, but tried to assemble this into a paragraph or two at the bottom, which they all were very willing to sign, and their names are on ... Apologies if it is hard to read.

I would advise that the students are more agitated than distressed, although when talking on some points, there was some distress noted.

I did make sure the students indicated only what they themselves observed during their time there.

They are concerned they will not see any improvements. I will, as we discussed advise them of your visit to Mataranka tomorrow.

The attached document reads:

Observed poor conditioned, dead cows and weaners.

Have made comments but no change.

Not learning best practice.

Pulling dead cattle out of trough, stuck in fences – no strength to get up.

Weaners in yards for 3 weeks – fed once per week. Not fed during working the days.

Cow down – for sometime – water, but ants attacking ie flies – couldn't get, signs of struggle to get up.

DPI – shot 3. 25.09.09

2 x dead weaners in the yards.

Cattle when walking them 2 weeks ago were skinny but have since lost more weight.

Too many cows for feed being given, not enough feed. Trampling occurs.

Significant no's of dead cows constantly and calves.

Weaners falling in the dump try to get Hessian bags that smell of feed. Too tired to get out.

Cows are suffering prolapses from calving – not usual.

Horses water trough broken – horses without 1.5 days.

Yards weaner steer – bowels prolapse – don't believe is has reversed any attention still in yard today.

Overall seriously concerned about the animal welfare at the Mataranka Station, which despite concerns to lecturers, who take to 'Senior Management' feel that these concerns have not been addressed.

During time in practical placement we had interactions with the station staff, regarding concerns from our observations, however no action has been taken.

We the Certificate II students in Semester 2, 2009 at CDU believe that we have witnessed animal welfare issues and poor animal management. In learning about Agricultural Studies, cattle care, we believe that the standards of care have not been maintained. We have all been concerned and distressed in working in this environment.

This document is signed by seven (7) students whose names have been withheld.



Staff photo - Poor condition cattle - September 2009

Student complainant (name withheld)

On 1 July 2010 a former student of CDU who attended Mataranka Station to undertake a course in 2009 attended my Office. This student was not served with a Notice to Attend or Provide Information. The student's attendance was unexpected.

This student advised that he had just returned to the NT and read about issues of cattle neglect at Mataranka Station and that he wanted to provide information to this investigation.

The student advised that he paid \$3,150 to undertake the CDU course starting 27 July 2009 and was unhappy with several aspects. He advised that whilst the qualification was issued to students half of the course components were not provided or undertaken. He advised that the majority of the students' time consisted of undertaking repairs to Mataranka Station fencing and mustering or drafting cattle.

The student stated that on arrival at Mataranka Station he was shocked at the state of many cattle. In the 6 week period he was there he stated that there was a 2 week period when there was no feed in the shed to be fed out to animals.

The student advised that pregnancy testing was not taught on his course (2009) apart from Mr Gray demonstrating the procedure. He said the cattle that Mr Gray was demonstrating on were in extremely poor condition and should not have been used. In 2010 more students complained of poor animal condition. They complained that Mr Gray should not have been teaching them pregnancy testing on poor condition cattle.

The student when asked said that the cattle he observed at the station were mainly BCS .5 to BCS 1.

He advised that one day in September 2009 whilst assisting the station hand (Ms Walters), he dragged 4 deceased cows out of the laneway next to the yards. On this date he said he saw Mr Gray, the Station Manager, in a vehicle with other persons (later known to be DPI staff). He said he approached Mr Gray to report the 4 dead cows and shortly after this Mr Gray jumped from the car and *'had a go'* at him for mentioning this information in front of DPI inspectors.

The student said that he also watched Ms Walters shoot 4 downers in one day and that there were many other cattle that needed to be destroyed.

The student stated that Mr Gray used to *'treat Nikki like crap'* and that he had been nearby when Mr Gray was yelling and abusing Ms Walters.

On 8 October 2009 the student reported that he was loading feed into troughs. He stated he cut a feed bag from the bottom with Mr Gray saying: *'What the f**k are you doing, that is the blackfella way?'*

The student said he was very offended and confused and took this comment as a racial slur as the student identifies as Aboriginal. He said that contractor Spud Thomas witnessed this interaction.

The student stated that an instructor from CDU should not have used racial or obscene language and decided to bring this matter to the attention of the Station Hand Ms Walters and Lecturer Grant Parker. Subsequently the student stated that he then approached Mr Gray's supervisor (Dr Heim).

On 14 October 2009 a CDU *'Incident Report'* about the matter was completed. A copy of that report was viewed by my Office. The student stated that when he spoke with Dr Brian Heim and Mr Tim Biggs about the incident Dr Heim advised him that he was just *'prejudiced'*. The student said that a letter from Mr Gray was sent to him documenting that he had not said these words recalled by the student and that if he had said them he apologised. The student said very little was done and he remains offended by Mr Gray's behaviour towards him. Mr Gray responded on 5 October 2010 *"Why was the relationship between this student and Mr Gorringer investigated before blindly accepting his evidence"*.

The student said that he and other students took many photos of poor condition and dead cattle. He said he had an opportunity to raise this with Dr Heim who told him that the cattle are in *'normal condition for the season'*.

In concluding his visit the student stated he was very concerned that his complaints to CDU were not dealt with appropriately and more should have been done with his complaint and that of the student complaints regarding the cattle.

MR GARRY RIGGS

Mr Garry Riggs is the current acting Station Manager of Mataranka Station. Prior to this appointment Mr Riggs was appointed to oversee and provide direction to Station Manager Mr Gray. On 22 June 2010 Mr Riggs contacted my Office to provide an update on the situation at Mataranka Station that he found on arrival. For ease of reference I have dot pointed some of his observations:

- *Disgusted to see the condition the cattle were in around the homestead, 'this can be turned around with time'.*
- *Station doesn't have any further paddocks around the homestead as they are flogged out. The cattle need to go to the flood plains. Cattle shouldn't be in this condition at this time of the year.*
- *The right supplementary feeding program was not in place. Every time I rang Ian Gray he was too busy to see me. He was supposed to see me every month, this didn't occur.*
- *Most of the infrastructure is sadly lacking. I expect it to go forward and I have a plan on how to bring the cattle back up.*
- *The dozer, shade cover, fences and feeding troughs are all currently underway.*
- *One animal taken to the dump had fallen in a trough and suffocated.*
- *Five cows have returned to their weaners and these will be removed on the 23 June 2010.*

- *The least amount of time cattle are in yards the better they are.*
- *There could be a couple of hundred light condition cattle on the property.*
- *Nothing has gone forward since I left Mataranka Station in 2004. Documents are still on the shelf gathering dust.*
- *700 cattle are in the yards (as of 11.06.10). Asked Tim Biggs 'What are they here for?' He said 'I don't know'. I don't think Ian told him they were there 'no-one was informed'.*
- *42 ton of supplement arrived on the 20.06.10.*

Mr Riggs subsequently provided progress reports. As of August 2010 it is documented that vast improvements have been made with only a small number of cattle remaining in 'light condition'.

Mr Gray was advised of Mr Riggs observations and findings at the same time as other complaints were provided to him. In part Mr Gray responded to Mr Riggs views on 2 July 2010 as follows:

In the two week period Mr Riggs has been supervising cattle operations at Mataranka Station I have been advised that at least three weaners have died. This is a higher weaner mortality rate in two weeks than for the whole first half of the year while I was manager... I have reservations as to the credibility of any view expressed by Mr Riggs due to the obvious conflict of interest he has as the owner of the adjoining property Lakefield and also, his apparent lack of technical knowledge... Numerous other people with more experience than Mr Riggs and who have had occasion to either visit or be associated with the Station have not voiced concerns such as those expressed by Mr Riggs...

On 5 October 2010 Mr Gray added "...Suffice to say that the testimony of Mr Riggs contains yet another plethora of untruths..."



Staff photo - June 2010

CDU ANIMAL ETHICS COMMITTEE INSPECTIONS - AEC

The *Animal Welfare Act* Division 2 stipulates the functions of an Animal Ethics Committee (AEC). An Ethics Committee is to be constituted in accordance with the Regulations and has the powers and functions prescribed by the Regulations. Regulation 5 states:

For the purposes of section 41 of the Act, an animal ethics committee:

(a) is to be established, constituted and maintained in accordance with; and

(b) has the powers and functions specified in,

the publication entitled Australian code of practice for the care and use of animals for scientific purposes, 6th edition 1997, published by the National Health and Medical Research Council.

The current *Animal Welfare Regulations* refers to the *Australian Code of Practice for the care and use of animals for scientific purposes 6th edition 1997*. This Code was rescinded (18.06.2004) however I make reference to the content of the 1997 Code, in relation to the requirements of the AEC and CDU, as the legislation has not been amended to incorporate the 2004 7th edition.

'Institutions using animals for scientific purposes must ensure, through an AEC, that all animal use conforms to the standards of the Code'.

The purpose of the Code is to ensure the humane care of animals used for scientific purposes⁴⁴, including teaching. The Code aims to emphasise the responsibilities of investigators, teachers and institutions using animals; ensure that the welfare of animals is always considered; ensure that the use of animals is justified; avoid pain or distress for each animal used in scientific and teaching activities; minimise the number of animals used in projects; and promote the development and use of techniques which replace animal use in scientific and teaching activities.

The Code establishes Animal Ethics Committees (AECs) to verify that the case for animal use is justified and to ensure adherence to the principles of Replacement, Reduction and Refinement. CDU's website documents that:

The objective of the Animal Ethics Committee (AEC) is to ensure the humane care of animals used for scientific purposes under the auspices of Charles Darwin University. The Committee reviews proposals for the use of animals for scientific purposes and monitors the care and the use of animals.

There are twelve members on the Animal Ethics Committee. In 2009 these members were: Professor Robert Wasson – Chair; (name withheld by request) – Executive Officer; Ms Cathy Shilton and Ms Jodie Low Choy – Category A members (person with qualification in veterinary science and with experience relevant to the activities of the institution); Ms Susan Hutton and Ms Jenni Low Chow – Category B members (suitably

⁴⁴ Scientific Purpose – All those activities performed to acquire, develop or demonstrate knowledge or techniques in any scientific discipline, including activities for the purposes of teaching, field trials, environmental studies, research, diagnosis, product testing and the production of biological products. Reference Australia Code of Practice for the Care and Use of Animals for Scientific Purposes.

qualified person with substantial recent experience in the use of animals in scientific or teaching activities); Ms Toni Mitchell and Ms Lorraine Gibbs – Category C members (a person with demonstrable commitment to, and established experience in, furthering the welfare of animals, who is not employed by or otherwise associated with the institution, and who is not involved in the care and use of animals for scientific purposes) and Ms Marian Davey, Ms Deborah Brackenreg and Ms Cecilia Stone – Category D members (a person who is both independent of the institution and who has never been involved in the use of animals in scientific or teaching activities, either in their employment or beyond their under-graduate education). Category D members should be viewed by the wider community as bringing a completely independent view to the AEC, and must not fit the requirements of any other category. Mr Keith Christian was a Category B member in 2009, resigning in 2010.

In relation to neglect events at Mataranka Station in 2008 and 2009 I was provided with a *'Timeline of Events'* compiled by the Executive Officer (EO) of the AEC.

On 2 October 2008⁴⁵ it is documented that the AEC was contacted by DPI advising that an inspection of Mataranka Station had been conducted. It is believed that this inspection was due to complaints made to DPI about the welfare of animals at Mataranka. It is after the DPI inspection when the EO found that there *'was no ethics permit and that no regular inspections were taking place'*.

It is a requirement that any person employed or engaged by a licensee (in this instance that facility is CDU) may only conduct a teaching or research program if the person holds a permit⁴⁶. Other than Dr Heim and Mr Biggs, no other CDU employee teaching at Mataranka Station made a permit application to the AEC.

Between 2005 - 2008 the EO also documented on the *timeline of events* that no AEC inspections of Mataranka Station had been undertaken until late 2009.

On 6 October 2008 (18:15) Mr Ken Suter emailed Professor Wasson setting out the situation at the station:

You may not be aware that there have been extensive fires at Mataranka and the welfare of the animals has been continually reviewed and where appropriate physically examined by officers from DIPE... Based on the feedback I am receiving they are in agreement with the actions being taken to ensure the animals wellbeing. This includes substantial supplies of supplementary feeding and ensuring good water supplies are available. If there are other issues then I would appreciate some details. Please advise if you require any further information.

On 10 October 2008 (15:31) Professor Wasson responded to Mr Suter's email of 6 October 2008, copied into this email was the AEC EO:

The complaints (animal welfare) pre-date the fire at Mataranka. We are trying to get them in writing.

⁴⁵ Reference: Timeline of Events by Executive Officer AEC – undated.

⁴⁶ Section 43(1) *Animal Welfare Act*.

On 13 October 2008 (10:57) the AEC EO emailed Professor Wasson:

For your information. I just spoke to (DPI) and he has agreed to forward this report/agreement to me under the proviso it is kept confidential. I assured (DPI) this report/agreement will be treated in a confidential manner and added the Animal Ethics Committee are also bound by a confidentiality agreement. There are detrimental rumours circulating in Katherine regarding this matter. I will only make one copy of this report for the meeting tomorrow. I also ascertained the Katherine campus is for stud cattle and Mataranka Station is for commercial cattle.

The AEC contacted Dr Heim on 14 October 2008 requesting that he submit an ethics application 'as soon as possible'. On 28 October 2008 (14:47) the EO sent a reminder and attached the documents that needed to be completed. Dr Heim responded (28 October 2008 14:59):

Rather than send you the spreadsheet, I reckon it is just easier to tell you estimated animal numbers: cattle – 6500, horses – 100. Standard management procedures are performed on the cattle without sedation or anaesthesia. Standard management procedures are performed on the horses without sedation/anaesthesia. We castrate colts using anaesthesia and freeze brand under sedation. Minor surgical repair of injuries is done using sedation/analgesia.

Four months later on 27 February 2009 Dr Heim's permit application was lodged. This application was approved by the AEC on 17 April 2009. No reason has been provided why Dr Heim took four months to meet the AEC request to submit an ethics application.

The 'Timeline of Events' documents that five dates were set to inspect the 'KRC/Mataranka' facility. Four of those dates were postponed. The inspection dates subsequently set were 6, 7 and 8 October 2009.

The AEC 'Timeline of Events' documents that the first DPI inspection for 2009 took place on 4 September 2009 and the second on 5 September 2009. The reports from that inspection were subsequently provided to the AEC. On 8 October 2009 another DOR inspection report was sent to the AEC.

In interview the EO advised that the issue of CDU employees conducting inspections of CDU's Mataranka Station were raised as a conflict of interest at an AEC meeting (06.09.09). It doesn't appear that these concerns were taken further.

The Code of Practice documents at point 2.2.1 that AEC's must have a terms of reference that are publicly available and include provisions to (v) require that all members declare any conflict of interest; (vi) deal with situations in which a conflict of interest arises, amongst other things. Section 2.2.10 of the Code states that:

AEC's must establish and document procedures that will enable compliance with the provisions of the Code and where relevant the policies of the institution, in particular such procedures should cover (vi) resolution of any conflict of interest

that may arise, that is, any situation where a member of an AEC has an interest that may be seen to influence the objectivity of a decision.

The conflict of interest raised in the AEC meeting of 6 September 2009 related to the Chairman of the AEC (Professor Wasson) also being CDU's Deputy Vice-Chancellor of Research. Professor Wasson was the licence holder for Mataranka Station, he attended several Mataranka Station inspections or according to the EO required all reports to be provided to him before being disseminated to others. The EO and another AEC member interviewed in May 2010 stated the conflict of interest issue was not resolved. In response to the draft of this report an AEC member acknowledged that Professor Wasson was put in a position of conflict of interest by being inappropriately responsible trying to judge the situation and to remedy it. This conflict was resolved by Professor Wasson resigning as Chair of the AEC.

The Code requires the AEC to submit a written report on its activities at least annually to the governing body of the institution for which it acts (CDU). I note that this document, if it exists, was not provided to my investigation.

On 7 September 2009 it is documented in the *'Timeline of Events'* that Dr Radunz from DOR called the AEC threatening prosecution *'as this was the second serious animal welfare complaint/investigation at Mataranka Station'*.

The EO wrote that s/he *'requested some time to investigate the situation internally before he (Dr Radunz - DoR) made a decision to prosecute. The EO assured Dr Radunz that the matter would be fully investigated by the AEC and that he would be kept informed of the AEC decisions and recommendations'*.

I note that Dr Brian Radunz also spoke with Dr Heim on 7 September 2009. Dr Heim subsequently emailed⁴⁷ the Vice Chancellor, Mr Don Zoellner, Mr Charles Webb, Mr Rob Brelsford-Smith, Mr Ken Suter and the AEC EO:

I spoke with Brian Radunz and Sue Fitzpatrick just now in regard to the status of the cattle at Mataranka Station. I assured them that the situation is being managed that CDU is doing everything possible to improve the condition of the yarded cattle and that there was no wilful neglect. I advised them that resources, both financial and physical, are not a problem and that CDU will support the cattle in the best possible manner. I advised them of the events that have led to the cattle being in the condition they are in and that I had personally seen the cattle a few weeks ago when I was at the station. I told them that at that time Ian had advised me of his plan and that I felt he had the situation in control. I have advised Brian and Sue that I will formulate written protocols for monitoring the welfare status of the cattle. I specifically asked who had made the complaint and neither Brian nor Sue knew. They are expecting the veterinarian in Katherine to make a follow up visit tomorrow and are awaiting a written report.

⁴⁷ Email of Dr Brian Heim 7 September 2009 (16:21) titled 'Discussion w NT Chief Veterinarian

On 9 September 2009 (11:04) Dr Heim sent Mr Suter and the AEC EO an email with a copy of the 'initial report' from the DPI. The AEC EO responded '*It is a little disturbing, and does raise questions, ie why wasn't there supplement in the paddocks this time of year. But it's being remedied and we're working towards bringing about best practice in animal welfare*'.

On 10 September 2009 the EO wrote that Dr Heim withdrew as the Chief Investigator on the Mataranka ethics application with Mr Tim Biggs replacing Dr Heim. It is apparent that the EO had misinterpreted the legislation believing that an application for permit could be submitted by one person and covered all animal training conducted at the facility. In response to this comment the EO said the AEC EO should not have the responsibility of interpreting the Animal Welfare legislation and NHMRC guidelines for teachers at KRC and Mataranka Station.

On 16 September 2009 the EO emailed Ian Gray, Brian Heim, Tim Biggs and others. Attached to this email was the final document that the AEC would be using for their facility inspection to take place on 17 September 2009. CDU's Mataranka Station was aware of what the AEC would be inspecting and subsequently reporting.

On 17 September 2009 CDU's AEC conducted an inspection of Mataranka Station. A copy of the draft report prepared by Professor Wasson and the AEC EO is included in Volume 2 (CDU annexure A1-1) of this report. The conclusions from that inspection are replicated below:

CONCLUSIONS

<i>Observations/problems</i>	<i>Action requested by AEC inspectors including timeframe</i>
<i>Breeder cattle are stressed due to calving out of season. The optimum time for calving is November/December when feed is in plentiful supply.</i>	<i>Bulls are not to remain in herds throughout the year.</i>
<i>Individual identification is not consistent and it is difficult to monitor and record condition of individual animals.</i>	<i>Individually identify all breeder cattle, record and monitor husbandry activities.</i>
<i>Breeder cattle need supplementary feeding and monitoring.</i>	<i>Additional feed needs to be kept up to breeder cattle until condition improves.</i>
<i>Early weaner calves need supplementary feeding.</i>	<i>Additional feed needs to be kept up to weaner calves until condition improves.</i>
<i>The only tractor is unreliable and problematic. If this tractor breaks down feeding stops.</i>	<i>Tractor needs to be repaired or replaced.</i>
<i>Additional feeding and monitoring of breeders in poor condition requires additional staff help.</i>	<i>Employ additional station hand to assist with the feeding and monitoring.</i>
<i>Over grazing of paddocks forcing cattle to walk further away from water source as the dry season progresses. Good feed is further and further away and more</i>	<i>Consider adding additional watering points to utilize good feeding areas. Spell overgrazed paddocks.</i>

<i>difficult for weaker cattle to improve condition.</i>	
<i>Cattle in poor and good condition together in herd. With the weaker cattle being bullied away from the good feeding areas.</i>	<i>Separate the herd into cattle with similar condition.</i>
<i>Buffalo fly⁴⁸ control requires back rubs at all water points for all stock, except weaners and steers.</i>	<i>Install buffalo fly control measures.</i>
<i>There is no clarity about a vaccination programme for botulism⁴⁹, vibriosis⁵⁰ and general worming. There is no plan or record of what is happening to the cattle.</i>	<i>Develop a plan for the recording of vaccinations, worming and processing of cattle.</i>
<i>There is no plan for the management of ticks ie spelling paddocks, treating ticks, records of infestations.</i>	<i>Develop a plan for tick management.</i>
<i>Urea based supplement lick containers did not have drainage holes in the bottom.</i>	<i>Put holes in all urea supplement lick containers to allow for good drainage in the advent of unseasonal rain.</i>
<i>Water trough was leaking next to Tsumengeri Paddock.</i>	<i>Repair water trough.</i>
<i>Fencing is down in paddocks with good feed and needs repair.</i>	<i>Repair fence as a priority.</i>
<i>There is a risk of uncontrollable wildfire burning paddocks and fences.</i>	<i>A strategic rotational fire-management plan needs to be implemented.</i>
<i>The 2001 Strategic Plan is not current.</i>	<i>The Strategic Plan needs to be updated and reviewed.</i>
<i>There is no contingency plan for extreme events.</i>	<i>Develop a contingency plan for extreme events.</i>
<i>There is no documentation with after hour contact details for emergency – the person in charge and applicants must have a system in place so that they or other responsible persons can be contacted in the event of emergency.</i>	<i>Develop an after hours contact list in case of emergency.</i>
<i>Notification of any adverse events.</i>	<i>Develop documentation for the reporting of any adverse events.</i>

Additional Comments:

⁴⁸ Buffalo fly irritate cattle, interrupt feeding and cause sores, especially when infestations are high. Trials in the wet tropics have shown that buffalo flies can reduce beef cattle production by up to 16%. Reference – 'Cattle & Land Management Best Practice in the Katherine region 2009'.

⁴⁹ Botulism should be considered present on all stations in the Katherine region. It is a clostridial disease prominent in cattle grazing on land deficient in protein and phosphorus. The disease is commonly associated with bone chewing by susceptible, unvaccinated cattle. Reference: 'Cattle & Land Management Best Practices in the Katherine Region 09' and Ms S. Fitzpatrick (2007) 'Botulism Poisoning in Cattle in the Northern Territory', Agnote 651 No.K29, DPIFM.

⁵⁰ Vibriosis is a venereal disease of cattle transmitted at mating, including artificial insemination. Cows infected at mating (AI) are likely to abort. Reference: 'Cattle & Land Management Best Practice in the Katherine region 2009'.

Given the repeated animal welfare concerns at Mataranka Station and until all plans have been developed and implemented, it would be beneficial for the Manager for Rural Operations, Dr Brian Heim, to inspect the property every three months.

OMBUDSMAN COMMENT: On 25 September 2009 this draft AEC report was provided by the AEC EO to Dr Heim and Mr Gray, (cc'd to: DOR Inspector 2 and Mr Brian Radunz).

Subsequently this draft was on-forwarded to the Vice Chancellor and others. On 28 September 2009 Dr Heim emailed the Vice Chancellor. He wrote *'I have attached the draft report from the AEC which includes their recommendations. We need to tidy up a few numbers and a bit of word-smithing within the report but substantively it is correct'*.

It would appear to me to be a conflict of interest to have an AEC draft report provided to CDU management/executive for a *'tidy up'* with a bit of *'word-smithing'* prior to the members of the AEC being given the opportunity to view the document and provide input.

In relation to the recommendation to repair the fencing, this issue had been ongoing for a substantial period of time (1 year). Mr Jenkins advised my Office on 8 April 2010 that as of that date the fencing repairs had still not been undertaken. This was also a recommendation of the DPI (09 October 2009) inspection. Mr Jenkins advised that patch-work on the fence had occurred in 2009 however the effected repairs not undertaken.

This is corroborated in part in an email dated 8 December 2009 (15:16) from Ken Suter to Mr Gray, Dr Heim and one other. In this email Mr Suter wrote *'We don't appear to have received any further quote or correspondence concerning the replacement of the 23kms of fencing which our insurer has agreed to. All that is needed is a quotation and mud map showing the location/s of the fencing to be repaired or replaced'*.

Dr Heim responded that *'Ian has been stood down pending an AEC investigation of the station. He was pursuing quotations prior to being stood down (on 23 Nov) with limited success, mainly because he was overworked by fires and understaffing issues'*.

A quotation for repairs was available to Mr Gray on his arrival at Mataranka Station; why that quotation was unacceptable and why 7 months later another quotation had not been sought has not been adequately explained.

The AEC draft report was subsequently amended and endorsed by Professor Wasson, the AEC EO and Ms Hutton, the following items were added to the original table:

<i>There is no reliable water source because the back up generator is unreliable and old.</i>	<i>Back up generator needs to be repaired or replaced.</i>
<i>Corrugated iron is ripped and protruding away from the cattle yards.</i>	<i>Repair or replace protruding corrugated iron sheet.</i>
<i>There appeared to be communication problems resulting in</i>	<i>Address staffing issues.</i>

<i>conflict between various staff members and their families at Mataranka Station over a prolonged period of time which is impacting directly on the welfare of the cattle.</i>	
<i>The Station's private rubbish dump and pile of animal carcasses needs to be fenced and tidied up. The area is fenced but this fence is down in one place and the gate is not affixed to the gate posts.</i>	<i>It is recommended to fix the fence so wildlife and feral pigs can't eat carcasses or rubbish. Install gates.</i> <i>It is also recommended that animal carcasses are deposited into a deep pit with gravel and lime being placed over any incoming carcasses instead of being piled up.</i> <i>The rubbish dump needs to be tidied up into respectable piles and pits around the carcasses.</i>

In a response to the draft of this report the AEC commented as follows: *'The first report was altered to include any additional changes to the last inspection. In hindsight each inspection should have had a new report. Therefore the amendment was the inclusion of recommendations from the second facility inspection. Susan Hutton was only present for the second inspection'.*



Staff Photo - Mataranka Rubbish Dump - 2010

In documentation⁵¹ provided to my investigation I note that the recommendation to remedy the stations private rubbish dump remained outstanding as of 1 February 2010, as a dozer had not been available.

⁵¹ Reference: 09/10 Mataranka Station Action Plan

The AEC EO on 25 September 2009 wrote in the 'Timeline of Events' that s/he received a call from DPI Inspector 2 'who did the last Animal Welfare Branch inspection. He didn't think that much improvement was taking place since his last visit'.

In another email sent on 28 September 2009 (12:23) the AEC EO wrote to Professor Wasson. Part of this email reads:

Then (DPI Inspector 2) telephoned me this morning. He mentioned how we missed reporting about the body pit and rubbish dump/pt and how cattle have been nibbling on carcass bones and falling in to the rubbish pit and died because they can't get out. I said no we didn't see the waste dump and body pit and will do so when we go down to inspect on Wednesday 7th October. I also found out that they shot two cows and two weaner calves. Three were in the cattle yards and one cow was in the laneway to Wire Hill paddock.

Brian Radunz has also made a suggestion for an inclusion in the report. Please, I need to vent my spleen and express my personal opinion. The shooting of the animals has upset me too. I believe DPI have acted way out of line verging on being unethical. Particularly given an inspection has taken place by the AEC, a report has been drafted and action is taking place. The vet and stock inspectors behaviour and actions demonstrate no respect for the Animal Ethics Committee's authority in this matter and need to be reminded that they aren't the only body governed by the Animal Welfare Act. They should have consulted with the Animal Ethics Committee first, before shooting the animals, as this is the authority which was monitoring the situation. How many more times are they going to be rocking up at the Station unannounced to shoot sick animals? Your advice is welcomed.

On 23 September 2010 the AEC EO stated that in hindsight the actions of DOR in the above instance was correct and her comments *demonstrated the confusion of who is doing what and who is responsible for what.*

The issue of cattle eating the bones of deceased cattle was raised again by the AEC Executive Officer in an email (2 October 2009 10:02) to Professor Wasson and Ms Shivaun MacCarthy titled 'Animal Ethics Committee Katherine Mataranka Facility Inspections':

Shivaun has spoken to me about our trip to Katherine. She asked me to report to you if there was a need to go to Mataranka?

I believe there is a need to visit Mataranka next week. We do need to check out the body pit and household waste dump/pit? ... has reported to me this needs to be inspected because cattle are going into the body pit and munching on bones and falling into the rubbish dump. Waste disposal is one of the questions on the facility inspection check list. I wrongly assumed it was all in order and it was getting late.

If we are time limited, this and just checking the condition of the cattle and weaners, would be the only thing we need do on this occasion.

However, I do still believe we need to check out the condition of the cattle we previously saw because of numerous reasons. We know some of those cattle are very weak, possibly sick and dying. Given their serious condition it would be unwise to wait another six weeks or month to check on them. We need to give the Committee assurances that things are changing that processes and procedures are in place. And these animals are being disposed of humanely.

We need to demonstrate to the Govt that CDU are also taking this matter seriously as well. CDU needs to be proactive in getting things right. It is better for us to tell the Govt what the problem is, than for them to tell us what the problem is.

Another reason, this report is still in draft format. I've contacted Ian and asked for his input on several occasions because he's not happy with parts of it. I have asked him to telephone me with his concerns, he's said he would but hasn't. I feel I have been very accommodating of his circumstances, but it has been two weeks and I think we need to bed this report down, get some solid commitments happening. This non communication doesn't instil confidence things are happening.

Basically time is of the essence when animals lives are at risk. Things need to happen now. We can wait on the strategic plan and documentation but those animals need to be getting extra food and disposed of humanely if perishing in the paddock.

I heard from my source that one of their practices is just to let them die in the paddock. This we need to find out. If I heard it, so have others in the industry and while it may be practiced on other stations, is this acceptable by Animal Ethics standards.

We need to know if they are shooting the dying cattle, who's got the shooters licence and where the guns are kept. Who is recording the deaths? What number of deaths occurred before our inspection and since we were last there?

On the last visit I gave their management practices the benefit of knowing better. It's a station they have different needs, which I'm unfamiliar. With hindsight I will not compromise my personal knowledge and experience of animal husbandry again. I thought to myself, those weaner calves that came off their mothers too early should have been getting milk supplement, so I'm not surprised some of them got shot.

I still ask myself why wasn't something done sooner. Why did it get this extreme? Why didn't anyone from CDU report this to the AEC? [my emphasis] Instead I find out we're being threatened with prosecution. I still don't believe we have got to the bottom of the problem. Let me know your course of action.

On 9 October 2009 (01:59pm) Professor Wasson emailed Dr Heim seeking responses to issues relevant to Mataranka Station. At 02:28pm Dr Heim responded. The questions and responses are shown below:

1. *How did the current situation at Mataranka Station arise?* As discussed, over a period of time a different management strategy resulted in calves being born out of season. A significant contributor was a lack of supervision from individuals with significant knowledge of the beef cattle industry in Northern Australia. The herd was managed well when the station manager was progressive but when the new station manager started in March 08 a different approach was used which led to the current problems.
2. *What did you know about it over the past year or so and what did you do about it?* Please see previous email I forwarded. Conditions improved over the 08/09 wet. In August 2009 I observed that there were cattle in poor condition when I conducted a pregnancy testing course at the station. I discussed the situation with Ian who gave a plausible reason for it and outlined what I considered to be a reasonable and adequate management plan to address the situation. In my opinion, there was not a significant number of cattle in very poor condition to warrant advising the AEC (in comparison with what could be found on any cattle station on the Sturt Plateau at that time).
3. *Why wasn't the AEC notified about the conditions of the cattle by CDU managers?* See above.
4. *Is the current feeding to cattle of pellets, hay and lick adequate?* Yes. It is sufficient to meet their metabolic demand. However, realistically one should not expect them to improve in condition until the rain arrives. The object right now is to ensure that they do not lose further condition.
5. *When will the 200 small calves be moved and to where?* They are being trucked to Phoenix Park on Friday afternoon, 9 October. Phoenix Park is a feedlot type facility used to background feed cattle prior to export and is located in Katherine. They will be closely observed and fed a ration that will cause significant weight gain...

On 13 October 2009 (13:09) the EO of the AEC emailed the Vice Chancellor: *'You will find attached the Mataranka Station Facility Inspection Report for 2009. Apart from the animal welfare issues, this report is the first Animal Ethics Committee facility inspection for Mataranka Station'.*

Mr Gray⁵² wrote: *'...and at the conclusion of my first day back at Mataranka Station was aghast at what I had witnessed during the course of the day. I found it hard to comprehend that a cattle herd which, while under my management during the years 2004 and 2005, was beginning to be held in high regard by the NT cattle industry, could have deteriorated to such a poor state obviously as a result of mismanagement'.*

⁵² Reference: Response by Mr Gray to the Stockwell Report.

The problems identified in 2008 were reported to the AEC. In 2009 Mr Gray should have reported the problems he allegedly observed (May 2009) to either his Supervisor Mr Ken Suter or the AEC.

On 14 October 2009 the AEC EO wrote in the *'Timeline of Events'* that s/he researched the *Animal Welfare Act* to determine *'if a prosecution were to be successful to identify the worst case scenario for CDU. The findings were communicated to the Chair'*. The EO's findings were not communicated to AEC members.

On 14 October 2009 (10:53) an email was sent from AEC member Ms Brackenreg to the AEC EO:

Wasn't sure where to put my additional comments but I want to reiterate that there should be no bullying problems with cattle if there is enough feed and by feed that is hard feed (pellets etc) if necessary put all poor stock on grower/weaner feed as opposed to adult pellets also there should be free access to hay all day and night. Usually deposited near the water sources.

The pit with carcasses should be covered up, I would think that is a disease risk. There should be a program of stock rotation, improving paddocks and clear indications that the stocking rate reflects the range of what the station can carry – by this I mean how many head per hectare does this area support.

Buy large amounts of feed should be bought to make up the shortfall and this should be continued through the wet season. How was the condition of the horses? There is no mention in the report are they being shod and having their teeth checked every six months and are they on a hard feed regime with a yearly vaccination schedule? Are there yards at the facility for pest control of the stock?

Further on 14 October 2009 DLGHRs Animal Welfare Officer Ms Mary Gearin –Smith spoke with the AEC EO. The notes from DLGHRs in part read: *'Requested the AEC report, s/he said s/he is waiting for one last member's submission and it is promised today. S/he also said s/he will have to check first, concerned over confidentiality who is going to see it etc. I said my objective is to brief the Minister and possibly consider prosecution...'*

It is not known whether or not prosecution was considered by DLGHRs. Also on 14 October 2009 DHLGRS Animal Welfare Officer Ms Gearin-Smith spoke with DPI officer Ms S Fitzpatrick. The notes made by Ms Gearin-Smith are as follows:

Spoke with Sue regarding her inspection at Mataranka. There has been an inspection by the ethics committee, the facility is CDU and AEC is CDU so it is their own ethics committee. CDU has also engaged an independent consultant in September. She said there has been 6 deaths recently apparently the very weak cattle were trampled when they tried to get to the food at the troughs. Then two more deaths the following week, the same way, they lost two weaners to dog attack... She said the facility is overstocked, they have 4,000 and should have about 2,000, they have repaired the fence... She said she was disappointed in CDU's response, it was not good enough. The management of

the facility was good up to the end of last year...new manager is Brian Heim and he is located in Katherine...

In response to the draft of this report the AEC wrote *'I think we need to keep in mind that DPI inspectors/CVO never recommended prosecution to the Animal Welfare Authority. So in their eyes, the welfare issues were not any more extreme than in any cattle station in the NT. The issue is whether it was OK to starve teaching animals and use thin animals for teaching. The answer is clearly no, and as such, although the unwillingness for the Animal Welfare Authority to prosecute is disappointing, the CDU AEC was remiss (in hindsight) in not removing all approvals from Mataranka in Sept/Oct 2009. Part of the reason for this, again, was the conflict of interest of the Chair at the time, and lack of access of the AEC to all documents, and this has been acknowledged extensively in this document'.*

On 30 October 2009 the AEC EO wrote in the *'Timeline of Events'* that Mr Biggs and Dr Heim were reminded that their Animal Ethics progress report was due on this date. The progress report is documented as being received on 16 November 2009. This report is attached in full – Volume 2 (CDU annexure A7-1). I note that this report documents that under 10 adult and young cattle had to be euthanised because they were in poor condition and could not rise, that a broodmare was destroyed due to a leg injury and two weaners sent to the Phoenix Park feedlot were destroyed because they did not pick up condition and became weaker.

On 12 November 2009 Ms Elizabeth MacDonald, CDU Director, Support & Equity, emailed AEC Chairman Professor Wasson, the subject of the email was titled *'The Farm'*:

I wonder if you have received the external report and thus in a better decision to map out a plan for moving forward? I ask because my diary is becoming quite heavily committed and secondly staff are becoming anxious and fretful as the cattle are still dying and in their view unnecessarily.

One staff member feels they have nothing to lose by going to the media but prefers to use our processes to resolve matters. I have nothing left in my tank to console them. If the report confirms their view then I guess they will expect immediate processes for management to be put in place and they will no doubt put their shoulder to the wheel but perhaps not with Ian so that is one issue to consider. If, on the other hand, cattle management is deemed as appropriate then we have a tough job on our hands in getting them to re-frame their view and given what I have been told the outcome looks problematic....

On 16 November 2009 CDU's Mr Biggs submitted a Progress Report Form for Mataranka Station. This document is titled *Charles Darwin University Animal Ethics Committee Progress/Final Report Form for Projects Involving Animals*. At point 3 it lists the Chief Investigator's Name and Title (Mr Biggs) and at the declaration (point 8) it states *Declaration by Investigators*. I am informed that this document is an *'Ethical Clearance'* progress form. Within the contents of this report it is written:

At point 7.2:

Since the AEC's visit, Mataranka Station has undergone a bushfire which started on 8 Nov and was controlled by 11 Nov. It resulted in the complete loss

of Lancewood and Wire Hill paddocks. About ¾ of Yellow Waterhole Paddock was lost. Initial survey did not indicate loss of any animals and they have been or are being shifted to unaffected paddocks.

At point 7.5:

Approximately 600 head of young cattle were transported to the Phoenix Park feedlot in Katherine for concentrated feeding. Of these animals, two had to be euthanised because they did not pick up condition and became weaker. A small number (<10) of adult and young cattle had to be euthanised because they were in poor condition and could not rise. One broodmare who sustained a leg injury had to be euthanised when she did not respond to treatment.

At point 7.10 he wrote:

The ongoing cattle management plans that were discussed with the AEC in October have been implemented and are being followed. The health and welfare of the horses at Mataranka and KRC are also managed to ensure stipulated standards are being met. An updated action plan is attached.

In an email to AEC member Ms Brackenreg and Chairperson Wasson dated 8 December 2009 (12:19) the AEC EO wrote:

Thanks for your feedback. In relation to the cattle, from our previous two inspections, the cattle in the poorest condition (cows and heifers), are meant to be getting pellets and hay! We didn't really get to fully inspect the cattle on this visit. I am not sure if the bulls are getting additional feed or not and it didn't appear to be the case.

I would also like direction about what we do with the additional information about the other things we inspected. For example the barb wire fence across the creek and the Hendra virus potential. It is an animal welfare issue or a human welfare issue, therefore an OH&S.

Plus nothing has been done to the rubbish dump except the carcasses have been burnt, no fence have been fixed or the gate affixed and the place is just a mess. Admittedly, they have been busy feeding, which is the priority. It's possibly a wet season job, but they can't use that paddock for cattle.

Also what about the pest dingo problem? When asked about this it wasn't an issue when we made our last inspection.

I'll add the additional information about the horses in the conclusions section and make it a requirement. I will forward this copy to you again.

Of interest is that despite the inspections conducted, reports produced and actions taken, the AEC EO appeared to remain apprehensive with the situation at Mataranka. In an email to AEC Chairman Professor Wasson dated 14 December 2009 (09:38) s/he wrote:

I know you probably don't want to hear what I have to say. I am very mindful of what has been said to me by members of the Animal Welfare Office and the various stock inspectors.

While I appreciate this present Mataranka team know a damn side more about breeding cattle on a commercial scale than I do, I understand basic animal husbandry practices very well. This team have not left me with confidence or trust in delivering the basic animal husbandry practices. I still ask myself why did the cattle get in such an emacipated (sic emaciated) condition in the first place. I don't believe the truth has properly been revealed. We need to ask if this procedure is going to improve their condition/welfare or set them back.

When we saw the bulls at Mataranka they did not look in good condition and were still lying, being shot, which means they are still recovering. When we saw the bulls at Douglas Daly for example, not a hip bone or sunken belly to be seen, they were proud and magnificent looking.

Any time animals are bought into the yards and processed, it is extremely stressful, then to add this intrusive procedure is not good.

Why do they have to do the semen testing if they aren't going to be breeding next year?

I suspect when Grant (Parker) accompanied the Animal Welfare Officer on their inspection, he gave them assurances that things would be done a certain way, which was in agreement to the Animal Welfare Officers' needs. Obviously very different to what is being proposed now.

It's like the AEC making verbal recommendations to one person and that message being ignored by the other because it didn't involve him/her at the time.

Regardless of the AEC EO's view (shown above) on 13 January 2010 (17:24) s/he emailed all members of the AEC a copy of the third inspection report, it does not include the comments shown above.

Another AEC inspection was conducted on 27 January 2010. At point 7.2 it reads:

At the time of this report, Mataranka Station has had 2 falls of rain totalling approx 50mm rain. Cattle that have needed to be moved away from low feed areas have been moved into areas of better feed. Wet season supplement has been strategically placed along areas that cattle can access. All cattle from the areas affected by fire have been removed to paddocks with better feed. Sufficient supplementary feed has sourced until the natural pastures have regenerated. Brood mares are on supplementary rations as recommended by AEC.

At point 7.10 it reads:

The ongoing cattle management plans that were discussed with the AEC in October have been implemented and are being followed. The health and welfare of the horses at Mataranka and KRC are also managed to ensure stipulated standards are being met.

On 1 February 2010 (08:56) the AEC EO emailed Professor Wasson: *'Committee members are asking me what's going on at Mataranka Station? I believe we need to communicate what's going'.*

Professor Wasson responded (01.02.2010 - 09:00): *'All that we can tell them electronically is what the AREC has done, but at the next meeting I can give them a verbal update'.*

This is concerning, I do not know why the other members of the AEC were not being appraised of the situation at Mataranka Station.

Another entry on 8 February 2010 within the EO's *'Timeline of Events'* indicates that the EO forwarded all documentation relating to Mataranka Station to AEC members. Again, I question why several months after complaints and inspections that AEC members were not provided these documents prior to 8 February 2010.

AEC member Ms Shilton subsequently emailed AEC members after receipt of information from the EO and Professor Wasson.

On 10 February 2010 (12:08) Ms Shilton wrote:

...Thanks for all that. To sum up my thoughts on all those documents, combined with issues we have discussed in AEC meetings:

- 1. The initial response on the part of CDU bureaucrats/Mataranka management to the extremely serious situation at Mataranka Station was sluggish and inadequate.*
- 2. Approval for any teaching or research at the facility should have been revoked as soon as initial inspections by Animal Welfare Inspectors confirmed the serious animal neglect at the facility (Sept. 2009) . This is according to 2.2.33 of the NHMRC guidelines. Approval would have then been reinstated once all issues were completely resolved. The CDU AEC was remiss in not pursuing this.*
- 3. Mataranka Station was (is?) apparently deeply dysfunctional in terms of it's relationship to upper level CDU management, station management practices, staffing and labour issues. It remains to be determined if these issues have resolved.*
- 4. The situation seemed to be improving by the end of 2009, with implementation of supplemental feeding, segregation of animals based on size and nutritional status and selling off of some animals.*

5. During the wet season, increased availability of pasture will result in continued improvement, regardless of whether the core mismanagement issues have been addressed.

Given the above, my opinions are:

1. The AEC needs to be kept immediately up-to-date as documents regarding this situation come in. This includes being apprised immediately of any further complaints and further reports by Animal Welfare Inspectors, the CDU AEC or independent contractors/veterinarians, as well as progress reports from Mataranka Management.

2. As previously requested by the AEC, the AEC should be presented with the business plan for the facility. The management objectives (Mataranka and NTRC Objectives 2009) are ambitious for a facility on which the previous season animals were starving. The AEC needs assurance that CDU administration has a plan and is prepared to invest over the next few years in the degree of improvement that is required to make Mataranka an acceptable teaching institution.

3. Continued approval to conduct teaching is contingent at this stage on very favourable inspection reports from various sources (Animal Welfare Inspectors, CDU AEC members, independent inspectors contracted by CDU). Failure of this, or any further substantiated animal welfare issue at Mataranka will result in immediate removal of all AEC approvals to conduct teaching at the facility.

4. For any upcoming inspections, in order to maintain continuity and be able to ensure recommendations for improvement are being enacted, individuals that have previously inspected should be present on repeat inspections. Also, individuals that are very familiar with appropriate station management practice should be present at inspections. Therefore, for any upcoming CDU AEC inspections, I suggest that in addition to CDU AEC members, a DOR Animal Welfare Inspector (stockie) that has previously inspected the facility be present. For any inspections in which I'm involved and in which helicopter inspection of paddocks is necessary, I would attend the bulk of the inspection, but yield my helicopter seat to such a DOR stockie/animal welfare inspector.

On 18 February 2010 the AEC EO emailed Professor Wasson. The content of the email related to an AEC member who had advised the EO that affidavits were being taken from a CDU staff member in relation to Mataranka Station. The AEC member advised that the affidavit with attachments would be forwarded to the EO to present at the next AEC meeting.

Professor Wasson replied to the EO: *'Thanks for this information. The affidavit should come to me if the staff member wants to follow the procedures we set out in the memo to all staff at Mataranka and KRC. It should not go to the Committee'*.

INTERVIEWS WITH SELECTED CDU ANIMAL ETHICS COMMITTEE MEMBERS

Three interviews were conducted with AEC members who had attended Mataranka Station to conduct inspections.

DEBORAH BRACKENREG

On 11 May 2010 Ms Deborah Brackenreg was interviewed. Ms Brackenreg's background relevant to her membership on the Committee included a 5 year career as an Animal Welfare Inspector with the RSPCA.

Ms Brackenreg advised that she was appalled that Professor Wasson was overseeing and attending Mataranka Station to conduct inspections as she saw this as a serious conflict of interest. She advised that another committee member (name withheld) was also of this opinion (he is uncontactable on sabbatical). Professor Wasson stated that Ms Brackenreg never in such strong language raised the issue of conflict and further that no other member of the AEC raised the issue with him as the Chair.

Asked if she was aware that Professor Wasson was the applicant for the Mataranka Station licence pursuant to the requirements of the *Animal Welfare Act*, she said 'no'.

Asked if she or other AEC members had been provided with any of the emails that were sent between the Chairman Wasson and EO in relation to Mataranka Station she said 'no'.

Asked if she was aware of the CDU student complaints that had been made to CDU and were subsequently provided to the AEC she said 'no'.

Ms Brackenreg stated that in committee meetings Professor Wasson would provide excuses for the situation at Mataranka, but that there was no evidence supporting these excuses. Professor Wasson in response stated that this issue was not raised by Ms Brackenreg or any other AEC member with him or in AEC meetings.

Ms Brackenreg added that when she writes an AEC report she had been advised by Professor Wasson that it is not to be sent to any other AEC member until he has had the chance to peruse its contents.

Asked what she was advised before being asked to inspect Mataranka Station she said that Professor Wasson had told her that *'it's all about a bunch of staff fighting each other'*.

Ms Brackenreg stated that she advised Professor Wasson the only fair action to take was to interview everyone, however this did not occur. In response to this issue Professor Wasson stated that Ms Brackenreg has provided an abridged version of their conversation. He stated that he attempted to explain the complexities of staff relationships at Mataranka Station and how this situation was impacting on management of the station. Professor Wasson stated he did not act on Ms Brackenreg's suggestion to

interview everyone due to the fact that this was a management issue to be solved by the University and not a matter for the AEC.

Ms Brackenreg said that she attended Mataranka Station after a request from Professor Wasson due to her extensive knowledge of horses. She said that the land in the Northern Territory provides very little in the way of forage and as such horses should be fed sufficient amounts of food to maintain good health.

She advised that in December 2009 she attended Mataranka Station with Professor Wasson and the AEC Executive Officer. Ms Brackenreg stated that KRC Horse Coordinator Mr Spence met with their group. She stated that she asked Mr Spence several questions including why the facility was breeding horses when the infrastructure was inadequate to run horses properly. She advised that he could not provide a reasonable answer.

Ms Brackenreg further advised that Mr Spence *'knows nothing about horses'*. She stated that he was feeding them cavalcade, a product that can cause colic and gives horses diarrhoea. She stated that when questioned about feeding cavalcade to horses Wayne Spence told her *Yea, it cleans them out*. Ms Brackenreg stated she told Mr Spence that he should be prosecuted, and that after this he didn't wish to speak with her further and left.

Ms Brackenreg stated that the poor condition of the horses included one that lost a foot from utter neglect. She believed the staff and management of Mataranka Station are inappropriate and inadequate, further stating that Dr Heim, Mr Gray and Mr Biggs are *'covering up'* what is really happening at the station.

Ms Brackenreg stated that in her opinion as a lawyer and as a member of the AEC that prosecutions are warranted. She said that during her visit she drove with Mr Spence to look for the horses and that he was unsure of how many were on the property or where they were. She said she viewed about 4 paddocks whilst looking for the horses and that in each paddock there were 1 or 2 dead cattle which concerned her.

In Ms Brackenreg's view all the plant horses held at Mataranka Station were in a poor condition. She advised that the permit for Mataranka Station eventually was suspended and that she had to *'sweat blood to get the committee to agree to suspend'* the permit. In response Professor Wasson stated that this issue was debated vigorously by members and that several non-university members argued against suspension because it would disadvantage students, however at the end of the debate the decision to suspend was unanimous. Professor Wasson stated that the suggestion that Ms Brackenreg had to battle with AEC to get the decision to suspend the permit is misleading and is rejected by Professor Wasson.

Ms Brackenreg said that she was disappointed that a meeting was held in her absence. She stated that she had advised Professor Wasson that she would be taking a trip but wanted to be present at the next meeting. She said that he promised the meeting would be held over until her return, however whilst interstate she received a call that the meeting went ahead.

Ms Brackenreg expressed such dissatisfaction with the actions of Professor Wasson that she said she wanted to resign from the committee.

AEC EXECUTIVE OFFICER

On 13 May 2010 the AEC Executive Officer (EO) was interviewed. The EO advised that s/he had been the AEC EO for approximately 2 years. The position entails compiling: *'agendas for all applications that come in, I attend meetings, I take minutes, I follow up any outstanding matters in relation to the applications and basically I administer the Code of Practice, which is the Australian Code of Practice for the care of animals in teaching and research'*. The EO advised that the AEC does not have any power to prosecute an agency under the *Animal Welfare Act*.

The EO confirmed that despite the *Animal Welfare Regulations* referring to the 1997 Code s/he administers the 2004 Code. Elaborating, s/he advised that when conducting an inspection it is undertaken pursuant to the Code of Practice *'which is endorsed in the Act'* and that these inspection reports are sent to all AEC members who attended the premise/s.

In relation to Mataranka Station the EO advised that inspection reports wouldn't generally be given to Mr Gray unless clarification is required, and if clarification is required to complete a report that a phone call would be made to Mr Gray. Asked to confirm that AEC reports are not provided to Mr Gray and only clarification sought by phone or email s/he replied yes. S/he continued that after endorsement from the people doing the facility inspection that the final inspection report would be produced at the next AEC meeting. After AEC approval the EO advised the report would then be forwarded to Mr Gray, Dr Heim and Mr Biggs.

Asked when the report is sent to DHLGRS the EO said *'It doesn't and hasn't. Oh no, it has, in this instance, yes they have got a copy of it but its not, for them to have a facility inspection report we don't give copies of those to Animal Welfare Branch because the same process we did for this facility inspection, we do for all facilities and so we don't give those reports to Animal Welfare Branch'*.

Asked to confirm that when an AEC inspection reveals that a facility has failed to provide sufficient food, water or shelter that the agency that oversights and enforces the *Animal Welfare Act* is not provided with a copy of the AEC report s/he said: *'it's not required that we provide facility inspection reports. I think we've got two different situations here, we've got one which has got an animal welfare breach which is what we deal with, so that's the Mataranka thing, putting that one aside, the way we deal with facility inspection reports... we check all of the necessary things, that report goes through the Committee, the committee makes input, yes its approved, then it gets sent back to the person who's done it. And so that report generally doesn't have animal welfare issues. If there is a non-compliance then we would go through the procedures, see what level it is and then we would go through the actioning of that non-compliance procedure. Can I say that there wasn't a non-compliance procedure in place when this Mataranka thing started'*.

I note that confusion existed within the AEC in relation to what should happen when non-compliance is identified. In an email⁵³ from an AEC member to the AEC EO the member wrote:

...In terms of non-compliance policy, reporting adverse effects etc. I don't have sufficient background to know whether this is appropriate. I've always maintained that we are not the 'ethics police'. In my opinion, our role is to look at applications, approve them (in which case the research is legal) or not (in which case it is illegal to proceed) and inspect facilities. However, I think there are other committee members that would like us to take a more active role in investigating and trying to enforce compliance (at the last meeting the lawyer on the committee seemed quite surprised that we didn't do this). I don't know how we would go about investigating and reporting non-compliance anyway. For example, if someone on our committee thinks they've found out about somebody conducting research in the NT without AEC approval, are we (who exactly) meant to then find that person and interrogate them? I think the more appropriate route would be for the person to go to the animal welfare authorities (ie proper channels). If the committee ever did become aware of a flagrant violation of animal ethics with respect to research, presumably we'd report it to the animal welfare authorities, just like any other layperson can do. There are also likely all sorts of legal issues with the committee taking a more regulatory role, so before we came up with any policy, we'd need to get legal advice. One example of non-compliance we have dealt with would be the places that are doing teaching using animals without approval (eg Taminmin High). We did the right thing by giving the Dept of Education a heads up and they ignored us. Are we now supposed to call the Police? To my mind, we did our part in advising them and by not taking our advice, they are now open to being charged under the Animal Welfare Act if somebody complains. In summary, I'm not keen on pursuing increased involvement because I don't see it as our role...

The confusion regarding the role of the AEC appears to extend to the VC. In his letter to me of 30 August 2010 he wrote '*...DOR reports were received and acted upon as appropriate by the Executive Officer, the Chair and members of the AEC...*' If the AEC's only role as described above is to *look at applications and undertake inspections*, but not investigate, report or enforce compliance, there is little reason for DOR to send reports to the AEC.

The EO advised that non-compliance procedures were promulgated by '*Department Heads*' from NRETAS and DPI. Asked if DHLGRS was involved s/he said '*No because they don't sit on the Committee...if there is a non-compliance, then they need, the Heads of those departments need to be notified that their premises have been non-compliant*'.

The EO was asked how the Animal Welfare Authority (Ms Trish Angus) would be made aware of neglect issues identified by an inspection conducted by the AEC if Ms Angus is not being advised of the findings. S/he replied: '*Through the non-compliance procedures*'. I note that this would not have been possible as these procedures were not in place and I

⁵³ Email of AEC member 8 September 2009 (15:16)

am advised remain in draft form as of September 2010. The EO said that a breach of the *Animal Welfare Act* would be considered non-compliance. Asked again if the report would be sent to the Authority s/he said *'Yep, Animal Welfare Branch'*. The EO seemed unaware that the Animal Welfare Authority is not situated within the Animal Welfare Branch and that they are within two separate areas within DHLGRS.

Asked what the AEC can do in situations of animal neglect other than making recommendations, the EO said that the University's teaching and research permit could be suspended. Asked when s/he was advised that the AEC had the power to suspend permits s/he said that s/he found out when developing non-compliance procedures in November/December 2009.

The EO was asked: *'On your appointment at the AEC what induction are you given, because from what you're telling me there's not a lot that you're told about permits or licences...'*

S/he replied: *'I had to find out a lot myself, yep... I didn't get any induction about ethics at all. All I got was, I sat with the person who was doing the job for a couple of days and that was it... I did it all myself the hard way'*.

Asked if the AEC could do anything else when neglect is identified the EO said: *'...if they feel that there has been serious neglect or whatever then its reported to the Animal Welfare Branch for further prosecution, but that first has to go through, in our case, the VC'*.

Asked who authorised the AEC reports to be forwarded to the Vice Chancellor in the first instance the EO said: *'The Vice Chancellor... So the Committee makes a decision and then that decision has to go either to the Vice Chancellor who will then forward it on or to the Director or Department Head. But for me, I would love the Animal Ethics Committee to be completely separate without and totally independent of these particular issues'*.

Asked what happened to the AEC reports in 2009 after they were forwarded to the Animal Welfare Branch, the EO said: *'I don't know... Usually I would give Bob (Professor Wasson) the report and he'd write the letter to whoever and I don't get any further feedback but I have liaised on the telephone with Mary Gearin-Smith and Meryl Gowing and Lyn Finlay....Through this whole thing, if we go back to September, between September and December, I was... I just hate going back to this place because it was horrible. I was rung by Brian Radunz and threatened with prosecution...And this is the bit that really frustrates me. So when someone (Brian Radunz) comes to me with this, I then told someone and then they went off and had their meeting and all those people talked – hello, why doesn't someone tell me what happened'*.

The EO recalled that several days after emailing Professor Wasson about the conversation s/he had with Mr Brian Radunz s/he was told by Dr Heim that there was going to be staff changes: *'I felt frustrated because I seemed to be sitting in the passenger seat watching the train derail...'*

In interview the EO physically demonstrated that her/his mouth had been zipped. S/he was asked: *'You indicate you had your mouth zipped so you were saying that you were*

stopped from actually speaking...?’ S/he said: ‘I would pass on things and, yeah, it just, it was just a very frustrating process’. The Vice Chancellor in response to this issue stated that the university has never indicated to the EO that s/he should not speak up and that her/his response suggests that the EO was not actually prevented from speaking but that s/he was frustrated or dissatisfied with the outcome of passing information on.

Noting that the Chairman of the AEC is to be a part of CDU (Code), the EO was asked if it was her view that the Chairman investigating properties in which he is the licence holder would be a conflict of interest. The EO said in these circumstances s/he would see that as a conflict of interest. S/he advised that s/he was not aware until recently that Professor Wasson was the licence holder for Mataranka Station. S/he also advised that at the 6 September 2009 AEC meeting a committee member raised this issue. Asked if Professor Wasson addressed those concerns the EO said: *‘I don’t believe so. I’m not sure, possibly....Can I just elaborate on that...The way, well the way I interpreted what Bob, how Bob (Robert Wasson) got around it was, and this I felt has been a real, its something that’s frustrated me, is he has, there’s been an animal welfare issue and then there’s been like staff, management issue...he kept trying to separate those two. So ...the Animal Ethics Committee was to deal with the animal welfare issue and they were encouraged to leave the staffing issue separate...I’ve constantly felt that, or have been telling Bob, that the fact these animals are in this state is because of the staffing issues and so therefore it needs to be considered at the same time...He never said anything...he’s never really answered me definitively...’* Professor Wasson in response to the issue of staffing levels stated that while the *‘AEC had a legitimate interest in the degree to which the station was adequately staffed, the performance of staff and issue with interpersonal relationships were not matters for the AEC’.*

The EO added: *‘...I don’t know whether I’m in a position to do this but he needed to be more present as well with the staffing issues I suppose, he kept trying to separate them, but it’s the same thing. But on that separation of...why we’ve got this animal welfare issue when we first did our inspection I was completely bemused as to how this has happened, the whole time I have been doing these inspections... how did this happen, why did this happen, how did this get to be, you know, was it a bad season, was it really the bulls, this is the stuff that we’d been told...did CDU not give them enough money so that they couldn’t get enough feed or supplement, are they really on a budget...and they didn’t have enough people to go and put feed out...’*

The EO was shown AEC reports that had been provided in draft to Mr Gray and Dr Heim and read an email which confirmed that drafts were provided to persons inspected. This conflicted with her/his initial response at the beginning of the interview where s/he advised drafts were not provided. Asked again if the AEC supplies draft reports to CDU members, who are the subject of inspections, for comment, The EO said: *‘Yes they do’.*

In September 2009 the draft AEC report was provided to Mr Gray and Dr Heim. On 5 October 2009 both responded, Mr Gray providing: *‘a few brief amendments/comments’* and Dr Heim: *‘added a few comments of my own’.* There was some surprise⁵⁴ shown by the EO in the changes made to the AEC report: *‘So much for password protected. Nonetheless, would you please review his (Mr Gray) comments and advise me of your*

⁵⁴ Reference: Email of AEC EO to Professor Wasson 5 October 2009 (12:27)

thoughts. His (Mr Gray) last comment in relation to the lecturer is the same fellow he had a falling out with. I do believe this request may fall outside the issue of animal welfare. I spoke to Brian (Heim) in relation to this comment and he felt it was a management issue as well'.

Whilst discussing the AEC reports it was pointed out to her/him that the author had completed the reports indicating that Mataranka Station was licenced when it was not. In response s/he said s/he believed the Station was licenced. Failure by CDU to have such a licence and deliver scientific research is a breach of the *Animal Welfare Act* and penalties apply.

The EO was asked if s/he or any other AEC member was provided with the emails between Mr Stockwell and Professor Wasson, s/he replied: *'Erm'* and then that s/he became aware of them when compiling a response from the AEC to the Ombudsman's Office.

The EO was also asked why all the AEC members would not be copied into emails; reports or any other document relevant to Mataranka Station, s/he replied *'There were numerous times where I wanted to bring this information to the whole Committee's attention, and that is where Bob (Robert Wasson) would say to me, no ..., this is a staffing issue...look I've been in conflict with this whole thing. I wanted to include the Committee in this and yeah, I asked several times... And I feel very annoyed'.*

Asked if there was any reason why the AEC had not conducted inspections at Mataranka Station from 2005 to 2008, the EO said: *'I have no idea...they didn't have an animal ethics application therefore they weren't on the list of facilities to be inspected'.*

The EO advised that in October 2009 the AEC requested a Management Plan from the Station Manager Mr Gray; s/he said that as of 13 May 2010 the AEC was still waiting to receive the plan.

Asked if the AEC view licences (including firearms); policy/procedure or any other document applicable to CDU properties before inspections the EO said: *'Not before. We ask for it during...'*

Asked if s/he was aware that CDU had a corporate firearms licence the EO said: *I haven't seen, I'm under the impression from what I've been told that they do.* As several inspections by the AEC had been undertaken and the advice of the EO was that this information is asked for during inspections, it is unusual that this information was not contained in the AEC reports.

In reference to feeding requirements at Mataranka, the EO said: *'During the wet season they don't need to be fed. There are bores that probably need to be checked. I'm not a hundred percent sure but the intense husbandry of them during the wet is very different to the dry season'.*

Asked to explain her/his comments written in her/his email of 8 December 2009 to Professor Wasson in which s/he in part wrote: *'the cattle in the poorest condition, that's the cows and heifers, are meant to be getting hay and pellets!'* s/he replied *'I was*

concerned that they weren't getting enough'. Asked what Professor Wasson did in relation to this concern, s/he replied 'Nothing'.

The University in response to the EO stating Professor Wasson did *nothing* rebutted the comment as incorrect – *"The AEC, and therefore Professor Wasson as AEC Chair, operates through investigation reports and progress reports to monitor response to its findings and recommendations"*.

Asked if Professor Wasson responded to the EO's email of 8 December 2009, the EO said *'no'*.

Asked if her/his concerns about the Hendra Virus⁵⁵ were dealt with s/he said *'...Brian (Heim) said that there's been no known cases of Hendra so we don't need to worry about it. ...I would have liked to have come back and said, 'but I've just found out' the information that I had is the fact that Brian is wrong and this is the information which has come from a virologist (Richard Weir)'.*

The EO was asked why s/he didn't converse with Dr Heim about the information provided by the virologist, s/he said *'He's a vet, he knows more than me about these things...I can be very argumentative, but I know my place, do you know what I mean'.*

Asked why s/he didn't consider adding the Hendra Virus to an AEC meeting agenda, s/he responded: *'Yes that could happen but, no I didn't think to do that'.* I am informed that the EO was advised by Mr Parker on 8 December 2009 that the potential for the Hendra virus to infect horses was a possibility due to bats drinking from Little Roper Creek becoming caught in the floodgate nets, dying and dropping into the water where the horses were drinking.

Several other matters were discussed with the EO, including whether CDU implemented all the recommendations made in AEC reports. The EO provided an example that demonstrated that not all AEC recommendations were undertaken in a timely manner.

The EO advised that in September 2009 a recommendation was made to fix the fence at the rubbish dump, s/he advised that the AEC would expect CDU to respond to this within a reasonable period. In December 2009 the rubbish dump fence remained broken; the EO advised that this would constitute non-compliance.

The EO also stated that her/his concern about the dingo pest problem was never responded to. Further, that during the AEC inspection of Mataranka in December 2009 s/he observed about 20 bulls; of those 5 remained in a BCS as low as 1.

The EO advised that in February 2010 the AEC was talking about *'shutting Mataranka down'*, however was advised *'no you cant do that because the procedures are not enforced or not approved...'*

⁵⁵ Hendra virus is a virus of flying foxes that on very rare occasions may cause respiratory or neurological disease in horses or people. There have been no known cases of Hendra virus in horses or people in the Northern Territory. Veterinarian and horse owners should be aware of the risk of Hendra virus infections in horses and the risk of transmission of infection to people in close contact with infected horses. Reference – DOR website

Asked why CDU's Mataranka Station permit was suspended in 2010, the EO said '*...the permit was suspended because of all of what had past happened. I believe the Committee had had enough, they were angry, they felt there was no confidence in the situation, we were presented with these progress reports from Tim Biggs which were flippant...the Animal Ethics Committee, we were all unaware of all that was going on, particularly with teaching and being able to report on teaching matters... so yeah, the Committee suspended the licence (sic permit)...*'

Asked how long the suspension was in place, the EO advised that it was a 2 week period. S/he stated the suspension was only lifted for '*animal husbandry practices, mustering, horse riding...*' It transpired that the suspension was for a substantially longer period.

The EO was advised by the Deputy Ombudsman that much of the information being placed into AEC reports appeared to be information provided to the AEC by those being inspected ie: Mr Gray and Dr Heim. S/he was asked if the information provided by these gentlemen was in any way checked for correctness, s/he said '*no*', and that '*there is no one else to ask*'.

The EO was unaware that a member of the AEC in February 2010 made a complaint to the DHLGRS Animal Welfare Branch. This AEC member was seeking to have Mataranka Station's certification cancelled. The EO could not provide anything further in relation to an AEC member making a complaint directly to the Animal Welfare Branch.

The EO was asked if there was anything s/he would like to add in relation to this investigation. S/he said: '*Yes. Through all of this I feel like I have been buffeted by a cyclone from one camp to another. From what I have discovered when we went down it was like, it was this particular issue and this person did this, how could he have done this, so I felt quite from that Ian was responsible for this situation happening and all the rest of it. And CDU as a whole...not being aware of this thing...Then when the horse complaint came in it was from Dianne Snell and I was actually horrified because I couldn't believe that Toby was meant to be looking after the horses...I thought how crazy all of this had become. And for me its this, the major issue were the staffing issues, the fact that there was this infighting going on...I have thought about this intensely day and night... trying to understand why this happened...the cattle industry are not terribly impressed... if I had been in a position to have made a difference I would have kicked everyone off and I would have put new people in there...*'

Asked for her/his view as to whether the reinstatement of Ian Gray was appropriate, the EO said '*No*'.

In closing the EO said that s/he would have '*been far more ruthless if I was allowed to be*'.

The last interview question to the EO was: '*Considering all the inspections was sufficient food, water and shelter being provided to those animals in 2009?*'

The EO replied: '*I don't believe, throughout all of 2009, no...*'

After being provided with the draft report the EO provided a response (23 September 2010) which in part reads '*...You have addressed most of the issues, but I feel not all. It's*

not just all the staff involved; I feel CDU as an institution also failed the animals and staff. It failed by not ensuring to have appropriate policies or standard operating procedures in place, at numerous levels, the hierarchical reporting of animal welfare complaints clearly failed and needs to be changed. Many staff caring or using animals at CDU are unaware of their statutory obligation to the animals. There is an institutional expectation that staff will work under stress, but in these circumstances it was prolonged extreme stress, which I believe creates its own performance problems and these people did not seem to be supported by the system...'

CHAIRMAN ANIMAL ETHICS COMMITTEE – PROFESSOR ROBERT WASSON

Deputy Vice-Chancellor of Research and International, Professor Wasson was interviewed on 11 May 2010. He described his position as follows: *'...Well my role is to look after the strategic directions, policies and support mechanisms for research at the university and earlier this year I was also given responsibility for the international portfolio where I oversee recruitment of international students. Again, the supply of support services,... With respect to the matter in front of us, I also chair the Animal Ethics Committee and the Human Ethics Committee and we deal with applications for ethics clearance for research and teaching by using animals specifically relevant to this discussion'.*

Asked if his position as Deputy Vice-Chancellor could be seen as a conflict of interest as he is also the Chairman of the Animal Ethics Committee. Professor Wasson said: *'Yes, it is a very fair question. It is something which I must say I have given considerable thought to. Let me answer it perhaps by example. Quite a few of the applications that come to the AEC are from CDU researchers, by no means all, but quite a few. When I think there is a potential conflict of interest in the sense that I would like to see a project go ahead and any comments I may make in the Committee could influence the committee to clear an application which is probably, shouldn't be cleared, at least...I tend to remain silent...the committee' a group of individuals who are pretty strong willed and dedicated to the welfare of animals, so frankly I think that if I was trying to influence the committee I would probably would be overruled. I tend to operate a fairly democratic committee, I don't overrule the committee. That's point number one. Point number two, with respect to the recommendations that we have made to the university from our inspections at Mataranka the Vice Chancellor has made it extremely clear both to me and to senior members of staff that we are independent of, when I'm acting as Chair of the AEC, I'm operating independently of the executive of the university and I can basically instruct the university about what to do...'*

Referring to an AEC meeting in March 2009, Professor Wasson said: *'...We were getting very poor reports from the appropriate people in Katherine and at that point the committee decided to basically shut down teaching activities at Mataranka, teaching using animals. And I mean had I had a serious conflict of interest from the perspective of an executive from the university I would have argued vehemently against that because I knew there were students at risk as a consequence but I went along with that decision because I thought then and I think now it was the right decision...'*

Professor Wasson stated he was aware that if he became involved in managing the station as the Chairman of the AEC he would be sitting in judgement of himself. He did not bring that insight to bear on his action of advising the Vice Chancellor not to terminate the

employment of Mr Gray in November 2009 despite the confirmation by Mr Stockwell, by the DPI inspection reports and his own observations of the dire state of cattle and horses.

Professor Wasson advised that in 2009 Mr Suter was the Supervisor of the Mataranka Station Manager, this was until receipt of complaints. A decision was taken shortly thereafter to move the responsibility of the station out of FAS (Mr Suter) and put into VET (Dr Heim). Dr Heim became overseer of Mataranka Station with executive responsibility for Mataranka Station on 22 September 2009. This change of overseer is not reflected in the Vice Chancellor's response (1 October 2010) in which he states that Mr Suter had the *'overall responsibility for the Station such as for budget and resourcing, his relative lack of experience in managing a pastoral operation was taken into account in the management structure which included Dr Heim as a local supervisor and mentor on matters relating to stock management and veterinary care'*.

In relation to the failed sale of cattle Professor Wasson advised that the decision to sell was due to the price not being right *'which in retrospect was not a good decision'*. Asked what should have happened when the sale fell through, Professor Wasson advised that the cattle should have been moved to a paddock with good grass and appropriate water.

Professor Wasson advised that on Mr Gray's appointment (on an unknown date) Mr Gray had said that Mataranka Station was in a mess – *'records hadn't been kept, there hadn't been much in the way of rotational burning, there had been the watering, there hadn't been as much supplementary feeding as there should have been, the infrastructure had run down. And so he was confronted with an enormous amount of work to do and in his view the, also the bulls hadn't been taken out so there was no controlled breeding. And in his view one of the reasons for the poor state of a lot of the young animals was that they were being, well they were occurring a bit later, calves were being dropped out of season, in other words towards the middle or end of the dry season which is not good for them because its not good for them or their mothers, because the mothers are very stressed, they have lactation stress. And the previous management regime had just let the bulls in.'*

It should be noted that when Mr Gray was interviewed in May 2010, he advised that the bulls still remained in with the cows. He added *'...My efforts to muster have been thwarted by events such as, you know, Animal Ethics inspections, etc'*. Mr Gray was asked if the AEC and DOR inspections hadn't occurred, would the bulls remain in with the cows. He said *'Possibly we'd still, I mean, that's probably towards the tail end of May would be where I would be trying to remove the bulls. But again as was indicated earlier when one of your, I'm assuming, I think it was the NTCA suggested the bulls are left in year round, because its not a perfect world,...'*

Professor Wasson stated that the President of the Cattleman's Association leaves his bulls in all year round but *'he provides good supplementary feed which we were not doing, or we weren't doing adequately. So, when I see, I mean CDU...But there is a reality about that place (Sturt Plateau) that you could almost argue that if you applied animal ethic standards you'd close down the pastoral industry. So we've got to consider the commercial aspects of this as well and the fact that we are trying to not make a huge profit but certainly break even'*.

CDU's website profile relating to Dr Heim suggests that Mataranka Station does operate as a profitable property. The website documents in part that *'the University's Mataranka Station operates as a profitable commercial cattle property and improving the award winning Rural Campus Brahman Stud'*. In his 2010 interview Dr Heim said that during the 2008 Station Manager's tenure the Manager *'was encouraged to increase the herd size to make the station more profitable. He was successful in this endeavour'*. One of the still unexplained matters of this investigation is why Mr Gray was reinstated on the advice of Professor Wasson exercising a management role for CDU given the state of his knowledge set out in the preceding paragraph. Starving and dying cattle with body scores of 1-2 is not a step to *'breaking even'*.

On 30 March 2008 Mr Suter the Chief Financial Officer in his report to finance risk and review wrote: *'...The Mataranka Station is now operated as a business enterprise within the Finance and Asset Services portfolio and for the year ended 31st December 2007 operated at an overall accounting loss of \$21,000. The increased value of the cattle herd was approximately \$600,000 and so on this basis the Station is operating quite successfully at this time...'*

On 24 December 2009 Mr Suter summarised the Mataranka financial performance for Mataranka Station 2007-2009 as follows:

DETAILS	2007	2008	2009
REVENUE			
Cattle Sales	639,282	718,407	47,097
Other	89,353	10,347	185,428
TOTAL REVENUE	728,635	728,754	232,526
EXPENDITURE			
Salaries & on costs	130,202	130,352	104,617
Operating costs	372,187	515,314	635,669
TOTAL OPERATING COSTS	502,389	645,666	740,286
NET OPERATING POSITION	226,246	83,088	(507,760)
CAPITAL EXPENDITURE	12,182	0	0
NET OVERALL POSITION	214,064	83,088	(507,760)

The *'Mataranka Cattle Station Budget 2009'*⁵⁶ documents that the Total Expenditure for 2009 was \$570,075 and the profit carried forward as \$139,925. In contrast with Mr Suter's records, the Vice Chancellor documented (30 August 2010) that the station made losses of \$192,420 in 2007, \$216,538 in 2008 and \$533,635 in 2009.

Other documents setting out the financial position of CDU in these 3 years were also provided. The figures in many documents differed, so I am unable to determine if Mataranka Station made a profit or loss or broke even in those years, due to the lack of reconciliation or explanation of the varying figures. One set of figures given was in a response to the Ombudsman list of information requested. The University was asked how many cattle from CDU were sold between 1 January 2009 and 1 February 2010. The answer given was 870 with 844 between October 2009 and 1 February 2010. As at 24

⁵⁶ Reference: Mataranka Cattle Station Budget 2009 – CDU annexure B6-1

December 2009 the proceeds for cattle in 2009 were \$47,097. This is about \$54 per head. On 1 October 2010 the University provided a memo⁵⁷ regarding these inconsistencies.

Professor Wasson in describing how long it takes for cattle to become in poor condition such as those viewed at Mataranka Station said ...*'frankly these cattle take awhile to get into poor condition...'*

Professor Wasson stated that in his view the station was understaffed in 2009. Having interviewed several staff from CDU I would agree with that view.

In describing a property next door to Mataranka Station, Professor Wasson stated that *'Many of those animals were in pretty poor condition as well'* although Professor Wasson stated he was not offering this as an excuse. He was asked if the property next door was a training facility. He replied *'No, and you're absolutely, you've put your finger on the nub of the issue. We have got to be best practice, no question about it, and that's exactly what we intend to do. We cannot allow animals to be in poor condition on a training facility, you shouldn't allow it to be on a commercial cattle station. So, you know, you've put your finger exactly on the issue that we've been hammering away at now for months. If we're going to have students there, training on animals that are in poor condition or we might allow them to be using poor condition animals, but even to see them is just not on'*.

Asked for a reason why Mataranka Station was not until the end of 2009 licenced pursuant to the *Animal Welfare Act* Professor Wasson said *'From our perspective it was not a research facility. It goes back to my earlier comments that we were focussed on the use of animals for research not for teaching and it really took us a little while to get our heads around the Code's requirements for ethics clearance for use of animals for teaching purposes'*.

Asked if Mataranka Station between 2005 – 2009 was being used for scientific teaching purposes, Professor Wasson said *'It was being used for teaching purposes, yes'*.

Asked what the AEC do on receipt of a complaint other than visit the Station, Professor Wasson said *'Well we do the visit we interview the responsible individuals to try to find out what the reality of the situation is'*. Asked who was interviewed Professor Wasson said *'Ian Gray, Brian Heim, Doug Jenkins, Toby (Gorringer)...'* Professor Wasson further elaborated in interview stating that the AEC interviews were verbal and that notes were written, from which an inspection report was produced. In contrast when Mr Gray was interviewed on 27 May 2010, Mr Gray stated he had never been interviewed by the AEC, stating that unless having a conversation with the AEC whilst driving on the property was deemed an interview he had not had one. Mr Gorringer held the same view as Mr Gray, that he was not interviewed at any time by the AEC.

Professor Wasson advised that Mataranka Station is currently (as of 31 May 2010) on a conditional permit. What Professor Wasson and the other AEC members had not been advised of at this time was that despite the AEC permit restricting teaching at Mataranka Station, complaints received at my Office in June 2010 from Cert II students, stated that

⁵⁷ Attachment P179 Memo – Mataranka Financial Reports

pregnancy testing and branding was being taught to students, albeit with Mr Gray allegedly telling the students that he technically shouldn't be undertaking this type of teaching.

Professor Wasson also voiced concern about the 7 May 2010 AEC inspection. He said *'...We were there last Friday and some of the heifers are a bit thin, not a huge number but too many'*. In contrast the AEC EO stated in response (23 September 2010) that s/he was *unaware of an incident/complaint in May/June 2010 at Mataranka Station*.

Professor Wasson did not know how many heifers were in the paddock, he stated that he saw about 20/25 good heifers and that there was possibly more. The AEC EO rang my Office on 31 May 2010 and during her/his call was asked how many heifers were in poor condition as of 7 May 2010; s/he said up to 50.

Asked about what the AEC had been told about a lack of cattle record keeping, Professor Wasson said *'...prior to Ian arriving he reckoned he couldn't find any records. But having said that, on Friday (7 May 2010) I learned for the first time that somebody had been keeping records, but hadn't made them available to CDU which sounds very odd indeed'*.

Professor Wasson advised that feed purchase records had been provided to the AEC. He said *'We did eventually get the feed records for the whole year or whatever records we could get. And it was actually dollars rather than kilograms. Well, I mean the price doesn't change all that much I am told and so we were able to determine whether or not we thought there was enough feed and we concluded there probably wasn't'*.

In relation to inoculating animals from botulism, vibriosis and general worming Professor Wasson was asked what he knew about inoculations occurring at Mataranka Station. He said *'...As far as we could tell it hadn't happened because there was no record'*.

Asked about providing draft copies of AEC inspections to the persons being inspected, Professor Wasson said *'...We sent it to Ian and to Brian to correct any factual errors that was what we were after, if we'd made an error of fact somewhere. We were not going to change the recommendations unless frankly there was a really good reason to. There was none provided. We generally don't do that, send it on to the people being inspected but in this particular instance, because of the number of the recommendations, the complexity, the seriousness of the issues, we thought it was probably wise just to make absolutely sure that we hadn't made any errors of fact'*.

[OMBUDSMAN COMMENT: The investigator was not provided with the draft report nor informed what changes were made. Professor Wasson did not explain why the draft report was not sent to Mr Jenkins or Mr Gorringe for them to comment on the accuracy of the facts as they too had provided information to the AEC].

In reference to the *Animal Welfare Act* and the AEC Executive Officer's view that DOR inspectors should not have shot cattle during their inspection, Professor Wasson was asked if the AEC Executive Officer was aware of the legislation relevant to the DOR's actions. He said *'S/he is now... And her emotions got out of control. I've talked to her about this. S/he is very wound up, has been very wound up by this whole thing'*.

Asked about DOR's observations of cattle falling into the rubbish pit, Professor Wasson said *'...there's absolutely no evidence that any animals actually fell into that pit. There was some suggestion of that but when we went there was nothing there. Now we'd assumed the fence surround and the gate were fixed around the rubbish dump and the body pit, but it hadn't been...'*

I have inferred that the AEC members saw no evidence when they visited, rather than that the AEC rejected the information from the DOR.

In reference to making recommendations and taking action Professor Wasson said *'...when things got to a point earlier this year where the Committee, quite rightly in my view, took the view that the reports, the progress reports were inadequate and a conclusion was reached that it was not a situation that should be tolerated any longer and so teaching was suspended'*.

Asked how many cattle died at the station in 2009 Professor Wasson said *'I wish I could tell you, we suspect it might be a hundred but we don't know. We know how many were shot, there wasn't a very large number of them but there was certainly other animals who were dying from their poor condition. Some died in the paddock, some near the homestead and they're obviously visible and some died, there one or two I think that died in the yard. There are probably others that died in the paddock ...'*

In relation to Professor Wasson stating *'we know how many were shot'*, no records were produced by CDU in answer to a summons to provide all relevant documents to the Ombudsman. The summons for documents p.14 specifically requested records of animals shot held by CDU or AEC.

Asked if Professor Wasson was aware of the allegation that Mr Gray had shot a bull, he said *'...with respect to the particular matter you mention of the bull being shot, for a station manager to shoot a bull is a really serious matter, they are very valuable animals. And to do it in that way, again, this is a personal opinion I don't believe that's Ian Gray. I really don't. I'm not a complete supporter of Ian, I think he's got a whole series of problems in his management style etc. I'm not a hundred percent behind him but that sort of behaviour I think is inconsistent with what I know of him...'* In interview on 27 May 2010, Mr Gray admitted to shooting a bull, although not for the reasons stated by Ms Walters. Mr Gray stated the bull was *'euthanised purely for the fact that he was recalcitrant and dangerous, not because of his poor condition'*.

Asked how many were in poor condition, Professor Wasson said *'Well several hundred and some of them were body weight 1 which takes a long time, even during the dry season... They would have had to come out of the wet season in very poor condition to start with to end up like that by September. And Gray wasn't there. Secondly we had out of season calving... So, you know, to shift whole blame on the whole thing to Ian Gray simply was not on. That's why I made the recommendation to the Vice-Chancellor to reinstate Gray...'*

To me it is inconceivable that any reasonable person in possession of the knowledge that Professor Wasson had from the complaints made, the photos in this report, the DOR

reports and the *Stockwell Report* and having inspected the station twice could hold these opinions.

In relation to the outdated *2001 Strategic Plan*, it was suggested to Professor Wasson that annual review would be warranted. He said *'Correct. I agree with you and my understanding is that given that the station had been in the hands of Facilities and Services it should have been their responsibility to have seen that happen'*.

In discussing a hoof falling off of a horse Professor Wasson said *'...when you see horses with their hooves falling off it's rather difficult to disassociate yourself. And as for conflict of interest well let me tell you that I gave the Mataranka staff an absolute serve on that particular occasion late last year. I didn't give a damn who I was talking to, they coped it'*.

Asked who were the Mataranka staff that *'copt it'* he said *Grant Parker, Toby Gorringer and Wayne Spence*. Mr Parker was a relieving manager for a couple of weeks at the time. This type of discussion if it was appropriate for the Chairman of the AEC should have also been held with Mr Gray. It appears it wasn't. The episode described by Professor Wasson does not fit well with his statement that he recognised that if he became involved in managing the station he would be sitting in judgement of himself. Why he chose to give the three named persons *'an absolute serve'* without finding out all the facts was not explained.

Asked to explain an email between AEC EO and himself relating to poor condition bulls and AI, he said *'I think that, I mean, both (AEC EO) and I did have, lost confidence in some of the answers we were getting, confidence in the ability of Ian in particular to organise his time to achieve the results that we needed. We're still worried about that and Brian Heim and Scotty are on notice...'*

An improvement that has occurred since the complaints and that I am informed of is information sharing between agencies. Professor Wasson explained *'We share reports, the AEC we send our reports to the Animal Welfare Branch and DPI, DPI supplies us with their reports and the Animal Welfare Branch supplies us with their reports and we table them at the AEC meetings'*. Information sharing is a recommendation found further in this report.

In reference to Mr Gray's ability to carry out the tasks required at the station, Professor Wasson said that *'...he might well have argued the case more strongly. I wasn't there, I don't know. He doesn't communicate very well, he's not terribly articulate, it takes him a long time to finish a sentence and he goes off on tangents... And the management coach that we employed to help him actually has helped him, he's now talking to his staff in a much better way...'* One of the complaints made to my Office is that Mr Gray was difficult to communicate with and would *'blow up'* if his directions were questioned. If Professor Wasson's observations and comments are correct, then in part the views presented by CDU staff past and present working at Mataranka Station are supported.

Conflicting with the comment that bulls should not be left in with cows, in the dry season, Professor Wasson described a bull being left in with cows at Mataranka Station in May 2010. Asked why this wasn't seen as an issue he said *'...these are almost all dry cows and so they're not likely to get pregnant'*. Whilst they are not likely to get pregnant it is a possibility and this was pointed out to Professor Wasson. He said *'Yes, except that these*

animals are earmarked for sale and the purchaser who is in Queensland wants to buy cows and heifers that are running with a bull because they want to breed from them...' In contrast Mr Gray said that bulls remained with cows because they had not yet been mustered, later adding that a 100% muster of bulls is unlikely.

In relation to Ian Gray trucking cattle without NLIS tags to Katherine Station, Professor Wasson said *'Oh, right, that's right, well that's a different situation, yeah, no, he shouldn't have done it'*.

Whilst discussing the appointment of Mr Suter as the Supervisor of the Station Manager, Professor Wasson advised that Mr Suter was an accountant. Asked if it was an *'inappropriate appointment'* to have Mr Suter oversight the Station Manager's position, Professor Wasson said *'That's my personal view...'*

Professor Wasson acknowledged that whilst pregnancy testing and the collection of semen were occurring at Mataranka Station in August and September 2009 these procedures had not been entered into the AEC permit application from Dr Heim and had not been approved by the AEC.

In relation to the licence required under the *Animal Welfare Act* by CDU to conduct teaching using animals Professor Wasson was told by the Ombudsman investigator that the Katherine and Alice Springs licences had expired in 2005. Professor Wasson said *'There's nothing down at Alice Springs'*. This might be correct; if so I question why Alice Springs was added to CDU's teaching licence in 2008. Regardless, this investigation has revealed that CDU were in breach of the *Animal Welfare Act* between 2005 and 2009. CDU was teaching using animals at Mataranka and Katherine on either an expired licence or no licence at all.

In summing up, my officer said *'I think what I'm trying to suggest is that it is a training facility, its purportedly demonstrating and delivering best practice and from this investigation we're not identifying that...'* Professor Wasson said *'I agree. I think the, as I said earlier in this interview, that I don't think the AEC was aware of a number of the issues that we should have been aware of. I don't think staff at Mataranka and Katherine were aware of their responsibilities with respect to the legislation. There have been a whole series of mistakes or oversights, whatever the word may be'*.

Asked if in Professor Wasson's view prosecution was warranted he said *'...I don't honestly know. I have to say, and this is not a cop out, the responsible authority is the Animal Welfare Branch as I understand it. They chose not to prosecute for their reasons and I have not asked them nor will I why they decided not to go ahead with prosecution. Brian Radunz suggested prosecution was likely but that didn't happen. I have heard from others that there are possibly two reasons why it hasn't happened, one is they (Animal Welfare Branch) are very short staffed, secondly they tend not to go to prosecution, they'd rather try and work with the station to get it up to scratch rather than bang them over the head. But that's third hand information. When you look at the state of some of the animals, who in the hell would you prosecute, I mean, yes, in a sense you could argue yes prosecution should have happened because the state of some of the cattle and then some of the horses was appalling. Who do you prosecute?'*

The Act is quite clear in my view. Section 4 of the *Animal Welfare Act* defines a person in charge as b) *a person who has the animal in his or her possession*. Section 6(1) states '*A person must not neglect or commit an act of cruelty on an animal and section*' 8(1) states '*A person in charge of an animal must provide the animal with food, drink and shelter: (a) that is appropriate and sufficient; and (b) that it is reasonably practicable for the person to provide*'.

The AEC in 2009 and 2010 identified that insufficient food was a cause of malnutrition and death. A hoof fell off a horse and cattle were locked in yards for unreasonable and unnecessary extended periods with inadequate feed and water. The person in charge of those animals was Ian Gray, and that answers Professor Wasson's question.

HORSES AT CDU MATARANKA STATION



Investigations conducted as a result of complaints about the condition of horses held at Mataranka Station revealed that some of these animals were, like many of the cattle, suffering from malnutrition. Exact numbers held at the station in 2009 could not be provided to my Office. Different figures were provided by several employees; as such I can only estimate that approximately 36 horses were present at the time of the complaints.

In relation to horse deaths, an exact figure could not be provided, so I have estimated the deaths on documents provided by CDU.

To make this estimate I refer to Mr Tim Biggs Progress Reports to the AEC. One Progress Report documented the following – '*One horse has died at Mataranka Station due to running through a fence. Reasons as to why horse ran through fence unknown*'. In another Progress Report Mr Biggs wrote '*One broodmare who sustained a leg injury had to be euthanised when she did not respond to treatment*'.

In addition to these documents, one horse is documented as being euthanised after its hoof fell off and a foal died on 26 November 2009 from malnutrition. Between September 2009 and December 2009 11 horses were recorded to be in poor to very poor condition.

On 26 October 2009 (19:29) Mr Gray sent an email to Ms Diane Snell the Administration/Finance Officer at CDU KRC, it was titled 'Mataranka Brood Mares' he wrote:

I shouldn't be showing you these but I needed someone else to be aware of what is going on at Mataranka. I started feeding the brood mares on the weekend as the lecturer responsible for their care is now on holidays. I couldn't stand to see the good mare I used to ride, Barb, in this condition any longer.

It is a shame the so called horseman down here couldn't have spent more time looking after the half dozen brood mares under his care and less time following me around taking photographs of mistakes I have supposedly made!!

I apologise if you find these photographs distressing – I can assure you it is heartbreaking for me to see a mare like Barb (or any mare for that matter – the brown mare is only a young mare!) treated like this...

On 27 October 2009 (08:15am) Ms Snell responded to Mr Gray's email:

I'm not going to say what I think of them – but perhaps this should be brought to the hierarchy's attention. Also they are now saying that you are responsible for the horses????? Shifting the buck.

In documents provided by CDU in response to my Notice I was advised that *the condition of horses at Mataranka Station was first brought to the attention of CDU Senior Management by Ms Diane Snell.* The reference provided is a letter dated 26 November 2009 in which Ms Snell wrote to the AEC EO. Copied in were Pro Vice Chancellor Mr Barry McKnight, Director VET Dr Brian Heim and Acting NT Manager Mr Andrew Vodic:

Please find attached copies of photographs of Katherine Campus horses that are agisted on Mataranka Station.

According to my knowledge these animals are in the care of the Lecturer based at the Station, Mr Toby Gorringer.

There are 36 horses permanently agisted, some have been part of the horse plant for many years and over this time have provided an excellent service to staff and students. Within the herd there are also good quality mares that have been donated to the campus by Station owners who have interacted and supported this organisation since it was founded.

I would also like to advise at this time that within the training budget sufficient funds are provided to feed and care for these animals, and at no time are feed supplies and/or veterinary services refused for any animal identified by staff to be in need. In view of the attached supplied I believe that gross negligence has occurred by those appointed to care for the welfare of these animals and request that the matter be looked into. If necessary further information can be supplied on request.

Attached to Ms Snell's letter are six (6) photographs. The first photo depicts a single horse hoof that appears to be in poor condition, the hoof is cracked and uneven. The second photo depicts two (2) horse hooves in the same condition; the third photo depicts the underneath of a horse hoof which appears to be in need of immediate care. The fourth and fifth photos depict two hooves which are in poor condition. The final photo is of a deceased horse which appears to have suffered from malnutrition. The disturbed ground around this horse indicates that the horse kicked around whilst lying on the ground. It is my view that this horse did not die immediately, although how long it survived in this condition is not known.

In response to my comments about the pictures depicting a dead horse/s the University responded (1 October 2010) *"...The University was never provided information that this photograph was of a dead horse, nor is it conclusive that this was the case. The supposition by the Ombudsman...about this horse being dead and how this horse died is tenuous based on this photograph alone..."*

In support of my view I contacted a DOR veterinarian on 5 October 2010. After viewing the photos he confirmed that in his professional opinion *the horse is deceased and has been kicking around on the ground for a period of time.* I stand by my comments.

Photographs of horses held at Mataranka Station 2009







Deceased horse



Poor condition horse



4 - Poor condition horses



Poor condition horse with foal



Poor condition horses

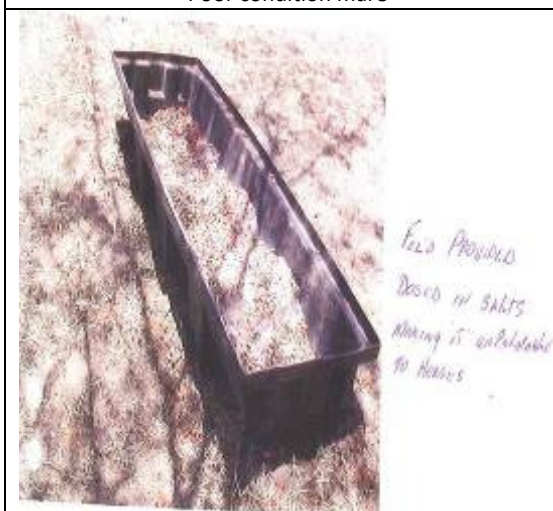




Poor condition mare



Hoof in poor condition



Notation on photo 'feed provided dosed in salts making it unpalatable to horses'



Cracked horse hoof

Mr Gray's email to Ms Snell was inappropriate and inadequate to report the state of the horses. His report should have been made to the AEC, or in the very least his supervisor. Ms Snell is and was not responsible for the care or wellbeing of the horses. Mr Gray, as the Station Manager, ought to have immediately taken action to care for and feed the horses as well as informed his supervisor who was at the time Dr Heim.

It transpired that Ms Snell didn't on-forward the information provided by Mr Gray until a month later when she notified the AEC. In my view it was the Station Manager's responsibility to report this issue and not in the '*I shouldn't be showing you these*' context to Ms Snell that he did. In reporting this issue in the manner Mr Gray did, these horses possibly suffered for an additional month before action was taken.

On 2 December 2009 (07:38) Professor Wasson emailed Ms Snell (cc to the AEC EO) advising that he had received Ms Snell's letter addressed to the AEC. He advised that an inspection would be conducted '*The Animal Research Ethics Committee will inspect the animals of Friday and a report will subsequently be produced with requirements for action if that turns out to be necessary*' and he asked where these horses could be located.

Professor Wasson subsequently conducted the inspection with AEC member Ms Brackenreg. No document has been provided to this investigation that indicates that he copied Ms Brackenreg into the emails between Ms Snell and himself and/or the AEC EO, or informed Ms Brackenreg of the contents or substance of the report about the horses or the photographs provided.

On 2 December 2009 (17:22) Ms Snell emailed Professor Wasson:

*The photographs submitted are of the brood mares agisted at Mataranka Station – the mares are still down there, however we are not sure what paddock they are in. Since the attached photographs were taken the foals have been separated from the mares and were transported to the Katherine Campus on the 20th of November where they are now being looked after by horse co-ordinator Mr Wayne Spence. **Unfortunately the foal of the chestnut mare Barb died Thursday 26th November, we believe that the death of this foal was due to malnourishment.** [My emphasis]*

As described below (AEC Report) an inspection of the horses was undertaken by the AEC (Professor Wasson and Ms Brackenreg) on 4 December 2009. There is conflicting information in the email (02/12/2009 – Snell) and the AEC report (04/12/2009). The AEC report written in December suggests that the foals were removed in December and that they were all in moderate to good condition. It was not documented that one of the removed foals ('Barbs' foal) died from malnutrition. Professor Wasson was aware (due to the above email from Ms Snell) of this death from 'malnourishment' although it is not evident that he informed AEC co-inspector Ms Brackenreg, and this information was not contained in the AEC report.

Another piece of information that is conflicting is found in a report written by Ms Megan Pickering from the Katherine Vet Care Centre relating to an inspection of the horses by her on 2 February 2010. In reference to 'Barb' she wrote that 'Barbs' weaned her last foal in December 2009. This is not possible considering it died on 26 November 2009. I can only assume that the misleading information provided to Dr Pickering was supplied to her by a CDU staff member.

As mentioned above, on 4 December 2009 the AEC conducted an inspection of the Mataranka Station. The acting Station Manager at the time of this inspection was Mr Parker (Mr Gray had been stood down from 17 November 2009 until 10 December 2009). AEC members performing the inspection were Professor Wasson and Ms Brackenreg. Their inspection report is replicated below. As can be seen, of the 36 horses believed to be held at Mataranka only 31 were counted during this inspection. This may be due to the death of horses and foal or the foals being removed from the property on 20 November 2009:

Brief overview/description of incident:

The Animal Ethics, Executive Officer received a complaint on 30 November 2009. This complaint was relating to horses in poor condition on Mataranka Station. The horses in question are the brood mares.

These horses were free ranging in Parnell Paddock up until two weeks ago, when they were brought in to Big Horse Paddock close to the homestead area.

In total 31 horses were counted at Mataranka Station. There were eleven horses in poor to very poor condition (according to the criteria in Areas to Appraise and Description Relative to each Body Condition Score of a Horse, adapted from Hinton 1991). The remaining horses were in moderate to good condition.

At the time of our inspection these horses had clean fresh water, quest working horse lick and total loose mix feed available ad lib. They were able to free range between feeds, except one gelding who stayed close to the food and watering area. These horses had only been receiving additional feed and lick one week prior to the inspection.

The majority of horses' feet were in poor condition with hooves being too long, with chips and/or small splits.

The state of their teeth is unknown. It is unknown when the horses' teeth were last checked. At the time of this inspection, the teeth were not checked.

Several foals were separated from their mothers and transported to Katherine Rural Campus. These foals were in moderate to good condition, being fed twice a day with loose mix feed and cavalcade hay ad lib.

CONCLUSIONS

Observations/problems	Action requested by AEC inspectors including timeframe
<i>The majority of horses' hooves were very long, chipped and splitting.</i> <i>It is unknown when the last time the horses' teeth were last checked and need attention every 6 months.</i> <i>The horses in poor to very poor condition need additional nutritional feed and have access to proper shelter out of the rain.</i>	<i>All horses' hooves are attended to.</i> <i>It is recommended that all horses' teeth be checked and filed when the need arises.</i> <i>Horses need to be fed twice a day in individual feeding containers.</i> ❖ <i>Breeda (Mitavite)</i> <i>Rice Pollard</i> <i>(dampened)</i> ❖ <i>Oaten/Lucerne Chaff</i> <i>(50/50)</i> <i>Hay at liberation</i> <i>Seaweed at liberation</i> ❖ <i>Supplements are to be added to each feed.</i>

	❖ Dolomite 1 tsp per feed ❖ Sulphur 1 tsp per feed ❖ Copper Sulphate 1 tsp per feed ❖ Vam paste ❖ To prevent rain scolding, horses will need to have access to shelter out of the rain.
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Additional Comments:

Given the vulnerable nature of the horses condition and the remote location of the property it is recommended having on stand-by buscopan, fienadine and stethoscope, food to make bran mash (for early colic), paraffin oil, rubber hose (for intubation) and a medicine box that contains other medical needs for hooves, bandages, wound dressings, spray, etc.

It is apparent that by the end of 2009 there was a blurring of the division between the functions of the AEC and CDU's management responsibilities. The AEC was becoming de facto the manager of operations at Mataranka Station. The AEC was giving detailed 'recommendations' about feeding, watering, fixing plant and equipment, staffing numbers, disease control, monitoring and in fact making management decisions. I don't criticise the AEC for that.

On 4 December 2009 (19:26) Mr Parker emailed Professor Wasson regarding the Brood Mares:

This is a quick email to notify you that I have ordered the horse feed as discussed. Landmark will not be open tomorrow (Saturday), however I have liaised with Toby Gorringer and have organised for him to pick up the ordered feed first thing Monday morning. Landmark had the majority of the dietary ingredients recommended by Deborah however the seaweed will have to be sourced and shipped in. Just after you left this afternoon I was made aware that Danie Luttig had contacted Toby (Gorringer) and informed him officially that from now and until further notice Toby (Gorringer) would be in charge of the horses at Mataranka. However, I have made a copy of the directions from Deborah available to Toby (Gorringer) and walked him through it. I will ensure the horse feeding plan is implemented as discussed with you today. If for some reason Toby (Gorringer) becomes unavailable to drive the truck on Monday I will make Nikki (Walters) or Jess available.

In December 2009 (date unknown missing from printout) Mr Gorringer emailed Mr Gray 'I am on leave from the night of 15th December until 11 January, would you feed the brood mares and the old pensioners while I am away? Thankyou...'

On 5 January 2010 a copy of the AEC horse inspection report was emailed by the AEC Executive Officer to Mr Gray and Mr Biggs.

On return from leave on 12 January 2010 Mr Gorringer euthanised a horse and advised Mr Gray of this destruction.

In an email dated 12 January 2010 to Mr McKnight, Dr Heim wrote (relevantly):

Ian (Gray) has advised me that Toby (Gorringer) euthanised a horse, either Sunday or yesterday. He did advise Ian verbally that he had done so. The horse had run into a fence and had wire cuts. The injuries appeared to Ian to be relatively recent (eg under 24hrs old). It would be unlikely that it was in such significant distress that Toby (Gorringer) had to make an immediate decision to shoot the horse, but I wasn't there at the time so could not say definitively that this was the case...

In an email from Dr Heim to the Vice Chancellor (09.02.2010 17:42) Dr Heim informed the Vice Chancellor that since his email to staff of 2 October 2009 instructing staff to advise him or Mr Gray asap after conducting a euthanasia *'that since that time, neither Ian or himself have been notified by any staff member that they have euthanised an animal at Mataranka Station'*. This is incorrect. As described above, Mr Gorringer followed this instruction, albeit not followed up by email, and advised Mr Gray of destruction. It is indisputable that Dr Heim knew on 9 February 2010 that a horse had been euthanised in January. He was either reckless in informing the Vice Chancellor otherwise or knowingly misleading the Vice Chancellor. I leave it for the Vice Chancellor to follow that matter up.

In a memorandum dated 13 January 2010 Dr Heim documented to Professor Wasson (cc to Mr McKnight, Mr Gray, Mr Biggs, Mr Luttig) that Mr Gray had provided him with a copy of the AEC report dated 4 December 2009. He wrote that in general he agreed with the recommendations, *'however, there are some practicalities which will make it difficult or impossible to carry some of them out'*.

Ms Brackenreg (AEC) on 28 January 2010 in response to Dr Heim's memorandum wrote the following:

AEC — horses

Response to Dr Brian Heim Memorandum

In relation to feeding the horses yes this is labour intensive but horses require regular feeding and maintenance particularly in the NT.

This includes teeth, feet and feeding twice per day and access to good quality hay. The seaweed was recommended as they were in poor condition as a way of quickly improving their health. Horses need to be fed individual particularly if they are in poor condition to ensure that they improve and there is no bullying issues.

I question why there is a breeding program in place for a property that is unable/unwilling to care for their stock correctly. There should be no future

breeding of mares unless there is a specific purpose/ plan breeding program in place for a specific purpose.

The quality of the feed needs to be looked at carefully if weight and health is to be maintained.

Without knowing the stocking rate of this area (which I believe would be quite poor and is also based on cattle) the horses need to be fed twice per day and have hay all year round (I would recommend oaten; barley; modes or flinders not cavalcade (this is not recommended for horses as it can cause colic and scouring)).

Plant horses should be fed higher protein when in work and less in rest but also fed twice per day and free access to good quality hay.

Rain scalding when horses are in poor condition they are more prone to rain scald which can be quite painful and they lose hair and this need to be treated with bettadine or another commercial preparation which needs to be applied on the horses when scald is present. Horses will use shelter if provided either when it is raining hard or when it is hot that is natural.

While horses will congregate in a single area as is natural and these areas become muddy if horses are in good condition and their feet are being maintained regularly then thrush isn't too much of a problem and can be easily treated with hydrogen peroxide or formaldehyde again this is part of a regular maintenance routine that should be followed on any property with horses particularly a teaching institution.

When you are in a remote locality it is standard practice to ensure that you have drugs necessary to treat the potentially life threatening issues such as colic a vet is more than one hour away (minimum and if one is available) then drugs must be available to treat as long as there are experienced horse staff available to administer (or even tell if horse is ill) and if no one is on site that is freely available then again this property should not be running horses.

I question whether there are competent or professionally qualified staff that have sufficient horse expertise to maintain and handle horses. Anywhere where there are animals there needs to be staff appropriately qualified to look after them and they must be armed with knowledge of animal welfare principles. That the horses got to this state in the first place is a chargeable offence and if they are not fed and maintained they will end up in the same condition. The quality of the land at Mataranka is not sufficient to maintain horses without regular hard feed at the most the pick is interest but not nutritional.

On 28 January 2010 a member of the AEC made a complaint to the Animal Welfare Unit within the Office of Local Government, Housing & Sport (LGHS). The LGHS notes from that conversation are replicated below:

I am a member of the CDU Animal Ethics Committee. I was called in to inspect the premises at Mataranka Station after a complaint regarding the horses there. One horse lost a foot and later died, following the inspection I made recommendations. I have just received a memo from Dr Brian Heim, manager of Vocational Education and Training. I have now discovered that Ian Gray has been put back in the Manager's position and note too that some of my recommendations are not being followed through with. I was not alerted that the Manager's position had changed, but indirectly discovered this in the memo. I feel this is a major deviation from the progress made during the time Grant (Parker) was Manager and I now fear conditions will deteriorate, as all of the problem were on Ian's watch.

Despite the AEC member's concern the action taken by the Animal Welfare Branch (DLGHS) is listed as follows: '(name withheld) has not reported any specific concerns for specific animals at this time. This complaint is being recorded for information only...'

Also on 28 January 2010 LGHS Animal Welfare had a phone conversation with the AEC Executive Officer. It is documented as follows:

AEC Executive Officer is the Executive Officer of the Charles Darwin University Animal Ethics Committee. I advised that a complaint had been received regarding horses at Mataranka Station. AEC Executive Officer stated that a complaint had been lodged with the Chair of the Animal Ethics Committee and that it had been investigated. The Chair Bob Wasson, an AEC member Deb?? (Brackenreg) And AEC Executive Officer had visited the station personally and a remedial plan had been developed. This is being implemented by the Manager (Ian) and the advice received is that most of the horses are improving and have regained condition with the exception of two mares with foal who will take longer. AEC Executive Officer advised that the AEC has the situation under control with an unannounced visit/inspection to occur in the next few weeks.

The AEC complainant was contacted by DLGHS on 23 February 2010 and provided with information about the action taken. The AEC member is documented as telling the Animal Welfare Branch 'I have concerns, the staff has dropped down to just one and I do not think one can handle it. Two of the horses are displaying the effects of walk about weed and Brian (Heim) is not doing anything about it'. The DLGHS officer responded 'I said these issues are management related and should be addressed through management. (AEC) said 'I would like to see their certification pulled'.

As can be seen, in my view no appropriate action was taken by the Animal Welfare Branch of the DLGHS. I have not investigated the administrative actions of the Animal Welfare Branch. I have an expectation that the DLGHS Executive Director will examine what happened within the Animal Welfare Branch when it is informed of the situation at Mataranka Station. The Minister has announced a review and, during the investigation, officers of DLGHS were informed by the Office of the Ombudsman of flaws that need reviewing.

On 2 February 2010 Ms Megan Pickering BVSc (Hons) from the Katherine Vet Care Centre assessed 5 horses at Mataranka on the request of Station Manager Mr Gray. I place no

reliance on her report in the absence of any explanation as to why only 5 horses were assessed and why Mr Gray selected these horses for review. However a memorandum⁵⁸ dated 9 February 2010 written by Dr Heim suggests that these horses had been the subject of a previous welfare complaint. I am not convinced that this is the case, but without evidence to the contrary I have had to accept Dr Heim's statement that they were mares previously in poor condition.

Also on 2 February 2010 (16:47) Dr Heim emailed the AEC EO attaching photos of the 5 brood mares which *'...in laymen's terms I would call them fat and happy...'* He continued *'The last photo is of the general plant horses. Obviously they are not in as good of nick as the brood mares because they haven't been on full feed supplementation. However they are coming along well. No evidence of rain scald on any of the horses and the flies were tolerable according to Wayne. The vet will be providing us a written report on the condition of the mares...'* Dr Heim sent a follow up email to the AEC on 3 February 2010 (17:32). He documented that the plant horses were not examined by the vet.

In addition to Dr Heim's email to the AEC EO of 2 February 2010 Dr Heim sent (2 February 2010 17:01) a similar email to the Vice Chancellor although Dr Heim removed the information about the general plant horses not being *'in as good of nick'* and replaced that paragraph with *'FYI, there are two thoroughbred horses at MS that have been losing condition. They were mustered today and will be going onto a fattening ration similar to what the brood mares were put on. Thoroughbreds just don't seem to handle the conditions as well as the Aust Stock horses'*.

If all the recommendations regarding the animals at Mataranka Station had been implemented, as I was advised on 10 February 2010 by the Vice-Chancellor, then I question why the plant horses were not being given the *'full feed supplementation'* as of 2 February 2010; why Professor Wasson sent an email on 8 February 2010 (12:23) to the AEC, Dr Heim and Tim Biggs stating *'There are several recommendations in the Report (Mataranka Mares) for further action. I would appreciate knowing your plans to meet those recommendations. Could I please have your thoughts by the end of this week?'* and why on 23 February 2010 an AEC member was so concerned about the condition of the horses that a complaint about the horses was made to DLGHS.

I also question the suggestion that all recommendations have been acted upon when the email from Professor Wasson dated 8 February 2010 (12:23) to Dr Heim and the AEC EO (cc Mr Biggs and Mr Luttig) regarding Mataranka horses suggests this isn't the case: *'Thanks for this. The animals have certainly improved, which is very welcome news. There are several recommendations in the Report for further action. I would appreciate knowing your plans to meet those recommendations...'*

On 10 February 2010 (14:29) AEC member Ms Mitchell emailed all AEC members. Relevantly she wrote:

...Further comment in relation to Dr Heim's memo of response 09/02/10 re horses, ie the brood mares had their hooves trimmed in late 2009 and will be trimmed within the next 4 weeks – this would mean 3 months between

⁵⁸ Memo of Dr Heim dated 9 February 2010

trimmings – I understand that there are many variables to consider when determining the length of time between trimmings/shoeing (environmental conditions, weather, genetics, activity and condition of the horse etc) but I think this is too long at this stage (perhaps this is a contributing factor as to why they got to the state they did) and a farrier visit should be scheduled sooner.

It may be that there are too many horses to properly manage and therefore numbers need to be reduced to a manageable herd size (as per recommendation to reduce cattle numbers). In relation to the mare that requires Vic C supplements (mare 5), to 'investigate and institute as practical' is loose, especially given the previous response to this situation overall and this should be addressed as per vet recommendations.

It is essential the Business Plan includes the carrying capacity of this facility (for both cattle and horses) and has a contingency plan to manage stock (supplementary feed; paddock rotation; etc) post-emergency ie flood, fire – when normal access to paddock feed is reduced.

At the last meeting we had concerns about this action in the MS09-10 Action Plan... This needs to be addressed and the revised action advised.

In light of this incident perhaps we need to revisit the non-compliance procedures and ensure that all members of the AEC are advised of any welfare issue/complaint immediately it is received and are provided with copies of the original (and ongoing) complaint/s, reports etc as they come to hand...



WHO WAS IN CHARGE OF THE HORSES IN 2009?

This investigation revealed that CDU employees and animal welfare officers were unsure of who had the responsibility for the care of horses.

Mr Gray the Mataranka Station Manager in response to the *Stockwell Report* wrote that Mr Gorringer was directly responsible for the care of all horses on Mataranka Station. If this was the case I question why Mr Gray was involved in (email) discussions regarding feed for the horses as early as June 2009 a month after he started as Station Manager (reference email from Mr Gray to Mr Parker and Ms Snell 8 June 2009 12:10). I also note that on 19 October 2009 - 21:58 (email to Mr Biggs, Mr Jenkins, Mr Spence, Mr Parker and Mr Gorringer) Mr Gray was making suggestions about shifting plant horses, leaving brood and pensioners in Lower Beswick Creek Corridor and supplying quest working horse blocks to the plant horses. If Mr Gorringer was directly responsible for the care of all horses then Mr Gray shouldn't have been making decisions and suggestions about horse feed.

Mr Gray wrote that soon after arriving at Mataranka Station he raised concerns with Mr Gorringer regarding the body condition of the brood mares held in Ammo Paddock. As Mataranka Station Manager it would be expected that Mr Gray would oversight staff working at Mataranka and his position description supports this view. The Station Manager's position is to in part manage staff tasked with duties at Mataranka. Mr Gorringer would have been required to follow direction from Mr Gray if direction was provided. As the Manager Mr Gray ought to have been aware of the food being given to the horses, any veterinary treatment, any farrier's expenses and he had an obligation to at least ask for reports from Mr Gorringer and monitor or verify the condition of the horses.

However, on 8 June 2009 (22:25) Mr Gray in an email to Mr Biggs & Mr Suter relevantly stated the following: *'As you are aware, the position I have returned to with CDU no longer has responsibility for the horse plant...'*

Mr Gray further wrote that on 15 July 2009 during mustering operations he relocated the brood mares to the Highway Paddock and instructed Ms Walters to provide feed to these mares on a daily basis. Mr Gray wrote that he did this due to Mr Gorringer working away from Mataranka Station at the time and he was of the firm belief that he was acting in the best interest of the mares. Mr Gray also wrote that upon Mr Gorringer's return to Mataranka Mr Gorringer opted to relocate the horses to the Lower Beswick Creek Corridor paddock and that he left the horses' care in Mr Gorringer's hands. Mr Gray did not authorise Mr Gorringer to order veterinary supplies or services, feed, farrier services or lick. Only Mr Gray, Ms Walters and Mr Parker had authority to place orders and then only after consultation with Mr Gray. Without such authority Mr Gorringer could not be said to be responsible for the welfare of the horses.

Mr Gray also documented that it was not until late October 2009 when Mr Gorringer was away from Mataranka that he was required to devote *'much attention to the brood mares'*. Mr Gray wrote that he noticed during an inspection of the mares that they appeared to have deteriorated considerably in body condition and on closer inspection he found that not only were the mares emaciated, but also that their hooves were suffering from neglect.

Mr Gray wrote that the front feet of one mare was suffering from such neglect that infection had entered the sensitive tissue of the hoof and following veterinarian advice he had no other alternative but to euthanise this mare. Mr Gray stated that he raised the

issue of hoof care with Mr Gorringer on Mr Gorringer's return to Mataranka in the second week of November and that Mr Gorringer replied '*We only trimmed those horses' feet about four weeks ago*'.

On 8 October 2009 when DLGHS Animal Welfare Branch were conducting inquiries about Mataranka Station, that Branch was told that '*CDU has placed a new manager in charge, Brian Heim he is located in Katherine*'.

In short, this investigation did not reveal any formal notice that Mr Gorringer was in charge of the horses held at Mataranka. Whilst there was nothing in writing that Mr Gorringer was in charge of the horses, Mr Gorringer stated that on 13 October 2009 he was removed from being in charge of the horses.

The first complaint of horse neglect came to light on 26 October 2009. The serious condition of some of the horses suggests that inadequate care, prior to Mr Gorringer's '*removal*' on 13 October 2009, contributed to their condition.

It was primarily the Station Manager's duty to manage staff at the station to monitor and ensure that animals were being appropriately cared for, and to take action if those he supervised were not caring adequately for the horses.

NOTICE OF INTENTION TO INVESTIGATE

Section 47 of the *Ombudsman Act 2009* requires that I notify the Chief Executive of an Agency; the Minister responsible for that Agency and the complainant of my intent to investigate.

On 4 February 2010 I sent notification of this intention to the Vice Chancellor of Charles Darwin University; the Honourable Chris Burns MLA the Minister for Education & Training; and the complainant Mr Toby Gorringer.

My Notice outlined the seven (7) areas of conduct that were to be investigated; these are documented within the Executive Summary of this report on page 4.

On 8 February 2010 further information was received that alleged that horses had also been neglected at Mataranka Station with the complainant/s requesting that my investigation be widened to incorporate the welfare of horses.

Also on 8 February 2010 a conversation took place between the Vice-Chancellor and the Deputy Ombudsman Julie Carlsen. At this time the Vice-Chancellor advised that full cooperation by CDU would be provided and further that the issue of horse welfare was accepted as part of the investigation process. This discussion was confirmed in an email setting out the discussion topics. The Vice Chancellor confirmed receipt of this email on 9 February 2010. It is to be noted that the Vice Chancellor did provide full cooperation to this investigation.

NOTICE TO PRODUCE A DOCUMENT OR OTHER RECORD

On 4 February 2010 a *Notice to Produce a Document or other Record* was served on the Vice Chancellor. Pursuant to Section 52 of the *Ombudsman Act 2009* I required production of documents and records. Failure to provide all requested documents that exist is an offence under the *Ombudsman Act 2009*. The following documents were sought:

1. *A copy of all documents relating to all investigations conducted or matters considered by the CDU Animal Research Ethics Committee or by any person into the welfare and condition of cattle held at the CDU Campus in Mataranka during 2009 and 2010.*
2. *A copy of all documents concerning all investigations conducted by DPI either at the request of CDU or otherwise into the welfare, condition and any other aspect of cattle held at the CDU sites in Mataranka since 1 January 2008.*
3. *Any document relating to cattle inspections on or about the 9th and 23rd October 2009 conducted at the CDU Mataranka Station or any other sites in Mataranka where CDU cattle are kept.*
4. *Any document relating to any other inspections conducted at the CDU Mataranka Station or at any other sites in Mataranka where CDU cattle were kept during 2009.*
5. *All management plans created for cattle held at CDU sites in Mataranka for the period 1 January 2008 to the date of this Notice.*
6. *The minutes of all meetings at which the management of cattle or pasture and stockfeed at CDU sites in Mataranka was discussed during the period 1 January 2009 to the date of this Notice and any correspondence or report considered by any such meeting.*
7. *A copy of all documents created, or held by, or considered by CDU's Animal Ethics Committee when discussing the welfare, condition, treatment and health of cattle at CDU sites in Mataranka for the period 1 January 2009 to the date of this Notice.*
8. *Any document that records information about the weaners on CDU property at Mataranka and about the evaluation of their welfare for the period 1 January 2009 to the date of this Notice.*
9. *Any animal welfare plans for cattle held in CDU yards at Mataranka for the period 1 January 2009 to the date of this Notice.*
10. *Any document applicable to the assessment or destruction of downer cows and weaners held in CDU sites at Mataranka for the period 1 January 2009 to the date of this Notice.*
11. *Any document held by CDU that relates to DPI requirements that are to be applied by CDU in the management of cattle held at CDU sites in Mataranka.*

12. *All records of the number of cattle held in CDU sites at Mataranka for the period 1 January 2009 to the date of this Notice.*
13. *A list of the persons who are licenced to hold a firearm and who are trained in the humane destruction of cattle at CDU sites in Mataranka during 2009.*
14. *Any document recording or referring to the number of cattle on CDU property at or near Mataranka that have been identified as needing humane destruction or actually destroyed due to a lack of animal nutrition and/or welfare concerns for the period 1 January 2009 to the date of this Notice.*
15. *Attached to this Notice is a copy of an email from Dr Brian Heim dated the 2nd October 2009. Is this a true copy of what it purports to be namely in part a direction/instruction to staff on what to do immediately following the destruction of a downer animal?*
16. *All notifications sent as a result of the attached email direction/instruction by persons who do not have the training or lawful authority to humanely destroy cattle held at CDU sites in Mataranka for the period 1 January 2009 to the date of this Notice.*
17. *Any document that expresses concern or criticism about the welfare, condition, malnutrition of cattle held at CDU sites in Mataranka for the period 1 January 2009 to the date of this Notice. Including such expressions of concern from the Animal Ethics Committee; any staff member or any third party or agency not attached to CDU.*
18. *Any document that is applicable to management strategies for cattle held at CDU sites in Mataranka for the period 1 January 2009 to the date of this Notice.*
19. *All emails, correspondence, file notes, or any other document making reference to the management of cattle held at CDU sites in Mataranka for the period 1 January 2009 to the date of this Notice.*
20. *Copies of documents recording the duties, qualifications, training or experience of the most senior person who was in charge of and located at the Mataranka Station in 2009.*
21. *Copies of the firearm licences of all staff who had such a licence and who worked at Mataranka Station in 2009 or who visited the Mataranka Station to use a firearm for the killing of any cattle.*
22. *Any operating manual, guideline, instructions or similar document recording the practices and procedures for managers at the CDU Mataranka Campus.*
23. *Copies of any documents relating to any transfer, duties, change in duties or other terms and conditions of remuneration or accommodation of any employee of CDU at the Mataranka Station between September 2009 and 1st February 2010.*

NOTICE TO PROVIDE INFORMATION

INFORMATION PROVIDED BY THE VICE-CHANCELLOR TO THE OMBUDSMAN 10 FEBRUARY 2010

On 4 February 2010 a *Notice to Provide Information* pursuant to Section 52 of the *Ombudsman Act 2009* was served on the Vice Chancellor, a response was provided on 10 February 2010. I requested information as shown below. The responses provided are also documented below. I have made comments on the responses based either on the content of the responses or other information gathered during the investigation. Although including all of this information from the Vice Chancellor makes this report lengthy and repeats some sections there was a risk that to summarise the information could be construed as unfair. Anyone reading this report can draw their own conclusions about the accuracy and sufficiency of the responses compared with information from other sources outlined in this report and in CDU's documents shown in Volume 2. My overall comment is that the responses did not address the crux of the issues; why and how did so many of the cattle at Mataranka Station between May and September 2009 come to be in the terrible condition they were indisputably in when inspected by the DPI inspectors on 4 and 5 September 2009. The responses concentrate heavily on the period from September 2009 onward.

This was the Ombudsman's first enquiry of CDU. It was CDU's opportunity to provide information to explain why and how in September 2009, at least, there was at Mataranka Station hundreds of emaciated, distressed, starving cattle. After reading the responses I am not satisfied that CDU took that opportunity either to improve its performance or to account to the Ombudsman.

1. On 2 October 2009 Dr Brian Heim wrote that CDU were facing some issues with out of season calvers and weaners in 'less than ideal' condition at Mataranka and that consultation with DPI to address the issues was underway. Give a detailed description of the less than ideal condition of the calvers and weaners and describe what was being done to address the issues?

Response by CDU: (3.1) In relation to Question 1, the University advises that the use by Dr Brian Heim of the phrase '*less than ideal*' was meant to indicate that wet cows⁵⁹ and weaners were not in what would be considered optimum body condition. It is a subjective term and **there is no objective data available to quantify exactly the state of all of the animals in question.** [My emphasis] The weaners at Mataranka Station in September 2009 could be described as 'woody', a common terminology for stock in poor condition. They were underweight for their age (assuming a standard body weight curve for Brahman cattle), and were not as active as animals in optimal body condition.

OMBUDSMAN COMMENT: If proper management was in place there should have been *objective data*.

Similarly, wet cows, meaning those that were lactating with a calf at their side, were in less than optimal body condition. This is a common occurrence when cattle calve out of

⁵⁹ Lactating cow with a calf or weaner at foot

season because the forage available during the dry season in the Northern Territory is suboptimal in quality, primarily protein content. For this reason, most pastoralists supplement with a non-protein nitrogen source such as urea⁶⁰. This, combined with the low quality forage that is available, reduces the amount of weight loss occurring over the dry season. An independent veterinarian examined the cattle on 11 September 2009 (see attachment A4-2 – volume 2) and stated that cattle ranged in body condition from 1 to 4 (on a 1 to 5 scale). He stated that all cows in condition score 1⁶¹ had calves, which is consistent with the metabolic demands placed on cows when lactating during the mid to late dry season, but is not ideal.

Given these circumstances, it would have been very difficult to reverse the weight loss in these cattle and so the University's goal was to maintain their current body condition until the wet season commenced. In order to do this, an early weaning was conducted in September and October 2009. Usually calves are weaned when they have reached roughly 150kg. In this early weaning round, calves were weaned down to 80kg.

OMBUDSMAN COMMENT: In the independent vet report conducted 11/09/09 it is recorded that two rounds of early weaning resulted in taking calves down to 50kg not 80kg. Also in the DOR report of 9/10/09 the weight of the calves was 50kg not 80kg.

This removed the lactational demands on the cows. The weaned calves, already considered woody, were then kept in the yards so that they could be fed. When this became difficult to accomplish because of the labour required, it was decided to send young stock to Phoenix Park, a feed lot operation in Katherine. The first group of 205 calves went to Phoenix Park on 9 October. Additionally, 120 were sent on 18 October, 274 on 23 November and 99 on 26 November 2009. Remaining cattle were moved into another paddock with sufficient available forage and provided with urea supplementation.

In 2009 the University spent significantly more (\$270,625 see B4-1) on stock feed at Mataranka Station than was budgeted (\$142,000 see B6-1) in order to redress the problem. \$193,035 of this expenditure was during the period September to December 2009. In addition, Mataranka Station was destocked by 844 head (see B16-1) between October 2009 and February 2010 in order to reduce herd size, enable closer management of stock and reduce the pressure on forage.

INDUSTRY EXPERT COMMENT: *On 28 September 2009 Industry Expert (name withheld) spoke with the Executive Officer of the AEC. During this conversation it was mentioned that other stations leave bulls in with cows all year round. The expert stated that 'this can't be the only contributing factor for their poor condition'.*

The experts view documented by the AEC (29.09.2009) is that the amount of supplement lick provided to cattle 'has been minimal'. The daily allowance of supplement as described

⁶⁰ Urea is used as a source of non-protein nitrogen (NPN) in feed supplements. In ruminants, nitrogen from urea is released in the rumen & can be used by the rumen microflora to make protein. If more urea is eaten than the rumen organisms can metabolise, then the ammonia is absorbed from the rumen & enters the blood. This can result in urea poisoning. If cattle are found dead close to the urea supplement suspect urea poisoning. Reference 'Cattle & Land Management Best Practice in the Katherine region 2009.

⁶¹ BCS 1: Emaciated – Bone structure of shoulder, ribs, back, hooks and pins sharp to touch and easily visible. Little evidence of fat deposits or muscling. Reference NTG Douglas Daly Research Farm 2008.

by the expert should be 100g/day in the dry and 50g/day in the wet. Additionally the expert is documented as stating that in the vicinity of 100 tonne per year is the amount of supplement that normally goes onto a station with 4500 head of cattle. The AEC Executive Officer in her email (same date) to Professor Robert Wasson suggests that this quantity could be checked. The expert advised that on a station with 4500 head of cattle 100,000kg (100 tonne) of supplement would be required to maintain the herd.

OMBUDSMAN COMMENT: I have read the report of the independent vet conducted on 11/09/2009. This report only relates to cattle held in the stations yards and a 'holding paddock'. The assessment reads *from my visit I can conclude that there were many thin condition score one cattle and all these had calves at foot. There was adequate feed in the paddock where they had been shifted to; starting at a reasonable distance from the nearest water. No cows were down, weak, unable to stand. It sounds as if some steps had been taken to try and increase their body condition.*

Under the heading of 'plan' the vet wrote: *'...cattle need to come into calving in better condition. These cows had probably been in the holding yard, losing weight in later pregnancy for too long...*

This veterinarian did not view the bulls, steers, heifers, weaners or horses, held throughout paddocks covering many hectares. The value of this report commissioned by Mr Gray does little to allay the concerns of cattle neglect and in my view supports Mr Gorrings' complaint that the cattle had been held for an extensive period in the yards.

Another independent vet report stated that score 1 condition cows *'would indicate poor cows not far from death'*. How the first veterinarian determined that there were no weak cattle when a second vet indicated that they wouldn't be far from death appears to be a conflicting view.

On 1 October 2009 (18:42) Mr Ian Gray emailed Dr Brian Heim. The email subject was – Mataranka Weaners. In this email Mr Gray wrote *'What do you think about sending the group of 180 very light weaners for backgrounding at AustAsia/Phoenix Park...'* On 2 October 2009 (09:47) Dr Heim responded *'Not a bad idea at all. Would like to know cost but reckon it would be worth it'*. Firstly, CDU's response above stated that all the weaners were in poor condition, I question why all of the weaners would not be considered for feed-lotting. Secondly, I question why cost would be an issue, the *Animal Welfare Act* states that sufficient food, water and shelter must be provided. There is no discretion in the Act not to feed an animal due to the cost involved.

Whilst industry experts do not agree that *'very light weaners'* should be trucked, I do not criticize CDU for trucking these animals to a feedlot it was a better alternative than leaving them at a station that had insufficient staff and forage and was found not to be providing sufficient supplement and/or other feed.

Despite CDU's response that the cattle in poor condition were weaners or cows that had calves or were lactating; whilst CDU was not specifically asked in question 1 about the other animals at the Station, I would expect that their response would include an explanation for the *'less than ideal condition'* of a number of bulls, steers, heifers and horses at Mataranka.

I note the email of Brian Heim to Robert Wasson and Ian Gray on 20 October 2009 (03:09pm). In this email it is reported that about 330 head had been shipped to the feedlot. One weaner is noted as being euthanised after going down. Dr Heim also noted that of the remaining cattle in the Mataranka yards another weaner was down that required Mr Gray to immediately euthanise it.

In a Mataranka Progress report (16/11/09) completed by Mr Tim Biggs he documented that approximately 600 head of young cattle had been transported to Phoenix Park for concentrated feeding. Additionally he wrote: *Of these animals, two had to be euthanised because they did not pick up condition and became weaker. A small number <10 of adult and young cattle had to be euthanised because they were in poor condition and could not rise. One broodmare who sustained a leg injury had to be euthanised when she did not respond to treatment*

In 2009 during the dry season a total of \$77,590.00 is recorded as having been spent on feed (prior to September 2009). This left \$64,410 of the feed budget available for the next 4 months.

In support of the figures supplied by CDU that \$270,625 was spent on stock feed at Mataranka Station in 2009 a copy of the Mataranka Station Feed Purchases for the period of 1 Jan 2009 – 31 Dec 2009 was provided to me. This document was shown to Mr Douglas Jenkins on 8 April 2010 and he was asked for comment. He stated that two of these items (Show production and Soya Hull Pellets) totalling \$7280.00 should not be on this document as this was feed that he ordered for the show cattle held at Katherine and further that this feed was delivered to KRC and used at KRC. Whilst this is a small amount from the total, it raises the question whether the rest of the Mataranka Station feed purchases record accurately what was delivered and/or used at Mataranka Station.

The Mataranka Station purchases record is found in Volume 2 (CDU annexure B4-1).

7900kg (7.9 tonne) of lick was purchased in 2009 prior to the complaints being made and 9000kg (9.0 tonne) of lick was purchased after complaints were made to CDU. This is well short of the amount (100 tonne) that an NT industry expert advised would be required for 4500 head of cattle. Independent livestock expert Mr Tom Stockwell also noted issues with a lack of supplement. He wrote *In all likelihood cattle have been significantly under-supplemented during 2009*

The comment that supplementary feeding was targeted at stock most in need, is not supported by the observations of DOR inspectors/officers, nor the observations of many CDU staff, nor was the supplement purchased prior to September 2009 adequate to provide a sufficient feeding regime.

On 21 September 2010 I met with the Chairperson of the now established Mataranka Station Advisory Committee. An experienced cattle industry expert, I adopt her words to me *"If cattle are starving and dying there is only one explanation, they have not got enough to eat"*.

2. On 2 October 2009 Dr Brian Heim wrote that Ian Gray is making decisions based on what CDU can physically accomplish within financial and physical constraints.

a) What were the financial and physical constraints that allowed cattle to be in a less than ideal condition?

Response by CDU: (3.2) In relation to question 2, the University advises that: The statement *'within financial and physical constraints'* was not meant to imply that financial and physical constraints had allowed cattle to be in less than ideal condition. Rather, the phrase meant that what could be accomplished within reasonable expenditure parameters, considering availability of labour and supplementary feed sources, was occurring. As noted in the referenced email (from Dr Heim 2 October 2009), this met the requirements of DPI⁶², who at that stage were aware of the situation at Mataranka. The reasonable and practical measures being undertaken were considered to be in line with industry practice, based both upon the considerable experience of management staff Dr Heim and Mr Ian Gray (see attachment A20-1 and A20-2).

OMBUDSMAN COMMENT: I refer to the report of the DPI inspectors on their inspection of 25 September 2009, 8 days before the referenced email. It concluded *'The situation is very urgent. Management need to provide ...an agenda as to how they intend to solve the present problem'*. Below are photographs of some of the evidence of Mr Gray's and Dr Heim's managerial skills in 2009 and 2010.

Dr Heim's responded (28 September 2010) stating that he *'only became involved in oversight of the station from 21 September 2009'* and that he *'was not responsible for management and only had infrequent occasion to visit prior to that time'*. Dr Heim found my comment to be *'defamatory given that it is based on a DPI report made four days after he assumed the role in management of the station'*.

To explain on my comment, I note that Dr Heim whilst not officially appointed the oversight of the station, had constant involvement and interaction relating to the station. The Vice Chancellor in his response of 1 October 2010 explained that Dr Heim was a *local supervisor and mentor on matters relating to stock management and veterinary care*. I also note that Dr Heim was the applicant for the AEC permit (January 2009) for the station; he was Mr Gorringe's supervisor whilst Mr Gorringe worked and lived at Mataranka in 2009; concerns about Ian Gray's management were raised with Dr Heim by Nichola Walters in June 2009; concerns of cattle neglect were reported to Dr Heim on 28 August 2009 by Mr Gorringe; on 4 September 2009 Mr Parker reported concerns with Dr Heim regarding the station, animals and Mr Gray; DOR's Mr Radunz discussed cattle neglect with Dr Heim on 7 September 2009; on 9 September 2009 a DOR report was sent to Dr Heim, Dr Heim on receipt of the draft DOR reports provided comments; on 10 September 2009 Dr Heim withdrew as the AEC permit applicant; Ian Gray according to the majority of documents provided to my investigation was reporting to Dr Heim from the date Mr Gray started, this would be consistent with what the Vice Chancellor has said about Dr Heim being a local supervisor and mentor on matters relating to stock management. The Vice Chancellor (1 October 2010) did advise that Mr Gray had been reporting to his primary supervisor and line manager Mr Suter on at least a monthly basis.

⁶² Recorded throughout this report as DPI, DOR or DRDPiFR.

I stand by my comment. Dr Heim was considered the supervisor/manager of Mr Gray at Mataranka Station by the majority of employees and external representatives. Dr Heim failed to advise any staff who approached him about Mr Gray and the welfare of the animals to contact their supervisor/s rather than contact him.



Remains of deceased cow next to water trough



Poor condition cow



Starving cattle yard (above) paddock (below)



BCS 1 Cow with leg wound

The referenced email goes on to specifically discuss feeding. Note that it would not have been necessary⁶³ to supply supplementary feeding to all cattle at Mataranka Station as suitable forage was available to cattle in the paddocks. While feed around water sources was low, as normally occurs with the concentration of cattle in these areas, forage was available within reasonable walking distance. Although debated, the current industry standard is to have stock waters spaced at a maximum of every 10km with the assumption that cattle will walk up to 5km in each direction daily to obtain feed. (National) Best Practice suggests that it is optimum to space water sources every 2.5 to

⁶³ This view conflicts with the view of the industry expert who advised that 100g/day of supplement in the dry and 50g/day of supplement in the wet is the appropriate daily requirement.

3km, but this could not be achieved at the vast majority of NT cattle stations due to infrastructure costs to set them up. Further, in a practical sense it would have been cost prohibitive to provide free choice hay to all stock when forage was available. Supplementary feeding was therefore targeted at those stock most in need, being the cows that had calved out of season and their weaners.

The Vice-Chancellor made it clear to senior management staff, when made aware that cattle at Mataranka Station were in poor condition, that finances should not be a constraint in resolving the issues and responding to the needs of the animals. This was repeated to local staff during two visits (4 November and 16 December 2009) that the Vice-Chancellor made to Katherine and Mataranka over the period in question.

OMBUDSMAN COMMENT: An industry expert was asked about the ‘current industry standard’ for stock waters. The expert wrote *‘The critical time of year is in the second half of the dry season when most cattle are dependant on made waters. It is also getting hotter and so cattle tend not to walk as far from water as they do during the cooler months. Most cattle, particularly breeders would not walk more than about 3km from water during the hot months. Cattle in poor or weak condition are less likely to walk as far from water as cattle in good condition. Consequently they don’t have access to as much pasture in terms of both quality and quantity because grazing pressure is high the closer one goes towards the water’*.

The DOR conducted a carrying capacity review of Mataranka Station in February 2010. It documents that 28 percent of Mataranka Station is currently beyond 5km from water. Further documented is that the watered area values are important because studies have shown that cattle will spend 80% of their time within 5km of water. During the inspection in November 2009 the DOR observed areas within 3km of water tended to be in ‘C’⁶⁴ condition and improved with increasing distance from water to the point where areas beyond 5km from water were in ‘A’ land condition.

On 21 September 2010 I met with the Chairperson of the Mataranka Station Advisory Committee. She informed me that the Advisory Committee agreed that more watering places are needed to improve the infrastructure at Mataranka Station. She agreed that cattle need to be no more than 2-3km from water where feed is available. Impartially she also said that CDU had agreed to provide the recommended infrastructure for water.

b) When did Dr Brian Heim become aware that cattle were in less than ideal condition?

Response by CDU: Dr Heim became aware that a subset of cattle within a group of approximately 464 head were in less than ideal condition when he conducted a pregnancy test course on 18-20 August 2009.

OMBUDSMAN COMMENT: What did Dr Heim do after observing approximately 464 head in less than ideal condition? Are these the same 464 head of cattle that were later

⁶⁴ C Condition – area with one of more of the following: general decline of 3P grasses, large amounts of less palatable or productive species, >50% bare ground in most years, obvious signs of erosion, high susceptibility to current erosion and/or widespread woodland thickening.

observed and reported as being in an emaciated condition? Why didn't Dr Heim report his observations to Ian Gray's supervisor or to the AEC?

On 20 November 2009 (12:59) Dr Heim emailed Tim Biggs about pregnancy testing. He advised that approximately 600 cows at Mataranka Station are used each year when conducting pregnancy testing courses and that any animal that is considered unfit for testing is drafted off and not used.

This is not reflected in Dr Heim's response to the *Stockwell Report* or the information provided by him in interview. In interview Dr Heim said in part *'There were certainly some score 1's and we basically just drafted those off although we did preg test some of the skinnier cattle, I specifically kept them in because I knew that they would most likely be empty and for a pregnancy testing course its important to be able to distinguish none pregnant as well as pregnant'*.

I am satisfied that Dr Heim not only knowingly caused distress to the cattle with BCS less than 3 but that he provided untruthful advice to CDU management that all cattle in poor condition were drafted off by Mr Gray before the pregnancy testing was conducted. This wasn't the case, skinnier cattle were used for testing. Students present during this course reported upset, distress and concern about the thin condition of the cattle used. Ms Walters also recorded contemporaneously her observations and how she on her own initiative drafted off the worst condition cows despite Ian Gray's direction to the contrary.

An industry expert was approached to determine what BCS a cow should be in when undergoing pregnancy testing. That expert advised that cows tested (except in exceptional circumstances) should be in BCS3 or above.

c) What was done to remedy the problem?

Response by CDU: Dr Heim discussed the condition of the cattle with Station Manager Mr Ian Gray, who provided an explanation for their condition consistent with the circumstances outlined in response 3.1. Mr Gray outlined a plan to address the issue (see attachment A18-2), which was accepted by Dr Heim as a reasonable plan of action.

OMBUDSMAN COMMENT: This investigation revealed that a lot of information provided by the Station Manager was accepted by recipients without verifying that information. With the complaints being made (that many cattle not with calf or not lactating were in poor condition) alternative action was warranted and less reliance should have been placed on the information provided by the Station Manager.

d) What were the decisions made by Ian Gray to which Dr Heim referred?

Response by CDU: The decisions being made by Mr Gray were in terms of the overall management of the herd and in particular the management of cattle in less than ideal condition. They included additional supplementation and feeding of weaners, additional supplementation of cows (in addition to what was already part of the dry season supplementation plan) including both urea supplements and provision of Boost blocks (a

protein and energy source), feeding of additional hay to penned animals, and sending young stock to Phoenix Park for high intensity feed lotting.

OMBUDSMAN COMMENT: The discussion between Dr Heim and Mr Gray is reported as occurring shortly after Dr Heim conducted pregnancy testing in August 2009. The trucking of young stock to Phoenix Park for high intensity feed lotting did not occur until 9 October 2009, with further stock being trucked on 18 and 23 October and 26 November. The first complaints of animal neglect were made on or about 3 September 2009 and the first inspection conducted by DOR on 4 September 2009. If staffing issues, available feed and what could be accomplished within reasonable expenditure parameters were problems, I fail to understand why was the decision to remove these young animals not made sooner. The observations by Dr Heim of the poor condition of some cattle were made on or about 18-20 August 2009 and the plan of Ian Gray outlining the need for supplements had not been completed by 4 and 5 September 2009.

3. On 2 October 2009 Dr Brian Heim wrote that inspections of the cattle were to occur on 9 and 23 October 2009. There was to be further inspections and the frequency of those inspections was to be reassessed. When were the further inspections undertaken and what was the result of those further inspections? After reassessment what was the frequency of the inspections, and what was discovered on each reassessment? What actions were taken as a result of, or after each reassessment?

Response by CDU: (3.3) In relation to question 3, the University advises that a meeting held on 26 September 2009 between Dr Brian Heim and DRDPIFR inspectors DPI Inspector 2, Dr Sue Fitzpatrick, DPI Officer 1, DPI Inspector 3 and Mataranka Station Manager Mr Ian Gray, the University was advised that further inspections would occur on 9 October and 23 October 2009 (see attachment A2-10). Inspection reports were produced for both inspections. The report from the 23 October inspection (*sic 22 October 2009*) did not indicate that further assessments were required but noted that officers would maintain contact to ensure that permanent labour was sourced as this was essential to provide the level of stock management required. The results of all inspections are contained in attachments A2-2 to A2-7. Actions taken by CDU are summarised in these reports and also in attachments A5-1 and A5-2.

OMBUDSMAN COMMENT: Dr S. Fitzpatrick from the Department of Resources was asked in interview what the further assessments of the property consisted of. She advised that the DOR monitoring of the property consisted of informal drive-bys by staff travelling past Mataranka Station on the Stuart Highway. In response Ms Fitzpatrick advised that this was only her view and that she was talking about 2008 inspections.

Information provided by staff working at Mataranka Station was that permanent labour had not been sourced as of 12 May 2010. A temporary contract officer (name withheld) was employed to work as required at Mataranka Station for a 4 month period which was extended. In response the university (1 October 2010) stated that *Ms Teagan Alexander commenced work as a station hand at Mataranka Station on 12 April 2010 and Mr Damien Dutton commenced work on 21 June 2010. Further that during period when a full complement of station hands was not available at Mataranka Station, staff at KRC provided assistance to the Manager as required.*

4. On 2 October 2009 Dr Brian Heim wrote the weaners in the yard/s were to be evaluated to make sure they were being provided with supplementary feed. What was the result of the evaluation, how much supplementary feed was provided to the weaners and over what period of time?

Response by CDU: (3.4) In relation to question 4, the University advises that weaners were evaluated daily by station staff following removal from the cows. They were also evaluated by DRDPFR staff on 9 and 23 October (*sic* 22 October). Records (Attachment B4-1) indicate that 5 tonne of weaner pellets were purchased on 21 August 2009, 10 tonne on 5 October 2009 and 4 tonne on 14 December 2009. As noted in response 3.1, a significant number of cattle were sent to Phoenix Park in a progressive manner for intensive feeding. All of these cattle were sold when they reached a suitable weight and condition rather than returning them to the station.

OMBUDSMAN COMMENT: In May 2009 145 weaners were weighed; only 3 weaners weighed less than 100kg. The reason why so many weaners were in poor BCS in September 2009 was due to a lack of nutrition. The feed purchased for weaners between May and September indicates that it was insufficient to maintain or increase their condition.

5. On 2 October 2009 Dr Brian Heim wrote that an assessment of cattle will be undertaken to ensure that downer cows and weaners are being humanely destroyed. When was the assessment undertaken and what was the result? How many other assessments were undertaken and what was the result of each of those other assessments? If no further assessments were made, how were decisions made about the need to destroy cattle?

Response by CDU: (3.5) In relation to question 5, the University advises that cattle in yards were observed at least daily when weaners were being fed and other tasks were being undertaken. Any animals that were in such a poor state that they required euthanasia would therefore have been quickly identified by station staff. As stated in response 3.3, DRDPFR staff also assessed cattle on 9 and 23 October 2009. Upon advice from DRDPFR, the guidelines contained in the Ag Note⁶⁵ were utilised to determine if animals should be destroyed. In the meeting held on 26 September 2009, (DOR Officer 1) had advised that cattle that were down and unable to rise should be destroyed. This information was conveyed to staff on 2 October 2009 in the email from Dr Heim including giving details of who could perform euthanasia and procedures to follow. In verbal instructions to staff, Dr Heim clearly stated that staff should use their judgement based on their experience to determine if animals should be destroyed.

OMBUDSMAN COMMENT: On 5 October 2009 Mr Spud Thomas attended Mataranka Station. Mr Thomas was a contractor hired by Ian Gray to educate some weaners held in the Highway Yard. Mr Thomas advised that about 250 weaners held in the yards were in BCS1 and that there was no feed close by or in paddocks close to the yard.

⁶⁵ Agnote - volume 2

Mr Thomas advised that on arrival 2 dead weaners were present and about 20 of the 250 animals were subsequently trampled during education. Mr Thomas advised that over the two week period he was there, there were periods where the weaners were not fed except every 3 days and that the downers were not given food or water.

Mr Thomas also advised that Mr Gray was told of downer weaners, yet they were not euthanised by Mr Gray, instead they were left in the sun for days. Mr Thomas' observations were corroborated by Messrs Parker and Walters who were assisting at the time.

6. During 2009 who was responsible for ensuring that adequate food and water was and is supplied and available to cattle at CDU properties at or near Mataranka and including:

❖ **What was the process in place to assess the needs of the cattle for feed and the sufficiency of pasture or the need for supplementary feeding? How often during 2009 was an assessment made?**

❖ **What budget was allocated for the purchase of cattle food for CDU's Mataranka properties as at 01/01/2009 and was that budget allocation altered during 2009?**

Response by CDU: (3.6) In relation to question 6, the University advises that responsibility for feeding and watering cattle at Mataranka Station lies primarily with the Station Manager, who may delegate tasks to station staff, teaching staff and students. Cattle are observed every second day during the dry season when station staff visit bores to start the pumps. During these visits, general observations are made on the condition of stock and the availability and adequacy of forage. At the same time, loose lick urea supplement is delivered to the paddocks. Later in the dry season the urea supplement is changed from loose lick to block to avoid or reduce potential toxicities. Blocks are checked during bore runs to determine whether new ones need to be placed.

OMBUDSMAN COMMENT: The suggestion that cattle are observed every second day, conflicts with the Station Hand and other CDU employees' recollection of events.

In interview Ian Gray when asked how often cattle were observed in 2009 during the dry season he said close to four times a week. However in Ian Gray's response to the *Stockwell Report* he stated he fed cattle daily which would indicate that cattle were observed daily. As records were not kept by Mr Gray this information can not be verified. It can however be subject to some scepticism given the state of the cattle when seen by the DOR and Animal Welfare inspectors in September and October 2009.

On interview the only person who could verify this response was Mr Ian Gray. I do not accept his information about how frequently he assessed the cattle in light of the information from other witnesses.

If it was altered give details of:

(a) When the budget was altered and how it changed?

(b) Who authorised the alteration?

(c) Who was the person, and that person's position that had authority to purchase or order stock food at the CDU Mataranka properties?

Response by CDU: The budget allocated for purchase of cattle feed in 2009 was \$142,000 (stockfeed and supplement see B6-1). When it became evident that some cattle were in poor condition (September 2009), the Vice-Chancellor made it clear to management staff that budget should not be a constraint when purchasing necessary feed supplies for livestock in this situation and no budget limits were set. The Station Manager is the individual authorised to purchase feed for cattle. As a result of the need for additional feed beyond the budget allocation for Mataranka in 2009, a total of \$270,625 (see B4-1) was spent by the University in an effort to maintain the body condition of cattle and reduce suffering and loss. Purchases of horse feed were authorised by the Team Leader for the Agriculture and Rural Operations team.

OMBUDSMAN COMMENT: As previously stated only \$77,590.00 of the feed budget had been spent by the end of August 2009. This amount is about half of the annual budget with only 4 months left to the end of the year, with the wet season approaching. Whether the 2009 budgeted amount was sufficient is another issue identified by my investigation. Whilst there were more cattle present in 2009 the amount allocated was much less than 2008 (\$191,156.30) and 2007 (\$175,546.64). There is also no certainty, given the lack of records, that all purchases were for Mataranka nor that what was purchased was actually given to the cattle at Mataranka Station.

7. Attached to this Notice are photographs of cattle, allegedly cattle belonging to CDU and situated at CDU property near Mataranka in about September 2009. Does CDU admit or deny the authenticity of these photos and/or that they were taken at Mataranka Station of CDU in about September 2009?

Response by CDU: (3.7) In relation to question 7, the University does not know whether the photographs were taken at Mataranka Station around September 2009.

OMBUDSMAN COMMENT: The response is evasive. I conclude that CDU does not deny the authenticity of the photos. I am satisfied from other witnesses that the photos are authentic and were taken at Mataranka Station in September 2009. Further, in support of my view I noted that on 1 February 2010 CDU posted on their internal *News Room* site the following relevant information under the heading of *Mataranka Station Claims*: (extract) *'The images were taken toward the end of the Northern Territory dry season in 2009 when a small proportion of the Station's 4500-strong herd were found to be in extremely poor condition. The animals' state was caused by the prevailing environmental conditions and calving out of season. Some of the problems experienced by the animals, however, were due to poor herd management and CDU deeply regrets this'*.

8. In about September 2009 were there present at CDU's property at Mataranka any cattle in similar condition to those in the photos? If so, describe how many and why they were in a condition similar to that in the photos?

Response by CDU: (3.8) In relation to question 8, the University does not dispute that there were cattle in similar condition to those in some of the photographs attached to the Notice of 4 February. The exact number of cattle in this condition has not been established. In the *Stockwell Report* (A1-3) it is noted that 424 cattle were returned to

Highway Paddock. Of these it is estimated that 40-60 (less than 2% of the Mataranka herd) had a body condition score of one, with the remainder in the higher Body Condition Scores⁶⁶. These cattle were in this condition because they had not been sold and removed from the station as intended due to a failed sale, and had calved out of season, contributing to a rapid decline in body condition. This situation may have been exacerbated by the cattle being held in a single paddock for too long.

OMBUDSMAN COMMENT: In documents provided by CDU it is noted that there were 424 emaciated cattle found by Animal Welfare inspectors in a paddock in September 2009. This equates to approximately 9.42% (424 from a herd of 4500) of the stock held at Mataranka in 2009. The lack of records is as much an indication of mismanagement as is the condition of the cattle and horses.

Reading the '*Stockwell Report*' (dated 10 November 2009) in its entirety did not allay my concerns about the situation at Mataranka Station. CDU appear to be mistaken about the effect of the *Stockwell Report*, quoting one observation out of context.

9. On 8 October 2009 CDU Pro Vice-Chancellor Don Zoellner wrote in part that we are all distressed by the state of some of the animals. Has the situation concerning the state of some of the cattle held in Mataranka changed since 2009? What processes and procedures are now in place?

Response by CDU: (3.9) In relation to question 9, the University advises that since 2009 the situation concerning all cattle at Mataranka Station has changed. Between September and December 2009, due to the circumstances already outlined, the only management option with regard to the cattle in question was to maintain their body condition or slow the rate of decline in their body condition until the onset of the wet season. Since the onset of the wet season the vast majority of cattle are in a much better condition (see attachment A4-3 for an independent assessment of stock as of February 2010) with the remainder improving steadily.

The processes and procedures that are now in place to improve the management of Mataranka Station include the following:

- The actions taken since September 2009 and the primary processes and procedures now in place are summarised in attachment B9-1, '*Summary of Actions at Mataranka Station from September 2009*'⁶⁷. The first listed action in attachment⁶⁸, an early muster, commenced during the week beginning 8 February 2010. During this muster 98 calves were weaned and 92 were branded and returned to their dam, being too small to wean. The dams of the weaners will regain their body weight prior to the end of the wet season. The 92 calves returned to their dams will be weaned in April and the dams likely sold at that point.

⁶⁶ BCS see Page 281 of this report

⁶⁷ Summary of Actions at Mataranka Station from September 2009 Volume 2

⁶⁸ The first listed action attachment B9-1 Volume 2

OMBUDSMAN COMMENT: Whilst initially accepting that in February 2010 cattle were improving, in May and June 2010 poor condition cattle were again reported to my Office and photographs provided in support of these new complaints. That cattle would regain their body weight/condition prior to the end of the wet season was expected; it would seem however that problems continued into the middle of this year.

I therefore sought assurances from the Vice Chancellor that the condition of cattle would improve and that evidence of this improvement be provided to me by the end of September 2010. The expectation was that cattle would be in BCS3 or better. On 19 July 2010 the Vice Chancellor sent me correspondence (advice of three pastoral industry experts) advising that this request is not a realistic or achievable BCS for the cattle at Mataranka Station that currently have a BCS of 1.5 to 2. I therefore sought evidence that the cattle held at this station were improving. I have since been provided with some reports from the new manager at Mataranka Station and with a reassurance from the Chairperson of the Mataranka Station Advisory Committee that considerable improvement has occurred.

- Early pregnancy testing of cows will take place in April 2010 to enable management strategies to be put into place in time to prevent a recurrence of the situation in 2009, where cattle calved out of season and lost significant body condition as a result. Cattle found to be 6 months or more pregnant (in a 9 month gestation period) will be sold providing they are not too advanced in their pregnancy to be trucked. This will significantly reduce the problem of out of season calving (April to August) on Mataranka Station in 2010. Pregnant cattle unable to be trucked will be segregated into a small mob and more intensively monitored during and following calving. Should it be necessary, these cows will be supplementary fed in addition to the existing supplement regime.
- Mr Ian Gray was reinstated to his position with a number of conditions and new processes in place to improve supervision and support of him in his role as Manager of Mataranka Station. Mr Tim Biggs, Team Leader Primary Industry and Community Services, Katherine, communicates with Mr Gray regularly and monitors his performance. A Management Coach has also been contracted to work with Mr Gray to improve his management skills, in particular communication skills and people management. A Pastoral Consultant, Mr Garry Riggs, owner of Lakefield Station, has verbally agreed to take on an advisory role to Mataranka Station for six months initially, with an expectation that this will continue through 2010.
- Additional staff to support Mr Gray, a HEW 3 Station Hand and a HEW 4 Underseer, have been or are in the process of being recruited so that Mataranka has increased human resources for management of stock. Casual station hands have been employed in the interim until the permanent recruitment has been finalised.
- The University will establish a Mataranka Station Management Advisory Committee (see attachment B9-2⁶⁹) to oversight operation and planning for the Station in early 2010. The Committee will consider budgetary, operational, livestock management, community and industry engagement issues of relevance to the Station and will report to the Vice-Chancellor. The proposed operation of the Committee is outlined at attachment B9-3⁷⁰.

⁶⁹ Mataranka Station Management Advisory Committee.

⁷⁰ Proposed operation of the Mataranka Station Management Advisory Committee .

OMBUDSMAN COMMENT: It was not possible for this Committee to oversight operation and planning for the Station in early 2010, as this Committee did not hold its first meeting until June 2010. The proposed timetable for its future meetings is approximately every 2 months. By 20 September 2010 it had its second meeting.

- The University will undertake a comprehensive external review of Mataranka Station in early 2010, including further independent assessments of numbers and condition of cattle and horses. The Draft Terms of Reference for the Review (B9-4) include assessment of the current state of Mataranka Station from both academic and operational viewpoints with a view to positioning it strategically for the future. A primary requirement will be to critically review the business case as a teaching and research venue with a focus on financial analysis and continued viability. The Review will also identify opportunities for academic and research related initiatives and recommend appropriate strategies and consider other matters identified as pertinent at the time of the Review.

OMBUDSMAN COMMENT: Nothing produced to this investigation has indicated that the review has started over 2 years since the CDU Council requested such a review and it certainly had not commenced by August 2010.

Additional to these permanent improvements, University senior management, including the Vice-Chancellor, will continue to oversight the situation and provide whatever support is necessary until new arrangements are in place and station management demonstrates industry best practice.

10. What training is provided to staff who are legally allowed to use a firearm to perform euthanasia on cattle?

Response by CDU: (3.10) In relation to question 10, the University advises that staff who are legally allowed to use firearms at Mataranka Station have significant experience in proper techniques used to euthanise cattle. Animal Welfare training (conducted on 17 December 2009 and 2 February 2010) has provided documentation on the appropriate and acceptable techniques for euthanasia of livestock (see attachment⁷¹). In both training sessions the techniques were discussed using illustrations from the *Model Code of Practice for the Welfare of Animals – Cattle*.

OMBUDSMAN COMMENT: It appears from documents provided by CDU that no training was provided to staff in the technique to euthanise cattle or horses prior to the 2009 welfare complaints. An illustration of where to shoot cattle was provided to staff on 17 December 2009 and 2 February 2010 in animal welfare training provided by Dr Heim.

The illustration and welfare training referred to above was conducted 3 months and then 5 months after complaints were made alleging animal neglect. There is no mention or evidence provided to my Office that animal welfare training took place prior to these two dates.

⁷¹ Volume 2

11. How often were the cattle at Mataranka inspected or assessed for veterinarian treatment or for food or water supplement?

Response by CDU: (3.11) In relation to question 11, the University advises that as outlined in 3.6, most cattle in paddocks were observed every two days during bore/supplement runs. Livestock kept in yards or holding areas are observed daily with respect to need for veterinary treatment, food or water.

OMBUDSMAN COMMENT: In an application for *'Ethics Approval for Projects Involving Animals for Research or Teaching'* (November 2008) Dr Heim wrote that cattle are observed at least weekly and horses are generally observed daily, but may be observed weekly during the wet. This does not support that cattle in paddocks are/were observed every two days during bore/supplement runs.

The evidence obtained by this investigation suggests that observations of cattle in paddocks and daily observations of holding areas/yards were not conducted prior to September 2009. If they were there are no records of the assessment or observations which could have been referred to in supervising or monitoring feed, the Station Manager or the condition of the cattle. This is the most favourable inference to draw, because the alternate inference is to accept that the cattle were inspected daily in which case the neglect of them would be not gross negligence but deliberate neglect.

12. Is climate forecasting undertaken to assist in determining the available food supply to cattle? How often is climate forecasting undertaken and who is advised?

Response by CDU: (3.12.) In relation to question 12, the University advises that climate forecasting is not undertaken to assist in determining the available food supply to cattle at Mataranka Station. However, DRDPIFR has been engaged (B12-1 and B12-2 attachments⁷²) to assist in developing a management plan for Mataranka Station using other metrics to assess carrying capacity⁷³. One of those metrics is seasonal rainfall patterns, which strongly influence forage availability.

OMBUDSMAN COMMENT: No request was made to the department to do this assessment until October 2009.

13. At any time during 2009 did CDU purchase and/or make available for cattle at Mataranka Station stockfeed for cattle? If so what quantity, what type of food and on what dates was the stockfeed delivered or available?

Response by CDU: (3.13) In relation to question 13, the University advises that it did purchase and made available to cattle at Mataranka Station adequate stockfeed. A total of \$270,625 was spent on stockfeed in 2009 (see attachments B4-1 and B9-1), of which \$193,035 was spent between September and December 2009. Delivery of feed to stock was the responsibility of the Station Manager and Station Hand Ms Nichola Walters. Ms

⁷² DRDPIFR and CDU Management Plan for Mataranka Volume 2

⁷³ Stocking paddocks according to accurate assessments of long-term and short-term carrying capacity is critical to animal productivity (per area and per head); long-term land and pasture condition; and productivity and enterprise profitability.

Nichola Walters, who is no longer in the employ of this University, is understood to have kept a diary in which she may have logged the dates and amounts of feed given to cattle. The University does not have possession of this diary. The University does not have any other detailed log of quantity, type or dates that feed was delivered, other than the records of purchases and the evidence that feed purchased has been used.

OMBUDSMAN COMMENT: Ms Walter's diary was viewed during interview. There was very little reference to feed being given to cattle. The evidence is that feed was purchased after the intervention of the Vice Chancellor and amounts (\$193,035 over budget) were purchased. Whether that feed was provided to stock most in need of it in a timely fashion cannot be determined given the lack of records. The fact that CDU management had no records to produce apart from invoices for purchases shows a gross lack of supervision, risk management and financial accountability. There is no record of when, if, or what quantities of feed were given to the cattle.

14. According to the NT Government Agnote, property managers must have the knowledge and skills to develop effective management plans. What knowledge, skills, training or qualifications did the property managers of Mataranka Station have throughout 2009?

Response by CDU: (3.14) In relation to question 14, the University advises that the knowledge and skills of staff responsible for developing effective management plans for Mataranka Station, Mr Ian Gray and Dr Brian Heim are outlined in the attached curriculum vitae and position selection criteria (attachment A20-1 and A20-2).

OMBUDSMAN COMMENT: No evidence was provided to my investigation to support that Management Plans existed prior to September 2009. I have not attached the curriculum vitae of Dr Heim and Mr Gray.

15. The NT Government Agnote highlights that when all options have been exhausted and stock are in very poor body condition that it is necessary to increase surveillance to assist animals that are short on feed and water. Was surveillance carried out on stock at Mataranka at any time after 1 June 2009 and, if so, with what frequency? As a result of surveillance what action was taken by CDU's staff to assist cattle who were short of feed or water?

Response by CDU: (3.15) In relation to question 15, the University advises that stock were monitored and action taken as outlined in responses 3.6 and 3.11.

OMBUDSMAN COMMENT: It is not my view that stock were monitored and action was taken prior to September 2009 that was inline with the NT Government Agnote. The diary entries provided by CDU staff and interviews conducted with staff responsible for the welfare of animals does not support that surveillance of animals was carried out as suggested. In the absence of records and especially relying on the condition of the cattle in September and October 2009, if surveillance was done frequently, nothing appears to have been done as a consequence of that surveillance to assist the cattle until after September 2009 when the DPI intervened.

16. 1) What was the number of cattle at Mataranka Station on each of the following dates:

1.1 1 January 2009

1.2 30 June 2009

1.3 31 December 2009

1.4 1 February 2010

Response by CDU: (3.16) In relation to question 16(1) the University advises that precise records of numbers of cattle at Mataranka Station at the dates specified are not available. As of 31 December 2008 the stock at Mataranka Station was assessed as 4,124 head (see attachment A12-1). The estimated number of cattle at September 2009 was 4500 (Station Manager's estimate, includes calves and weaners). The muster scheduled for October by the Auditor General was postponed due to the additional stress this might place on already stressed animals. As of 2 February 2010, due to sales in 2009, a conservative estimate of cattle numbers on Mataranka Station was 3900, comprising 2200 breeders, 600-800 unbranded calves, 130 bulls, 700-800 steers and heifers. A muster is currently (February 2010) underway and more accurate numbers will soon be available.

OMBUDSMAN COMMENT: Dr Heim on 13 January 2009 made application to the AEC for 'Application for Ethics Approval for Project Involving Animals for Research or Teaching'. On page 7 of this document Dr Heim wrote that mustering at Mataranka Station is generally accomplished on a weekly schedule.

In the *Mataranka Station Short Term Management Plan 2009*⁷⁴ there are several references to the mustering of cattle. For example:

In Crater Paddock (which held 290 cattle) and Bernies Paddock (which held 220 cattle) it is documented that these two paddocks had a second round muster, no date of when this occurred is listed in this plan.

Hill Paddock (which held 200 cattle) was mustered for pregnancy diagnosis in September 2009. The report indicates that the heifers from this paddock were in average to good condition with an estimated BCS of 2.5+. The author of this document wrote '*which is a concern (should be better) and thus, will be monitored closely as they calve out*'.

The cattle in Toms Paddocks 1 & 2 are documented that they will be mustered on 13 October 2009. The Holding Paddock is to be mustered on 9 October 2009.

In Ammo Paddock the management plan indicates that the bulls in Ammo Paddock will be mustered in early November.

In the BOS minutes of 27 November 2009 there is reference to Moray Hill '*mustered*' and Ammo Paddock to be '*mustered in the next week*'.

In an email from Grant Parker to Tim Biggs dated 4 December 2009 (09:34) under the heading of 'accomplished' is the following:

⁷⁴ Mataranka Station Short Term Management Plan - Full copy Volume 2

- Ammo paddock has been mustered and drafted 4 ways. Bigger weaners, smaller weaners, cows and calves, bulls;
- Bulls have been educated over the past two days to ensure ease of handling when introducing them to the herd for the breeding season. All bulls have been returned to Ammo Paddock;
- Smaller weaners were moved out to Desert Paddock as this is where the majority of the smaller weaners have ended up;
- Bigger weaners have been moved into Parnell;
- Cows and calves moved into Tsumengeri;...

It would appear from the information provided by CDU that musters did take place in October 2009. My enquiries of the Auditor-General revealed that each year the Auditor-General arranges for CDU to provide to him the number of cattle at the station, how that number was ascertained, what was the value of the cattle and how was that value established. On occasion the Auditor-General has arranged for an observer to be at the muster.

2) During the period 1st January 2009 to 1st February 2010 how many cattle (if any) at Mataranka

- 2.1 Were euthanised**
- 2.2 Died other than by being euthanised and of what cause(s)**
- 2.3 Were sold or relocated to places other than Mataranka Campus**
- 2.4 Gave birth to calves**
- 2.5 Were brought to Mataranka from elsewhere?**

Response by CDU: (3.16) In relation to 16(2):

A precise record of euthanised cattle at Mataranka Station in 2009 does not exist. No staff reported euthanising any cattle following Dr Heim's directive of 2 October to all Katherine and Mataranka staff.

Estimated numbers of euthanised cattle are mentioned from various sources as follows:

- Ms Nichola Walters (Station Hand) indicated to Mr Tom Stockwell that 15 cattle were euthanised between 30 September and 8 October 2009 (see attachment A1-3).
- Mr Ian Gray reported that he euthanised six cattle in 2009, five cows and one weaner. [NOTE: In Ombudsman interview Mr Gray advised he had shot 8 animals - 7 cows and 1 bull. In a subsequent document provided by Mr Gray on 2 July 2010 he explained this discrepancy of information as follows – When interviewed by the Ombudsman I did not have actual records at my immediate disposal and thus, when the Ombudsman asked how many animals I had destroyed/shot, I informed Ombudsman to the best of my recollection. One bull, and one cow were destroyed as part of a feral animal eradication programme in addition to the euthanasia of five cows and one large female 'weaner' which I classified as a cow in the information provided to Ombudsman. Put simply, I euthanised 6 head and destroyed 2 feral animals].
- In the DRDPIFR report (attachment A2-4) it is stated that there were 18 animals shot due to the effects of starvation in the past 11 days (13-24 September) and this doesn't include weaners dying in Tom's Paddock.

No precise record of cattle at Mataranka Station that may have died of other causes is available. In an extensive pastoral situation it is nearly impossible to identify deaths at the time that they occur. The large size of paddocks coupled with tree cover and other foliage often makes it difficult to identify dead animals. If cattle die in a frequented location such as a watering or supplement point, they would be recorded.

OMBUDSMAN COMMENT: There should be records of destruction, deaths, births and sales in Mr Ian Gray's *'daily diary'* which is referred to in Dr Heim's email to the EO AEC dated 8 September 2009 (17:57). In interview Mr Gray advised he did not have records with him at that time and would supply documents at a later date. He failed to do so.

It is incomprehensible that records were not kept of animals being euthanised. Firstly the *Australian Code of Practice for the Care and Use of Animals for Scientific Purposes* requires that humane killing/euthanasia of animals must be performed only by personnel approved as competent by the AEC. Without records of who was euthanising animals that requirement could not be met. Secondly the university as a commercial operation would need to know the number and value of animals held at the property to assess the viability of the venture as well as to assess the performance of the Station Manager. Good management practice would demand that the number of animals dying and why was monitored.

There were several documents provided to this investigation that document deaths up to 1 February 2010.

There are also notations within informal records (ie personal notebook of Station Hand). The below is an example and not a comprehensive list and these figures take no account of animals who died in paddocks from starvation, predators, or were trampled:

30/09/2009 – 08/10/2009 15 cattle euthanised

Dates unknown – DPI euthanised 10 cattle.

13/09/2009 – 29/09/2009 – 18 cattle euthanised

15/09/2009 – 08/10/2009 – 32 cattle euthanised

3 cattle died cause unknown

16/11/09 - Tim Biggs Progress Report <10 adult and young cattle euthanised due to poor condition and unable to rise

Photographs taken and submitted to this investigation depict dead cattle next to watering points, in paddocks, yards and several carcasses at the tip. These deaths were in a *frequented location* and they should have been recorded, including times that CDU corporate firearms were used to destroy animals. They were not recorded in CDU's records despite the information in the response. Professor Wasson when being interviewed by the Ombudsman Investigators said *'We know how many were shot'*. He was referring to cattle. CDU in this response can only make an estimate. This discrepancy has not been pursued.

In an extensive pastoral operation it is accepted that animals will die of various causes. An acceptable death loss may range from 1 percent to as high as 5 percent of the total herd depending on the management of the herd, seasonal conditions, disease outbreaks,

and many other factors. Having said that, deaths are often assumed when animals do not come out of paddocks during mustering, but it is not uncommon for less than 100 percent of animals to be mustered out of paddocks in the Top End each time a muster is conducted. Even with the assumption of death, cattle may have escaped through fences that were down or not been mustered and may show up several years later having finally been caught in a muster. These lost animals are assumed to be dead and included in the annual death loss.

At present, the entire herd at Mataranka Station is not individually identified, though this is a goal. In the NT, most properties do not individually identify all animals as the practice is not yet a regulatory requirement. Only animals that are leaving a property are required to be individually identified prior to departing, a practice that the University complies with. In future, when more animals have been identified with electronic identification devices, it will be easier to record additions and losses to the herd within some reasonable degree of accuracy.

OMBUDSMAN COMMENT: I cannot agree that the University complies with the practice that cattle leaving the property are individually identified prior to departing. On 25 March 2010, Station Manager Mr Ian Gray trucked cattle from Mataranka Station without identification and was issued with a DOR 'Notice' for failing to have the cattle NLIS tagged. This is an offence under the *Livestock Act*. This requirement enables identification of the origin and transit of cattle so that if there is any outbreak of disease the source and region of its origin can be quarantined. To transport cattle, without tagging, risks exposing the whole cattle industry of the NT to boycotting of purchases and was irresponsible.

Four months later on 24 July 2010 cattle from Mataranka and KRC were transported to Phoenix Park. The University were working on the understanding that it had transported 144 tagged head of cattle. After scanning at Phoenix Park thirteen were missing from the scan, this information was apparently not passed onto the University. On 28 July 2010 CDU were issued with an infringement notice pursuant to the provisions of the *Livestock Act*. On this date University cattle were transported to the Bohning Yards at Alice Springs. Of those trucked, 13 failed to have NLIS tags. 143 cattle arrived at the yards, one cow was missing. 4 had no evidence of a tag ever having been attached.

On 4 October 2010 information was provided by CDU that revealed that the Station Manager (Mr Riggs) and the Vice Chancellor were unaware of the issuance of this infringement notice.

Best estimates of stock lost in 2009 at this stage are as follows:

- Ms Walters stated in the *Stockwell Report* (A1-3) that one cow died on the way from Wire Lane to Highway Lane yards in July 2009 and 32 deaths were recorded between 15 September and 8 October 2009.
- Mr Tom Stockwell speculated in his report (A1-3) that for cattle deaths *a figure of 100-200 seems probable. This will not be known until mustering figures are recorded in 2010.*
- Mr Ian Gray found two cattle dead in 2009 and reported that one cow died while he was in the process of replacing a uterine prolapse following calving.

Records (B16-1) indicate that a total of 870 head of cattle (mixed ages and sexes) were sold between 1 January 2009 and 1 February 2010 (844 between October 2009 and February 2010).

Due to the stressed condition of some cattle at Mataranka towards the end of 2009, a complete second round muster of stock was not completed. It is therefore not possible to give an accurate number of calves weaned, although it is conservatively estimated that at least 400 steers and 380 heifers were weaned. With the exception of stud cattle, in extensive beef cattle operations there are rarely records kept on births because cattle are not frequently observed on an individual basis. Pastoralists rely on records of how many calves were weaned in relation to how many breeding animals were present. This is termed the weaning rate and varies significantly from station to station and event within different paddocks.

The Mataranka herd is a closed herd except for bulls brought in from Katherine Rural Campus which is considered a related property. No outside stock is agisted at Mataranka Station.

17. Has CDU been issued with warnings, fines or court action in relation to failing to meet the legal obligations of the Animal Welfare Act? If yes, please describe the warning, fee or court action taken or threatened and the surrounding circumstances?

Response by CDU: (3.17) In relation to question 17, the University advises that it has not been issued with warnings, fines or court action in relation to failing to meet the legal obligations of the *Animal Welfare Act*.

OMBUDSMAN COMMENT: There may have been confusion in responding to this question. I made no reference to *'formal or written warnings'* in my question to CDU. In response to receiving the draft report the university (1 October 2010) reiterated that it was not issued with any formal warnings, fines or court action and that verbal comments made by DOR officers to the AEC do not constitute warnings.

What I was seeking was whether any consideration to prosecution was brought to the attention of the university. Such as:

On 7 September 2009 (email) the Executive Officer from the AEC spoke with Brian Radunz the Chief Veterinary Officer (CVO) from DPI who was *'threatening prosecuting CDU for animal neglect at Mataranka Station'*.

On 16 September 2009 (08:40) the EO emailed AEC member Susan Hutton *...Mataranka Station was reported to the Animal Welfare Branch again. It was inspected last week and CDU was going to be prosecuted given it had happened a second time. So fireworks went off at CDU all the way to the top and practices have changed. Part of getting things right, I suggested the AEC go down asap and do the inspection upon Bob's (Wasson) return from rec leave. As it turns out, the inspectors were a little gung ho and did the inspection without anyone there and came to the conclusions without proper research or understanding of the matter jumping to conclusions.*

The DOR inspection reports of 5-25 September 2009 also make reference to prosecution.

On or about 25 September 2009 Ms S. Fitzpatrick from DPI is reported⁷⁵ by Dr Heim that the CVO has stated to him that *'as long as we are providing feed and water he has no reason to pursue further action'*.

On 29 September 2009 (12:45) the AEC EO emailed another AEC member *...In confidence..., it has been damage control for weeks. It was so bad Barney was being cc'd into communications and I'm having conversations with the senior vet of the govt pleading not to prosecute yet. Then the President of the Cattlemens association, him being worried this will put the NT cattle industry into disrepute. There's been personality clashes, over zealous animal welfare officers with guns, a legacy of mismanagement, many conversations with the stock inspectors...*

On 8 October 2009 (04:23pm) Dr Heim emailed the Vice Chancellor, Mr Don Zoellner and Professor Robert Wasson, the email was titled Urgent re Mataranka Station: *I have been contacted by Brian Randunz, NT Chief Veterinary Office. He advised that Sue Edwards, partner of Toby Gorringer who is the lecturer at MS, has contacted a Minister including sending photos of emaciated cattle. The Minister then contacted local govt who have mentioned prosecution. There is potential media fallout. How do you want to respond if contacted?*

On 13 October 2009 the first two AEC inspection reports were sent to the Vice Chancellor. On 14 October 2009 (12:29) an email was sent from the AEC Executive Officer to Professor Robert Wasson: *I've just had a long conversation with Mary Gearin-Smith, Senior Animal Welfare Officer/Manager. She requested a copy of the AEC Mataranka Facility Inspection report 2009. I was surprised to hear from her and continued to ask many questions, as I was under the impression this matter of prosecution had already been dealt with by Department of Primary Industry and their inspectors. She told me a complaint had been received in Minister Rob Knight's office and the Darwin Animal Welfare Branch has been asked to formally investigate. They now seek the AEC report as evidence to form judgement to prosecute or not. They already have copies of the inspection reports from the Department of Primary Industry. I asked where the decision to prosecute comes from? She told me the decision is made by the Minister, once all evidence is gathered. I will forward the report again for your comment once I've made the amendments from Deborah and confirmation from Brian which recommendations are being actioned.*

On 15 October 2009 Professor Wasson sent a memo titled *Animal Welfare at Mataranka Station* to the Vice Chancellor in part it is written *'...EO was surprised to hear from Mary (Gearin-Smith – DLHGS) and enquired about the chain of command and asked why this matter was being raised again. EO said s/he was under the impression this matter had already been dealt with by the Department of Primary Industry and their inspectors and the matter was no longer a case for prosecution. Mary told EO a complaint had been received in Minister Rob Knight's office and the Darwin Animal Welfare Branch has been asked to formally investigate the matter. The Animal Welfare Branch now seeks the AEC report as input to form a judgement about enforcement. The Animal Welfare Branch already has copies of their inspection reports from the Department of Primary Industry. EO asked who makes the decision to prosecute? Mary replied the decision is made by the*

⁷⁵ Email of Brian Heim to Vice Chancellor, Mr Scott Snyder and Mr Don Zoellner 25.09.2009.

Minister, once all evidence is gathered. In addition, in a further conversation, EO was advised by Mary Gearin-Smith that prosecution is unlikely but instructions are likely’.

In an email from the Vice Chancellor to CDU and AEC staff on 27 January 2010 (06:03pm) at point 7 the Vice Chancellor wrote ‘We should also note that the DOJ contacted the University in December 2009 regarding the prospect of serving a notice and I believe both myself and Scott Snyder spoke to the Officer(s) involved. I was told that due to the absence of a key person...DOJ could not take further action at that time and were still in fact considering what if any action should take place...’

On or about the 28th January 2010 AEC member Deborah Brackenreg in response to a memo submitted by Dr Heim (13 January 2010) responded: That the horses got to this state in the first place is a chargeable offence and if they are not fed and maintained they will end up in the same condition.

18. The NT Government Agnote states that the Animal Welfare Act places a clear obligation on pastoralists to implement drought management strategies which address the welfare of animals. What drought management strategies did CDU have in place during 2009?

Response by CDU: (3.18) In relation to question 18, the University advises that there was not a drought in the Mataranka region in 2009 so a drought management strategy was not in place. The Ag Note attached to Dr Heim’s 2 October message was provided to staff on the advice of DRDPIFR inspectors, to illustrate procedures that were appropriate when conditions resulted in downer animals. Cattle in low body condition on Mataranka Station exhibited similar states as would be encountered in drought conditions. There was in fact sufficient available feed at Mataranka Station during this time, but the out of season calving and the ability of cattle to access that feed were the issues, not drought. The Ag Note was also provided to staff to remind them of duty of care responsibilities under the *Animal Welfare Act*.

OMBUDSMAN COMMENT: Whilst the Vice Chancellor has responded to my question that there was not a drought in Mataranka in 2009, the Minutes of CDU’s ‘Finance, Risk & Review Committee Meeting 06-09’ (page 2 of 237) point 2.2 records: *Mataranka Station - The Vice-Chancellor advised the committee that problems have arisen with the welfare of a small number of livestock on Mataranka Station. The on-going drought in the region has reduced the level of available feed and water thus placing the livestock under stress this has been compounded by aspects of the management of the cattle herd over the past year...*

The same information was provided at the Council Meeting dated 09/11/2009 meeting 04/09 (page 63 of 183) which at point 1.2 documents the exact same information provided above.

I am unsure of why the Committee and the Council would record that the Vice Chancellor had advised them that there was an *ongoing drought* in the region when the Vice Chancellor advises me that there was no drought.

In addition, Mr Ross Springolo the Director, Strategic Planning, Projects & Review at CDU on 22 October 2009 (15:32) emailed Susan Cooper and others including Brian Heim, he wrote: *Each year the Auditor-General attend the bang tail muster of the livestock at Mataranka to determine the quantum of biological assets held. This year the livestock are under stress due to the effects of an adverse climate that has reduced the availability of feed and water across the station. Senior staff from the University have been working closely with the Department of Resource Development, Primary Industry, Fisheries and Mining to ensure the welfare of the livestock is at an acceptable standard. We believe that a muster at the station this year would place the livestock under additional stress that may compromise their welfare. To this end a bang tail muster will not be undertaken this year and is not likely in the near future until there is an improvement in the environmental conditions supporting the livestock...*

And lastly, in a document dated 9 February 2010 it is written: *...An immediate investigation by the university found that some animals were in alarming condition as a result of the prevailing environmental conditions...*

So what were the conditions in Mataranka in 2009, was there a drought, or adverse climate, or environmental/prevailing conditions, that would account for the situation in Mataranka. No evidence has been provided that would suggest the station was suffering from drought conditions and my enquiries of the Australian Bureau of Meteorology records confirm that drought conditions at Mataranka and Katherine were not present in 2009.

In response the university (1 October 2010) stated the comment of *ongoing drought in the region was not meant to imply drought in the meteorological sense, but drought such as it experienced annually in the Top End during the dry season where there may be no rainfall for 6 months.*

19. Has the Department of Primary Industries specified any action to be taken by CDU to manage livestock? If so give full details of those DPI specifications or any recommendations and describe what CDU has done to satisfy any DPI specification or recommendations?

Response by CDU: (3.19) In relation to question 19, the University advises that the specific actions recommended by DRDPFR inspectors are contained in their reports (attachments A2-2 to A2-6). The actions taken by this University in response to those recommendations are outlined in DRDPFR reports attachments⁷⁶ and in response above.

20. Pro Vice-Chancellor Don Zoellner has written that CDU is taking the matter very seriously and is dedicating significant resources to resolve the issue. What are the significant resources being applied to resolve this issue?

Response by CDU: (3.20) In relation to question 20, the University advises that as stated in response 3.2, whatever financial resources were required to make feed available to cattle in poor condition, were made available. Records (attachment B4-1) show that in

⁷⁶ Recommendations by DRDPFR found within this report.

2009 a total of \$270,625 was expended on feed, compared with \$191,156 in 2008 and \$175,546 in 2007.

OMBUDSMAN COMMENT: The amount spent on purchases shown above could be construed as misleading. Yes \$270,625 approximately was spent on feed in 2009, but only after complaints were received and the situation found to require urgent action. \$142,000 was budgeted for feed in 2009 which is \$49,156 less than 2008 despite an increase in the number of cattle held by over 300, at least on CDU's estimate, there being no records to confirm the numbers more accurately.

Additional human and financial resources were also applied from October 2009, including use of casual staff and contractors to assist with mustering and feeding cattle, purchase of a new tractor to enable feeding out and ongoing support from training staff during bushfires and at other times. The station was also destocked by the sale of 844 head between October 2009 and February 2010 to reduce grazing pressure and allow closer management of the remaining herd.

In addition to these practical measures, the University directed significant resources towards improving communications, seeking advice and views, and providing the focus appropriate to the situation. This included multiple visits to Mataranka and the Katherine Rural Campus by the Vice-Chancellor, the Deputy Vice-Chancellor Research and International, Senior Vocational Education and Training Managers and General Managers, the Director, Support and Equity Services, and specialist consultants.

OMBUDSMAN COMMENT: The visits undertaken by Professor Wasson the Deputy Vice-Chancellor Research and International were undertaken as Chairman of the AEC. Professor Wasson is the Chairman of the AEC who obtained the licence for Mataranka Station. The report and advice of the *specialist consultant* Mr Tom Stockwell was not adequately acted on.

21. If staff members were to complain about the condition of livestock to senior staff members, what is the process at CDU to address such a complaint?

Response by CDU: (3.21) In relation to question 21, the University advises that if staff were to complain about the conditions of livestock to senior staff members the process to address a complaint (not definitive to livestock) is as follows:

The staff member would bring the complaint to their immediate supervisor and if not addressed to the satisfaction of the complainant, he or she would then formally make the complaint to the next supervisory level. If the complaint is still not addressed to the satisfaction of the complainant, the staff member could invoke the University Staff Grievance Process (see attachment B12-1), the outcome of which is determined by the Vice-Chancellor. The complainant can appeal the decision based on failure of process or new evidence and the appeal outcome is determined by the Vice-Chancellor. If still unsatisfied, a staff member may refer the matter to a relevant external organisation.

OMBUDSMAN COMMENT: I note from the document provided by CDU that the staff grievance process was to be reviewed in November 2007. I also note that this grievance process may not have been working effectively. In support of this view I refer to the Director, Support and Equity Services Ms Elizabeth MacDonald's email to Mr Barry McKnight on 4 December 2009 (09:08): *'If you have a spare few minutes I wonder if you could please contact me. I've had a call from Toby (Gorringe) who isn't feeling very happy and believes he's being discriminated against. Before progressing matters it would be good to know what plans, if any, are in place for Tody and his future at CDU. During the weeks leading up to our visit to Katherine, Toby (Gorringe) lodged a complaint against Brian Heim on the grounds that he was being 'gagged' regarding events at Mataranka. As the complaint was against Brian and you were not in post this went to Charles who I believe held this back perhaps hoping matters might be resolved in another way. It would be good to know where we are at so that I can make the appropriate response to Toby (Gorringe).'*

In the case of the complaint about cattle at Mataranka Station, the first written complaint the University received was an email from Mr Toby Gorringe to Mr Don Zoellner on 7 October 2009 (see attachment A17-1), followed by conversations and emails to Prof Robert Wasson on 18 October (see attachment A17-3). The University was aware that other complaints had been made anonymously to Animal Welfare following the initial inspection of Mataranka Station on 4 September 2009 by the inspectors from DRDPIFR, but was not given access to those complaints.

OMBUDSMAN COMMENT: In addressing the above response and a letter to my Office dated 30 August 2010 the Vice Chancellor wrote *'... to the best of my knowledge, copies of the Department of Resources (DOR) and Animal Ethics Committee (AEC) inspection reports for Mataranka Station in 2009 were first provided to me in late January 2010...during September to December 2009 I was made aware through briefings from the Deputy Vice Chancellor Research, Acting Director VET and others of the complaints and investigations that had taken place in relation to Mataranka, but did not receive copies of the reports in question, nor did I request them'*.

In relation to the DOR reports, on 9 September 2009 the Vice Chancellor met with Dr Heim and Mr Zoellner regarding Mataranka Station animal welfare issues⁷⁷. It was agreed on this date that Dr Heim would update the DOR Vet regarding CDU actions on this matter. On 25 September 2009 Dr Heim advised the Vice Chancellor and others that DOR would conduct another inspection of stock at Mataranka Station that morning due to concerns that issues identified on 17 September were not being addressed. On 30 September 2009 the Vice Chancellor was updated on Mataranka Station issues at a meeting with Dr Heim and Mr Zoellner. On 9 October 2009 the Vice Chancellor attempted to speak to Minister Karl Hampton to provide an update on the animal welfare concerns being raised at Mataranka Station and what CDU was doing to address them, but was unable to speak to the Minister. No further action was taken to contact the Minister as the matter was being actively discussed between CDU and DOR with a view to resolution. On 28 October 2009 the Vice Chancellor was updated on issues regarding animal welfare at Mataranka Station at a meeting with Professor Webb, Dr Heim and Mr Zoellner.

⁷⁷ Reference – Chronology of Events prepared by M McKaige 2 February 2010

Documents provided to my investigation indicate that on 13 October 2009 the EO AEC emailed the first two AEC inspection reports to the Vice Chancellor.

The Livestock Monitoring Protocols developed by Dr Heim in September 2009 (attached⁷⁸) made available to staff, outline the processes for monitoring and reporting of livestock health and welfare. In Professor Wasson's email to KRC and Mataranka staff of 11 December 2009 (see attachment A19-9) he also makes clear how complaints or questions about management at Mataranka Station should be handled, including direct complaint to himself as the Chairman of the Animal Ethics Committee should a complaint to an immediate line manager not be considered to have been satisfactorily dealt with. The Vice-Chancellor in his address to all staff at KRC and Mataranka on 4 November 2009, made staff aware that he was very concerned about the animal welfare situation at Mataranka and invited staff to come to him or Professor Wasson with any complaints they felt were not being adequately addressed. No subsequent complaints from staff were received by the Vice-Chancellor.

OMBUDSMAN COMMENT: This information from the Vice Chancellor ignores a complaint on 28 August 2009 by Mr Gorringer to his supervisor, Dr Heim. It fails to mention complaints made by students, written down and on-forwarded by Ms Sue Williams a staff member. The students who were not satisfied with the response by Dr Heim were referred to the Equity and Support Unit of CDU. This investigation has not been able to chase every rabbit to its burrow. I urge the Vice Chancellor to make enquiries to find out why the concerns of the students were not addressed and how CDU's complaint procedures can be improved to ensure no repetition of the situation of the seven students making serious allegations were not acted on or made known at a level commensurate with their apparent severity. As it has transpired their complaints and concerns were justified.

22. In about October 2009 were any complaints made by a staff member/s about the condition of livestock at Mataranka and if so what was the name of the person/s making the complaint, the dates and method of complaint, and the name of the person(s) receiving the complaints, and what did CDU do in response to the complaint with respect to:

(a) The condition of the cattle?

(b) The conditions, location, or duties of the employee and any response to that employee relevant to any complaint made by the employee?

In this notice at Mataranka or CDU property at Mataranka means the Mataranka Station of Charles Darwin University.

Response by CDU: (3.22) In relation to question 22, the University advises that all complaints received from staff members about the condition of cattle at Mataranka Station are documented at attachments A17-1, A17-2, A17-3 and A17-5 (*replicated within this report*). The initial complaints were made by Mr Toby Gorringer. The first written complaint received was an email from Mr Gorringer on 7 October to Mr Don Zoellner Pro Vice Chancellor VET. Further written complaint was made to Prof Robert Wasson

⁷⁸ Livestock Monitoring Protocols developed by Dr Heim September 2009 – volume 2

commencing 13 October 2009. Mr Gorringer also made verbal complaints to Professor Wasson on 13 October 2009 in Darwin and to Dr Barry McKnight on 20 November at Mataranka Station, which were not documented. With respect to these complaints:

- a. The University was already in the process of responding to the formal investigations and recommendations from DRDPIFR from 4 September 2009 regarding cattle at Mataranka Station and as outlined in responses above. Mr Gorringer and all other staff at Katherine Rural Campus and Mataranka Station were advised of these actions in emails and memos from Dr Heim and Prof Wasson. In response to Mr Gorringer's complaint to Dr McKnight on 20 November at Mataranka Station, Dr McKnight asked Mr Gorringer to provide the cattle in question with whatever he (Mr Gorringer) thought they required in terms of hay and lick.
- b. The University advises that the conditions and duties of Mr Gorringer have not been altered in any way on the basis of his complaint. Mr Gorringer's primary position is as a VET lecturer (see attachment A23-1) and he remains in this position. Mr Gorringer has lived at Mataranka Station in fully subsidised housing while performing those duties and assisting in station management from time to time. In 2008 Dr Heim and Mr Tim Biggs discussed with Mr Gorringer a proposal to move Mr Gorringer to the Katherine Rural Campus (KRC) in order for him to have more support for his position as VET lecturer. At that time Mr Gorringer declined the offer.

Following recommendations from the CDU Animal Ethics Committee (attachment A1-2) that additional human resources were needed at the station to adequately care for cattle, it became necessary for Mr Gorringer to vacate his house so that a full time station hand could be employed and housed there. On 11 October Dr Heim gave Mr Gorringer a letter (see attachment A23-6) asking him to relocate his residence from Mataranka Station to KRC for the reasons outlined. The house at KRC is a newly refurbished, fully subsidised residence and removal costs have been covered by the University. Following this letter the Vice Chancellor and Professor Charles Webb met with Dr Heim and discussed the proposed move of Mr Gorringer to KRC. The Vice Chancellor and Professor Webb acknowledged that while the reason for the decision to move Mr Gorringer to Katherine was sound, that Mr Gorringer should not be moved (unless he wanted to move earlier) until recruitment of a station hand was finalised. Dr Heim conveyed this message to Mr Gorringer by phone on 15 October 2009 and Mr Gorringer moved to KRC on 2 February 2010 following recruitment of a full time station hand.

OMBUDSMAN COMMENT: Mr Gorringer advises that he did not have a phone conversation with Dr Heim on 15 October 2009 and a full time station hand was not recruited until May 2010. I refer to Mr Gorringer's account to my investigator about the sequence of his complaints set out in detail within this report. I do not accept that it was mere coincidence that Dr Heim chose 11 October 2009 to direct Mr Gorringer to move at that time.

23. Any and all other information that you consider the Ombudsman ought to know that is relevant to the issues in this investigation and notified to you in a notice under Section 47 of the Ombudsman Act 2009 of 3 February 2010.

Response by CDU: (3.23) In relation to question 23, the University responds as follows:

- a. In relation to the 8 February 2010 email request from the Deputy Ombudsman regarding horses at Mataranka Station, University Senior Management was first notified that the condition of horses at Mataranka Station was of concern on 26 November 2009 by Ms Diane Snell attachment C1-1. Around 36 horses were permanently agisted at Mataranka Station in 2009 and were under the care of Mr Toby Gorringe. As a result of this complaint the CDU AEC conducted an inspection of horses at Mataranka on 4 December and found 31 horses, 11 of which were in poor to very poor conditions. Among the recommendations made was increasing supplementary feeding, which had already commenced one week prior to the AEC inspection (see attachment C1-2).

OMBUDSMAN COMMENT: I fail to understand how Mr Gorringe was expected to manage horses at Mataranka Station when he was requested to relocate to Katherine in October 2009. There are also emails from Mr Gorringe to Mr Gray seeking advice as to who was in charge of horses which would suggest confusion about who should be caring for them. I note also that only Mr Gray could authorise feed, supplements, farrier expenses and veterinary services. I have seen no duty statement or direction to Toby Gorringe designating him as the person responsible for horses prior to December 2009.

Mr Gorringe believed he was not wholly in charge of the horses as Mr Gray would give directions about where they would be placed and how they would be dealt with. The horses need to be fed daily, individually but Mr Gray had them in a paddock some distance from the facility centre. In the absence of a duty statement or other document evidencing that Mr Gorringe was in charge of the horses, I am not convinced that as a VET lecturer Mr Gorringe was in charge of them.

On 13 January 2010 Dr Heim responded to the AEC recommendations with respect to horses at Mataranka Station (see attachment C1-3). AEC member Ms Deborah Brackenreg, responded to Dr Heim's comments on 28 January 2010 attachment C1-4, both responses indicating that there is some debate about what is reasonable and acceptable care for horses in the Mataranka region.

Following supplementary feeding and the onset of the wet season, the condition of the horses improved significantly and an independent inspection of five brood mares on 2 February 2010, indicated that they were in excellent visual condition, although showed signs in blood tests of having ingested a poisonous plant that will need to be eradicated from the horse paddocks (see attachment C1-5).

OMBUDSMAN COMMENT: I refer earlier to the weight I place on the veterinarian's report on only 5 horses chosen by Mr Gray for inspection. I also note that when Dr Heim was advising the AEC by email (2 February 2010 16:47) of the condition of horses apart from advising that the 5 brood mares are in good condition he said '*...The last photo is of the general plant horses. Obviously they are not in as good of nick as the brood mares because they haven't been on full feed supplementation...*' This would suggest that the horses chosen for independent inspection did not include horses not in such good condition.

The management plan developed for horses at Mataranka Station over the wet season is attached⁷⁹. One horse was euthanised on around 10 January 2010 after running into a fence.

- b. In relation to the 8 February 2010 email request from the Deputy Ombudsman for information about the Mataranka Station Log Book the University advises that in 2009 a daily Cattle Record Book was not used by the Station Manager Mr Ian Gray. See page 3 of 12 A1-A11 paragraph 5. The University believes that the previous manager of Mataranka Station (2008) used a record book of the type attached (B23-1⁸⁰), which was completed for January 2009 only by Acting Manager Mr Doug Jenkins. The University understands station hand Ms Nichola Walters kept a daily diary, but is not longer employed by CDU. CDU is not in possession of this diary.
- c. In relation to the 11 February 2010 written request from the Ombudsman for information about the insurance claim of Ms Nichola Walters, the University advises that all documentation relating to this case is attached at D1-1. (*insurance documents withheld from this report*).
- d. In relation to any further information the University advises that additional emails relating to Mataranka Station from various staff have been identified through a global IT search and are included at attachment (CD - electronic record). The volume of this material is such that it is not possible for it to be individually assessed and attached in the time allowed for provision of information under this Notice. The University is of the view that the majority of emails of significance to this matter are already included in attachments at A1 to A23, in particular at A19.

[OMBUDSMAN COMMENT: As stated by CDU the volume of these emails is extensive. Documents of relevance have been included in this report or are attached in Volume 2].

⁷⁹ Management plan for horses at Mataranka Station Volume 2

⁸⁰ Station Record Book completed in January 2009 by Acting Manager Doug Jenkins, Volume 2

CDU POSITION AS AT 1 MARCH 2010

In correspondence dated 1 March 2010, the Vice Chancellor responded to Ombudsman Notices to Produce Documents and Information. An extract from this correspondence is shown below:

- a. *The University has used its best efforts to manage cattle at Mataranka Station.*
- b. *The University has been assessed by inspectors from the Department of Resources in relation to whether it has breached the Animal Welfare Act (NT). There was no finding of a breach.*
- c. *Despite this, a small proportion of cattle under its control at Mataranka Station were in poor condition towards the end of the 2009 dry season. The University regrets this.*
- d. *There is some debate about how cattle should be managed in the Northern Territory.*
- e. *There are conflicting views around many of the allegations that have come to the attention of the Ombudsman.*
- f. *Upon being made aware of the situation at Mataranka Station, University management took immediate steps to assess and address the issues as follows:*
 - *As soon as the poor condition of stock became known the Vice-Chancellor approved purchase of significantly increased amounts of stock feed and supplement to halt or reverse the loss of body condition in Mataranka cattle.*
 - *The CDU Animal Ethics Committee inspected stock at Mataranka Station on a number of occasions between September and December 2009 and requested monthly progress reports up until February 2010 from the Station Manager to ensure that recommended actions were being met, and three monthly progress reports after that.*
 - *An independent assessment of the operations at Mataranka Station was commissioned to provide senior management with an objective assessment of the situation.*
 - *Station Manager, Mr Ian Gray, was provided with mentoring and management support to assist him in improving management strategies for Mataranka Station.*
 - *Staff numbers at Mataranka Station were increased to improve herd management.*
 - *Stock numbers were reduced by the sale of 844 head between October 2009 and February 2010 to reduce grazing pressure and permit closer management of the remaining herd.*
 - *Horses were supplementary fed, their feet attended to and they were assessed by a veterinarian to improve their overall condition.*
 - *University Senior Management initiated and maintained open communication with all those involved in the management of Mataranka Station.*
- g. *The University intends to take the following additional steps:*
 - *A Mataranka Station Management Advisory Committee will be established.*
 - *The University will undertake a comprehensive external review of Mataranka Station in early 2010 to assess and improve management, teaching and research practices and examine the viability of maintaining the station as a teaching and research facility.*

- *The size of the Mataranka Station herd will be significantly reduced in 2010, while maintaining the current budget for the Station, so that in effect, greater resources will be available for herd management.*
- *Income from the sale of stock to reduce the herd will be reinvested in the Station in a strategic way to improve existing infrastructure.*
- *Cattle breeding will be actively managed to reduce the incidence of out of season calving.*
- *Pregnancy testing of cows will be commenced in April to determine pregnancy status and enable appropriate management of cattle that will calve out of season.*
- h. *The condition of cattle at Mataranka Station in February 2010 is in keeping with what would be considered normal for the wet season and for breeding cattle in the Mataranka Region, as assessed by an independent inspection.*
- i. *No staff member has been the subject of reprisals of any kind after making a complaint about animal welfare or management at Mataranka Station.*

Point A – I accept that certain persons have used their best efforts to improve the situation at Mataranka Station, however some of these efforts appear to have been in vain as a quantity of cattle held at Mataranka Station in May/June 2010 remained in a poor condition. This should not have been the case coming out of a wet season and considering the additional feed purchased.

Point B – The reports of DOR provided to my investigation revealed that during the initial inspections the view of the inspectors/officers was that prosecution was warranted. Subsequently during interview Senior Veterinarian Officer (S Fitzpatrick) agreed that on consideration of the evidence prosecution was warranted.

Point C – I cannot agree with this comment. A **small** number of cattle were not in poor condition, a significant number of the 4500 herd were in poor condition, and a significant number were starving.

Point D – I agree with this comment.

Point E – I do not agree with this comment. Other than Ian Gray and Dr Heim there were no conflicting views provided to this Office.

Point F – I agree that the Vice Chancellor took action. However, the Vice Chancellor was informed of an impending problem in August 2009. By December 2009 he had seen as much evidence from reliable sources as this investigation has but he still chose to reinstate Mr Ian Gray as the Station Manager.

Point H – I can not agree with this response. Only 7 paddocks were inspected which would have represented approximately 22% of the total herd numbers. The independent inspection conducted on 18/02/10 indicated that:

- Cattle (200 first calf heifers) in the Hill Paddock were the lightest of cows seen with a number being in BCS 2 range.
- Cattle (25 out of 188 seen) in Yellow Waterhole/Wire Hill were in BCS 2.5.
- Cattle (10 out of 112 seen) in Big Horse Paddock were in BCS 3.5 - 4.

- Cattle (60 out of 290 seen) in Crater Paddock were in BCS 3.5.
- Cattle (Unknown numbers in Tseumengeri Paddock, 200 head seen) were in BCS 2.
- Cattle (Unknown numbers in Desert Paddock, 180-200 seen) were in BCS 2.
- Cattle (Unknown numbers in Kutain Paddock, 30 seen) were in the best condition of all other paddocks.

The report of veterinarian Dr Braithewaite was, on its face, an inadequate assessment. In the body of the report he stated that a number of cattle had a BCS of 4/5. The spreadsheet of BCS data did not show that. Of 138 cattle noted in the spreadsheet the BCS was not given for the majority. Such data as was given disclosed a number of cattle below BCS 3. The assessment was in February 2010 during the wet when cattle should have been at their peak.

Point I – Evidence did not support that reprisals for reporting animal neglect occurred on the part of CDU. I reserve my opinion on the motive of Dr Brian Heim in deciding on 11 October 2009 to immediately remove Toby Gorringe from his accommodation at Mataranka Station. I also find no adverse inference against CDU for the poor treatment of Nichola Walters delivered by Ian Gray which, according to her and other witnesses, was demeaning.



Mataranka cattle September 2009

ADDITIONAL INFORMATION PROVIDED BY CDU

Debate about how cattle should be managed in the Northern Territory

There is some debate as to how cattle should be managed in the Northern Territory.

The geographic and climatic variations in the NT mean that it is difficult to apply a uniform management strategy across all cattle stations. Because of this variation it would be fair to say that every station manages its herd differently. Managers on the ground need to tailor their management strategies to the particular conditions with which they are faced and try to optimise the production of their property while balancing sustainability and profitability.

There is ongoing debate and continuing research into best practice management for NT cattle stations. However, there are likely to be a variety of management strategies that can be employed at any one place or point of time depending on the variables operating. While the industry has developed many objective tools for measuring various parameters to provide an evidence base for decision making, in the final analysis the manager needs to make a subjective judgement based on what can be accomplished given limitations of weather, landscape, human resources, and other factors.

Prior to the period being investigated by the Ombudsman, there was a long history of successful operation of Mataranka Station, including under previous management by Mr Gray. Management in 2008 that led in large part to the problems experienced in 2009 is acknowledged by the University to have been less than best practice. With hindsight, priority setting and decision making in the face of a variety of challenging circumstances could have been better, and the University acknowledges this. Good pastoral managers evaluate their decisions and take steps in the following season to ensure that undesirable outcomes are not repeated and this is the aim of the University in the future management of Mataranka Station.

Changes as advised by the University

The University has used its best efforts to manage the cattle properly. Notwithstanding this, the University has, in summary, taken the following actions and made the following changes to its practise:

- a. As soon as the poor condition of stock became known the Vice-Chancellor approved purchase of significantly increased amounts of stock feed and supplement to halt or reverse the loss of body condition in Mataranka cattle.
- b. The CDU Animal Ethics Committee inspected stock at Mataranka Station on a number of occasions between September and December 2009 and requested monthly progress reports up until February 2010 from the Station Manager to ensure that recommended actions were being met, and three monthly progress reports after that.
- c. Station Manager Mr Ian Gray has been provided with mentoring and management support to assist him in improving management strategies for Mataranka.

- d. Staff numbers at Mataranka Station have been increased to improve herd management.
- e. Stock numbers were reduced by the sale of 844 head⁸¹ between October 2009 and January 2010 to reduce grazing pressure and permit closer management of the remaining herd.
- f. Horses were supplementary fed, their feet attended to and assessed by a veterinarian to improve their overall condition.
- g. University Senior Management has maintained open communication with all those involved in the management of Mataranka Station since September 2009 and will continue to oversight the changes outlined in response (shown below) during 2010.

The University intends to make the following changes to its practices:

- a. A Mataranka Station Management Advisory Committee will be established.
- b. The University will undertake a comprehensive external review of Mataranka Station in early 2010 to assess and improve management, teaching and research practices and examine the viability of maintaining the station as a teaching and research facility.
- c. The size of the Mataranka Station herd will be significantly reduced in 2010, while maintaining the current budget for the Station, so that in effect, greater resources will be available for herd management.
- d. Income from the sale of stock to reduce the herd will be reinvested in the Station in a strategic way to improve existing infrastructure.
- e. Cattle breeding will be actively managed to reduce the incidence of out of season calving.
- f. Pregnancy testing of cows will be commenced in April to determine pregnancy status and enable appropriate management of cattle that will calve out of season.

⁸¹ Email from Dr Heim to the Vice Chancellor dated 2 February 2010 records sales as 925.

The following are photos of cattle at Mataranka Station taken in May 2010:

PHOTOGRAPHS 2010



Station Manager demonstrating to students prolapse surgery May 2010

The AEC had removed approval for this to be done.



Station Manager demonstrating prolapse to students - procedure May 2010



Staff photo - Poor condition cattle May 2010



Student pregnancy testing May 2010. CDU's AEC permit was suspended for this type of teaching at the time.

Photo-shopped to remove face of student.



BCS1 May 2010



Student photo - Students branding May 2010
The AEC had removed the approval for branding to be taught.



BCS1 May 2010



Yarded cattle BCS1 May 2010

Mr Tim Biggs in response⁸² to receiving a copy of the Ombudsman draft report wrote:

Only item I have a question about is on pages ...with the captions of the photos indicating that teaching was occurring. The students can be in attendance for husbandry procedures like what is shown but it is not part of a teaching unit. Certificate II students are not taught pregnancy testing as part of their curriculum so the caption saying that a students was being taught would be incorrect. I do not know the details of why a student is checking a cow but it could be that she asked to see what it feels like as this can be a request from students.

Students observe varied husbandry procedures and practices but are not assessed or taught if it is not part of the curriculum and the prolapsed cow photos would be indicative of this. The students participated in the branding of animals to help the station staff to expedite the processing of weaners i.e. they were helping out with the normal husbandry practices at Mataranka Stn, not being assessed for a qualification.

I did not state that the teaching provided was part of a qualification, only that the procedures were being taught. I stand by that comment. One of the students who complained to my Office (7 June 2010) explained the photos as follows:

...The Cert II students were split into 2 groups whilst training at Mataranka, both went down for 2 weeks at one point, and then the other group went down towards the end of the course for another week...

Myself, and 2 other students that I know of got one try at preg testing, again Ian said we weren't technically allowed... He also performed a prolapse surgery in front of one group of students including myself, it was not the most sanitary surgery I have seen even though he did try as he had a bucket of disinfectant, but he did not wear gloves and I have photos of that...

I most definitely saw horses and cattle in poor condition!! When we brought the horses in first up and allocated them to students I had to catch 4 different horses before I found one I could ride because they all had sore backs and girth sores from flies. One mare Petite had a girth sore so I said not to ride her but the station hand gave her to a student and 2 days later it was red raw and bleeding. Another horse had a weepy eye which I flushed for a week and still didn't get better, but they bushed it anyway. Overall some of the horses were ok, but some were definitely light.

When I first saw the cattle in the yards they had been drafted into wet and dry cows, and the wet cows were a poor sight. ... His (Ian Gray) excuse was that the weaners were sucking their mums dry, then again he seemed to have an excuse for about everything... I also have photos of students branding CDU cattle which I have been told we were not supposed to do? ...

⁸² Email from Mr Tim Biggs to Deputy Ombudsman Julie Carlsen 7 September 2010 – 14:48

The theme of Ian Gray demonstrating husbandry procedures or teaching students whilst stating that *he wasn't supposed to* is similar to his comment to Di Snell of 26 October 2009 when he wrote that he *shouldn't be showing* her the photos of poor condition horses. Within the student complaints students explained that some of the Certificate II students were staying on to undertake the Certificate III.

2010 COMPLAINTS

On 7 May 2010, the AEC conducted another inspection of Mataranka Station. During this visit up to 50 heifers were observed in poor condition which caused concern for the Inspectors. To have poor condition animals at Mataranka Station eight months after the first complaints and after a wet season that lasted until the end of April 2010 is inexcusable. To suggest that within a year the condition of animals at Mataranka Station could not be improved to bring cattle above BCS1.5 is unacceptable.

On 1 June 2010 the Ombudsman's investigator was informed by Mr Douglas Jenkins that KRC Cabbage Gum South Paddock had about 200 cattle held in the paddock. He advised that about 50% of the 200 head were in BCS2 and were going backwards. He also advised that weaners held in Dam Paddock at KRC were going backwards. The Vice-Chancellor was planning to visit the property on 2 June 2010. Mr Jenkins advised that he would inform the Vice Chancellor on this visit and advise the AEC and DOR of his concerns.

On 2 June 2010 a written complaint from a WA student studying for a Certificate II in Agriculture at KRC and Mataranka Station was provided to my Office. A copy of this letter was also sent to the NT Veterinary Board. In part this student wrote:

I am a student of Charles Darwin University, currently studying for a Certificate II in Agriculture. I have been completing my training at the Katherine Rural Campus and Mataranka Station, which are both operated by the university. During my training I became aware of an act of gross negligence on behalf of a registered and practicing veterinarian employed within the university. As a member of the public, and a person who once studied to be a veterinary nurse I feel it is my duty to report this act to the appropriate authorities.

Whilst training at Mataranka Station, under the supervision of the Station Manager Mr Ian Gray, a weaner broke a leg in the yards. That afternoon I witnessed Mr Gray holding a bottle of Lethabarb⁸³, as he went to dispose of the weaner. I did not witness Mr Gray inject the weaner as my group was completing other activities, but several other students in the yards at the time did, unaware of the implications of what Mr Gray was doing.

I confronted Mr Gray the next day asking how he had acquired the Lethabarb when he was not a registered veterinarian. His response was that he often got products and drugs from Dr Brian Heim, who works within the management of the university, even though he technically should not have them. Not only does this incident show illegal drug distribution on Dr Heim's behalf, but gross

⁸³ Lethabarb (pentobarbitone sodium) Commonly known as the 'Green Dream' - a drug used to euthanize animals.

negligence on both Dr Heim's and Mr Gray's behalf as the weaner was not anaesthetised before being injected with the drug...

Veterinarian's may supply drugs to competent persons who are non-veterinarians as long as they fulfil the professional and statutory obligations prescribed in the Northern Territory legislation and associated record keeping requirements and take full responsibility for establishing the therapeutic need; the competence of the user; providing full instructions and exercising control, oversight and checks on their use and outcomes⁸⁴.

Mr Gray was advised of this student complaint. He responded on 2 July 2010:

I did not administer lethabarb to an injured weaner. I have good reason to believe the student who lodged this allegation was rewarded for her actions by one of the lecturers involved in waging the ongoing vendetta against me, Mr Douglas Jenkins...

In his response Mr Gray did not deny or refute the student's statement that Mr Gray obtained lethabarb from Dr Heim and his suggestion that a student was rewarded for complaining is implausible.

The Veterinary Board who investigated the student's complaint did not find 'conclusive evidence' that Dr Heim provided Lethabarb to Mr Gray. The investigation conducted by the Veterinary Board has not been made available to my Office, so I am unaware as to whether the student/s or Mr Gray were interviewed as part of the Board's investigation. Documents that were supplied to my Office consisted of correspondence from the Board asking questions of Dr Heim and Dr Heim responding in writing to those questions. There is nothing to indicate that apart from these letters whether any other evidence was obtained or provided to the Board.

In response to the draft report, Dr Heim stated that the information about the Veterinary Board investigation '*...which ultimately cleared him is defamatory and highly prejudicial...*' Dr Heim '*objected strenuously to the inclusion*' of this information within my report as in his view it '*impugns his professionalism as a veterinary surgeon*'. Dr Heim requested that this information '*be stricken from the report*' and that '*no reference be made to the Board's investigation*'. I carefully considered Dr Heim's request. After much deliberation I determined not to remove this information.

It is important to note that Dr Heim had provided prescription medications to Mataranka Station: '*I have also allowed small quantities of drugs for treatment of livestock to be kept in a secure location at Mataranka Station because of its distance from my home location and from veterinary services in general. These drugs are dispensed to Mr Ian Gray, Mataranka Station Manager, under my direction. Prior to administration of drugs, Mr Gray consults with me in appropriate use for various conditions. These drugs are limited to common items such as antibiotics, sedatives and pain relievers*'⁸⁵.

⁸⁴ Reference: Letter of the Veterinary Board of the NT 19 August 2010

⁸⁵ Reference: Dr Heim's correspondence to the Veterinary Board of the NT – 6 June 2010

When drugs held at Mataranka (phenylbutazone, lignocaine, oxytetracycline, dexamethasone, dipyrone and xylazine) were collected on 7 July 2010, as Mr Gray was vacating Mataranka, two (2) bottles that had been sent by Dr Heim to the station were not returned (1 bottle of xylazine and 1 bottle of dexamethasone). Dr Heim wrote⁸⁶: *'...I am unaware of them being used for specific animal treatments or whether they were destroyed. If they were used to treat animals, it was done without my permission and against established protocols for use of drugs on University owned livestock...'*

Considering Dr Heim's initial statement 6 June 2010 that drugs are dispensed under his direction, and his reassertion of 1 July 2010 to the Veterinary Board: *'The decision whether to administer drugs (or not), route of administration, type of drugs and all other aspects of the treatment protocol are mine'*, I question why Dr Heim was unaware what a partial bottle of Oxytetracycline and the missing drugs were used for. As Dr Heim was unaware of these matters it is possible that he was unaware of Mr Gray using other drugs that may have been available to him at Mataranka Station. No records were provided to explain when, who, how and exactly what drugs were held and used at Mataranka Station.

In addition to the 2009 student complaints, on 6 June 2010 further concerns were provided to my Office by students who attended Mataranka Station to undertake Certificate II studies in 2010. As stated within this report, Mr Gray has not been issued a permit pursuant to the *Animal Welfare Act* to teach in the Northern Territory.

Additionally, despite the AEC in 2010 limiting the teaching that could be undertaken at Mataranka Station, a student stated that she and two other students were shown and had *'one try'* at pregnancy testing with Ian Gray present.

Students in reference to Mr Gray demonstrating the technique and then allowing students to use the cattle recalled Mr Gray saying *'we weren't technically allowed...'* A photograph of one of the students having a *'try'* was supplied to my Office and is shown above.

During a discussion with Mr Files (a previous employee of Mataranka Station) on 10 June 2010 he confirmed that in May 2010 Ian Gray pregnancy tested cattle with students. Mr Files said that Mr Gray knew that the AEC permit had been suspended and did not allow him to teach pregnancy testing.

Mr Gray was given the opportunity to respond to the complaint that he taught pregnancy testing to students despite the AEC restriction that this procedure amongst others was suspended. On 2 July 2010 he wrote:

This is factually incorrect and photographs taken by students do nothing to confirm this allegation. I did not provide training at the Katherine Rural College or Mataranka Station which included aspects of pregnancy testing. I have performed pregnancy diagnosis of cows at the Katherine Rural College and students were present to assist with movement of cattle through the yard. I answered any questions students asked of me as it would have been highly

⁸⁶ Reference: Dr Heim's correspondence to the Veterinary Board of the NT – 8 July 2010

unprofessional not to do so, however, I did not at any time provide training in aspects of pregnancy testing. Photographs offered as evidence were taken by students at Mataranka Station where students on work experience were assisting me with normal husbandry operations. They were not engaged in training.

The students also documented that Ian Gray performed a prolapse surgery in front of a group of students and that the surgery *'was not the most sanitary surgery I have seen even though he did try as he had a bucket of disinfectant, but he did not wear gloves'*. Photos were taken and are shown above.

Ian Gray responded to the students' complaint on 2 July 2010 as follows:

This is factually incorrect. The photographs confirm this is a blatant untruth. If you examine the photograph you will observe that the cow is suffering a vaginal prolapse not a uterine prolapse. If you examine the photographs you will also observe that I did use aseptic technique as near as possible given that cattle yards can hardly be considered a sterile environment. What IS confirmed is the fact that I continually demonstrate a very high regard to animal welfare in everything I do. While some producers would destroy a cow suffering from a prolapse such as this, as a matter of course I will treat a cow in this condition.

The students also stated they were taught branding by Mr Gray despite the permit to teach branding being suspended at the time. Photographs were supplied to my Office:



In relation to a weaner that had broken its leg, a veterinary student present was asked how it occurred and how long it took before destruction: *'I think it may have been from too many cattle being pushed up at one time'*. This student believed the weaner had been left in the yards overnight with a broken leg before being destroyed the next day. The student stated *'Mr Gray's reasoning for using the lethabarb and not a gun was that he only had a 308 and it was too big to use on such a small animal'*. Another student documented that she heard a firearm being used at another time *'because another cow*

who broke a leg or hip had to be destroyed, it was injured because it freaked out in the crush and they spent too much time trying to catch its head'.

In relation to the condition in animals observed at the time a student wrote *'I most definitely saw horses and cattle in poor condition!! When we bought the horses in first up and allocated them to students I had to catch 4 different horses before I found one I could ride because they all had sore backs and girth sores from flies. One mare 'Petite' had a girth sore so I said not to ride her but the Station Hand gave her to a student and 2 days later it was red raw and bleeding. Another horse had a weepy eye which I flushed for a week and still didn't get better, but they bushed it anyway. Overall some of the horses were ok, but some were definitely light.'* A photograph of the horse with a weepy eye was provided to my Office and is shown below:



Student photo - Infected eye

The student further wrote *'When I first saw the cattle in the yards they had been drafted into wet and dry cows, and the wet cows were a poor sight.... His (Ian Gray) excuse was that the weaners were sucking their mums dry, then again he seemed to have an excuse for about everything...'*

A common theme throughout this investigation is the Station Manager Mr Gray stating that many people have a personal vendetta against him. I have not found this to be the case. What I have found is ineptitude. Mr Gray has consistently blamed anyone who has made a complaint about him or his management style. He has not provided any reasonable explanation why he failed to meet the requirements of the position or why so many animals over many months between 2009 and 2010 came to be in poor condition.

Mr Gray provides little or no information to explain how steers, bulls, weaners, heifers, calves and horses became to be in such a terrible state whilst he was the Station Manager.

MR IAN GRAY

Mr Ian Gray was the Station Manager of Mataranka Station (4 May 2009 – early June 2010). His response to the Stockwell Report dated 4 December 2009 is replicated in full below. For ease of reference his comments are shaded whereas the comments of myself are documented within internal borders. This is included out of fairness to Mr Gray. I invite any reader to identify an explanation of how and why there were in September 2009 so many emaciated and dying cattle at Mataranka Station.

In the interests of natural justice the contents of Mr Gray's written response to the Stockwell Report were provided to Messrs Stockwell, Gorringer, Waters, Parker and Jenkins. Many of their comments are also entered below and are also documented within internal borders.

SUMMARY

I write this response in reference to the report, *Investigation of Concerns about the Management of Cattle at Mataranka Station*, prepared and written by Mr Tom Stockwell in relation to complaints raised by Mr Toby Gorringer.

The report tabled by Mr Stockwell reflects the rushed nature and level of professionalism in which it was conducted and did not by any means follow the course of *natural justice* as I understand it.

Mr Stockwell – Professor Wasson required the report provided out as quickly as humanly possible. Despite this sufficient time was devoted to review the previous animal welfare reports and available records supplied by CDU. Considerable effort was made to interview all people involved. Some either left town, failed to reply to phone messages and in Mr Gray's case failed to provide the written evidence prior to interview and turned up late for the meeting. Over an hour was spent with Mr Gray in interview.

The majority of Mr Stockwell's findings are based on the hearsay of the complainant and his witnesses and lack objectivity or factual evidence.

Mr Stockwell – A list of evidence was requested from Mr Gray. It was not supplied. Indeed the level of management records was unsatisfactory by any measure.

Mr Gorringer – These witnesses are not my witnesses, they were all employees of CDU who were working or had worked at Mataranka Station in 2009.

At no point in time did Mr Stockwell interview any person who may have been able to offer a balanced view of the complaints. It should be noted here that one of the complainants' key witnesses is also known to have a past association with Mr Stockwell and that another of the witnesses is a close relative of the complainant.

Mr Stockwell – The only other person Mr Gray suggested talking to was a private vet who was unable to be contacted during the course of the investigation. I have few if any dealings with any of the main witnesses in this investigation. My recollection is that I have previously been introduced to Brian Heim and Ian Gray; I have met Toby Gorringe previously when attending a chemcert course at Mataranka Station; Nichola Walters worked for a fencing contractor who undertook a contract on Sunday Creek for a period of about one month in 2000; Grant Parker had carried out a tick inspection for Sunday Creek when a stock inspector in 2005/2006; I attended a stock handling school which was delivered in part by Spud Thomas; Bob Wasson and I have been members of the Board for the Tropical Savannas CRC for a number of years; Sue Fitzpatrick had for some time been the Regional Vet Officer in Katherine; DPI Officer 1 was unknown to me; and I worked for many years with DPI Inspector 2.

Mr Gorringe – The close relative referred to is my wife, who could provide direct evidence to the matter as she lived on Mataranka Station and observed what was happening.

During a brief interview I had with Mr Stockwell, he suggested the findings of his investigation was by no means intended to crucify anyone, however, this is exactly what he has done with numerous defamatory remarks which will damage the reputation I have established during my 29 year⁸⁷ working career in and associated with the beef cattle industry. I have never before been accused of animal neglect.

Quite the opposite, up until this point I have been held in high regard in the North Australian cattle industry for my skills in the area of large animal reproduction and my dedication to improve the welfare of any animal with which I have contact. The slanderous comments will also damage and quite possibly destroy my long term career prospects in the industry to which I have devoted my life.

Mr Stockwell – I don't believe that any of the findings of the report have been disproven, except by denial. It remains my opinion that the answer to the question of whether there was a prima facie case to be answered, based on the complaints made is that clearly and significantly there was a case to answer. The question of whether the defence to the complaints was sufficiently defended was beyond the brief of the investigation.

Mr Gorringe – If the above is true then why did you allow cattle at Mataranka Station to starve to death?

Mr Jenkins – I feel the same and this is why I feel I have been unfairly targeted.

PREAMBLE.

I came to the Northern Territory Rural College early in the year of 2002 to take up an appointment in the role of Farm and Station Co-ordinator. I commenced employment while the College was under the custodianship of the Northern Territory University. Upon commencing my duty I found that although the College cattle herds, both seed stock at Katherine and commercial at Mataranka, were operating reasonably effectively, there was considerable scope for improvement in efficiency and productivity.

⁸⁷ Subsequently in this response Mr Gray documents that he has worked with cattle for a period of 35 years.

One of the first management strategies I implemented was a controlled mating programme at Mataranka Station. Mr Stockwell states that to his recollection *that supplementation, along with controlled mating was normal part of Mataranka Station management up to a few years ago at least. One might reasonably expect a teaching institution to be demonstrating best practice.* I find it disappointing that Mr Stockwell has conveniently failed to recall that it was during the course of my management that a controlled mating programme was implemented.

Mr Stockwell – It was beyond the brief to ascribe credit for previous management. Others claim that Mr Garry Riggs, as a staff member on the ground at the time, may have been more responsible for the successful implementation of such management strategies.

I also increased the wet season Phosphorous supplementation regime and developed strategies in order to supply supplement to cattle on the Eastern side of the Beswick Creek which is impassable by vehicle during the peak of the wet season. Last year, Meat and Livestock Australia conducted a forum in Townsville, QLD, in regard to Phosphorous supplementation. One of the outcomes of the forum was that Phosphorous supplementation was not only beneficial to herd productivity but also an economically viable practice. I had already implemented a year round supplement protocol with particular emphasis on the inclusion of Phosphorous⁸⁸ in both wet season and dry season supplements at Mataranka Station seven years earlier.

Mr Jenkins – Was this based on NT information or QLD? Is this recent or 5 years ago.

Prior to the Northern Territory University officially assuming control of the Northern Territory Rural College in January, 2005, the Auditor-General's Office appointed the firm of KPMG to conduct a full physical audit of the cattle operations at both the Katherine campus and Mataranka Station. I was responsible for supplying KPMG with a documentary inventory of all cattle on both properties for the purpose of the audit. The officer from KPMG who performed the on ground audit inspection expressed an appreciation as to the high degree of accuracy of the cattle inventory I was able to supply for the audit compared to other pastoral property audits he had conducted in the past. An example of records collected at Mataranka Station while I was manager during the years 2002 to 2005 is included...

Mr Jenkins - A similar audit was undertaken in 2008 with the same result.

Other outcomes I am proud to have achieved for the University during my earlier period of employment include:

- Implementing a comprehensive husbandry programme including routine vaccination of all cattle with Botulinum vaccine and also, vaccination of all breeding stock with Leptospirosis vaccine⁸⁹. I implemented vaccination to guard against Leptospirosis infection for two reasons. Firstly, from an Occupational Health and Safety perspective in order to limit the transmission of Leptospirosis to staff and students as the disease

⁸⁸ Dr Heim in an email to Mr Suter dated 02.09.2008 stated that phosrite supplement blocks are intended only for the wet seasons as they simply provide phosphorus and not urea. Dr Heim wrote that their use should have discontinued no later than May and a switch to dry season lick made.

⁸⁹ Mr Jenkins stated that this is standard practice for most well run properties.

is zoonotic⁹⁰. Secondly, to minimise the cases of abortion suffered by breeders that may be exposed to the organism.

Mr Gorringe - this is normal industry practice.

Mr Jenkins – Standard practice for most well run properties.

- Managing the cattle and show horse teams which were responsible for the University receiving the Queen Elizabeth II trophy at Royal Darwin Show in 2003 and 2004. This award is bestowed on the most successful exhibitor of the show and had never been won twice before by the same exhibitor let alone on consecutive occasions.

Mr Jenkins - stated that CDU still continue to win at Katherine and Darwin shows.

- Selection and presentation of commercial cattle exhibited at Katherine Show which achieved high order placing in competition with cattle exhibited by some of the largest cattle producers in the Northern Territory.

Mr Jenkins - stated that he was the agent who promoted the cattle and sold them at the sales.

- Conduct of beef cattle pregnancy diagnosis (prior to the appointment of Dr Brian Heim) and artificial insemination workshops throughout the Northern Territory. I have examined the pregnancy status of in excess 800,000⁹¹ cows throughout Northern Australia and have gained the recognition of the wider cattle industry as an experienced and respected lay instructor in reproductive procedures and have conducted training in North Queensland and the Kimberley region of Western Australia.
- Instrumental in exploring the development of an International Certificate in Breeder Herd Management in conjunction with officers from the organisation now known as the Department of Regional Development, Primary Industries, Fisheries and Resources (DRDPIFR). This also included travel to Sabah, Malaysia to assist in the delivery of training to veterinary officers with the Malaysian Government.

I returned to employment with the University in early May 2009 and at the conclusion of my first day back at Mataranka Station was aghast at what I had witnessed during the course of the day. I found it hard to comprehend that a cattle herd which, while under my management during the years 2004 and 2005, was beginning to be held in high regard by the NT cattle industry, could have deteriorated to such a poor state obviously as a result of mismanagement.

I conveyed this sentiment to numerous colleagues including Mr Ken Suter and Dr Heim⁹², however, I was encouraged to *stick it out* as it was obvious Mataranka Station was in

⁹⁰ A disease which is transmissible from animals to people.

⁹¹ Equates to 62 cows per day every day of the year for 35 years. Mr Gray's application for appointment to Mataranka Station Manager refers to pregnancy testing in excess of 700,000 cows.

⁹² Dr Heim does not mention this in his response, he attended the station in April 2009 with the Vice Chancellor, neither mentioned that the state of the cattle was poor.

desperate need of someone who understood the environment and the cattle and thus I decided to stay.

Mr Gorringe – This is totally untrue, the cattle were all in good order in May.

In relation to the complaints voiced by Mr Gray, on his commencement, he referred to the condition of the tractor, truck, plant, fences and buildings, I did not hear him complain about the condition of the cattle. (Ms Walters concurs with Mr Gorringe).

OMBUDSMAN COMMENT: Mr Gray's view that Mataranka cattle was in a poor state in May 2009 is not reflected in documents provided to my investigation. In the minutes of a staff meeting⁹³ at which he was present on 8 May 2009 (4 days after he started at the Station) under the heading of Animal Welfare all that is written is '*Douglas (Jenkins) advised that the local welfare committee is due to undertake their planned six monthly review in June 2009*'. There were no concerns raised about the condition of the cattle or any other concern which Mr Gray could have had recorded in this meeting at this time.

I also note that apart from Mr Gray all other staff members who worked on the Mataranka Station in May 2009 have advised that the cattle were in good order. I note also that one of the few records available show that out of 145 weaners weighed in May 2009, only 3 were less than 100kg.

One of the primary impediments I had to overcome was an expenditure budget which was already overspent in many areas. The interim manager of Mataranka Station, Mr Douglas Jenkins, had initiated a project to grow fodder under irrigation at KRC for hay production⁹⁴. This project was managed by Mr Grant Parker through his role at the time of Farm Overseer; however, the project was unsuccessful and resulted in considerable financial loss.

Mr Jenkins – KRC and Mataranka have two separate budgets. The crop spoken of was considered a failure however after the wet this year (2009) the crop came back and is now flourishing. Nothing is being done with it. It has been left to sit and spoil not bailed or even used for foraging.

Mr Parker – In an email to Ian Gray (21 September 2009 - 11:25) wrote: *I was just wondering if you still wanted me to sell the lucerne and lucerne grass bales (square bales), as I have customers ready to go. Both patches of sorghum would require little work (irrigation only) to get another cut of hay before the wet. Would you like me to help with this or have you other plans? I am willing to help where possible if you wish.*

OMBUDSMAN COMMENT: It is apparent that a crop at the end of the wet season in May 2009 was a failure. However other crop/s after the wet appeared to have been successful. Mr Parker sought the Station Managers instruction in September 2009 as to what to do with the product and received no response.

⁹³ Also present Mr Gray's supervisor Mr Ken Suter, and Mr Douglas Jenkins, Mr Grant Parker, Ms Nichola Walters.

⁹⁴ Mr Jenkins stated that KRC and MS have 2 separate budgets. The crop referred to was considered a failure, however after the wet of 2009 the crop came back and was flourishing. Despite this nothing is being done with it and it has been left to sit and spoil when it could have been bailed or used for foraging.

Subsequently, on 25 March 2010 in an email to Dr Heim, Mr Jenkins requested evidence from Dr Heim that the project to grow fodder for hay production was unsuccessful and resulted in considerable financial loss. Dr Heim directed Mr Jenkins to seek this information from Ken Suter. On 29 March 2010 Mr Suter responded to Mr Jenkins, he wrote *Sorry cant help I was never informed on any cropping/project/task at any time. Similarly I am not aware of any impact of Katherine budgets on Mataranka budgets.*

I am unable to accept Mr Gray's comment that a failed crop caused a considerable financial loss as there has been no evidence provided to support his view.

Documentation I received from Ms Jo Carlesso, Senior Finance Officer, CDU, indicated that there were also no funds available for fence construction as these had been exhausted earlier in the year on the construction of a laneway and sub-division of a horse paddock. This was a major concern as I soon found after commencing that the entire north eastern boundary fence on the eastern side of the highway was not stock proof following damage suffered eight months earlier during a fire in September 2008 and had never been repaired.

OMBUDSMAN COMMENT: Mr Gray's comment about the fence damage caused by the fires in September 2008 is important. Mr Ken Suter, his supervisor, documented the following *'Mr Gray commenced at Mataranka in the first week of May 2009 and in conjunction with Doug Jenkins I held a staff induction for Mr Gray.....it was impressed upon Mr Gray the importance of replacing the fencing which had been destroyed...'*

The Mataranka Budget in 2009 allocated \$25,000 for fencing and \$18,000 for contractors. The fences that had been burnt down in the 2008 fires were a separate matter awaiting an insurance payout that has been reported as being cancelled by Mr Gray. There was \$50,000 budgeted for fire mitigation in 2009. As this had not been undertaken on the appointment of Mr Gray it would have been possible that some of the funds set aside for fire mitigation could have been directed to the 'highest priority' fencing as described by Mr Gray.

I also note that Mr Gray's view that the funds for fencing had been exhausted is not reflected in other documents provided to my Office. On 29 September 2009 (9:13) Dr Brian Heim emailed Mr Gray and Mr Suter requesting that Ian Gray obtain a firm quote to replace fencing on the entire northern boundary and install a new laneway from Parnell to Homestead *'insurance of \$23k will fund most of this and remainder from budget'*.

Mr Jenkins - stated that the fence was not repaired at the time as it was under an insurance claim. Mr Jenkins said a quote from Morgan Lorima was obtained and that Ian Gray determined that the cost was prohibitive and he would seek other quotes. In an email from Ken Suter (29 March 2010) it is written that Mr Suter believed the only quote obtained in 2009 was from Morgan Lorima. Mr Jenkins stated that as there was no grass left in this area after the fire, and all effort was put into saving the cattle. In March/April of 2009 the fence was to be repaired and Mr Jenkins advised as of 8 April 2010 it remains un-repaired. *'Mr Gray and a station hand could have fixed it in a couple of days as this*

was the amount of time it took the lecturer Mr Spence to fix it according to his verbal report on the job'.

Ms Walters - advised that the fence in question was the subject of an insurance claim that had been approved, and that *Ian stopped the contractor.*

It would generally be accepted in the grazing industry that the maintenance of boundary fences is of the highest priority before any internal fencing is considered. This consideration would be of even greater concern given the north eastern boundary is adjacent to a large unfenced and relatively unmanaged parcel of land. It was not until Dr Heim resumed supervisory responsibility for Mataranka Station that I was able to gain the assistance of KRC staff and students to repair this fence. The paddocks bounded by this fence contained considerable pasture reserves, in excess of 2400 Kilogram/Hectare by my estimation, and would have been beneficial to have access to these reserves several months earlier.

Mr Jenkins - agrees that it would have been beneficial to have access to these reserves several months earlier but stated access was not an option due to the wet season.

Mr Gorringe – It took myself and certificate II students ½ day to mend this fence around Yellow Water Hole Paddock. This could have and should have been done by station staff earlier. Why did management have to wait for Brian Heim when this was a matter of urgency, cattle were dying.

Other Barriers with which I have had to contend include:

- Bulls remaining in breeder paddocks following the failed mustering operations of Messrs Toby Gorringe, Douglas Jenkins⁹⁵, and Grant Parker and Ms Nichola Walters. If this matter was left unchecked it would result in a repeat occurrence of the existing situation with cows calving out of season yet again in 2010.

Mr Gorringe – 100% muster is a rarity, the paddock that most of the bulls were left in was Desert Paddock, which is the paddock that Mr Gray mustered.

Mr Jenkins - stated that it is unfair to assume that previous management did not want calves to drop in September – as per *grazing for profit* recommends. He also wrote - *'Don't believe they were failed. Stock movement records have been requested, it seems at this time the ones that relate to this period have vanished including the carbon copy'. 'Unfortunately I did not muster Mataranka in 2009 as the 2009 lecturers time table will show'.*

- A complete lack of attention to fire mitigation strategies which in a normal year would be undertaken by April⁹⁶ and definitely completed before commencing mustering operations. Road verges at both Mataranka Station and the Katherine Rural Campus

⁹⁵ Mr Jenkins stated the he did not muster in Mataranka in 2009 and that it is unfair for Mr Gray to state that he was a part of failed mustering operations. Mr Jenkins also stated that mustering operations did not fail, he states the stock movement records of 2009 would corroborate this fact, however they have 'vanished'.

⁹⁶ Mr Jenkins states that as of 26 March 2010 the same problem exists.

and double fire breaks in Moray Hill Paddock and Tiger Hill Paddock had not been burnt.

Mr Gorringe – Due to a late wet season in 2008/2009 the graders were unable to work at Mataranka in May 2009 when Ian Gray took over. Two musters had already been done at Mataranka 2009 and as of mid April 2010 no burning had been done.

Ms Walters – In part wrote - *I started at Mataranka Station when it was still raining. Ian Gray started 1 month after me, there was still water in the table drains and Little Roper River was impassable. It was therefore Ian's responsibility to carry out fire mitigation. When Ian did do some burning off it was generally in response to a lit fire on road verge or fire from Beswick or Wire Hill Paddock. When Ian undertook his burning off I quickly lost confidence in his experience and ability to manage the job. He generally undertook burnoffs with just myself and himself. He lighting and me putting out any jumps. The grader was taken to Katherine for repairs and was never repaired so no grader was there for back up. On one occasion after the steel mill area was lit up due to a camp fire, I had to return home to fill up with water, when I got back the fire was jumping the Stuart Hwy. I realised Ian had not stopped lighting the road verge while I was gone. He had no backup water, nor did he have anyone watching the road, he was also lighting with the wind, the result was the horse paddocks below house 1 were alight, and fire was heading for 2 houses. I called Ian for him to stop and then rushed back and called for help and the paddocks on our side of the road were all at risk. Ian said later that it was not big deal or it wasn't as bad as I thought. I had worked with DDUBB for 6 years, the visibility on the Stuart Highway would have been zero.*

- Inadequate staff accommodation which resulted directly in a shortage of staff. I personally resided in a 3 metre square room for over three months while an existing residence was refurbished. (Mr Jenkins states he resided in the same room for 4 months). Upon completion of maintenance to this residence, I made it available to Ms Walters for occupancy, as Ms Walters has a young child. I subsequently moved into the 3 metre by 6 metre donga previously occupied by Ms Walters and was joined by my partner, Ms Donna Hill, whom had been residing in Darwin pending the availability of accommodation which would allow her to join me at Mataranka Station.

Mr Gorringe – This is a very poor excuse for allowing cattle to starve to death. I offered my help on many occasions and Nichola (Walters) advised that she had been told by Ian Gray never to ask for my help with anything. (Ms Walters in interview also stated that Ian Gray had advised her not to seek the assistance of Mr Gorringe).

- An ineffective communication system including irregular and infrequent access to internet service and thus, Email and intermittent access to mobile telephone coverage. Communication under these circumstances has been difficult to say the least.

Mr Jenkins: Mr Jenkins in interview advised that the communications at Mataranka is sufficient to provide ample communication. He advised there are 3 landline phones and internet access at the Station, with a satellite phone (required repairs) and adequate mobile coverage in certain areas. He also wrote *'This is the same communication that I*

and all other managers had and we made it work with no complaints about not being able to be contacted. I would make a point of checking the answering machine on the phone in the office at least daily or more regularly if possible’.

Mr Suter: (document 24.12.09) ...It was normal practice to communicate frequently with the Manager via email and telephone. From the outset communication with Mr Gray was difficult for he did not return telephone calls or emails....

Regardless of the obstacles I faced during the brief period since my return to Mataranka Station in May this year, I have implemented and achieved several critical management strategies including:

- Implementing electronic based recording systems at both Katherine Rural Campus and Mataranka Station. The data being collected at Mataranka Station now includes National Livestock Identification Scheme (NLIS) electronic identification, visual identification, weight, condition score, lactation status (cows) and year of birth for each individual animal.

OMBUDSMAN COMMENT: It is encouraging that the above strategy was implemented by Mr Gray. What is not encouraging is his failure on 25 March 2010 to comply with the requirements of the *Livestock Act*. On 25 March 2010 a DOR Notice was served on Mr Gray for NLIS non compliance. On this date livestock were moved between Mataranka Station and KRC in which *‘a greater percent of the cattle had no NLIS tags applied. It is an offence under the Livestock Act to move cattle from a property to another property without permanent devices being attached to the cattle before the movement begins’.*

Mr Jenkins – I believe this was already under way with Mr Tony Jenson pushing this. I as Manager was the one who was there and started the cash cow program, it is still running today.

Ms Walters – NLIS tagging is compulsory for all cattle moving between properties (unless for live export). Some time ago the heifers were all receiving NLIS tags at branding before Ian Gray started in May.

- Extensive mustering and trapping programme of all bulls from breeder paddocks in order to return to a controlled mating programme as was the case when I was manager of Mataranka Station on a previous occasion.

OMBUDSMAN COMMENT: I find this comment contradictory to his interview of 27 May 2010 in which Mr Gray said *‘The bulls are still with cows. My efforts to muster have been thwarted by events such as, you know, Animal Ethics inspections, etc’.*

- Engaged officers from the Northern Territory Department of Regional Development, Primary Industries, Fisheries and Resources (DRDPPIFR) to develop and assess estimated safe carrying capacity⁹⁷ of Mataranka Station. This has also entailed the production of comprehensive mapping including but not limited to infrastructure and land type detail.

⁹⁷ Full copy of the Carrying Capacity of Mataranka Station – Volume 2

- Delivery of Beef Cattle Artificial Insemination training to Certificate III and several external students during the week 19-23 October. This was during the time Ms Walters was absent on sick leave and with the assistance of my partner, Ms Hill, I kept Mataranka Station running whilst also fulfilling the training requirement of the Katherine Rural Campus. Currently there are no lecturers on staff with skills in this area.

BACKGROUND.

I find the Stockwell report to be largely subjective with extensive use of emotive phrases for reasons I can only assume are a desperate attempt to gain the empathy of the reader. However, I do agree wholeheartedly with Stockwell's assumption that *Animal health, herd productivity, and economic performance of the herd has been severely compromised and will take a number of years to recover to full productivity (sic)*. This supposition is in keeping with the situation that I observed when I arrived in May 2009. I subsequently advised management that I was unable to elicit immediate rectification of these pre-existing issues and that it would take at least two years before any tangible improvement would become apparent following the implementation of revised management strategies.

The fact the University appears to be holding me solely responsible for the prima facie allegations is obviously cause for great personal concern. The events leading up to my return to Mataranka Station in May 2009 have been glossed over by Mr Stockwell with brief passing comments such as , *While there appears to have been significant flaws in the overall strategic and operational management of Mataranka Station leading up to this dry season (in 2008 in particular)*. If the complainant and the witnesses sympathetic to his cause truly had the welfare of the animals at Mataranka Station as the primary motive for their action, then surely they would have provided assistance with the strategies I was implementing to rectify the state of affairs. However, it would appear to me that management of the University as a whole is implicated in this report.

The Stockwell Report undoubtedly identifies some issues that require attention and need to be addressed not only by the station manager but also University management as a whole. However, the conclusions throughout the Stockwell Report are flawed as they rely largely on hearsay of the complainant's witnesses which I will demonstrate throughout my response to be fraught with fabrication and untruths. It is disappointing that Mr Stockwell did not seek to interview anyone other than the complainant's witnesses in order to conduct a fair and just investigation.

Mr Stockwell – I was asked by CDU to firstly review the reports prepared by the animal welfare officers in DoR, and then interview Mr Gray, Dr Heim, the three staff members and any other people I thought could provide further info and outlook. Neither Dr Heim or Mr Gray responded to requests for interview. Dr Heim subsequently prioritising a trip to Darwin rather than speak to me. He subsequently emailed a written response to the complaints. In addition to the staff involved, I spoke to a stock contractor who was working there at the time, and a number of experienced people who attended the preg testing course. Despite repeated attempts to contact Sue Fitzpatrick (who was dealing with cattle tick outbreak on the Barkly at the time) including a meeting at Daly Waters while she was returning to Darwin was unsuccessful throughout the period of the investigation. Similarly for the private vet suggested by Mr Gray.

The main reason why I had to rely on verbal testimony and limited diary records from staff was that no level of management in CDU could provide historic or current records of stock numbers and movements or mortalities.

Mr Gorringe – The persons interviewed are not my witnesses.

There are numerous people whom have contributed to the alleged situation including to a large extent the complainant himself, VET Lecturer and resident of Mataranka Station, Mr Toby Gorringe, the former acting manager of Mataranka Station, Mr Douglas Jenkins, VET Lecturer and former farm overseer, Mr Grant Parker and last but not least, station hand and Mataranka Station resident Ms Nichola Walters. The actions or primarily lack of action, by all these people has contributed to the state of affairs that I unwittingly walked into in May 2009.

Mr Gorringe – I totally disagree with this comment. Additionally, Nichola Walters worked many hours of overtime and it was a very rare occasion that she was home by 4:30pm.

Ms Walters – Concur with Mr Gorringe - only one man locked cows up in Highway Paddock until they starved; only one man left weaners in Toms Paddock until they starved; only one man sent poor cows to Desert Paddock Tsumengerri bore which had no grass around it; only one man kept putting cattle into 17 Mile Paddock; only one man kept cattle in yards with minimal feed. There was never a lack of action by us that contributed to the state of affairs he '*unwittingly walked into in May*'. There was never a lack of action, I did what I could, but I was only a Station Hand (one person) who was constantly reminded, if I questioned Ian's directions, that my contract was due to run out. This was not a state of affairs he walked into, it was what he created himself and the dates prove this.

I have considered deeply the complaints of Mr Gorringe and the subsequent report of Mr Stockwell constantly over the last week and have contemplated at length on how best to respond. I have struggled with my response because, while I acknowledge some aspects of the complaints are valid, they are based on opinion and the investigation by Mr Stockwell has not offered any evidence other than hearsay to either endorse or refute the complaints and yet arrive at subversive conclusions in regard to the management of Mataranka Station. It is disappointing that Mr Stockwell has failed to recognise or acknowledge that the DRDPIFR inspections have revealed that strategies developed by Dr Heim and myself which were being implemented by my partner, Ms Hill, and myself to good effect.

Mr Stockwell – That under the pressure of an animal welfare order improvements were made to nutritional management seems hardly a defence of the poor state of the cattle that required such intervention. It is a virtual admission that the stock were as described by the complaints. Mr Gray's response apparently ascribes the cause of the problem to others outside of management.

Therefore, I have had no option other than to provide factual technical evidence on my own behalf and demonstrate that the complaints and the evidence collected from witnesses is the opinion of people with dubious credentials and motives.

Mr Jenkins – What evidence is there of me being of dubious credentials and motives. I find this comment offensive and defamatory. In an email to Dr Heim dated 25 March 2010 (10:11) the following request was made by Mr Jenkins who sought ‘*A copy of Senior Management or HR notes from Douglas Jenkins staff file stating my work is or was below standard, or showed any lack of work ethic, or to show me of dubious character or any faults with my work at all*’. No evidence was provided that Mr Jenkins had dubious credentials and/or motives. An email dated 29 April 2009 (09:03) from Ken Suter to Brian Heim, Tim Biggs and Douglas Jenkins was provided to this investigation. This email titled ‘*Ian Gray New Station Manager*’, in part said ‘*Many thanks to all and especially to Doug and Tim for the help that has been provided over the past period*’.

Mr Gorringe – The strategies that Dr Brian Heim and Mr Ian Gray adopted clearly did not work because cattle were still dying in the yards and holding paddocks, the situation got worse instead of better.

Mr Stockwell – The investigation could not ascertain any ulterior motives amongst the various witnesses, but in the end apart from Dr Heim and Mr Gray, staff, welfare officers and other industry people all proffered similar recollections.

OMBUDSMAN COMMENT: I have viewed the CV’s of the complainant, witnesses and Mr Stockwell. I do not agree with Mr Gray’s statement that the complainant and witnesses are persons with dubious credentials and motives. I found no motive for the suggested behaviour and the experience/skills and/or education of these persons is extensive and/or appropriate to the job description.

I have worked in the beef cattle sector for 29 years including almost ten years on Northern Australia’s foremost tropical beef cattle research facility, seven years in agricultural training institutions and over twelve years with several commercial enterprises and until returning to Mataranka Station had never witnessed such a blatant disregard to the work ethic expected of an employee and also, a lack of technical competency by anyone in a position similar to that currently occupied by Mr Gorringe.

Mr Gorringe – I take this as a personal attack on my credibility. I have worked in this industry for most of my working life. I can provide references if necessary. I have managed two large cattle stations at Caddapan and Mount Leonard. I have a master farrier’s degree and previously run my own horse shoeing business. CDU employed me with the qualifications and experience that were required for the position. I have had no complaints either from CDU or students.

The Stockwell Report portrays Mr Gorringe to be an expert in the husbandry of livestock based on the opinion developed by Mr Stockwell through a *lengthy phone interview (sic)*. Following six months of employment with the University I have observed quite the opposite to be the case. I have found the knowledge and skill base of Mr Gorringe far below what I would expect of someone employed in the capacity of VET Lecturer.

OMBUDSMAN COMMENT: In contrast to Mr Gray’s view of Mr Gorringe, Mr Gorringe’s supervisor Dr Heim does not appear to share the same view. In an application to the AEC

dated 25 November 2008 Dr Heim noted that Toby Gorringer, Doug Jenkins (and others) are all VET lecturers who have '*extensive pastoral industry experience*'. Further that Mr Gorringer, Jenkins (and others) have a minimum of 10 years experience in agricultural related enterprises and most have grown up on the land working on cattle properties. Dr Heim also wrote that all lecturing staff (of which Mr Gorringer is employed) are '*all experienced in animal care and husbandry of livestock, specifically cattle and horses*'.

Dr Heim has worked with Mr Gorringer and other CDU employees named by Mr Gray for a much longer period than Mr Gray; as such I would suggest that his opinion of these staff is stronger than that of Mr Gray who by this time had been working with them for about 6 months.

It is correct that in 2008 cattle neglect at Mataranka Station was an issue of concern, albeit with a different Manager (no longer employed by CDU), but not to the same extent as 2009. A CDU Executive advised my Office that the Station Manager employed in 2008 was a poor appointment. There was no mention that other staff members were a contributing factor to the neglect identified in 2008. The Executive also advised the Deputy Ombudsman on 23 February 2010 that in his view the problem started with an inadequately appointed Station Manager in 2008 and then the appointment of an '*ordinary Manager*' in 2009 employed to '*manage an extraordinary situation*'.

I also note that some blame is being apportioned to Ms Walters. I note that her role at Mataranka as Station Hand was to work under the direction of the Station Manager. In the job description under key accountabilities the Station Hand *under the direction of the Station Manager was to undertake the supplementary feeding of all livestock; undertake mustering and moving of stock; undertake inspections and repair fences, yards and other facilities; undertake water bore runs including checking of holding tank levels, checking of troughs and water systems; maintain and submit accurate records to the Station Manager as to daily usage of fodder supplement, fuel, chemicals, seed and fertilizer...*

In my view if Ms Walters was failing to meet the requirements of her position, it was due to the Station Manager failing to direct, monitor, mentor and remedy the problems he states he was observing at Mataranka.

I possess employment experience with two different agricultural training providers covering a period of almost seven years mostly in supervisory roles and have served as a member and chair of recruitment selection committees. I have found Mr Gorringer's knowledge of the technical aspects of the anatomy, physiology and particularly nutritional requirements of cattle, and also horses, to be far below what could reasonably be expected of someone employed in the capacity of VET Lecturer. Therefore, I question the grounds for Complaints 1, 2, 3 and 4 as they are based on the opinion of Mr Gorringer whom I can demonstrate is far from an expert in the husbandry of any livestock, including the University horses which have been entrusted to his care.

Mr Gorringer – The horses were removed from my care on 13 October 2009 and given by Tim Biggs to Ian Gray and Wayne Spence.

On one of the rare occasions Mr Gorringer has assisted with cattle operations, he was allocated the task of walking cows and calves back to the paddock from which they originated. When I inspected the yards later that day I discovered the two young calves had been left behind. By leaving these calves behind it then meant that the calves had to be picked up and transported to the paddock in an attempt to return them to their mothers. Most people whom have knowledge of Brahman cattle would know that the likelihood of the calves finding their mothers⁹⁸ and for the mother to then accept the calves, which by this stage will be carrying many strange scents, is very remote. This is an example of Mr Gorringer's livestock skills that on a commercial station would have resulted in severe disciplinary action for anyone above the level of first year jack/jillaroo.

Mr Gorringer – Mr Gray's comments about calves not mothering up after being handled by humans are flawed. Hundreds/thousands of calves are branded every year and treated with chemical sprays which involved far more human contact. To suggest that after such a short period of time the likelihood of the calves finding their mothers or the mothers accepting them is wrong.

In relation to this incident I had cert II students in training and I asked them to make sure none were missed, checks were undertaken. The cows and calves were walked to Crater Paddock. I was not aware that 2 had been left behind. When I found out later in the day from Nichola Walters (who had been advised by Ian Gray) I went back and picked them up in the troop carrier. They were taken to their mothers and accepted immediately. These things happen sometimes and I take full responsibility. What I don't accept however were the detrimental comments Mr Gray made in front of the students.

Ms Walters – Mr Gray told me about the calves that had been left behind, I asked Mr Gray if he was going to advise Toby (Gorringer), he said 'no', if I hadn't informed Toby (Gorringer) then Toby (Gorringer) would not have known to go back to collect the calves.

Mr Gorringer is directly responsible for the care of all horses on Mataranka Station including approximately 22-28 plant horses, 5-6 yearlings and 5-6 brood mares and foals. Soon after arriving at Mataranka Station I raised my concern with Mr Gorringer in regard to the body condition of the brood mares in Ammo Paddock.

During the mustering operations of Ammo Paddock on 15 July 2009, I relocated the brood mares to Highway Paddock⁹⁹ and instructed Ms Walters to provide feed to these mares on a daily basis. Mr Gorringer was working away from Mataranka Station at the time and I was of the firm belief I was acting in the best interest of the mares. Upon Mr Gorringer's return to Mataranka he opted to relocate the horses to the Lower Beswick Creek Corridor paddock and thus, I left their care in his hands and maintained my focus on the cattle which had an increasing demand for supplement and water requirements as the dry season progressed.

⁹⁸ Within the NT Government *Cattle and Land Management Best Practice in the Katherine Region 2009 manual* it documents that calves separated from their mothers overnight will run back to their mothers when reunited the next day. I do not accept Ian Gray's view that a few hours of separation would result in a *very remote chance* of the animals mothering up.

⁹⁹ The same paddock in which the starving cattle were being held. Mr Gorringer advises he moved them as there was no feed in the Highway Paddock for the horses.

Mr Gorringe – Lower Beswick Creek Corridor Paddock had no cattle in it at the time that I placed the horses there. There was ample feed and I fed lick to them as well. After a few weeks Ian Gray put cattle in with the horses, consequently the horses missed out on the lick.

It was not until Mr Gorringe was away from Mataranka Station in late October that I was required to devote much attention to the brood mares. I noticed during an inspection of the mares that they appeared to have deteriorated considerably in body condition. On closer inspection I found that not only were the mares emaciated, but also that their hooves were suffering from neglect. The front feet of one mare was suffering from such neglect that infection had entered the sensitive tissue of the hoof. Following the advice of a veterinarian from the clinic of Katherine Vet Care, I was offered no alternative other than to euthanise this mare. When I raised the issue of hoof care with Mr Gorringe on his return to Mataranka Station during the second week of November I was informed *We only trimmed those horses' feet about four weeks ago.*

Mr Gorringe – Noting that the horses were removed from my care on the 13th October 2009 and placed into the care of Ian Gray and Wayne Spence, when I returned to Mataranka in November I went to check on them. The brood mares, foals and pensioners were locked up in the cattle yards. The hay was not suitable for horses, there was no feed in the feed bins and their condition was just horrific. I phoned Tim Biggs and he gave me permission to feed them which I did.

As stated control of the horses was taken from me on 13 October 2009. The Highway paddock is the very same paddock cattle that were locked in starved to death. When I put the mares into Lower Beswick Paddock there were no cattle in there, I fed them lick. Ian Gray then put 300 weaners in with the horses, the cattle ate the horse lick. I was never informed of any mare being euthanised due to hoof problems and Ian Gray never mentioned the mares feet to me.

I believe the photographs at ... are self explanatory other than to add that two of the brood mares were donated by a well known and respected cattle producer whom has been a long time supporter of the Rural Campus.

I apologise if this appears to denigrate Mr Gorringe, however, I believe it was necessary to present an in depth expose in order to provide a balanced view of the complainant and demonstrate that he can hardly be considered an *expert* as the Stockwell report relies heavily on the opinion offered by Mr Gorringe.

During the period following my departure from the University in April, 2005, it is my understanding there have been three managers in the space of four years. This many changes in management are not conducive to an efficient or productive enterprise. The mitigating circumstances that underpin most of the complaints raised by Mr Gorringe are fundamentally a result of unstable management and have largely been ignored in the Stockwell report. While I also have made some errors, I have endeavoured to the best of my ability to exceed animal welfare regulations as laid down by the *Animal Welfare Act*.

The relevant extract from the Northern Territory of Australia, *Animal Welfare Act*, as in force at 8 March 2007 appears below:

1. Provision of food, drink and shelter

- (1) *A person in charge of an animal must provide the animal with food, drink and shelter-*
 (a) *that is appropriate and sufficient; and*
 (b) *that is reasonably practicable for the person to provide.*

To this end I have devoted many hours over and above what would normally be expected of someone in my position in an effort to meet the requirements of animals in my care.

Mr Gorringe – If this is correct why was there no feed in the shed until after the complaints, why did Mr Gray make trips almost each week to Katherine to collect a bag or two of food and why were the cattle still locked in the yards and holding paddocks still dying?

Mr Jenkins – Unfortunately the rural sector has many hours of unpaid work expected of their employees just because we love the industry.

Complaint 1 - Length of time cattle have been held in yards with insufficient nutrition.

Response to Stockwell Conclusion:

Mr Stockwell's conclusion states that *the station inspection and interview saw no evidence to contradict the complaint* is a stark contrast and contradictory to the observations of Dr Susanne Fitzpatrick, Senior Veterinary Officer (SVO), DRDPIFM, whom had the opportunity to view the cattle on successive inspections of the station.

An excerpt from the inspection on 9 October 2009 appears below:

Condition of cattle in the yards and paddocks had improved since the previous visit two weeks prior. No recumbent (downer) cattle were observed during the inspection.

Ad lib feed (hay/pellets) and supplement was observed in the yards and holding paddock. Cattle in the paddocks had access to dry standing feed and water. Supplement had been moved away from the water points to encourage cattle to utilise dry standing feed available in the paddocks. A proportion of cattle in the paddock were congregated around the water points at the time of inspection.

It is my understanding that Mr Stockwell's investigation did not include an interview with Dr Fitzpatrick, who replaced Dr DPI Officer 1, Regional Veterinary Officer (RVO), as the veterinary officer responsible for the DRDPIFM investigation at Mataranka Station. It is also my understanding that Mr Stockwell did interview (*DOR Officer 1*), the very officer whom had been excluded from inspections of Mataranka Station.

Mr Stockwell – Ms Sue Fitzpatrick did not respond to repeated requests/messages. DPI Officer 1 was not interviewed per se. CDU provided the original animal welfare reports prepared in part by DOR Officer 1. DOR Officer 1 did provide the opportunity to view

photos from their inspection which were not forwarded by the CDU. Importantly DPI Officer 1 name was on the list of people to be interviewed provided by Bob Wasson.

Ms Walters – Everyone who challenged the University was removed ie Toby Gorringer; DPI Officer 1; Andrew Vodic; Elizabeth and me.

The report tabled by Dr Fitzpatrick following the inspection of 22 October 2009, identified that there were still issues in the area of livestock feed procurement and labour shortage. However, the report also acknowledged:

All stock had sufficient feed and water. The young weaners showed a significant improvement in energy since the prior visit.

Mr Stockwell – This is an admission that the management was responding to the demands of the animal welfare order and that the previous state of affairs was such that required intervention. In short the original welfare reports stated the problem and recommended prosecution. For reasons unknown, the DOR decided to oversee remedial action only and not prosecute.

Mr Gorringer – It may be the case that in October (several weeks after the complaints) the weaners showed a significant improvement in energy, the question remains why were they still dying if there was enough feed being provided to them.

The Stockwell report is yet again contradictory in the photograph captions contained in the Appendix where it suggests that *weaners had apparently been held for long periods without feed* yet Ms Walters evidence states that *1 large bale of hay/200head/day was being fed*.

Mr Gorringer – Even if 1 large bale of hay was being fed each day to 200 head of weaners, this is nowhere near enough.

In fact four large bales of millet hay (average weight of 540kg bale) were being fed every three days to the 200 weaners which had an average body weight of 130kg.

Mr Stockwell – The figures relate to different time periods. I may be more convinced if the manager could have supplied me with the records of the number and weight of weaners when they came into the yards, and weight and time and numbers when they were allocated into paddocks. Even one set of numbers and weights and dates would have been useful and instructive. Plucking a figure of number of hay bales fed per day and then quoting from NRC tables may be ok for the lecture theatre, but the cattle in the paddock and yards do not offer support for the theory.

Industry Expert: If four large bales of millet hay (average weight of 540kg/bale) were being fed every 3 days to 200 weaners with an average body weight of 130kg, this would amount to adequate. A rule of thumb is a beast will consume around 3percent of its bodyweight in dry matter per day. For a 130kg animal this is 3.9kg. The amount fed equates to 3.6kg/head/day. Being millet hay there would be some stalky material which

the weaners would not readily eat and the moisture content of the hay while not likely to be high, would also reduce the actual dry matter intake as well.

I hold the nutritional requirements of cattle under my care of paramount importance. To this end I endeavour to meet their requirements following universally accepted principles whilst taking into account codes of practice for the welfare of animals. Beef cattle nutrition is a complex subject with many confounding factors which need to be taken into consideration including such things as ambient temperature and breed of cattle, however, rather than include the formulae which can be found in the National Research Council (US) publication *Nutrient Requirements of Beef Cattle, Seventh Revised Edition, 1996*, I have included very basic guidelines as documented in *Standing Committee on Agriculture and Resource Management, Model Code of Practice for the Welfare of Animals, Cattle, SCARM Report 39*, and can be found at Appendix – Feed Requirement Guidelines. The relevant extract is below:

For young cattle under 300kg liveweight at maintenance, the ration should contain not less than 7. MJ ME/kg DM and be fed at 2.5kg DM/100kg liveweight/day.

Although the *Primary Industries Standing Committee, Model Code of Practice for the Welfare of Animals, Cattle, 2nd Edition, PISC Report 85*, has replaced *SCARM Report 39*, the more recent version does not include detail in regard to actual nutritional requirements of cattle.

Likewise, *Nutrient Requirements of Beef Cattle, Seventh Revised Edition, 1996* does not include the composition of millet hay, however, the previous edition, *Nutrient Requirements of Beef Cattle, Sixth Revised Edition, 1984* lists millet hay as containing on average 2.13 Mcal/kg which equates to 7.75 MJ ME/kg DM. This obviously exceeds the maintenance requirements of the animals in question. In addition to millet hay, the weaners had ad lib access to Boost lick blocks which are a high protein performance based supplement for growing cattle.

The inclusion of many of Ms Walters unsubstantiated and subjective comments yet again highlights the bias inherent in the conclusions reached by the *Stockwell Report*. It should be noted here that at the top of the list of key accountabilities for the position held by Ms Walters is *Undertake the supplementary feeding of all livestock*.

OMBUDSMAN COMMENT: I do not believe that the full key accountability for the Station Hand has been replicated by Mr Gray. In the Station Hand's job description under the heading of key accountability it states *Under the direction of the Station Manager – undertake the supplementary feeding of all livestock*. Mr Gray has not documented what directions he provided to Ms Walters to undertake this task.

One of the Station Manager's job position key accountabilities is *Effective management of support staff to achieve key performance indicators for production and maintenance of property infrastructure*. His response has not revealed that he provided effective management to his support staff.

More often than not I found myself having to complete this task. I raised the issue of Ms Walters's poor performance with Ms Walters herself, with the first occasion being Monday, 13th July. Ms Walters acknowledged on many occasions she was unable to complete allocated tasks within her normal working day and actions to remedy this situation were agreed upon. I also discussed options as to avenues available to address this issue with Cath Taylor PMD, CDU, Alice Springs.

Mr Stockwell interviewed Ms Walters after he had spoken with me. At no time did Mr Stockwell contact me following the initial interview process. If he had, I could have explained to him that while I accept weaners were kept in hand longer than *common industry practice* I had what I believed to be good reason behind this decision.

It had been brought to my attention that numerous school groups, including Kununurra High School and Taminmin High School, were scheduled to attend KRC, including Mataranka Station. One of the competencies identified to be undertaken by these groups was RTE2111A: Identify and mark livestock. It was my experience from the previous occasion I was employed as manager of Mataranka Station that it was prudent to keep some weaners in hand in order to maximise the training outcomes in this situation.

Mr Stockwell – Mr Gray did state this at interview. The question is not so much only the weaners were kept in the yards for extended periods, but the level of nutrition that was actually supplied. If the weaners had been treated reasonably, they would not have had to be trucked away to a feedlot to recover. This is crisis response in the extreme.

OMBUDSMAN COMMENT: I was provided with the 2008/2009 training program as part of my investigation. I note that unit RTE2111A as referred to by Mr Gray above was not on the 2009 schedule. In interview Mr Jenkins advised that Taminmin High School were not scheduled to attend KRC or MS in 2009 and did not attend, this is supported by the 2009 timetable. Mr Jenkins' view is supported by Mr Tim Biggs in an email to Mr Jenkins dated 25 March 2010 (13:59) in which he stated '*I am pretty sure Taminmin was booked in for 2010 only*'.

The evidence offered by Mr Thomas contains comments that are categorically incorrect. I cannot overstate that the comments of Mr Thomas are infused with blatant untruths. The weaners to which he is referring were fed on a daily basis and are the same weaners that Dr Fitzpatrick reported as having *Ad lib feed (hay/pellets) and supplement* and also *showed significant improvement in energy since the prior visit*. During the time Mr Thomas was at Mataranka Station, I was assisted in daily feeding of these weaners by a young man, Mr Tom Goldsmith. The out of context use of a comment I made in regard to getting weaners out of the yard only serves to demonstrate the importance I placed on not holding cattle in the yard longer than necessary. As on most cattle stations, laneways and paddocks close to the yards become increasingly devoid of grass as the mustering operations progress through the year. It was commonplace when I was at Mataranka Station previously to use the road side verge adjacent to Bottom Toms Paddock for tailing operations. An inspection by the AEC actually was witness to this process. I hold the comments from Mr Thomas with the contempt deserving of them.

Complaint 2 - Cattle held in the Highway lane, following an unsuccessful sale, for an unreasonable amount of time, and with insufficient nutrition.

Response to Stockwell Conclusion:

The conclusion reached by the Stockwell Report in regard to this Complaint clearly demonstrates the rushed nature of the investigation. The assessment of pasture condition and accompanying photographs are not representative of the paddock. Mr Stockwell has observed Black Speargrass¹⁰⁰ (*Heteropogon contortus*), however whilst identification of grass pasture species is not my field of expertise, it appears that Mr Stockwell has failed to observe considerable swards of Kangaroo Grass (*Themeda triandra*) in Highway Paddock. I have grave reservations in regard to how thorough Mr Stockwell inspected this paddock.

Mr Stockwell – Native pasture science is one of my specialties. I drove a transect along the western edge of this very narrow paddock and estimated pasture yield at measured distances, and took photographs at these points. I stand by the observations and calculations supplied in the investigation. If Mr Gray is trying to make the claim that there is any level of acceptable edible pasture in this paddock, on the basis of what stems of what species are left, it is an unconvincing one.

Industry Expert – Kangaroo grass is one of the better native grasses for grazing and is a preferred species by cattle. That said, its nutritional value as a dry season feed is still low and much the same as most other native pasture species ie cattle would still need supplements.

DPI Officer 1 – Arranged for an assessment of the Stations pasture flora, NIL Kangaroo Grass observed, however swards of Black Speargrass and Wiregrass were observed. Wiregrass has some grazing value when green but it is negligible after that, Black Speargrass can be a source of useful fodder early in the season, but this declines rapidly at the end of the wet season. The inspections of the property occurred in September and October 2009. DPI Officer 1 concurs with Mr Stockwell's view of the edible pasture available to the cattle.

Following the initial inspection of Mataranka Station by DRDPIFR officers it became apparent to me that one of the Officers appeared to have difficulty in assessing the situation objectively. As mentioned previously, this officer was consequently excluded from future inspections of Mataranka Station by his supervising officer, Dr Fitzpatrick and Dr Fitzpatrick subsequently conducted all further inspections herself. However, I felt it was prudent to engage the services of an independent veterinarian to examine the cow herd in question. Dr Martin Edelmaier, a locum veterinarian for Katherine Vet Care and who possesses extensive experience across Northern Australia, visited Mataranka Station on Friday, 11th September 2009.

During his inspection of Highway Paddock on 11 September, Dr Edelmaier noted *that This paddock had been eaten out around the water but feed started around one kilometre from the water and was good from one and a half kilometres onwards (sic).*

¹⁰⁰ Black Speargrass – Vigorous and moderately palatable when young, it can be a source of useful fodder early in the season, but this declines rapidly at the end of the wet season. Not at all palatable or nutritious when mature, Black Speargrass will appear almost ungrazed late into the dry. Fire should be used to remove old standing dry matter. Reference: DoR

This observation must yet again raise concern as to the accuracy of the Stockwell report.

Upon my return to Mataranka Station in May 2009, I soon discovered that during the course of the first round muster Messrs Jenkins, Gorringer and Parker and Ms Walters were depasturing cows identified for sale in the paddock known as *Big Horse*.

It is in reference to these cows which the original *anonymous*¹⁰¹ complaint to DRDPiFR was lodged. Big Horse paddock is 600 hectares in area and these cows were in backward store to store condition at the time I viewed them. Also, the water point in this paddock although being a 6 metre long trough was supplied through a reticulation system that at best would deliver a flow rate of 40 litres/minute. Assuming the water requirement of a 450kg pregnant Bos Indicus cow is 47 litres at an ambient temperature of 25 degrees Celsius, this would equate to a period of 19.5 hours for all animals to consume sufficient water which was not acceptable by any means. These calculations were confirmed with my observations of the cattle. Therefore, I moved these cattle to the paddock known as Highway Paddock which not only exhibited a higher dry matter yield predominantly consisting of Black Spear grass (*Heterpogon contortus*) and Kangaroo grass (*Themeda triandra*) but also a reticulation system which is capable of delivering up to 120 litres/minute. Although the watering point in this paddock is a trough 3 metres long, the cows could consume their average daily requirement over a period of five and on half hours. As per the *Cattle and land management best practices in the Katherine region 09* publication, although 10percent of the herd would not be able to drink at once, it is still well within acceptable limits as this publication states that the maximum time suggested for a mob of cattle to remain at watering points on a daily basis is six hours as opposed to the situation which they were subject to in Big Horse Paddock which was outside these parameters.

The inclusion of many of Ms Walters unsubstantiated and subjective comments yet again highlights the bias inherent in the conclusions reached by the Stockwell Report. For example, the summary of diary records omits important information such as the fact that, while I have engaged the services of a helicopter, it was used primarily to support mustering operations on the ground. Also, for example, it contains blatant untruths such as *I Gray did not come near yards during school*. In fact, I mustered the cattle to the yards before daylight each morning and visited the yards at least once every day to ensure the school was progressing smoothly. It would have been an inefficient use of my time to be present for the entire workshop.

Mr Stockwell – The written diary records were the only written records provided to the investigation.

As per a verbal request from myself and later a formal directive to all KRC and Mataranka Staff from Dr Heim which states:

If you do euthanise an animal, it is imperative that you advise management including giving him the following: Immediately following destruction of the animal you are to

¹⁰¹ It is not known why Mr Gray believed the complaint was anonymous. The diary note (26.09.09) of Dr Heim states the first complaint was made on 2 September 2009 from an employee of CDU.

advise both Ian and Brian of the event in writing, preferably via Email, including a brief description of the animal, identification of the animal if available and a brief reason for destruction. If the animal has a NLIS tag/button it should be given to Ian (sic).

To date I have not received any advice from KRC or Mataranka staff members in this regard.

Nonetheless, the *Cattle and land management best practices in the Katherine region 09* publication includes a table at page 107 which indicates the average mortality rate as a percentage on the Sturt Plateau to be figure of 3.2. Therefore, the figures suggested by the Stockwell report are quite probable and while not being ideal, are not outside accepted industry parameters.

OMBUDSMAN COMMENT: The 3.2% mortality figure referred to by Mr Gray relates to mortality rates recorded in 2004. The manual after this 2004 table states that *'Results from well managed recorded herds indicate that annual breeder mortality should be less than 2% ...Invariably, the figures are grossly underestimated and reported – especially from regions where mustering efficiency is a problem as the majority of dead animals are seldom seen...'*

Mr Gorringe – The mortality rate referred to in the *Stockwell Report* didn't take into consideration the whole Mataranka herd. His report referred only to the cattle locked in the yards and holding paddocks, so the percentages that Mr Gray would lead you to believe would be much higher than the figure of 3.2%.

Complaint 3 - Pregnancy testing of cows occurring when these animals were not in a fit condition for the tests.

Response to Stockwell Conclusion:

Mr Stockwell's claim that *In 30 years in the NT Industry I (Stockwell) cannot recall a mob of cows that (have/were?) subjected to such mismanagement with respect to nutrition and grazing let alone stressing them further by using them for the preg test (pregnancy diagnosis) school* demonstrates yet again a conclusion based on opinion rather than factual evidence.

I personally have determined the pregnancy status of in excess of 800,000¹⁰² cows over a period of 35 years and have conducted beef cattle pregnancy diagnosis, artificial insemination and embryo transfer workshops and training throughout Northern Australia, South East Asia and South Africa.

The selection of cows for any pregnancy diagnosis workshop that I have ever conducted is based on guidelines recommended by the Australian Cattle Veterinarians (ACV) association; formerly the Association of Australian Cattle Veterinarian (AACV), and I have included a copy of these guidelines at Appendix. The selection of cows for the workshop conducted by Dr Heim was in keeping with these guidelines.

¹⁰² Equates to approx 62 cows a day every day of the year, including public holidays over a 35 year period. Number referred to conflicts with job application for the position in which Mr Gray advised the number to be over 700,000.

Dr Edelmaier, inspected some of the herd from which the cows utilised for the pregnancy diagnosis school originated. 120 of the cows in better condition (CS 2.5 or better on 1-5 scale) had already been removed from the herd. 83 cows from this mob of 120 were found to be pregnant and placed in Roper Paddock while the remaining 37 non pregnant cows were transported to Katherine Rural Campus to be sold immediately a sale became available. Therefore, like Mr Stockwell, Dr Edelmaier saw the tail end of the herd of which not all were utilised in the Pregnancy Diagnosis workshop. An excerpt from the consult is below....:

Examine: condition score one cows all had calves at foot. The other cows ranged from mainly condition score two up to four. No animals seemed in distress or unable to move at four o'clock in the afternoon. Comparing the feed in the paddock (Wire Hill) to the ungrazed roadside; starting approximately two kilometres away from the water trough it was identical to the verge.

Dr Edelmaier verbally advised that he had been spaying cows on a nearby station earlier in the week and that many of the cows he was to spay were going down in the race before they got to the crush. He offered the view that the cows he saw on Mataranka Station appeared far stronger than those on the neighbouring station.

Mr Phil Irlam, Laurabada Helicopters, who assisted with moving these cows, offered a similar view. Mr Irlam whom had mustered over 20,000 herd of cattle throughout the Northern Territory during the current mustering season stated the cows he assisted with mustering for the Pregnancy Testing School were on a par with the large majority of cattle he had observed on other stations.

Mr Gorrige – Were the other cattle on other properties that Phil Irlam mustered used for Pregnancy Testing Schools? Are these properties educational properties that teach best practice and do they require a licence and/or permit?

Through my role as the Senior Beef Extension Officer for North West Queensland while I was employed with the Queensland Department of Primary Industries, I observed and was asked to report on the condition of cattle being spelled at Cloncurry, Qld while they were en route from the Northern Territory to eastern destinations. Quite frankly what I witnessed during May 2009 was nothing short of appalling in regard to the condition of the cattle and far more distressing than anything I had ever seen before or since. I would suggest that, even given Mr Stockwell's background and experience, he has had limited exposure to the wider cattle industry in recent years and that his recollection of events in the past is of little significance.

Mr Stockwell – I make no comment on Mr Gray's opinion of my relevant experience. The investigation was not asked to enquire of what was happening on neighbouring properties or had happened on Eastern States properties, but I was aware that several neighbours of Mataranka Station were appalled that the condition of their cattle was being compared with Mataranka Station. It however was not just my opinion – it was also that of experienced industry people who attended the preg testing course. Recently I met another experienced industry member who had attended the course and volunteered the

comment that he wanted to lodge an animal welfare complaint but wasn't sure how to do it.

Complaint 4 - Bulls and young steers declining into a poor condition due to lack of supplement nutrition.

Response to Stockwell Conclusion:

The opening line of the Stockwell report conclusion to this complaint begins *In all likelihood.....* yet again demonstrating the lack of evidence gathered during the investigation. As per the Management Response to the original complaint which quotes a recent NTDPIFM Agnote

*It is **normal** for grazing animals to gain weight during the wet season and maintain or lose it during the dry season.*

This fact is acknowledged by cattle people throughout the Sturt Plateau. The findings in relation to this complaint also demonstrate the sheer lack of knowledge the witnesses and investigator possess in regard to the Mataranka Station. It also demonstrates what appears to be scarce attention to detail by the investigator which has resulted in an incomplete investigation. Mr Thomas would have had great difficulty working steers in Roper Paddock as there were no steers in this paddock during the entire time Mr Thomas was at Mataranka Station.

The *Stockwell Report* confirms that the bulls in Ammo Paddock were NOT in poor condition contrary to Mr Gorrings's complaint. His opinion, however, that *they were certainly in no condition to go into a breeding herd for a 4 months joining period* is exactly that – opinion. If Mr Stockwell had taken the time to interview me more thoroughly he would have found that under my management all bulls will undergo a thorough soundness and fertility assessment prior to being joined with cows. Also, many of the bulls in lighter condition are either aged bulls which will not be utilised in the 2009/2010 joining or bulls that had recently been mustered or trapped. These bulls had been left in the paddock with cows following failed mustering operations by Messrs Gorrings, Parker and Jenkins and Ms Walters earlier in the year. Again, the reason cattle in Ammo Paddock did not receive supplement for a period of time was due to Mr Gorrings housing horses in the same paddock.

Mr Gorrings – After the horses were removed from that paddock in July, Mr Gray still failed to feed the bulls lick at any stage.

The steers in the Lower Beswick Creek Corridor which Mr Thomas did handle, however, were only held in that paddock from 11/09/09 to 13/10/09, a period of 4 weeks. Mr Thomas is correct on one point – that there was not any supplement in the paddock as Mr Gorrings had placed horses in this paddock.

Mr Gorrings – Prior to the arrival of Mr Gray and since 2007 Mataranka Station had allocated horse paddocks. When Mr Gray commenced as manager we were told by Tim Biggs that there were no horse paddocks, they were just paddocks. This made it

extremely difficult to care for the horses properly, because if lick was provided the cattle ate it.

The steers were only held in this paddock for a relatively very short period of time pending the repair of the Tiger Hill Paddock boundary fence. Mr Thomas was engaged to handle these steers as these are the same cattle that were tailed by Messrs Jenkins, Gorringer and Parker as per Ms Walters' testimony at Complaint 1. Even though I had little contact with these cattle as they were educated prior to my commencement at Mataranka Station, it became obvious to me that their education was lacking and the entire reason behind engaging Mr Thomas' services.

The heifers in Parnell Paddock were receiving supplementation in the form of loose lick which contained 28 percent Urea and then a transition was made to block supplement when I was placed in the situation of managing the station on my own while Ms Walters was on sick leave. The transition to block supplement was also in keeping with the recommendations of DRDPIM Senior Veterinary Officer, Dr Fitzpatrick, as the preferred option to minimise the risk of urea poisoning as a result of loose lick fed in troughs becoming wet during the lead up to the wet season.

Mr Stockwell has totally misconstrued the management response and I take personal offence at his comment *Any reasonable management regime would have been aware of this situation and planned accordingly.*

The conclusion that *in all likelihood cattle have been significantly under-supplemented during 2009* is ill informed. If Mr Stockwell had taken the opportunity to meet with me at Katherine Rural Campus I would have been able to provide him with information which clearly demonstrates that, under my management at least, significantly more supplement has been purchased and distributed than in the same period last year.

OMBUDSMAN COMMENT: Mataranka Station did purchase more supplement in 2009 than it did in 2008. Whether this was sufficient for the amount of cattle held at the property was the issue. As previously alluded to, cattle held at the station in 2008 were also in questionable condition. There were less cattle at Mataranka in 2008 than there was in 2009, so less supplement purchased in 2008 would be expected. It should also be noted that the majority of supplement purchased in 2009 was after complaints were received, not in the height of the dry season period of May – Sept when one could expect the majority of supplement to have been purchased.

Industry experts have advised that approximately 100g/day of supplement is required by cattle to maintain body condition. With approximately 4500 cattle on Mataranka Station in 2009, this would equate to 164,250 kilos of supplement in the year. Much less was purchased during this time.

Mr Stockwell – The level of supplementation compared to 2008 seems hardly a defence. Similarly the amount of money spent on supplement after the original welfare investigation is not a defence against previous under-nutrition. It seems clear that management only ever responded to repeated and prolonged intervention by outside influences.

Complaint 5 - Recumbent stock neglected, without being provided with water, resulting in their suffering.

Response to Stockwell Conclusion:

The Stockwell report yet again admits *there was no actual evidence seen of downer cows that were without water at the time of inspection*. This is in keeping with the DRDPIFR report of 09-10-09 which states:

No recumbent (downer) cattle were observed during this inspection and the Stockwell report arrives at a conclusion based on *the balance of probabilities* and again relies on the use of emotive language. To arrive at a conclusion based on supposition with no supporting evidence characterises the validity of the entire Stockwell report and the complaints which it was intended to investigate.

OMBUDSMAN COMMENT – Mr Gray fails to mention the findings of the DPI reports compiled prior to October 2009. The conclusion drawn by Mr Stockwell is supported by these earlier reports. The fact that over a month later things were improving does not negate the earlier situation.

The Stockwell report makes reference to *staff members exhibited considerable distress when discussing these issues, and I was given no reason to doubt the sincerity of their claims (sic)*. If Mr Stockwell is referring to his previous employee, Ms Walters, it should be noted that while Ms Walters took absence from her employment at Mataranka Station from 13th October 2009, through to 20 November 2009 she reportedly had no qualms advising other staff members that her recent leave of absence was not due to Post Traumatic Stress Disorder at all. I believe the apparent fraudulent nature of this claim under Worker's Compensation is another example of the fabricated evidence offered by Ms Walters and Messrs Gorringer, Parker, Jenkins and Thomas.

Ms Walters – To suggest that my PTS claim was fraudulent in nature amounts to defamation...

Mr Gorringer – I personally witnessed the distress of Ms Walters one evening in early October. She sobbed for well over 15 minutes and stated I just can't do this anymore referring to euthanising cattle.

OMBUDSMAN COMMENT – In interview Ms Walters, Mr Parker and the Executive Officer of CDU's AEC broke down when describing their observations of animals at Mataranka Station. I have no doubt that these persons were/are emotionally affected.

I also note the comment of Mr Gray that Ms Walters was a previous employee of Mr Stockwell. In interview Mr Stockwell advised that Ms Walters worked for a contractor who conducted work for a couple of weeks at Sunday Creek Station. This does not make Ms Walters '*his previous employee*' and I don't agree that working for a couple of weeks on a property would describe Ms Walters as a person employed by Mr Stockwell.

The *Stockwell Report* then includes a comment from Mr Thomas in regard to the management of downer cows. As mentioned earlier in this document, Mr Parker was with

Mr Thomas the entire time Mr Thomas was at Mataranka Station. As per the directive (Appendix) disseminated by Dr Heim on 2 October 2009 which states:

You will note that item 4 says that down animals (who cannot get up) should be euthanised. Any staff member who comes across a downer animal and is legally allowed to use a firearm can perform the euthanasia if they are trained in the appropriate humane techniques.

Mr Gorringe – Before the directive from Brian Heim, Ian Gray instructed us not to shoot the downer cows, hence they were suffering and some were being eaten whilst alive by ants, dingos and pigs.

As a former Biosecurity Officer with both Queensland and Northern Territory Government departments, Mr Parker has received more training and is possibly better qualified than most University staff members, other than Dr Heim, to euthanise an animal, however, Mr Parker chose not to do so.

Mr Parker – I had students with me at all times when working with Mr Thomas, I will not handle a firearm in circumstances when students are present. Mr Gray was advised of the downers and should have taken action on that advice.

This reiterates my belief that it is unjust to hold me wholly responsible for any of Mr Gorringe's complaints.

Other Issues

These issues appear to be personal attacks on myself from discontent staff. The points raised are vague and lacking in detail, however, I will attempt to address them as far as possible.

Mr Gorringe – This has never been a personal thing, it has always been about the cattle and their welfare.

To the best of my knowledge at no time have paddock stock intentionally been left without water for a period exceeding 24 hours. This is in keeping with the *PISC Report 85, Model Code of Practice for the Welfare of Animals, Cattle*, which states :

Healthy cattle should not be deprived of access to water for periods longer than 24 hours, unless in transit, in which case the codes of practice for transport of cattle apply. Lactating cattle or those in poor condition should not be deprived of access to water for periods in excess of 12 hours.

Mr Gorringe – I have witnessed cattle that had been locked out of water lane at Tsumengeri Paddock for 2 days. When I told Ian his comment to me was it's only been two days.

As on any extensive pastoral operation there are occasions when water reticulation systems break down and it can be some time before the breakdown is discovered. I am aware of only three occasions when this has occurred since I commenced at Mataranka

Station. On one recent occasion when I discovered a problem with a reticulation system I ensured cattle still had access to water through the use of a fire fighting unit. I was assisted in this task by a young man whom was visiting with me at the time, Tom Goldsmith.

Mr Gorringe – The fire fighting unit used only holds an estimated 500-600 litres. Cows drink approximately 80 litres a day and there were over 400 head on that watering point. I had a phone call from Ms Walters in October she was quite distressed as she couldn't get water to the Wire Hill Paddock trough which was dry. I instructed her step by step on how to mend it and she did so and said she waited until the cows all got a drink. Ms Walters advised me (confirmed by Ms Walters) that when she told Ian Gray that she asked me for help he told her never to do that again. I am advised that these cattle went without water for over 2 days prior to Ms Walters fixing the problem.

During discussions with Dr Fitzpatrick, SVO, DRDPIFR, I raised the issue of reticulation system breakdowns in regard to meeting animal welfare obligations. Dr Fitzpatrick acknowledged that breakdowns inevitably occur and that on extensive operations it may be some time before the problem is discovered.

I freely admit stock have been held in a race or small holding yard, however, only for short periods of time as a short term interim measure while cattle are being moved within the yard system in order to make a suitable water yard available for the confined cattle. This situation is encountered throughout Australia and indeed I have also observed this practice during my experience with cattle operation overseas.

I believe this issue highlights the vexatious nature of these concerns.

At no time have bulls been left in a yard for 7 days without feed. I vehemently refute this claim.

While there is some staff who may not have personally fed animals for 7 days, I have always ensured that all animals under my responsibility have been supplied adequate feed. As a result I often found myself providing feed for animals well after other staff had finished for the day and gone home. I have raised the issue of staff performance elsewhere in this document and will not elaborate further. The supervisor of domestic duties at Mataranka Station, Ms Annette Hoffman, can confirm the duty over and above standard hours that I regularly performed at Mataranka, as can my partner Ms Hill.

OMBUDSMAN COMMENT – If Mr Gray knew that staff under his supervision had not been feeding animals for 7 days what did he do about managing this? It is in his job description to direct staff under his supervision to feed animals. If Mr Gray had been providing adequate feed I ask why so many animals, not only cows with calves, were in emaciated condition, dying or dead.

I can only comment on my own behalf to the concern that management is unwilling or unable to work with others. I have lived and worked with an extremely diverse group of people throughout my career which has included living and working with Indigenous Australians on remote cattle stations through to work with Malaysian and South African

natives in their respective countries. I have also, demonstrated good working relationships with many of the staff at Katherine Rural Campus and have endeavoured not to allow personal differences to interfere with achieving agreed outcomes.

Mr Gorringe – Mr Gray would not communicate with me at all, I received instructions that he should have given me through either Tim Biggs or Danie Luttig.

Again I would suggest that this is a vexatious comment from a small group of staff with a vendetta toward me. It would also appear to me that this issue is more a case of a small group of staff not willing to work with me.

Ms Walters, Mr Gorringe, Mr Jenkins, Mr Parker – It is not true that we were not willing to work with Ian Gray, he was not willing to work with us.

It is true no extra staff (directly employed by the University) have been employed. I have interviewed three potential employees and offered employment to two of them, however, both declined. One candidate advised that the accommodation arrangements were not acceptable and the other preferred not to offer a reason.

As a result, I resorted to using contract labour, including Mr Thomas and Miss Jessica Beckhouse. I found the service provided by Mr Thomas did not meet the needs of the University. I did, however, offer Miss Beckhouse continuing engagement up until the time I was stood down by the University.

Mr Thomas – Ian Gray offered me further work but I was uncomfortable accepting that work, I couldn't go back there and be a part of it. I rang Ian Gray and said I won't be coming back.

Personnel & Structural Issues

I have demonstrated throughout this document that Mr Stockwell's subjective opinion of Mr Gorringe and Ms Walters knowledge and work outcomes are both biased and misguided. Had Mr Gorringe followed University policy and procedures and lodged a grievance complaint through the University system I believe this series of unfortunate events could have been averted well before the current situation came to being.

Mr Gorringe – I went through all the correct channels. I made many complaints to Dr Heim which were ignored. I also complained to Ian Gray about the cattle, eventually I went above their heads as nothing changed and cattle were still dying.

This was evident even to persons outside the University such as Dr Edelmaier who suggested:

If this was an internal complaint, surely monthly forum/rounds between the farm manager and academic staff would have been the best way to address any problems; share skills and advice; and prevent a repeat of this case (sic).

Regular Farm and Station meetings were held when I was previously Farm and Station Manager and a regular meeting schedule has recently been re-introduced.

Mr Gorringe – There were several meetings in 2009, however Ian Gray did not attend most of these. (Confirmed by attendance records)

Likewise, Mr Stockwell's belief that Messrs Parker and Thomas went out of their way to improve the situation at Mataranka demonstrates the subjective nature of the investigation. Mr Thomas was simply performing the task which on behalf of the University I engaged him to perform. Mr Parker was instructed to assist Mr Thomas by his supervisor, Mr Tim Biggs, Team Leader, Agriculture and Rural Operations, CDU, and this was considered a form of professional development for Mr Parker. I have shown earlier in this document that Mr Parker was directly in a position to provide an immediate remedy to many of the complaints.

That the Stockwell report should fail to recognise this fact is beyond comprehension.

Clearly Mr Stockwell advocates a different style of management to that which I subscribe.

Mr Stockwell – I concur that I advocate a different style of management to Mr Gray.

CONCLUSION

Mr Stockwell concludes that I am solely responsible for the current situation at Mataranka Station, however, I have demonstrated throughout this document contributing factors beyond my control including a plethora of conditions that existed prior to my appointment and also the lack of assistance from numerous other University staff members have contributed to the situation.

Mr Gorringe – The cattle at Mataranka Station on the commencement of Mr Gray were healthy.

Ms Walters – The conditions Mr Gray complained of were the tractor, fencing, accommodation etc, he did not complain about the condition of the cattle. (Supported in interview by Professor Wasson).

Mr Parker – Mr Gray complained to me about the temperament of some of the cattle, not their condition.

Mr Stockwell – The investigation did not conclude that Mr Gray was solely responsible, but that a prima facie case existed that Mr Gray's execution of his role as a Station Manager in terms of both nutritional management of stock, and management of human resources was lacking to the detriment of animal welfare. Mr Gray's response within this document affects none of the original conclusions.

Mr Jenkins has his own herd of seed stock cattle housed on Charles Darwin University property. To my knowledge, in the history of the facility currently known as the Katherine Rural Campus of CDU has a staff member ever been permitted to house their own cattle

on the property? The conflict of interest is obvious and the situation has dismayed members of the wider pastoral and seedstock cattle industry throughout the Top End of the Northern Territory. Mr Jenkins is well aware that I have raised my concerns in regard to this situation since my return and I believe this is just one of the reasons driving the motive to discredit me and bring my reputation into disrepute.

Mr Jenkins – On 25 March 2010 (11:01) an email was sent to Dr Heim asking, amongst other things for *'the names of any senior staff (other than Mr Ian Gray), any reports from members of the wider pastoral and seed stock cattle industry that indicate their dismay or view of conflict of interest with me having on KRC, and/or allowing the uni to use my cattle for training or allowing the uni to use my bulls for stud purposes or any evidence of conflict of interest felt by CDU with myself or any evidence to show me profiting in any way in this situation. Any evidence CDU has of a personal vendetta I Douglas Jenkins has waged against Mr Ian Gray'*.

No evidence was provided.

On 1 June 2010, Mr Jenkins called my Office. He advised that he has now removed his stud herd that was held at KRC to Taminmin High School. Mr Jenkins stated that this herd would win many awards for CDU and that CDU kept the prize money associated with this stock. Mr Jenkins advised that he was not concerned that this had been the situation as he enjoyed teaching the students who tended these animals, and that he felt proud that credit was being given to his students.

It is of importance to note here that Mr Jenkins advised me during the first few days of my arrival that during the period he was interim manager of Mataranka Station *the chain in the tray back is shiny from dragging cows away! (sic)* It is my understanding that neither University management nor the AEC were ever alerted to this fact and clearly indicates a problem existed well before I returned to Mataranka Station.

Mr Jenkins – Agreed that he advised Mr Gray about the shiny chain to help Mr Gray understand how quickly the season and cattle fell away in 2008 before the wet. *'It was because of this 2008 problem that I was asked to fix the welfare problem at Mataranka and did so with clearance from DPI. The shiny chain was a way we as worker doing an unsavoury job coped with the matter. All senior management knew about the conditions as that was the reason I was sent there'*.

OMBUDSMAN COMMENT: Mr Gray has brought up the issue of reporting cattle to the AEC and University management. I do not know how Mr Gray would be privy to what Mr Jenkins had/had not done in 2008. This investigation revealed that Mr Gray failed to report cattle or horses in poor condition to the AEC or CDU management on his arrival, and several months later sent an email to Ms Snell advising her that horses were in a poor condition.

If cattle were in a poor condition in May 2009 then Mr Gray should have contacted the AEC or DPI or other animal welfare group. Being critical of Mr Jenkins suggests that Mr Gray knew that reporting poor condition animals to the appropriate office is expected. This does not explain him sending an *'I shouldn't be sending you this'* email to Ms Snell.

Mr Parker was an unsuccessful candidate for the position to which I was appointed in May 2009 and has made no secret of the fact that he believes he is better qualified for the role than me. During a meeting with Mr Suter at Mataranka Station on 8 May 2009, Mr Parker openly advised that he possessed aspirations of one day filling the position of manager at Mataranka Station. While I fully support the career advancement of staff under my supervision, I believe this demonstrates yet another motive behind the collusion that has occurred.

The personal vendetta waged against me through the conspiracy of Ms Walters and Messrs Gorringe, Parker, Jenkins and Thomas seems to be a repeat of events that occurred last year when the manager of Mataranka Station at the time, Mr Calvin Chandler, faced the same allegations and complaints, albeit with a slightly different cast of players.

OMBUDSMAN COMMENT: I do not know what Mr Gray has been told about the 2008 problems at Mataranka. The repeat of events of 'conspiracy' referred to by Mr Gray are not the same. The issues in 2008 related to alleged sexual harassment of female staff members which is a different situation to 2009.

I am also unsure of why Mr Gray believed Mr Jenkins was conspiring against him. Mr Gray advised in interview that Mr Jenkins had called him and advised him of the job and encouraged him to take the position. It would be an unusual thing to then conspire against Mr Gray to untruthfully make him appear incompetent.

As mentioned earlier in this document, the succession of managers at Mataranka Station over the last few years I believe has led to the current situation and a further change in management I would suggest will only exacerbate the problem.

Mr Gorringe – This is not and has never been a personal vendetta. It has always been about the cattle.

While I may have made some management decisions which in hindsight were errors of judgement, at no time in my mind did I ever breach the *Animal Welfare Act* or carry out an act of misconduct. I believe flaws in my performance can be largely attributed to limited support from the University and has indeed impeded my decision making ability. However, through this situation I have developed a greater sense of appreciation for the perceptions of others. Even though I was endeavouring to rectify the circumstances to the best of my ability with the resources I had available, I was oblivious to the fact that other people could not appreciate what I was attempting to achieve.

I sincerely apologise if through my personal actions I inadvertently placed the University in a compromising situation under any legislative acts or regulations. I have always endeavoured to act professionally and in good faith with the knowledge and resources available to me as demonstrated through my exemplary conduct record while in the employ of the University on a previous occasion. I believe given the opportunity I am able to restore Mataranka Station to the position of high regard with which it was held in years gone by.

Throughout this investigation explanations have been provided by CDU employees to account for the poor condition of animals at Mataranka Station. That a number of animals were in a poor condition by early September is indisputable. What is challenged by Mr Gray and CDU management is how poor the condition was, how many animals were affected and who was to blame. The majority of explanations revealed a lack of feed/forage/supplement and/or water being provided to animals at Mataranka. Mr Gray offered other explanations and put forward defences to allegations put to him.

INTERVIEW - MR IAN GRAY, MATARANKA STATION MANAGER

Mr Gray was interviewed on 27 May 2010. In interview Mr Gray provided information that alleged a large scale conspiracy against him, which has been ongoing for many years, traverses states/territories and has occurred in several of his employment positions.

Asked how he became aware of the vacant Station Manager's position, Mr Gray advised that Douglas Jenkins had contacted him. Mr Gray said *'I'll be perfectly honest, I'm to this day unsure of the motives behind Douglas contacting me'*. Asked when Mr Gray resigned from his position with DPI&F in Queensland he advised that his date of resignation would have been the *'end of May 2009'*. Mr Gray was employed by CDU on 4 May 2009. If he didn't resign from DPI QLD until a couple of weeks after taking his position with CDU in the NT, then he kept open the opportunity to return to his former employment if the CDU position was not what he wanted. He stayed at Mataranka Station.

If the cattle had been in poor condition in May 2009, as Mr Gray has alleged, it would be reasonable to expect that between 4 May 2009 and when he resigned from his position in Queensland that he would have raised the challenges facing him with his new employer, and immediately put forward an animal management plan to restore the herd to acceptable condition. He did not do that. He stated in interview that he thought of returning to his job in Queensland because the cattle were in such bad condition at Mataranka Station *even though he had resigned* his Queensland position. That statement is inconsistent with the timing of his resignation from his Queensland position.

It was put to Mr Gray that one of his employment referees had told the selection panel that he was more suited to training positions than a management position. He was asked if he had had any problems in his previous employment that would lead this referee to make such comment. Mr Gray said he is not an aggressive person, and as a manager he tends to finish delegated duties himself to get a job done and this may have been the reason for the comment.

Asked why Mr Phil Irlam, a helicopter pilot that had previously been contracted by Mr Gray in 2002 – 2005 to muster Mataranka Station was chosen to be a referee, he said *'Phil and I had worked extensively when I was manager at Mataranka Station previously and I believe Phil and I had a fairly good working relationship. I guess Phil had an intimate knowledge of how I managed and how I operated more so than probably many other people. And, of course, Phil as external to the university had the opportunity to see my ability'*.

Asked why the previous helicopter pilot Mr Brisk was not retained to undertake mustering after the appointment of Mr Gray, he said *'I found with Mr Brisk that on the occasions that he, he had been previously booked by Mr Jenkins to conduct mustering operations and I didn't alter those appointments, engagements. So I was able to see, well, basically work with Mr Brisk as he had previously been engaged, however, I found that there were considerable numbers of cattle being left behind in the paddock and also found that I had a different pilot I think nearly on each occasion that he mustered so then those pilots then needed briefing...'* Mr Jenkins was asked if more than one helicopter pilot was provided by Mr Brisk to Mataranka Station, he said *'no, only one was sent for mustering and that was Morgan Lorrimar'*. Mr Jenkins was asked if *'considerable numbers'* of cattle were left behind during mustering. Mr Jenkins said that mustering had been done by motorbike and horseback, with the helicopter being used only to muster the stragglers. He said that a 100% success rate was unlikely in paddocks where substantial trees and paddock size may result in some left behind.

Mr Gray said that on his appointment he was not given any induction. Mr Gray said that his formal induction process was probably waived due to his previous employment with CDU. In light of his response he was read an email of 20 October 2009 which had been sent to Mr Andrew Vodic. In part this email reads *'On commencement Ian Gray was asked in his letter to contact me regarding his induction. Campus administration now does the local inductions as per PMD advice and training. I tried to contact him on several occasions in a variety of mechanisms over the two weeks, making myself available to fit in with the trips to Katherine from Mataranka and station duties. He did not contact me to undertake his induction. In speaking with Kath Taylor he said he knew Di Snell and would work through her. Unfortunately this did not instil me with confidence regarding his credibility'*. In response to this email Mr Gray said he did not recall seeing any communications, nor receiving any contact from Mr Vodic.

Mr Gray advised that the policies and procedures made available to him in 2009 were similar documents to those provided to him when he previously worked at Mataranka Station 2002 to 2005.

Mr Gray was then asked about some of his employment history. Information had been provided to my Office that Mr Gray had previously worked at Liveringa Station (WA); Longreach Pastoral College; and the Burdekin Agricultural College (QLD). I note that Mr Gray did not refer to Liveringa Station or Longreach Pastoral College in his application for the position of Station Manager at Mataranka Station.

The information concerning Burdekin Agricultural College (BAC) was that Mr Gray's HR file contained disciplinary action taken against him for alleged cattle neglect. A name was provided at BAC to contact regarding this allegation. I subsequently determined not to contact the college however Mr Gray was asked about this allegation in interview.

Mr Gray stated *'That's a blatant untruth. The Burdekin College when I accepted the position to come to Katherine actually asked that I return, to come back and manage the cattle operation. (Name withheld) and I had a very poor working relationship. He verbally and physically threatened me on numerous occasions. I believe that that would be a, I would suggest that there would be, (name withheld) was a junior lecturer...'* Asked if (name withheld) had an axe to grind, Mr Gray said *'I would suggest that that is more than*

the case'. Asked if his file would contain disciplinary action relating to cattle neglect, Mr Gray said 'Well I would assume I would be aware of it and the only disciplinary action that I'm aware of that would be on my personnel file would be the fact that four students broke into my utility and removed a revolver from the glove box. That is the only disciplinary action I am aware of that I received while at Burdekin Agricultural College... I immediately alerted the residential supervisor at the college and then alerted the local police of the firearm also missing knowing full well that that would render me liable to prosecution...'

In relation to Liveringa Station my Office was advised that Mr Gray left this position before being terminated for cattle neglect. The allegation was put to Mr Gray. He advised that he had previously been employed at Liveringa Station as a Livestock Overseer. He said *'Again I, look, Liveringa was very poorly managed, the General Manager was not a cattle person and repeated pleas that there was insufficient resources available, basically failed. Again I was asked to, it was a case of I was invited to go to Liveringa and it was not a situation that suited my wife and family at the time... Again, I would suggest that the allegations, as the allegations here, would be, don't believe have any legitimate grounds and that it's more a case of personality'*. Asked again if there were concerns raised about cattle neglect at Liveringa Mr Gray said *'I had personal concerns. I'm unaware if there were, and I would assume that there were other staff who were, could see that there were issues there...'*

At this time I note that there are two businesses external to CDU where Mr Gray worked where poor working relationships had formed; one with a junior lecturer (Burdekin) and the other with a General Manager (Liveringa).

My Office was also advised that Mr Gray had previously worked as a Farm Manager at the Longreach Pastoral College in 2007/2008. Again the same allegation of cattle neglect by Mr Gray was provided to my Office. Mr Gray failed to detail within his CDU job application or CV that he worked at this pastoral college, despite the position being similar to the job he was applying for. He stated he was unaware of whether concern/s of cattle neglect were made.

Another allegation was presented to my Office that related to a personality conflict between Mr Gray and another person (a CDU employee who apparently left Mataranka rather than work with Mr Gray). This issue was raised with Mr Gray.

Mr Gray was advised that in an email to Andrew Vodic the allegation was that (Name withheld) had advised his supervisor that he had worked with Mr Gray before and he was leaving because he felt *the farming practices were going to be detrimental to the stocks welfare*. Mr Gray was asked if he had been made aware of this email. He said *'no'*. Asked if there were any problems between him and (Name withheld) he said *'(Name Withheld) and I had a disagreement at, it would have been Darwin Show one year. I had previously been managing the state cattle show team with considerable success as I think I've outlined and (Name withheld) did not agree with some of the, or, yes, just I guess a disagreement in regards to methods or how, what the processes we were using or undertaking at the show'*.

(Name withheld) was spoken to on 8 June 2010. He was advised of the adverse comments made about his character and reason provided by Mr Gray for problems between the two men. (Name Withheld) advised that he was surprised by Mr Gray's version of the incident at the Darwin Show. (Name withheld) stated that a reporter at the show had approached the two men and asked if one would provide comment. (Name withheld) allegedly advised Mr Gray that it was his role to make comment and Mr Gray declined. Both gentlemen decided that a further discussion on this point was warranted and would discuss the matter on return to the station. (Name withheld) said that on return to the station he approached Mr Gray on three occasions however Mr Gray did not wish to talk about the matter further.

Mr Gray was advised that many persons involved in, employed by CDU, or who had inspected Mataranka Station had formed a view that Mr Gray was a major contributing factor responsible for the neglect of cattle. Mr Gray said *'I believe the views are untrue and I do not believe, there's many, there's quite a number of people that I believe they're in collusion to discredit me as they had done... I would also suggest that neglect, to be quite frank, that the allegations have no base, cattle, its ah, the Chair of the Katherine Pastoral Industry Advisory Committee when I was at a meeting with him...freely stated at that meeting that regardless of what cattle are fed supplement they will lose condition in the dry season in this Stuart Plateau country'*.

It was pointed out to Mr Gray that when he was previously Station Manager in 2002 – 2005 three dry seasons had passed without concerns about cattle in poor condition. He said *'...I think if we, and most of those records would be available, that there was still lactating cows in the dry, would still have been in light condition, ...'*

My investigator replied *'But what about the steers, the weaners, the bulls, the horses etc... I understand that a lactating cow will lose body condition but that does not adequately provide any information as to why bulls, steers and weaners would be in that sort of condition'*.

Mr Gray replied *'Again bulls, there's no problem with the bulls...'* I note that this is not the view of the Executive Officer of the AEC who wrote, in part, in an email of 14 December 2009 – *'When we saw the bulls at Mataranka they did not look in good condition and were still lying, being shot, which means they are still recovering'*. Mr Gray disagreed that the bulls were in poor condition and offered to supply my Office with photographs taken in January 2010. These photos were not supplied. Mr Gray's view despite the opinion of the AEC was that bulls held at Mataranka were in an average BCS of 3.

Mr Gray was asked if his opinion of a *'collusion to discredit him'* included members of the AEC he said *'No it doesn't include AEC members'*.

He was again advised that members of the AEC and DOR had formed the view that he was a major contributing factor responsible for the neglect of cattle at Mataranka Station. He replied *'In my role as the Manager I guess it's a case of I'm the easy target is all I can say'*.

Mr Gray was advised that Dr Heim had requested Douglas Jenkins to value cattle held at Mataranka Station allegedly because stock agents were unwilling to deal with Mr Gray. He replied *'It's not the stock agents unwilling to deal with me, it's the stock agents are*

unwilling to deal with the university...' As Douglas Jenkins is a CDU employee this comment made little sense.

Asked why Mr Gray had sent an email notifying Ms Di Snell of horse neglect, rather than notifying his supervisor or the AEC he replied *'I had informed the gentleman who, Mr Gorringer, I raised my concerns repeatedly with Mr Gorringer who was directly responsible for those horses and also with his supervisor Mr Biggs'*. Mr Gray stated that Mr Biggs had told him that at no point in time was he (Mr Gray) responsible for the horses at Mataranka Station.

Mr Gray was asked about the condition of cattle on his appointment in May 2009. He said *'...The cattle that probably concerned me more were the cattle that had been selected prior to my arriving at the station for sale. They were in a body condition less than two and still had large calves. Those calves were lactating...even though I had actually resigned from my position with the Queensland Department of Primary Industries I was seriously considering not staying at Mataranka given that I could see the amount of neglect that had occurred...'*

Asked if he had documented his concerns he replied he hadn't. Asked what he had done coming in as Station Manager to improve the condition of these animals, he said *'The cows had been placed in a paddock, 600 hectare paddock...Big Horse Paddock...with a very low pressure water supply. I observed them spending inordinate amounts of time at the trough in order to get sufficient water. I made the decision then to bring those cattle, again, you'll probably get on to it further on in your questions, there had been a verbal sale agreement, that's further in your questions?'*

Mr Gray said that the verbal agreement was to sell the animals at \$500/head however the buyer is alleged to have later said that he would give \$400/head.

Mr Gray stated he advised Mr Suter of the offer and that Mr Suter suggested that CDU should if possible hang onto the cattle until a more attractive price was offered. Mr Suter however does not have the same recollection of this sale. Mr Suter wrote *'...In July when I was reviewing the accounts and could find no evidence of sale proceeds from cattle my enquiries finally revealed that Mr Gray had decided that the price offered had declined and he believed he could do better elsewhere. Consequently he did not sell the 400 nor the 1000 head as previously instructed. At one stage he was instructed to move these cattle off the station at any price as they could not be carried over the dry season. In August I received advice that there were emaciated cattle at Mataranka and complaints had again been lodged with the cattle welfare group...'* What Mr Suter did with the complaints he became aware of in August 2009 has not been revealed.

The sale referred to was a verbal agreement made between David Felch, Ray White Rural and CDU. The sale price agreed upon was \$480/head regardless of size, colour etc. Mr Jenkins advised the sale fell through because Mr Gray removed the fat cows with the buyer only then offering \$400/head for the remaining weaners and coloured cattle.

Mr Gray continued that he moved these animals and that there was *'little in the way of forage for them to eat'*. Asked why a paddock had little forage after coming out of a wet season after a rainfall of 580mm in 4 months, Mr Gray said *'There was forage in Big Horse*

Paddock, but my concern, predominantly my concern was the water supply, that there was not sufficient water to supply the number of cattle that had been placed in Big Horse Paddock'.

Asked again what he had done to improve the condition of poor condition animals Mr Gray said *'The two main strategies were to remove the weaners and to treat them for parasite burden and continue to supply them with the supplement that was available. I believe there was sufficient forage available in the paddock they had been placed in'.*

Mr Gray was asked if he observed any poor condition cattle in July 2009, he said *'By July I actually hadn't been able to see all the cattle on the station. We hadn't completed. I came in towards the very end of the first round muster and the cattle I was seeing, which was just an observation through driving around, I actually hadn't actually seen all the cattle come through the yard. The wet cows or lactating cows that had calves on them out of season were my main concern...'.* Mr Gray advised that there were *'Probably 100 to 200 head...that were my major concern...in light condition'.*

Mr Gray was asked why less money had been spent on feed in the 2009 dry season than had been spent in 2008. He said *'There was still supplement on hand, Mr Jenkins had it ordered, a considerable amount of supplement that was still available and on hand would be my, without seeing the figures, I'm sorry I'll need to see visually, its just... (purchase documents handed to Mr Gray)...There was quite a quantity of supplement on hand when I arrived at the station'.*

When Mr Gray was told that Dr Heim and the Vice Chancellor had visited the station in April of 2009 and had not mentioned poor condition animals, Mr Gray said *'I would suggest that Dr Heim and Professor Glover were not shown, did not view the cattle that I encountered'.* The cattle concerned were in the yards or paddock next to the highway awaiting sale. It is difficult to miss seeing these animals as this area is adjacent to the Stuart Highway. If it takes several weeks/months for cattle to be in such poor condition, then it would have been unlikely that the Vice Chancellor and Dr Heim missed seeing these animals.

Mr Gray was asked how long it takes for an animal in BCS4 to deteriorate to a BCS1, he replied *'...would indicate to me that she is lactating and that probably the calf has been, she has been providing milk for the calf for up to 9 months'.* The answer evaded saying how long it would take cattle to deteriorate. It also did not answer the question about any other animals held at the Station.

Mr Gray was asked how he had come to the conclusion that there were no funds for fencing. He was shown the stations budget figures which indicated that \$25,000 was allocated for fencing. He said *'...The figure there of \$25,000 the monthly report from (name withheld) showed that figure in June or May/June of 26, minus 26, 27 thousand'.*

Viewing a copy of the station's budget, Mr Gray was asked how he came to the conclusion that the budget was not healthy. He advised that he received monthly updates from the Senior Finance Officer and in June 2009 the report was that half way through the year 50 percent of the \$417,075 budget had been spent. Mr Gray was asked to provide copies of those monthly updates but they were not received by my Office.

Mr Gray in support of his view that certain staff were against him provided an example in which he said he was fighting fires in 2009 which were about 30-40ft high. He stated he saw Ms Nichola Walters and Mr Grant Parker standing some distance away *'Mr Parker and Ms Walters would have cheerfully watched me burn'*. He said that without the assistance of two other employees this would have been the outcome. Mr Parker and Ms Walters vehemently denied Mr Gray's recollection advising that it is ludicrous to suggest they would watch someone burn to death.

Mr Gray also stated that CDU had employed a drug user. He insinuated who this person was. However he provided no evidence or information that would support this view.

Mr Gray was asked about his probation period, performance appraisals or any other discussion with him about his probationary period. He said *'No discussions, Ken did supply a probation report and highlighted a number of things in that report... Andrew Vodic and Dr Heim had a verbal conversation with me at Mataranka Station advising that probation would be extended given the current circumstances'*. Mr Gray continued that he believed his appointment had been made permanent based on information provided to him by Dr Janis Shaw, the Manager of Human Resources.

Mr Gray stated that he would like to add a few things off the record, however was advised that no information provided to my Office during an investigation is *'off the record'*. Mr Gray advised that the regular inspections of the station by DOR and the AEC was at detriment to Mataranka Station.

Mr Gray was advised of Professor Wasson's comment that the property next door to Mataranka Station was providing good supplement but Mataranka Station was not doing that. Asked to comment Mr Gray said *'I disagree. Mr Wasson is ill informed ...'*

In relation to student concerns about the pregnancy testing of poor animals Mr Gray was asked for his opinion of the BCS of cattle used for the procedure. He advised that the cattle would have been in BCS2 or better.

In relation to record keeping Mr Gray was asked if he kept cattle movement record books. He said *'I use cattle movement record books but I've only just recently become aware of the self carbonating books that were being used by the previous manager'*.

Again asked if Mr Gray used cattle movement record books from the date of his appointment he replied *'The records were being kept in a notebook which I believe is still in the possession of Ms Walters. As the station hadn't, she was responsible for maintaining those records'*. Ms Walters kept a diary of her duties and functions but this is not in my view a cattle movement record book. In the absence of Ms Walters how would Mr Gray fill out record movements. Ms Walters left CDU in 2009 and the records after her departure either do not exist or have been misplaced.

Asked how many cattle Mr Gray euthanised he replied *'eight'*. Asked how many of those were bulls he said *'I euthanised one bull that I was unable to muster but he was euthanised purely for the fact that he was recalcitrant and dangerous, not because of his poor condition'*. In a later response (5 October 2010) Mr Gray wrote *'...I personally did not*

destroy any bulls other than rogue scrub bulls...' Whether the bull/s were CDU's or not and how many bulls he destroyed is not known.

Mr Gray like many other employees advised that staffing at Mataranka Station is insufficient to run a cattle station the size of Mataranka.

Advised that one of the new station hand's had been described as apprehensive around cattle and that after being given a placid horse to assist in mustering that this employee could not handle the horse and needed help pulling the animal up, Mr Gray said *'This has just been turned into a personal vendetta. This is unbelievable. I can't believe some of the nonsense that these people have been spinning. That's just utter nonsense. (name withheld) has shown up Mr Parker to be the incompetent twit that he is. (name withheld) has turned this cattle stud around on its head. Mr Parker, I waited for 4 months for a business plan from Mr Parker for the irrigation which ended up costing me \$60,000 for \$4,000 return. Mr Parker is the most incompetent young man I've ever come across. I'm sorry...He is in collusion with Mr Gorringer, Mr Jenkins, Mr Spud Thomas. Mr Parker believes he can do a far better job than me and this is what this whole thing has stemmed from. This whole, its cost the University millions, its costing everyone millions, thousands of dollars sitting here talking about cattle that if you look at next door, there are several properties, adjoining properties, there is a photo of some cattle on a property that is supposed to be a best practice property in the district and the cows, and actually not even cows, they're steers in far worse condition than any cattle on Mataranka were. I'm sorry...I just, I really think we need to get to the bottom of this because this is just a personal vendetta from a young man who is just a disgruntled employee now trying to bring one of the most, yes, (name withheld) background she has a degree in microbiology, she had got more ability than most staff here. Yes, she's apprehensive around cattle. I bet you if any of us walked down to a yard and a cow came running at us blowing snot at you, we'd probably step away... The horse, the supposedly quiet horse she was placed on I found later was not, he's not a quiet horse. I objected strongly. When I found out what they had done to (name withheld), as her supervisor, I was disgusted. I said, how could you, that's, you know, you're just trying to catch her out, show her up because she is loyal to me, you know, you've put her on something that possibly could have caused her severe. You know, we had a fire in November 2009. I was conducting back burning operations. Coming along the fence between Tiger Hill and Yellow Waterhole, now, there were flames, and you can ask Mr, I think you've spoken to (name withheld), by some of the comments... (name withheld) was not prepared to even drive the grader in, he said he was too scared he was going to get caught. I went in there on foot trying to back burn. I had flames thirty, forty foot above my head. Now I was running until I was just about dead just to keep ahead of those flames and in the distance I could see Mr Parker and Ms Walters and they could see me and I was trying to get out of that fire and they stood there and looked at me. If it were not for (names withheld) who were behind those other two, came racing past to rescue me, Mr Parker and Ms Walters would have cheerfully watched me burn. This is. I'm sorry'.*

Mr Gray was asked about recruitment undertaken since September 2009, he said *'Since September, well again I appointed (name withheld), I appointed, unbeknown to me I appointed a contractor to assist with some weaner education. Unbeknown to me he was an associate of Mr Parker's and again he has been on air with blatant untruths again and I have got, had a young man working with me who can testify to the fact that Mr Thomas*

has difficulty, and I won't say any more, so we've appointed Mr Thomas which was not, he declined to return and I was quite happy to accept that because I was not happy with the way that he was working the cattle. I believe he is quite well respected in the district but I had reports that he had jammed cattle in a laneway that tight that the cattle suffocated. The dogs, his dogs, sorry I'm getting off the track'.

Mr Gray was asked why he asked Mr Thomas to return to the Station if he deemed him unsuitable. He replied *'No, I did not ask for him to return. As a matter of courtesy I said, if you were, needed some employment or needed some work, to give me a call. That was it, it was a matter of courtesy... I would not utilise, although I know he is well respected and has been utilised by some well known stations locally as we speak. I think even Professor Wasson voiced some dismay in the way that Mr Thomas treats livestock, particularly Mr Thomas' dogs. Anyway, I'm getting off the track... Well Professor Wasson was present at the time that Mr Thomas was being utilised for weaner education and Professor Wasson voiced his dissatisfaction in the way the dogs were transported or accommodated. Not to me personally but I don't think he, I don't think he voiced those opinions to Mr Thomas but that was to me. So (name withheld) was appointed'.*

Asked what the current position at Mataranka Station is Mr Gray said *'We then, that was late in the year, late December, then January I met with a gentleman, (name withheld) was made a direct appointment to the position classed as an overseer to Mataranka. And there was quite some delay, there was another position that had been approved by Dr Barry McKnight, however, there were issues obviously because Ms Walters had actually lodged an application for that position. Due to HR requirements and policies, there was mediation needed between myself and Ms Walters. She had lodged allegations that she was unable to work with me and until mediation had taken place we couldn't proceed any further with the appointment so we then scheduled mediation, met with Ms Walters here at the Rural College with Dr Shaw and an independent facilitator. Ms Walters had been informed that I was only being reinstated temporarily and that I would shortly be dismissed. When she found that I had been reinstated, exonerated, by the Vice-Chancellor she then took time to consider whether she would continue with the mediation and she opted not to continue with the mediation...'*

Asked if Mr Gray and two others were working permanently at Mataranka Station, Mr Gray said *'No, I'm not permanent at Mataranka'.* He also worked at KRC.

Mr Gray advised he had no documentary evidence of when he directed staff to undertake jobs. Mr Gray also stated that sufficient feed was available to all cattle on the station. He stated he didn't report poor condition animals to the AEC *'I didn't advise the AEC because, again, it was my belief that it was not an adverse event, it was an industry norm for the Sturt Plateau. The horses, I did not proceed any further with the horse situation because purely for the fact that it would have been perceived to have been a case of tit for tat'.*

Asked how the situation could be viewed as *tit for tat* when a horse's hoof fell off and horses were going down, Mr Gray said *'I provided additional hay and supplement to those horses. When I discovered again, because I did not observe them on a daily basis, that was Mr Gorrings responsibility, when Mr Gorrings was absent I had occasion to observe the horses and on discovering the condition they were in I did provide additional feed, hay and again I have photos available and you can where the hays been provided. And when I*

found that that mare had, in that condition, I euthanised her immediately’.

Photographs were not provided by Mr Gray to my Office.

Asked how often he viewed the cattle in the 2009 dry season, he said *‘Cattle would be observed at least three times a week during a routine water and bore run’.* Asked the same question for the wet season he said *‘Obviously a lot more difficult due to the inability to traverse the country. Where possible at least twice a week in the wet. Actually three times a week in the dry, it’s actually close to four times because I usually, when I have time available, I often conduct surveillance of the cattle on a weekend. But during the wet at least twice a week’.*

Asked if loose lick urea is delivered into paddocks during bull runs, Mr Gray said *‘In the dry season...loose lick urea, urea being toxic if it gets wet so obviously it’s only a dry season supplement. During the wet cattle have had, the limiting nutritional factor in the wet season is phosphorus. Obviously there’s issues with urea in the wet season but phosphorus is the main limiting production factor and that’s available in, because of the inability to traverse the country, I made the decision to distribute it in one ton bulk bags ...’*

Reference was made to one of Mr Gray’s conditions of reinstatement. Mr Gray was asked how often he met with the advisor to discuss Mataranka. He replied (Name withheld) *‘had visited the station once and I’ve met with (name withheld), and impromptu visit, last week, the week before and I’ve discussed with (name withheld) a few, at that time, (name withheld) obviously had some serious health problems so he was unavailable for quite some time’.*

Mr Gray was asked if he saw any cattle infested with ticks in 2009. He said *‘Not in 2009, no’.* It was pointed out that a DOR report stated that cattle were *‘ticky’*. Mr Gray replied *‘...the lighter condition cattle that we’ve been talking about that’s been the subject of this whole debacle were treated with Dectomix... I personally didn’t believe that they were carrying a huge tick burden...Cattle this year (2010) have been observed with a high tick burden and they have been treated with, and another thing I should mention that the Dectomix...has an efficacy of 21 days... The product that I’ve used this year has got a 55 day efficacy for the cattle that I’ve observed with, and again its been used selectively on cattle that are demonstrating a high tick burden’.*

Part of a DOR interview was read to Mr Gray. In part, the DOR Inspector had said that Mr Parker should have been retained as the Station Manager when Ian Gray was stood down. Mr Gray replied *‘(DOR Inspector 3) and Mr Parker worked together in Queensland’.*

Advised of two AEC members’ comments that there was a *cover up* occurring at Mataranka Station Mr Gray replied *‘That is correct, there is a cover up going on, it’s a colluded effort to discredit me in order to make way for Mr Parker’.* I note that this would not be possible as Mr Parker resigned in April 2009.

Advised that the EO of the AEC had stated that Mr Gray was responsible for the situation at Mataranka Station, he replied *‘I cannot be held wholly and solely responsible for the lack of mismanagement that occurred in the past or the lack of support I received’.*

When advised the Chairman of the AEC had stated about 700 cattle were in poor condition in 2009, Mr Gray believed this to be an overstatement. In contrast to Mr Gray's view, I note the many hundreds of poor condition weaners transported to Phoenix Park feedlots; and the 708 cows and steers that were agisted at Katherine Sale Yards were *'...the cattle that were dying of starvation from Mataranka'*¹⁰³.

Advised that the Chairman of the AEC had voiced concerns about poor condition cattle at the station in May 2010, he replied *'I would suggest that there's been quite a few people with industry experience, extensive industry experience on the Sturt Plateau have been to Mataranka and have not voiced any concerns to the same regard as Professor Wasson'*.

Asked if there was anything Mr Gray wished to add to his interview he said *'I just, some of these you've got, obviously been given contact names for people and Mr Douglas Jenkins is, again, because I'm a fairly, this is just my view, I am a fairly easy going person, I am I believe a good cattle person, I've got a good knowledge of nutrition requirements, physiology and anatomy of cattle, but I am easy going, Doug Jenkins thought, again, this is my view, that by getting me to return as manager that he could continue with some of the practices that he's been carrying on as a member of the CDU staff primarily running a cattle stud on Rural College grounds and when he found that I do, I have principles and morals and if something's wrong I will not just go along with it, this is how this has all come about, the concerted effort to undermine or discredit me. You know we've contacted (name withheld Burdekin Agricultural College) who, yes, took objection to me again because of my work ethic and ability with cattle and, as I said, had verbally and physically threatened me in the time that I was at the Burdekin and I believe was dismissed from the Burdekin himself for holding a knife to a student's throat. That's hearsay, I mean it's just the credibility of some of these witnesses I would seriously have to question. (Name Withheld) again has a sordid, has a reputation with untoward relationships with students, yeah, I just, to me there's a lot of people been interviewed that have basically because I'm straight up and down, they've basically, they've found witnesses to discredit me. And then to discredit people that are loyal to me, poor Susie, I mean, Susie's the best thing that's ever happened and you can ask anyone who has the true interest, the best interests of this place at heart will admit that Susie. To discredit her, that's just, to me that's just low, underhand. These people, I have travelled all over the world, I've worked in South Africa, I've worked in Malaysia, I've never come across such a blatant display of treachery, under handed nonsense, and I could go on, anyway, its, I just'*.

OMBUDSMAN COMMENT: Despite the many allegations provided to my Office, the factual evidence has not changed. During a period around September 2009, cattle and horses at Mataranka Station were in very poor condition, malnourished, deprived of adequate water, dying or being euthanised. The evidence itself indicates large scale animal neglect; and a breach of the *Animal Welfare Act*.

¹⁰³ Reference: Email of Dianne Snell to Brian Heim.



DOR photo - September 2009

DR BRIAN HEIM

Shown in shading below is a full reproduction of Dr Heim's response dated 2 December 2009 to the Stockwell Investigation. Dr Heim's response was subsequently provided to Mr Stockwell and others named. For ease of reference their comments (if any) have been entered within Dr Heim's response and are identified as such. This disclosure of Mr Stockwell's report to others ought to have been done in my view by CDU. It was not. Ian Gray was reinstated without his response or that of Dr Heim being disclosed to Mr Stockwell and Mr Toby Gorringer.

The report from Mr Stockwell contains an interesting mix of fact, supposition, opinion and subjective assessments.

Mr Stockwell – The investigation was trying to determine if there was a prima facie case to answer for events that had occurred some time previously. Clearly evidence collected relied on previous animal welfare reports, witness accounts and interpreting previous events based on what was seen at present. The investigation was not charged with determining 'beyond reasonable doubt' findings. However, the investigation revealed potentially serious flaws in management processes at many levels, and significant if not overwhelming evidence that animal welfare of cattle in the care of CDU had been neglected, significantly and repeatedly.

It is my belief that the investigation was conducted hastily, at a superficial level and without the rigor required to reach some of the inflammatory and damning conclusions contained within the report. Because of this, the report lacks overall veracity even though it raises some salient points. In many instances it appears to be simply a parroting back of unverified information which Mr Stockwell then used to make an under-informed and questionable judgement.

Mr Stockwell – The report was based on the documentation provided by CDU and interviews with people nominated by CDU and others as allowed by the TOR. An on-the-ground inspection of Mataranka Station was also conducted and contributed to the

development of a professional opinion on whether a prima facie case for the complaints existed. I stand by my judgement, and do not agree that any particular 'parroting' was involved.

Of great concern to me, and I suspect to the University, is Mr Stockwell's inconsistent and ambiguous use of the word management. The term is used throughout the document but no attempt is made to define what it means. Indeed in the final sentence of the Conclusions and Summary section of the report, Mr Stockwell makes the following bold, all-encompassing and condemning assertion:

From the descriptions of management structures given to the Investigation, it appeared that there was no single qualified and experienced person responsible for ensuring that reasonable management of livestock, land and people, and auditing numbers and value of the herd, is occurring on Mataranka Station.

Mr Stockwell – It makes little difference what level or definition of management you require. The management at operational, supervisory, strategic, HR and financial appeared, at face value to be potentially flawed. The inability of CDU at any level to provide management reports regarding herd numbers or similar seems less than adequate, particularly for a publicly funded enterprise.

Given this wide context, I categorically state that this document represents a response only for, from and on behalf of myself. Other CDU managers, including senior management, should respond to the report as they see appropriate. I will limit my specific responses within this document to portions of the report that directly name me. I cannot and will not be responsible for the complete response to this report on behalf of the overall University. However, I will provide separate advice to the senior management on the content of the report.

Historical Perspective

After completing four years of undergraduate university study in animal health management, four years of graduate study at the Texas A&M College of Veterinary Medicine and graduating with the degree of Doctor of Veterinary Medicine, I took the Veterinarian's Oath:

Being admitted to the profession of veterinary medicine, I solemnly swear to use my scientific knowledge and skills for the benefit of society through the protection of animal health, the relief of animal suffering, the conservation of livestock resources, the promotion of public health and the advancement of medical knowledge.

I will practice my profession conscientiously, with dignity and in keeping with the principles of veterinary medical ethics.

I accept as a lifelong obligation the continual improvement of my professional knowledge and competence.

I take this oath very seriously and have a solemn commitment to honouring it in everything that I do. In over 17 years of practice I have never had a complaint lodged against me in any jurisdiction.

I started employment with the University in July 2003 as the Director of the Northern Territory Rural College (NTRC). My role included supervisory responsibility for Mataranka Station. I was appointed to the position because of my professional training and experience as a veterinarian and my educational experience as the director of a veterinary nursing program in Texas, USA. NTRC had not been formally amalgamated into the University but was being operated by it.

Ian Gray was the Station Manager, having commenced the position in early 2002. It would be fair to say that the overall management of the station was of a high calibre. Cattle at the station were in good order and a controlled mating program was being used to excellent effect. An effective supplementation program was occurring and teaching staff were very helpful in assisting with labour requirements at the station in association with their training delivery. Mr Stockwell alluded to this without giving specific details in his report.

In January 2005, after a five year trial period, CDU officially amalgamated NTRC into its structure and the campus, including Mataranka Station and the Katherine Town Centre, was re-badged as the CDU Katherine Campus. For clarity, the town centre kept its identity and the former NTRC and Mataranka Station were collectively badged as the Katherine Campus (Rural).

In April 2005 Mr Gray resigned from his role as farm & Station Manager due to family obligations and an opportunity for another position in Western Australia managing a large cattle station.

OMBUDSMAN COMMENT: Whilst Dr Heim believes that Mr Gray left Mataranka in 2005 for *'an opportunity for another position in WA managing a large cattle station'*, Mr Gray's CV does not support this occurred. Mr Gray's CV documents that in 2005 he took a position as the *'Breeding Services Manager with Elders International in Brisbane QLD'*. There is nothing within Mr Gray's CV that indicates that at any time from 1988 to current that he has worked in Western Australia.

Brett Krafft, formerly the manager at Newcastle Waters Station, was appointed to fill the vacancy. Mr Krafft continued in the position until March 2008, during his tenure he was encouraged to increase the herd size to make the station more profitable. He was successful in this endeavour.

In late 2005, former Vice-Chancellor Helen Garnett decided that Mataranka Station and the agricultural activities at the NTRC campus in Katherine would be separated from training to form a commercial enterprise. This was enacted in early 2006 when Finance and Asset Services took on management responsibility of the station. Mr Ken Suter, Chief Financial Officer at the time, was appointed as the overall supervisor of the station manager and livestock operations. The arrangement excluded the horse plant at Katherine and the station which remained the responsibility of Training. At this time I was

informed that I no longer had a role in station management and should only concern myself with training, though I might be called on from time to time in an advisory capacity.

In March 2008, Calvin Chandler was appointed for six months as the station manager. Under his management, the cattle suffered a decline in condition which resulted in an animal welfare complaint. The situation that Mr Chandler found himself in (in terms of herd health management specifically) bears striking similarity to the current situation at the station. Prior to the complaint I had personally visited the station because lecturing staff including Mr Gorringer had alerted me to the declining condition of cattle. I reported this to Ken Suter.... Following a failed recruitment attempt, the University's response was to allow Mr Chandler's contract to lapse in September and appoint Doug Jenkins as interim manager for six months.

The 2008 complaint regarding animal welfare at the station was made to the Department of Primary Industries (DPI). I am unaware of the details surrounding this and how it was resolved as I was overseas from mid-September 2008 to early October 2008.

OMBUDSMAN COMMENT: The DPI inspections in 2008 occurred on 19 September 2008 and 8 October 2008. On 14 October 2008 the AEC held a meeting regarding the inspections and as a result requested that KRC (Dr Heim) lodge an AEC permit.

My offer to assist in the management of the station was met with a guarded response — that Mr Suter felt it appropriate to set up a management oversight committee composed of himself, the station manager, myself and an experienced external person to perform quarterly reviews of the station and its management. However, the committee never eventuated.

Because of my work obligations, I spent very little time at Mataranka Station in 2009.

I delivered pregnancy testing courses at the station from June 9-11 and August 18-20. I also went to the station with Professor Glover when he was doing a tour of campuses in late April. I believe these were my only 2009 visits prior to September 2009 when the initial complaint was made to the DPI.

Intent of Initial Response to Mr Gorringer's complaint.

Throughout the report, Mr Stockwell refutes and condemns what he terms the *management response*. As mentioned earlier, this ill-defined phrase is of concern. I believe that Mr Stockwell's comments regarding the response I provided to Mr Gorringer's email of complaint misconstrue my intent. Perhaps if he had spoken with me before submitting his report we could have clarified my intent in the responses.

Mr Stockwell – Dr Heim so prioritised this investigation that he did not respond to my original requests to organise a time to meet, and he chose to travel to Darwin, rather than contribute to the investigation. For the case of developing a prima facie case I considered his written response sufficient to determine the advice of the investigation.

When developing my response I was unaware that I was required to provide evidence to rebut the accusations. Rather, I simply responded to what was given to me — a one page email with five complaints and a large number of photographs with no context or description. I was under the assumption that Mr Stockwell would speak to me during his investigation and that it was his responsibility to prove or disprove the accusations through his evidence gathering.

OMBUDSMAN COMMENT: By the time Brian Heim made this response to the *Stockwell Report* he had seen the cattle on 19-20 August 2009; he had seen the three DOR reports and the draft AEC report. The Vice Chancellor had visited twice and Dr Heim was well aware of the complaints by students. This response by him is disingenuous.

Mr Stockwell – The investigation was to determine if a prima facie case existed – not to prove or disprove the allegation. By the time I received the email submission from Dr Heim I had completed nearly all of the interviews and inspections. At this point, the opinion was formed that there was indeed a case to answer, and that any further attempts to talk with Dr Heim was unnecessary.

It was never my intent to provide a full rebuttal of the accusations in the complaint and I was unaware that the onus to provide refuting evidence through the response was mine. At the time, Mr Gray was extremely busy trying to keep the station running with no support staff so we had little time to confer.

OMBUDSMAN COMMENT: Dr Heim has stated that Mr Gray had no support staff. If Dr Heim was aware of this situation either through discussions with Mr Gray or others I question why he took no action to obtain support staff. Dr Heim became Ian Gray's supervisor in September 2009.

Mr Stockwell has misinterpreted my responses and inferred that I was saying the claims had no basis. Contrary to this, I was saying that the complaints were not substantiated through evidence presented by Mr Gorringer in association with the complaint. I was simply stating that, based solely on the content of the complaint itself, I could not respond or refute it because no evidence was presented by Mr Gorringer — only accusations and photos for which I had no context.

Mr Gorringer – I personally took those photographs at Mataranka Station and sent them to Brian Heim's superior Don Zollner, because I received no support from Dr Heim.

Mr Stockwell also questions my use of the word opinion in the response. It should be noted that I did not quantify the validity of Mr Gorringer's opinions, I only stated my belief that the complaints were based on opinion. By definition, opinion is a belief stronger than impression and less strong than positive knowledge. Opinions are often highly valuable when given by experienced people and I did not contest that point. However, opinions are not fact and are thus open to interpretation.

Mr Gorringer – Cattle were dying, this is a fact, not an opinion.

I clearly stated that the points of the complaint were *not substantiated and based on opinion*. By definition, substantiated means to establish by proof or competent evidence. My intent was to indicate that there had been no evidence offered with the complaint to substantiate the claims. At no point did I say that the claim could not be substantiated with further investigation nor did I deny that issues had been identified through inspections carried out by the Animal Ethics Committee (AEC) or the DPI.

Responses to Specific Mentions Regarding Myself

I was specifically mentioned in the document in seven locations:

1. It is understood that students also wrote a letter of complaint which was not seen by the investigation, however notes from a group discussion with Mr Heim over the letter were provided.
2. The investigation was also made aware that students involved in either the preg testing school &/or shifting poor cows made a written complaint which was subsequently addressed by Mr Brian Heim in a meeting with the students.
3. Notes provided from this meeting record Mr Heim stating that the situation was not dissimilar to that on neighbouring commercial properties and was a normal state of affairs in the NT industry.
4. Mr Heim provides publication extracts in the management response stating scientific opinion that good quality pregnancy diagnosis does not affect pregnancy or cause abortion.
5. While it is a widely-held industry view that pregnancy diagnosis can cause losses, the evidence from Dr Heim can be accepted without detracting from major issue of concern.
6. Brian Heim was unavailable for an interview during the investigation but provided a written response to the complaints on behalf of himself and Ian Gray.
7. The management response to the complaints as supplied by Brian Heim portrayed an apparent attitude of:
 - loyalty to the on-ground manager, but
 - lack of appreciation of the gravity or extent of the welfare issues, despite the seriousness of the animal welfare reports prepared by welfare officers of the DPI and the concerns of staff and other qualified people.

In the following section I will collectively address each by topic relevancy.

Mentions 1-3

1. It is understood that students also wrote a letter of complaint which was not seen by the investigation, however notes from a group discussion with Mr Heim over the letter were provided.
2. The investigation was also made aware that students involved in either the preg testing school &/or shifting poor cows made a written complaint which was subsequently addressed by Mr. Brian Heim in a meeting with the students.
3. Notes provided from this meeting record Mr Heim stating that the situation was not dissimilar to that on neighbouring commercial properties and was a normal state of affairs in the NT industry.

It is correct that I spoke with students in regard to issues that they had raised with Sue Edwards (partner of Toby Gorringe) and Vicki Williams (Campus Administrator for

Katherine). I received two hand written documents, one from Ms Edwards and one from Ms Williams. Both were received on 25 September 2009 via email. I also received a follow up email from Ms Williams after speaking with her on the phone as I was in Darwin.

Following a videoconference meeting with KRC staff in regard to the station and animal welfare concerns, I conferred with Vicki Williams by telephone on the afternoon of 25 September. Later that afternoon Vicki responded that she had spoken with one of the students and advised that the student would pass on information to other students that I was taking their concern seriously.

If my level of concern and commitment to rectifying issues at Mataranka is questioned, it should be noted that I was scheduled to attend a veterinary professional conference over the weekend of 26-27 September in Darwin, Rather than do so, I returned to Katherine arriving about 8.30pm on Friday night so that I could meet with the DPI stock inspectors and veterinarians on Saturday, 26 September. Attendance at the veterinary conference was professionally important to me as a source of continuing education and because I am the treasurer for the Northern Territory branch of the Australian Veterinary Association. However, I felt that addressing issues at the station were far more important than attending the conference.

The meeting on 26 September was facilitated by Dr Sue Fitzpatrick, Senior Veterinary Officer Biosecurity. It was attended by Mr Gray and myself on behalf of CDU, the two DPI stock inspectors involved in the original complaint, and the DPI veterinarian involved in the complaint. At that meeting we developed an ongoing monitoring plan to ensure compliance with animal welfare requirements and I later provided Dr Fitzpatrick with the short term management plan for the station to see us through until the commencement of the wet season.

Mr Gorringe – The short term plan wasn't working, cattle were still dying.

The students continued to be concerned despite reassurances from Tim Biggs (Team Leader for Agriculture and Rural Operations) and other lecturing staff that issues at the station were being handled appropriately. Anecdotal evidence as well as further complaints made to internal and external bodies would indicate that Mr Gorringe, his partner, and other CDU staff were still unsatisfied with the response to the AEC and DPI approved management plans and it appears they continued to express this to students.

Mr Gorringe – The students had their own opinions, they questioned me and I wasn't prepared to lie to them. They were asking me why the cows were dying.

I scheduled a meeting with the students on 9 October 2009. Tim Biggs was in attendance. It is fair to say that I informed the students that cattle often lose condition during the dry season and that they could find cattle in similar condition on neighbouring commercial properties. I believe that a close inspection would find cattle in suboptimal conditions on nearby properties. I had previously been told that one neighbour to Mataranka Station had advised that he was not planning a second round muster on his cattle because they were in too weak of condition. I deny that I would have said it was a normal state of affairs in the NT industry.

OMBUDSMAN COMMENT: It might be the case that other poor condition cattle were present on neighbouring properties. However putting this matter into context, Mataranka Station is a CDU training facility that should be demonstrating best practice whilst adhering to legislation, guidelines, Agnotes etc. The other property/s are not student training facilities, there is also no evidence provided to indicate that preg testing was being undertaken on other property/s. Regardless of the condition of animals on other properties this does not negate the responsibilities of CDU.

Mentions 4-5

These mentions are in regard to pregnancy testing of cattle in general and specifically in relation to my use of cattle in the pregnancy testing course held on 8-10 August 2009 at Mataranka Station.

OMBUDSMAN COMMENT: The students' complaints were made on 25 September 2009 after they had returned to Mataranka Station to finish of preg testing with Mr Ian Gray. Obviously concerned about the testing conducted in August, over a month later the situation they faced resulted in the group making a formal complaint.

4. Mr Heim provides publication extracts in the management response stating scientific opinion that good quality pregnancy diagnosis does not affect pregnancy or cause abortion.

5. While it is a widely-held industry view that pregnancy diagnosis can cause losses, the evidence from Dr Helm can be accepted without detracting from major issue of concern.

My comments in my initial response were directed toward Mr Gorrings' incorrect and uninformed comments in his third point. Mr Stockwell appears to have completely missed the point in regard to my comments on pregnancy testing. Instead, he has taken the opportunity to deflect the truth in my comments by making additional erroneous conclusions and inflammatory remarks. I reiterate that it would have been helpful if he had spoken to me before finalising his report.

Mr Stockwell – I am unsure which conclusions Dr Heim finds erroneous or inflammatory, but staff and independent industry participants at the course all remarked on the unusually poor condition of the cows used in the course. Since the investigation further participants have volunteered similar views, including one who wanted to make an animal welfare complaint but was unsure of how to do it. For the sake of the investigation I found that the judgement of these experienced industry people to outweigh the judgement of one person such that the matter should be tested further.

Ideally, cattle used in a pregnancy testing course would be in good to excellent body condition. However, I did not have the option of pre-selecting the cattle to be used for the course. I assessed the cattle on the day and in my judgement they were fit for the procedure.

I have been informed that the cattle used in the course were observed for several days after the course and there were no mortalities or even morbidity in them. From a teaching perspective, it was appropriate to allow some animals to undergo pregnancy testing that, in a production situation on a station, would not normally undergo the procedure. I had assessed the animals and determined that, in my professional opinion as a veterinarian, the procedure would not cause harm.

OMBUDSMAN COMMENT: Dr Heim may have been misinformed that the cattle used in the course were observed for several days and that there were no mortalities or even morbidity in them. It is reported that Ian Gray advised certain CDU staff that calves were 'slipping' after the preg testing course.

In a production situation, cattle are often deferred from pregnancy testing based on visual inspection of the animal's condition. This is done in order to save time and because the probability is high that they will be non-pregnant. This can and does lead to errors and I stress to students that I will not commit to the pregnancy status of an animal until I have performed an internal reproductive examination. While it is fair to say that external visual examination can be reasonably accurate, internal examination is definitive. This is a highly valuable teaching point and is critical to teach and reinforce when the students could potentially become accredited for pregnancy testing of export cattle.

In order to be acceptable for live export, cattle must be internally pregnancy tested and declared non-pregnant based on that examination.

OMBUDSMAN COMMENT: Live export is not an issue in relation to the cows pregnancy tested during the courses in 2009. The sale of these animals had fallen through several weeks prior to testing. Regardless, if the sale had been successful the buyer was a person with a property in the area.

In every course I have ever taught there are always students who say, *Why are we pregnancy testing these skinny cattle when we know they won't be pregnant*, only to find a few that are pregnant. It was also appropriate to use cattle that based on their physical condition, I could reasonably expect to be non-pregnant to demonstrate to students the non-pregnant reproductive tract. An important point when teaching pregnancy testing is that being able to accurately determine non-pregnant cattle is just as important as determining pregnancy, especially in light of the requirements of the live export market. Therefore, it is essential and required that there be a mix of pregnant and non-pregnant animals used in every course.

OMBUDSMAN COMMENT: I am advised that cows should be in optimal condition (BCS3 or over) to minimise further stress being placed on them. In interview Dr Heim advised that many of the cattle used were in BCS2.5.

Mr Stockwell – *I am sure it is useful to have a mix of pregnant and non-pregnant cattle in the course. The question at play here is these cows were claimed not to be poor, but emaciated, that the emaciation was the apparent result of previous mismanagement and that Dr Heim is concentrating his argument on the need for training regardless of the cattle condition, but does not discuss why the cattle were allowed to get anywhere near*

this condition. Amongst all the discussion of ethics, theory and training it should be borne in mind that these cows were supposedly in fair condition for sale in May and by the time of the pregnancy courses had experienced significant muscle wastage. Pregnancy status would seem a secondary consideration to primary care of body mass.

Mr Stockwell calls into question my professional judgement as a veterinarian without ever gaining my professional insight as to how I assessed the cattle and their suitability for pregnancy testing. I am at a loss as to how he can make his final conclusion which states, *It is clear that the majority of cows used for the preg testing school were not in suitable condition for the process.* In my professional judgement as a veterinarian with considerable experience, it was appropriate to use the cattle. I will stipulate that some were not in ideal condition, but that does not imply that their use was inappropriate. Mr Stockwell's comments even included a student statement acknowledging that poor condition cattle were not used for teaching.

OMBUDSMAN COMMENT: Mr Stockwell's view that the majority of cows used for the pregnancy testing were not in a suitable condition for that process appears to be supported by an animal welfare veterinarian who is documented as advising Mr Ken Suter¹⁰⁴ that *'In summary there are 424 emaciated cattle and one sick weaner...This herd has been used for the pregnancy testing training undertaken by the rural college and this has also placed the animals under additional stress'.*

Mr Stockwell missed the point because he failed to ask me why I used the cattle. He made a judgement based on insufficient evidence because his investigation was, in my opinion, superficial and biased. Further, his photographs were taken on 4 November 2009, eleven weeks after the course I delivered. They cannot be used as evidence of the state of *the majority of cows used* for the course as there is no way to determine which cows were and were not used and far too much time had elapsed. Furthermore, Mr Stockwell would have only been able to observe approximately half of the cattle actually used in the course because 120 head in the best condition had been drafted off after the course and sent to locations that he did not inspect. Therefore he was actually examining the tail end of the cattle which would considerably skew his ability to be accurate. As such, his assertion cannot be accepted as valid evidence.

Mention 6-7

These mentions primarily characterise me negatively and I deny their veracity.

6. Brian Heim was unavailable for an interview during the investigation but provided a written response to the complaints on behalf of himself and Ian Gray.
7. The management response to the complaints as supplied by Brian Helm portrayed an apparent attitude of:
 - loyalty to the on-ground manager, but
 - lack of appreciation of the gravity or extent of the welfare issues, despite the seriousness of the animal welfare reports prepared by welfare officers of the BPI and the concerns of staff and other qualified people.

¹⁰⁴ Email 05.09.2009 to Mr Rob Brelsford-Smith and Professor Glover.

Again, it is unfortunate that Mr Stockwell did not speak with me during the course of his investigation. Upon receiving his proposed itinerary for the investigation, less than two days before its commencement, I advised him over the phone that I would not be able to meet with him at the time he proposed due to obligations in Darwin. I provided him with alternative times when I would be available to meet, either in person or over the phone. I never heard from him again, either by phone or email. A one-off chance to respond to an investigation of such a serious nature does not seem fair and making assumptions based on a misinterpreted written response without gathering further information is also unfair.

Mr Stockwell – The timeline for the investigation was determined by CDU. Original requests for interviews were not replied to and a second email was sent including to Bob Wasson expressing an inability to achieve the deadlines as no staff had advised their availability. If the investigation was that important one may have thought that Dr Heim may make the time available, within the time frame prescribed by his employer. I repeat that at completion of interviews, station inspection and receipt of Dr Heim's written response the investigation had formed the view that a prima facie case existed.

In regard to Mr Stockwell's blatantly incorrect conclusion that I *portrayed an apparent attitude of lack of appreciation of the gravity or extent of the welfare issues* I have addressed his gross misinterpretation of my response previously. However, I take deep offence that he is able to render such a judgement based on very limited information.

I believe that I have behaved ethically and honestly at all times and I am being portrayed in a negative fashion which is entirely unwarranted. I have, to the best of my abilities, ensured the welfare of animals, staff and students through a supportive and positive manner. I have been criticised for *having allied myself too closely with Ian Gray*. As a manager and leader, I believe that it is critically important to support those I supervise.

OMBUDSMAN COMMENT: It is recorded that Mr Ken Suter was Mr Gray's supervisor at the time, so I am unsure as to why Dr Heim has had such a hands on role involving Mr Gray until he was appointed his supervisor in September 2009.

The support provided by Dr Heim to Mr Gray does not appear to have been provided to Messrs Gorringer, Walters, Parker and Jenkins. I also note Dr Heim's comment that to the best of his abilities he has ensured the welfare of animals. In his own words he only visited Mataranka Station 3 times before the animal welfare complaints were made. In my view this was insufficient to ensure the welfare of animals.

Dr Heim in response to the draft report stated that '*As an investigator I ensured that cattle I used when I was teaching were used appropriately in line with AEC requirements. This is in keeping with the requirements of the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes...*' Dr Heim stated that my comment is '*unfair and defamatory*'. I don't accept Dr Heim used cattle for his training courses in line with AEC requirements or the requirements of the Code. In interview he stated he did pregnancy test skinnier cattle because he knew they would be '*dry*'. There is sufficient evidence that supports that Dr Heim used poor condition animals for teaching.

Mr Gorringer – Where is my support?

Since being given responsibility for the livestock operations in September I have seen positive improvements occurring and have personally been a driving force behind their implementation. I have been consultative with both senior management and those I supervise. I am unsure of what else I could have done to improve the situation. I welcome and look forward to a full and comprehensive investigation.

Mr Gorringe – Stop the cattle from dying. You came to the Station after the complaints were received and went up in a helicopter, have you got any experience in checking cattle conditions from a helicopter?

[End of Dr Heim's response to the Stockwell Report]

OMBUDSMAN COMMENT: The AEC reported (7 May 2010) approximately 50 head in poor condition at Mataranka Station and voiced concern that this situation was occurring again. Additionally, reports received as of 1 June 2010 indicate about 100 head of cattle in poor condition are being held at KRC. Further received at my Office (02 June 2010) was a written complaint made by a student concerned about the actions of Mr Gray and Dr Heim.

There are also several areas of concern that I have in relation to Dr Heim's response to the Stockwell Report. Firstly, between 21 September 2009 and 17 May 2010 Dr Heim was overlooking the actions of Mr Ian Gray. In his response he stated that his work obligations meant that he spent very little time at Mataranka Station, referring to his attendance from June 9-11 and August 18-20 delivering pregnancy testing courses and a visit with Professor Glover in April 2009. Dr Heim believed these were his only visits in 2009 to Mataranka Station prior to September 2009. I note that no animal welfare concerns were documented or reported by Dr Heim after his visits in April or June 2009.

Mr Ian Gray, Station Manager, started on 4 May 2009. In August, 3 months after the appointment of Mr Ian Gray, Dr Heim noticed poor condition animals and discussed this with Mr Gray. An industry expert was asked how long it would take for cattle in BCS3 to drop condition to BCS1, the expert wrote that this depends on the management and conditions the cattle are being run under. He said *'If, for instance, a cow was lactating, unsupplemented, grazing native pastures in the dry season at Mataranka, then I believe under such conditions the cow could go from BCS3 to BCS1 in under 5 months'*. I note it was 4 months since the appointment of Mr Gray, and further that CDU AEC inspections documented that a lack of supplement was identified during their inspections.

Dr Heim wrote that Mr Gray was busy trying to keep the station running with *'no support staff so we had little time to confer'*. If Dr Heim was aware that support staff were needed at Mataranka Station this should have been told to Mr Suter who was the supervisor of Mr Gray and who, according to Dr Heim's response to the Stockwell Report, was the person appointed in 2006 to be in charge of the livestock operations at Mataranka Station under the overall management responsibility of Finance and Asset Services of CDU.

Interview with Dr Brian Heim

On 27 May 2010 Dr Heim was interviewed by my staff.

Dr Heim confirmed that he did conduct pregnancy testing of some 'skinnier cattle'. In his opinion anything under a BCS2 would be considered skinny. As previously documented pregnancy testing of cattle under a BSC3 except in certain circumstances (eg. international transport) is not supported by industry, as best practice.

Dr Heim was shown many photographs of cattle in varying stages. These photographs were taken by DOR employees on 25 September 2009. Of the photographs viewed by Dr Heim the condition of cattle ranged from BCS 1 to 3.

Despite the Vice-Chancellor's view that Mataranka did not suffer through drought in 2009, Dr Heim when asked how cattle came to be in such poor condition in 2009 said *'That's a difficult question to answer when you qualify it by saying a teaching facility. In terms of a commercial cattle operation and given the season that we had in 2009 it would not be unreasonable to see some animals that were in that condition, especially when you have year round calving, when you don't have a controlled mating period. When you say a teaching facility, well Mataranka is operated as a commercial cattle property and teaching is done there, so in that sense when you combine the two that's not what we strive for certainly but its also the reality of pastoral production in North Australia and actually anywhere. You can go to any, probably any farm and at times you will see animals like that whether you go to a dairy and you find some calves that have scars and, you know, they're sick and they can't get up. Mortality is a part of farming'*.

I agree that mortality is a part of farming and that other properties may have poor condition cattle, however the vast quantity of poor condition cattle and the mortality rate at Mataranka Station exceeded the expected industry norm¹⁰⁵. On a property that espouses best practice it is expected that animals used for scientific purposes are cared for over and above that of a commercial cattle property.

Dr Heim was asked how many cows died in 2009 from either malnutrition or being shot as downers. He replied *'That number varies depending on who you talk to. We had given instruction that if you had to, it's acceptable to euthanise cattle if they're downers and you just needed to report to the station manager. I think, well, Ian never had any cattle reported as euthanised to him during that entire time. There was certainly the cattle that were in the dead animal pit but I don't know, there were no animals that were reported to Ian as being euthanised by other staff members. So I can't actually give you a number and I think Ian estimates that he knows of about 30 head that were euthanised. There's been, you know, people saying that, yeah, we put them down in the yards left and right but nobody actually reported it or brought ear tag numbers or anything like that'*.

Certainly the exact number of euthanised cattle is unknown, this is due to a lack of record keeping that should have been in place from 2005 when Mataranka Station became a teaching facility. The AEC also document concerns about a lack of information pertaining

¹⁰⁵ 'We would accept an annual breeder mortality of 3-4percent as being within the normal range for commercial properties on the Sturt Plateau' Reference: Department of Primary Industry, Fisheries and Mines letter to Manager of KRC 14 September 2006.

to animal deaths: *'...My greatest concern is we have no idea of how many animals have really died since their (CDU) application was lodged...'*

I disagree however with Dr Heim's view that Mr Gray was not advised of downers that required destruction or the deaths from malnutrition or the euthanising of cattle undertaken by DOR. The Station Manager should have been recording or questioning the number of cattle taken to the body pit, the station manager should have had in place appropriate recording standards prior to the email of Dr Heim in October 2009 and without doubt the station manager should have recorded the 8 cattle euthanised by him in 2009. He should have had records of which cattle had been tagged and whether or not animals who died were tagged or not.

Asked for his view on what caused such a large scale case of emaciated cattle in part Dr Heim said *'Well certainly that's what the DPI inspectors said, there were 464 cattle in there but I don't believe that one hundred percent of them were actually'*. Dr Heim was advised that in a herd of about 1,000 cattle about 464 were emaciated, he replied *'Ok, well, certainly I know that the group that I looked at when we did the preg test course in August I think Ian had brought up roughly 500 head and there was probably 50 to 80 of those were in score 1, and this is rough figures, that I recall and the remainder of them were not in poor condition for the time of year. Again I didn't do specific counts on animals and I wasn't there when they did the inspections, and I may have a different definition of emaciated then than they did'*.

In discussion about the amount of feed purchased for Mataranka Station, in the view of Dr Heim it was sufficient and didn't include the hay trucked from KRC to Mataranka. Asked to produce the records of hay trucked from KRC to Mataranka, Dr Heim said *'I suspect that there aren't any records, yeah'*.

Asked about the poor condition of cattle observed at Mataranka Station by the AEC in May 2010 despite the wet season and substantially more feed purchased, Dr Heim said *'I think there is a reason for that and that was, what you're seeing now is because of decisions that were taken in late November/December of last year when Ian Gray was stood down. And a great deal of cattle, a very mixed lot of cattle were all put in the Desert Paddock and the cattle that are in low body condition now are all first calf heifers...'*

I can not agree with Dr Heim that a three week period in which Mr Gray was stood down from duty resulted in another group of poor condition cattle. If that period did contribute to the May result, then I question what happened in the 5 months since the reinstatement of Mr Gray and why sufficient feed appears not to have been provided to increase the body condition of these animals.

My officer asked Dr Heim why the different 'classes' of cattle had not been mustered in December when the error of mixed condition animals was noticed. He said *'Well then it began raining'*.

Dr Heim was asked about the dehorning technique used by Mr Gray, he responded *'I think there's as many different ways to dehorn as there are people dehorning. Certainly, ideally, you would like to be able to, if you're doing it with scoops, you would like to be able to do just a single scoop on each side. Brahman's have sort of unusual, quite a elongated base of*

the horn and if you want to get the entire horn sometimes you will have to take an additional cut, possibly two. Ian and I discussed how I would prefer to see it done. My preferred method is to use the scoops initially and then use a cauterising iron just around the skin because that will help to get any horn tissue that's remaining, it burns it so that you don't get growth coming back. Garry Riggs, the consultant that you're talking about, he actually uses a hot iron that's sort of like a scoop and has sort of a sharpened edge on it, heat it up and you put it on the horn, twist it a bit and try and, I think he pops out the bit of tissue that's there. People do it with knives, people do it with guillotines, people do various different ways and nobody has found, well, other than breeding only hornless cattle, nobody has found the ideal way to dehorn...'

Asked what the most humane way to dehorn cattle is, Dr Heim said *'Well the most humane way is not economically feasible, the most humane way would be to use a local anaesthetic on both of the horns and then probably using a combination of scoops or possible a knife... So the most human way to dehorn is probably the quickest that causes the least amount of stress and the least amount of trauma, reduces bleeding as much as possible, there's still a bit of bleed but reduces bleeding as much as possible. You would certainly try to minimise the amount of underlying bone that you remove. Sometimes it's not possible and you actually get holes into the sinus, that's at the top of the head...'*

On a date unknown a letter was sent by the AEC EO to Dr Heim regarding his application for *Animal Ethics Clearance for Project Reference No. A09000*. Within this letter it is written *'The AEC would like the Chief Instructor (Dr Heim) to consider using an analgesic for the castration and dehorning procedures'*. Whilst Dr Heim stated the most humane way is not economically feasible, whether he considered the request of the AEC or made any inquiries with CDU management as to whether the purchase of analgesia was an available option has not been determined.

Asked about the inspections, reports of the CDU Animal Ethics Committee and the requirements for permits and licences Dr Heim in part said *'Certainly the Animal Ethics Committee never took any interest in us at all until 2009 and I won't speculate on what the reasons were, I have no idea, and then in 2009 then we started, we put in our first application¹⁰⁶ to conduct training and it went through and we were given the go ahead to train and then it was suspended and it still actually remains suspended now in terms of procedures'*.

In response to this issue the AEC wrote *'It is Dr Heim's job, as teacher and Director of a teaching facility, to take an interest in obeying the law. The AEC is not responsible for policing teachers and researchers that are remiss in not filling out AEC applications'*.

The application in my view should not have been approved. It is clear that the information is not checked for accuracy and is taken on face value. Dr Heim wrote that breeders are vaccinated and pregnancy tested and that young stock are branded, ear marked, dehorned, vaccinated, de-wormed, ear tagged and castrated (males), yet there are no records of these processes. Further when AEC inspections were conducted late in 2009, checks were not made of documents for these procedures that should have been held at the station.

¹⁰⁶ Dr Heim's application in draft to the AEC dated 13 January 2009

In response to the draft of this report the AEC wrote *'Site inspectors from AEC asked for documentation and they couldn't be produced with all sorts of excuses, crashed computers, the MS records were on a computer at KRC, incompatible running platforms, not networked, not backed up, etc, etc'.*

The permit application form (titled Attachment A), was approved at a meeting on 25 November 2008. However it refers to superseded legislation. Under the heading of *'Declaration by investigators'* it is written *I/We certify that the use of animals in this project will conform with the NT Animal Welfare Act (1999)...* The Animal Welfare Act applicable to this application should be the Animal Welfare Act as in force 8 March 2007. Additionally within *'Attachment A'* is the heading *'Declaration for teachers (supervisor/instructor)'*. Under this heading it states that approval for the project will be given on the understanding that the form (*'Attachment A'*) will be submitted when practicable, it was never fully completed as the declaration was not returned to the AEC.

Dr Heim was asked to explain his email comment of 17 November 2009 in which he wrote in part *'I accept that Ian made some poor management decisions which have contributed significantly to the current state of the cattle. He responded Yep that was, I think that in hindsight the poor decision was to not take the lower price on those cattle and accept the \$50,000 loss and just get rid of them and had that happened this probably, you know, there is every likelihood that the situation wouldn't have been as severe as it was. And Ian certainly understands that now too'.*

Dr Heim was asked if sufficient food and water was provide to animals held at Mataranka in 2009. He said *I believe so.* Asked if he came to that conclusion based on information he had gathered from feed reports or from information provided to him by Ian Gray he said *'Provided by Ian Gray, provided by, looking at the reports. I'll never know where all of it was distributed because there were no records of what the feed distribution was at that time. I, you know, you could speculate that the feed was being trucked in and then trucked back out or whatever but I have spoken with Ian on what his practices were and I've also looked at the available records to see purchases and I believe that adequate feed, both in terms of supplement being provided and in terms of natural forage availability. Certainly it wasn't ideal but it was adequate'.*

It was pointed out that in 2009 there were about 700 cattle in very poor condition and if the feed was adequate or sufficient it would be expected that condition could be maintained. Dr Heim replied *'I think that it is certainly possible for, like I said, they're going to be declining, it's the speed of the decline that you're hoping to slow down and for that reason I think that, yes, they did have to walk out further than maybe ideal in order to get to feed and when they got to that feed it wasn't of optimum quality. You know, it is North Australia and it was a hard year and in comparison with neighbouring properties and practices that were occurring on those I don't think that there is a significant difference in the feeding practices that were being done on Mataranka Station in comparison with other locations around the Top End'.*

I can't agree with Dr Heim's comment. Firstly the Vice Chancellor had advised that drought conditions didn't occur in 2009 at Mataranka Station so a *'hard year'* was not determined to be the cause of the condition of animals. Secondly one of the

neighbouring property managers was asked about feeding regimes. He advised that substantially more was provided on a head to head basis in comparison with Mataranka. Finally the cattle in very poor condition were too weak to walk any distance, especially not the 3km distance from water required to reach forage that might have been of optimum quality. I accept that maintaining a whole herd on a pastoral property presents many difficulties, however Mataranka Station is a training facility which should demonstrate best practice. There are different expectations of a training facility.

Dr Heim stated that he believed Mataranka Station is being held to an impossible standard. He remained of the view that Mr Gray was a good appointment. He overlooks the fact that at the end of 2008 Mataranka Station met, and even exceeded in some respects, industry standards.

Dr Brian Heim resigned from CDU on 31 August 2010



DOR photo - Poor condition Calf 2009

MR THOMAS STOCKWELL

On Monday 19 April 2010 Mr Tom Stockwell was interviewed as part of my investigation. Mr Stockwell stated his surprise at being asked for an independent report when the DPI reports would suffice as independent of CDU.

In addition to Mr Stockwell's comments added into Mr Gray's and Dr Heim's responses, Mr Stockwell offered the following information.

Mr Stockwell advised that Professor Wasson provided him with a list of persons who should be interviewed as part of his investigation.

Mr Stockwell emailed out a suggested interview timetable to those identified persons and received no response. Mr Stockwell then sent a copy of this timetable to Professor Wasson subsequently being advised that Dr Heim was unavailable during that period. Mr Stockwell had been given a timeframe (7 November 2009) in which to complete his investigation and no extension was provided. Mr Stockwell was required to sign a confidentiality clause then being provided with 3 DPI reports (copies provided 29 October 2009) and a number of photographs.

Mr Stockwell stated that he was only asked to determine whether a *prima facie* case existed. He was not required to prove or disprove the allegations and that remedial action was not a part of the terms of reference.

Mr Stockwell's draft report was provided to Professor Wasson who requested amendments to remove certain conclusions and wording.

Mr Stockwell's conclusion unamended is that Mr Ian Gray was absolutely incompetent at running a cattle station. That despite the evidence and what was advised by all staff interviewed, except for Mr Ian Gray and Dr Brian Heim, cattle neglect was prevalent at CDU's Mataranka Station.

Mr Stockwell continued that the whole management unit responsible for Mataranka Station was dysfunctional and the reinstatement of Mr Gray left him gob smacked.

Mr Stockwell voiced concern that one of the actions to be taken on the reinstatement of Mr Gray (10 December 2009) was to appoint a consultant (Mr Garry Riggs) to oversight the station management with this occurring months (10 February 2010) after the recommendation that this occur.

Mr Stockwell finished his interview by advising that approximately 100g of supplement per day was the minimum amount that is required by cattle. When advised of the supplement purchased for Mataranka prior to the complaints of neglect, it was calculated that insufficient supplement had been brought.

Mr Stockwell was under no doubt that cattle at Mataranka Station had been starved during 2009 and that prosecution was warranted.



Staff photo - Starving cattle - September 2009

PREGNANCY TESTING OF POOR CONDITION ANIMALS

The NSW Animal Ethics Committee policy/guidelines for using animals in teaching was supplied to my Office by CDU. I am led to believe that this document is under consideration for a policy being developed for the NT. This documents that cows used for pregnancy teaching should be checked twice daily for the first two days after a school and once daily for a further 5 days. Records must be kept for individual cows, of the incidence of discharge, other abnormal event or behaviour, or any treatment administered. The document also states that a person demonstrating the procedure is to be a veterinarian with appropriate experience or instructor approved by the AEC.

In 2010 when Mr Gray was demonstrating pregnancy testing to students and allowing these students to *'have a go'* Mr Gray was not an approved instructor, failed to keep records and failed to check the animals for the first two days or one daily for a further 5 days after the schools. Best practice in NSW or other States should be the minimum requirement for the NT.

On 5 September 2009 (21:17) the Vice Chancellor on-forwarded Mr Suter's email of to Dr Heim. The relevant part of Mr Suter's email reads:

'...In summary there are 424 emaciated cattle and one sick weaner. The emaciated cattle are not in Ian's view short of feed they are simply stressed due to calving and/or being in calf at this time of the year. This herd has been used for the pregnancy testing training undertaken by the rural college and this has also placed the animals under additional stress...'

On 6 September 2009 (13:42) Dr Heim responded to the Vice Chancellor and Mr Don Zoellner. He wrote:

Not sure what, if anything, Ken is implying regarding use of cattle for pregnancy testing. By way of clarification, I advised Ian of when the course would be held. He selected and mustered cattle for that purpose. When the course was running, any animal that appeared weak was drafted off and not used for teaching.

I can echo what Ken says in regards to Ian's abilities – he is a good stockman. Having only been here for 3 months, he also inherited considerable problems from poor management¹⁰⁷ over a two year period and will remain in a catch up mode until the Wet begins in regard to condition of animals.

As I have previously advised, the station will probably be losing or barely breaking even for the next 2-3 years due to the poor management.

It is not adequately explained why Dr Heim has written that poor management over a two year period contributed to the poor condition of cattle in 2009. It appears to conflict with his (Dr Heim's) view documented in his email of 20 August 2008 in which he advised that the situation in 2008 was *'not a case of mismanagement'*.

There is ample evidence that pregnancy testing of poor condition cattle occurred. This is a breach of the *Animal Welfare Act*.

¹⁰⁷ On 20 August 2008 (17:18) Dr Heim emailed Mr Suter and Mr Aaron Devine, the subject *'Mataranka Station Management'*. Dr Heim wrote: *...What I saw indicates that we are going backwards somewhat from where we were 6 months ago. It is not a case of mismanagement*

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THE MANNER IN WHICH CDU CONDUCTED THE OPERATIONS OF THE MATARANKA STATION WITH RESPECT TO CATTLE PRESENT AT THE PROPERTY DURING THE WHOLE OF 2009 UNTIL (04.02.2010)

In part, the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes 1997 (rescinded, however referenced in the *Animal Welfare Regulations* NT) states that it is the responsibility of an institution which uses animals for scientific purposes, including teaching to:

- Establish one or more AECs directly responsible to the governing body of the institution or its delegate.
- Ensure, through the AEC, that all scientific and teaching activities involving the use of animals comply with relevant legislation.
- Respond effectively to recommendations from each AEC to ensure that the facilities for the housing, care, use and disposal of animals are appropriate to the maintenance of the health and well-being of the animals.
- Respond promptly and effectively to recommendations from each AEC to ensure that all use of animals for scientific purposes within the institution remains in accord with the Code.
- Upon the advice of the AEC, discipline staff who contravene the Code.
- Provide all relevant staff with details of the institutions policy on the care and use of animals, confidentiality, FOI legislation, legal requirements and commercial considerations.
- Establish mechanisms to respond to enquiries or complaints concerning the use of animals within the institution and ensure that staff may voice concerns without jeopardising their employment.
- Ensure that the AEC develops guidelines for animal care and use within the institution and that these are implemented, including those which ensure that emergencies are detected promptly and dealt with effectively.
- Ensure that there are adequate numbers of staff to care for the animals and that they are appropriately trained and instructed.

This investigation has highlighted several areas of concern regarding the operations in respect to Mataranka Station. These include but are not limited to:

- lack of staff to adequately care for animals;
- lack of training and instruction;
- lack of policy and procedure;

- failure to ensure, through the AEC, that all scientific and teaching activities involving the use of animals comply with relevant legislation;
- failure to obtain a licence (Section 29(1)) between 2005 and 2009;
- failure to obtain permits from the AEC (Section 43(1)) for each person conducting teaching on animals;
- failure to respond promptly to recommendations of the AEC and DOR;
- failure to ensure that the AEC developed guidelines for animal care and use within the institution;
- failure to ensure that the prohibitions placed by the AEC on the activities by staff at Mataranka Station were adhered to;
- failure to ensure that adequate records relating to stock numbers, treatment/care, mustering, administration of medicine/vaccination; tagging, feeding, water, capacity of Mataranka Station to carry cattle and horses and movements and duties of staff were maintained.

Issues reported by the AEC Executive Officer (18.09.2009) in an email to Professor Wasson documented that there was nothing in place at the station for the prevention of buffalo fly. This issue was referenced in the *2001 Strategic Plan* as back rubs at all water points for all stock except weaners and steers. Also noted was a lack of a vaccination programme for botulism, vibriosis and general worming. The EO wrote that *'there isn't any real monitoring or recording of what's happening to the cattle'*. The EO concluded in her/his email:

The last thing was ticks¹⁰⁸. Ticks are a major problem in the Territory. I didn't find out what the status of ticks was on the property. There didn't seem to be any management programme in place ie spelling paddocks, treating ticks.

I believe there are 7 – 10 contributing factors to any accident or adverse event. It would be an interesting exercise to determine what these were. Hopefully we have picked them all up in this report.

GENERAL FARM AND TRAINING MEETINGS

On 27 January 2010 Ms Luttig sent an email to staff seeking to have a 12 February meeting about general farm and training matters. A request for agenda items was made. Dr Heim responded to this email (27/01/10 – 15:14) asking that the reporting structures and lines at KRC be an agenda item. Mr Grant Parker sent an email (03/02/10 – 08:13) seeking to add the *CDU Code of Ethics* as an agenda item.

It was deemed a good idea to add this item to the agenda, with Mr Parker emailing Dr Heim, Mr Biggs and Mr Luttig (12/02/10 09:45). Relevantly he wrote: *'I would like to see a general rundown, however I personally believe that there are specific areas that are not being followed not only by KRC staff but also middle management within CDU for which I have grave concerns...'* Dr Heim responded (12/02/10 11:04) in part *'...While I do not want to read anything into your comments regarding middle management, I would encourage you to express your grave concerns. Generally speaking, the preferred method*

¹⁰⁸ Brahman cattle are not naturally tick resistant they have a higher tick resistance than British breed cattle and their crosses, however are not tick proof. Brahman cattle can be adversely affected by ticks particularly if they are under stress or at high stocking rates. – Reference Cattle Expert name withheld by request.

of addressing grievances is informally through direct discussion with the involved parties. If that is ineffective or unsatisfactory, it would then be appropriate to progress to a more formal grievance through the supervisor. If your concerns are in regard to one or more managers, it would be appropriate for you to direct the issue to their supervisor. If it is in regard to a series of managers in the same reporting structure, the concerns should be raised with the supervisor of the highest level manager. CDU has several processes in this realm'.

Mr Parker responded on 3 February 2010 (13:57) *'I have informally spoken to Danie (my supervisor) briefly about some of my concerns. However I am more than willing to talk to you about my concerns upon your return to Katherine. It was my understanding that a general farm and training meeting would be an opportunity to raise grievances informally through direct discussion with the involved parties. My recent experience with raising such issues informally is that they are not given due concern. It appears that unless there is some type of paper or electronic trail no action is taken or people just aren't listening to what I'm saying. I am more than willing to provide examples'.* Dr Heim replied (04/02/10 13:29) advising Mr Parker that it would be inappropriate to raise grievances about individuals at meetings. An offer to meet later was made.

3% ANTICIPATED DEATHS

In several documents reviewed by my Office it is written that 3% of deaths in cattle can be expected on an annual basis. Mr Ian Gray in his response¹⁰⁹ to complaints including deaths at Mataranka wrote *'The mortality rate at Mataranka Station for the period 2009-2010 has been calculated at less than 3% '.*

In CDU's *'Mataranka & Katherine Stud Stock & Valuation Sheet'* is a column that refers to 3% anticipated deaths.

I have not been able to decipher the manner in which these sheets have been calculated.

For example year ending 31 December 2008 is shown below:

Total herd	Anticipated Deaths 3%
6628	653

My calculation is that 3% of deaths of 6628 head total 198.84 anticipated deaths. As can be seen above the CDU calculation depicts that the anticipated death rate is actually 9.85% and not 3%. It is apparent from my investigation that some CDU employees were confused and/or lacked an understanding of animal welfare issues.

Much blame has been attributed to certain employees at the lower classification. The *Animal Welfare Act* is quite specific in what actions can be taken when concerns are raised about the welfare of animals. Adherence to this legislation was deficient. No evidence has been provided to this investigation that suggests animal welfare training had been provided to staff prior to December 2009. In fact the opposite was the case according to Mr Gray, Ms Walters and Mr Parker. On 8 December 2009 Dr Heim advised Messrs Biggs, Luttig and Williams that he would like to run a *'welfare training session'*

¹⁰⁹ Reference: Mr Ian Gray response to 'Allegations of Serious Misconduct' dated 02.07.10.

with all KRC and MS staff before the end of the year. Dr Heim stated that the training is mandatory for all staff excluding kitchen and cleaning staff. On 17 December 2009 and 2 February 2010 this training session was undertaken with Dr Heim as the instructor. The agenda for the training is as follows:

1. *Welcome*
2. *Legislation and Codes of Practice*
3. *Basic Standards of Welfare*
4. *Whose job is it?*
5. *Emergency Responses*
6. *Discussion and Questions.*

Attached to this agenda was a two page document titled '*Monitoring Protocols for the Welfare of Charles Darwin University Livestock at Katherine Rural Campus and Mataranka Station*¹¹⁰'. Towards the end of 2009 Andrew Vodic emailed Mr McKnight (21 November 2009). He wrote: '*Just an update: Doug is moving said cattle on Monday. They are currently too poorly to sell so will be fattened over 6 weeks then sold. I have authorised Doug to buy 4 tonne of Lick (\$10,000). They are desperately short. Doug is to provide me with a list of priorities for R and M. It seems that the 2 vehicles are unserviceable as are 2 of the quad bikes and there are pressing pump and bore needs*'.

OMBUDSMAN COMMENT: On 23 March 2010 Mr Jenkins advised that two water pumps he ordered about Christmas 2008 were still in the shed waiting placement. It was Mr Jenkins' view that these two pumps should be placed for use in Desert Paddock/Burnies Paddock and Crater Paddock. Fifteen months have passed and these water pumps are still not utilised. I do not know the reason for them not being installed.



Cattle at Mataranka Station May 2010

¹¹⁰ A full copy of this document is attached – Volume 2

THE QUALIFICATIONS, EXPERIENCE, TRAINING AND PERFORMANCE OF THE PERSON MANAGING THE OPERATIONS OF CDU AT THE MATARANKA STATION DURING 2009 AND CONTINUING

Charles Darwin University's website¹¹¹ states that *'by providing individuals and faculties with resources for working with animals, is committed to public support of its staff and students so engaged, provided that the work conforms to the requirements of the Code of Practice and to the rules and regulations laid down by the University to control such activity'*.

The *Australian Code of Practice for the Care and Use of Animals for Scientific Purposes* states that teachers have direct and ultimate responsibility for all matters related to the welfare of their animals and must act in accord with all requirements of the Code. Additionally the Code states that before any teaching activity involving the use of animals begins, teachers must submit a proposal to the AEC which demonstrates that the project will comply with the conditions of the Code and relevant legislation.

The Station Manager, amongst other employees, failed to submit any proposal to the AEC and failed to obtain the requisite permit to undertake teaching as required by the Act. The Station Manager denies that he provided teaching to students using animals, however the photographic evidence of students, who were present during Mr Gray's instruction of pregnancy testing and branding, does not support his assertion. In addition, at the time, the AEC permit applicable to Mataranka Station had been suspended thereby making teaching pregnancy testing and branding offences under the *Animal Welfare Act*.

The Code also requires teachers to record the use and monitoring of animals in scientific and teaching activities. No records to this effect were provided to my investigation.

In relation to the skill and training of staff involved at Mataranka Station, the Code of Practice Section 2 (xiv) states that an institution must ensure that there are adequate numbers of appropriately trained and skilled personnel to care for the animals. Whether Mr Gray possessed the requisite skills when he was employed in 2009 was assessed in an interview with two of the recruitment panel members.

Mr Douglas Jenkins, CDU Livestock Lecturer based at KRC was one of the panel members (other panel members Brian Heim, Garry Riggs and Di Chalmers) appointed to interview applicants for the position of Station Manager at Mataranka Station.

¹¹¹ Statement of Principles Guiding the Use of Animals in Teaching and Research at Australian Universities.

In an Ombudsman interview on 8 April 2010 Mr Jenkins was asked to explain the CDU employment process and how Mr Ian Gray met the merits of appointment to Station Manager. Mr Jenkins stated that about 30 applicants applied for the vacant position. Of those people the applicants deemed suitable for interview by Mr Jenkins, apart from Mr Gray, were not short-listed. When asked why, Mr Jenkins stated that Dr Heim selected the short-listed persons for interview.

Mr Jenkins stated that the two referees provided by Mr Ian Gray were contacted by the panel for comment. One of these referees is a helicopter pilot (Phil Irlam) used by Ian Gray to muster cattle when he was previously Station Manager. Asked in interview why Mr Gray selected Mr Irlam as a referee considering the only interaction he would have had relevant to the position was when he contracted Mr Irlam for mustering, Mr Gray stated Mr Irlam knew him best. In my view Mr Irlam was an unusual choice of referee, and the selection of one of Mr Gray's employers recent or otherwise would have been more appropriate.

It was reported to my Office that one of Mr Gray's referees advised the panel that Mr Gray was more suited to training positions rather than a management position and that he worked '*ok as a team member*'. In my view this was not strong support to appoint Mr Gray to the Station Manager position, or to lead a '*team*' of employees.

Mr Jenkins stated he advised Mr Gray to apply for the vacant position. He said Mr Gray's friendship with Dr Heim was the reason for the appointment despite other applicants having a stronger background and ability.

Asked for his view on Mr Gray's ability to manage Mataranka Station Mr Jenkins advised that without help Mr Gray would continue to have difficulties. Mr Jenkins stated that he had not seen any improvement in Mr Gray's ability since his appointment. When asked about Mr Gray's response that Mr Gray was an effective Station Manager in 2004, as set out in Mr Gray's reply to the *Stockwell Report*, Mr Jenkins said that on reflection Mr Garry Riggs (current owner of Lakefield Station and now Acting Mataranka Station Manager) mentored and oversighted Mr Gray during that period and many of the processes Mr Gray took credit for appeared to be those implemented or instructed by Mr Riggs. Mr Jenkins stated that Mr Gray is an excellent cattle technician but doubted his ability to continue as a Station Manager.

As a result of the information provided by Mr Jenkins, it was deemed appropriate to seek confirmation of the points raised. As such Mr Riggs was spoken to on 22 June 2010.

Mr Garry Riggs was also asked if he, as a panel member, selected Mr Gray for the position. He said that initially there were about 12 applicants of which 4 were discarded straight away as unsuitable. Of the eight persons left Mr Riggs had scored Mr Gray as being in seventh position, therefore six others were deemed more suitable than Mr Gray. Asked about scoring Mr Gray as second last, Mr Riggs said he asked questions of Mr Gray about fire and paddock management and he couldn't provide a good answer. He said Mr Gray wasn't a '*people person*' and couldn't work well with people. Mr Riggs said from previous experience Mr Gray would avoid people by working at night. Mr Riggs, when asked why Mr Gray was the successful applicant replied *I don't know why he was selected*.

In contrast to the information provided by two of the panel members, the university (1 October 2010) stated that there were *'15 applicants for the position, of these three were short-listed based on how well they met the selection criteria. Mr Riggs was one of four members of the panel that signed off on Mr Gray'*.

After Mr Gray was stood down in late 2009 certain conditions were imposed on his reinstatement¹¹². Those conditions were that Mr Tim Biggs communicate regularly with Mr Gray and monitor his performance against the improvement plan for the station; that a consultant (Management Coach) was contracted through People Management and Development to work with Mr Gray to improve his management skills with a focus on the skills of communication and people management; that Mr Garry Riggs (owner and operator of Lakefield Station) take on the role of Pastoral Consultant starting around 15 February 2010 and provide consulting services for a period of 6 months.

Training & Performance of the person managing the operations of CDU at Mataranka

Mr Ian Gray holds an Advanced Diploma of Agriculture (Rural Business Management); a Diploma of Agriculture (Beef Cattle Production) and a Certificate IV in Training and Assessment. In his response to the *Stockwell Report* he set out his background and experience with livestock and property management. Mr Gray's CV and application for the Station Manager's position sets out many years of experience which would suggest that he was a capable person to be appointed to the position.

There have been several Station Managers in recent years employed by CDU to manage the CDU Mataranka Station. CDU advise that in 2008, during the tenure of the then Station Manager, cattle neglect was identified and resulted in the contract not being renewed. Subsequently, in September 2008 Mr Douglas Jenkins was appointed Acting Station Manager. This appointment continued until January 2009, when Mr Grant Parker took over as Acting Station Manager. On 4 May 2009 Mr Ian Gray was appointed Station Manager. The probation period for Mr Gray was to 4 November 2009 and his probationary supervisor was Senior Manager Major Projects Mr Ken Suter.

In the job description under the heading of Business Unit Environment it is written that the Station Manager is to *'Manage and co-ordinate the day-to-day and long-range activities of the commercially based farming operations of Mataranka Station at Mataranka and the Brahman stud facility based at the KRC. This includes achievement of budgeted plans/targets/key performance indicators for farm production including profitability and appropriate reporting to Darwin based management. ...'*

On 5 October 2009 (10:51) Ian Gray emailed the AEC Executive Officer and Dr Brian Heim, the subject being 'Mataranka Station Facility Inspection' Mr Gray wrote *'... A few brief amendments/comments...'* at (12:11pm) Dr Heim emailed Ian Gray and the AEC Executive Officer. His email advises that Dr Heim had added a few comments of his own to the Mataranka Station Facility Inspection report conducted by the AEC, and also referred to a strategic plan that was developed earlier in the year by Doug Jenkins when Mr Jenkins was the Acting Station Manager. Whilst this strategic plan required updating, Dr Heim wrote that it served as a framework for the Station.

¹¹² Reference: Email from Mr Barry McKnight to Professor Wasson dated 1 February 2010 (14:48).

Part of Dr Heim's response to the *Stockwell Report* suggested that successive management was responsible for the situation at Mataranka Station in late 2009. This view is not reflected in Dr Heim's applications to the CDU AEC for licences to act as a training facility nor is this reflected in Dr Heim's emails of October 2009.

The opinion of AEC member Ms Deborah Brackenreg and the EO appears to be that a major contributing factor for the situation at Mataranka Station in 2009 was a result of the Station Manager Ian Gray. This opinion, that poor management in 2009 was a factor in the situation experienced at Mataranka Station, is supported by the *Stockwell Report*, DPI Inspections, CDU staff who worked at Mataranka Station and Dr Heim¹¹³.

The AEC EO emailed the AEC Chairman Professor Wasson on 9 December 2009 (09:52):

Just got off the telephone to the Animal Welfare Officer who inspected Mataranka Station.

She said that steps were being taken are in the right direction. The Stock Inspector also mentioned that there was a definite improvement and that there general overall health had improved with proof of them chewing their cud, and their coats are starting to shine. They will be doing a follow up inspection before the next muster in February.

She believes the main problem was lack of management and commented that if the previous manager returns they will be scrutinising the property a lot closer and would be doing random inspections. She seemed to believe that Ian (Gray) was a major contributing factor.

Comment was also made that previously she believed that part of the problem was inappropriate watering stations for the number of stock, etc.

They will do up a report and are waiting on Grant Parker to forward an action plan of the future activities at Mataranka. I asked her if she had seen the horses and her comment was yes, while they appeared in poor condition they were being well fed and generally take longer to improve condition and she wasn't concerned.

As previously mentioned in this report Station Manager Ian Gray was stood down from duty for a period of time (23 November 2009 until 10 December 2009). Mr Gray subsequently returned to his position after advice was given by Professor Wasson¹¹⁴ (as Chairman of the Animal Ethics Committee) to the Vice Chancellor. Mr Gray's reinstatement had conditions applied which were listed as:

1. *Heightened supervision of Mr Gray by the NT Manager for PCIS with monitoring of the climate of staff and reports to the Pro Vice Chancellor VET.*
2. *Management training for Mr Gray to be organised by Pro Vice Chancellor VET.*

¹¹³ 17 November 2009 email from Dr Heim to Vice Chancellor and others *I accept that Ian made some poor management decisions which have contributed significantly to the current state of the cattle.*

¹¹⁴ Reference memo from Professor Wasson to Mr Biggs dated 9 December 2009.

3. *Appointment of a pastoral consultant to work with Mr Gray each month for six months at which time this arrangement will be reviewed by the NT Manager for PCIS.*

Professor Wasson emailed Mr Stockwell on 10 December 2009 (08:24) to advise him of the reinstatement of Mr Gray and the conditions imposed. Mr Stockwell, as documented above, stated *incredulity* amongst other things about the reinstatement of Mr Gray as, in Mr Stockwell's view, Mr Gray had committed criminal negligence.

Mr Jenkins in interview (8 April 2010) advised that Mr Gray can not perform his duties as required without assistance. In a final example of Mr Gray's inability to be an effective Station Manager Mr Jenkins stated that Dr Heim asked him to value cattle held at Mataranka Station, apparently due to the agents in town being unwilling to deal with Mr Gray.

CDU provided Mr Gray with information about many of the complaints against him. On 2 July 2010 he responded. In part Mr Gray wrote:

'Messrs Toby Gorringer, Douglas Jenkins and Grant Parker are the University staff members who have been seriously derelict in their duty and have made no positive contribution to the operation of Charles Darwin University for over 10 months and are still to this day instigating activity to bring disrepute to the University. Messrs Gorringer, Jenkins and Parker all refused to attend Mataranka Station to perform duties required of them and with the exception of Mr Parker are still in their positions with no disciplinary action taken against them. I have been subject to pressure above and beyond what would normally be expected of someone in my position. As a result of the actions of Messrs Gorringer, Jenkins and Parker, I found myself given the responsibility of supervising students which severely impinged on my ability to manage Mataranka Station effectively. Also, for example, I have had limited access to resources, both human and physical. I was unable to fill the position vacated by Ms Nichola Walters until 12 April 2010, a period of over three months. Other issues include limited or no internet service, thus preventing access to Email. A satellite dish was installed at the end of March, however, the first to Mataranka Station by staff from ITMS was not until 22 June this year, a period of over 12 months since I first returned to Mataranka Station.

The Animal Ethics Committee noted on numerous occasions that the principal issues identified in the efficient operation of Mataranka Station was an apparent lack of staff that was a major contributing factor to any shortcomings in the function of the Station...'

Having considered all the information and evidence available to me, I agree with the view of AEC members, Mr Stockwell and officers from the DOR. In my view Mr Ian Gray was a major contributing factor to the animal welfare situation exposed at Mataranka in 2009 and 2010.

THE ADEQUACY AND STANDARD OF PLANS, BUDGET ALLOCATION, STAFF SKILLS, SUPERVISION, MONITORING AND MANAGEMENT OF ALL ASPECTS OF THE WELFARE AND TREATMENT OF CATTLE AT THE CDU MATARANKA CAMPUS

Charles Darwin University's website refers to the '*Statement of Principles Guiding the Use of Animals in Teaching and Research at Australian Universities*'. This document states that Charles Darwin University is committed to maintaining and improving the health, well being and productivity of animals at all stages of their use for the production of food, fibre and other products. In addition this document states '*The University is committed to the following principles concerning such use of animals:*

- *Alternatives to using animals must be considered and animals must only be used when no practical alternatives can be found for the purposes proposed;*
- *The expected benefits must outweigh the harm to the animals and active steps must be taken both to minimise the harm and maximise the benefits;*
- *The proposals to use animals for teaching and research must first have been submitted to and have been approved by the University's Animal Experimentation Ethics Committee;*
- *The work must be carried out in accordance with the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes (1997); and*
- *Such animal usage must be strictly in accordance with the legal requirements set down in the relevant Territory legislation'.*

PLANS

A large volume of documentation was provided to my investigation. Apart from evidence that plans have been promulgated¹¹⁵ and are being implemented, there is no physical evidence that plans existed between 2005 and 2009 for Mataranka Station.

On or about 30 April 2006 Mr Ken Suter the Chief Financial Officer of FAS wrote the following about plans for Mataranka: '*Although we now have a permanent Station Manager for Mataranka it is my opinion, at this time, that some professional independent advice is needed to help us with developing real business plans for Mataranka Station.... At this stage the Station Manager has failed to demonstrate to me any real skill in developing an operational plan for a business of this type*'.

¹¹⁵ Mr Ken Suter document titled Mataranka Station dated 24.12.2009.

The view that no plans existed is supported in part by AEC reports which have documented that there was 'no written emergency plan, documentation for adverse events or contingency plan for extreme events'.

On 2 July 2010 as a result of CDU providing Mr Gray with various complaint details in relation to plans Mr Gray wrote in part:

At no time have I been advised by CDU management that any plan I developed did not meet the needs of Mataranka Station. At no time has a Performance Development and Review System plan been completed and agreed to by myself or CDU management. The current state of the Station is a reflection of the support provided me by CDU. I have worked constantly since my appointment mid last year to restore Mataranka Station to standard which would be acceptable to industry and even more so after being reinstated following my suspension in late November 2009...

In contrast to Mr Gray's view that Performance Development was not discussed with him, Mr Ken Suter (24.12.2009) in a report about Mataranka Station wrote that Brian Heim and he discussed Ian's probationary performance report which had been previously provided to Mr Gray and discussed over the telephone. Mr Suter wrote that during this discussion Mr Gray agreed with the report which indicated the need for improvement in the areas of communication and operational reporting.

BUDGET ALLOCATION

Information provided to my investigation revealed that \$142,000.00 was allocated to purchase feed for Mataranka Station in 2009. This would appear to be insufficient considering the amount spent on feed in 2008 was \$191,156.30. In 2007 - \$175,546.64 was spent on feed.

Why CDU budgeted in 2009 almost \$50,000.00 less than the cost of feed in 2008 when there was an increased number of cattle on the property has not been revealed.

In my view considering the cost of feed CDU purchased in 2007 and 2008 CDU should have budgeted approximately \$220,000.00 for the year 2009.

The relatively small amount allocated in 2009 suggests that insufficient funding was allocated to purchase sufficient feed for the herd.

As a result of the 2009 complaints CDU spent a total of \$263,345.66 on cattle feed for Mataranka Station, the majority of this purchased between October and December.

STAFF SKILLS

Throughout this investigation, blame for cattle neglect experienced at Mataranka Station in 2009 has been apportioned to several CDU employees.

An example of apportioning blame can be seen in Mr Ian Gray's response to the *Stockwell Report*. He wrote that until returning to Mataranka Station he had never witnessed such a blatant disregard to the work ethic expected of an employee (Mr Gorringer) and also a lack of technical competence by anyone in a position similar to that of Mr Gorringer. Mr

Gray wrote that the *Stockwell Report* portrays Mr Gorringer to be an expert in the husbandry of livestock, however following 6 months of observations Mr Gray found the opposite to be the case. He wrote that he found the knowledge and skill base of Mr Gorringer far below what he would expect of someone employed in the capacity of VET lecturer.

This would suggest that the panel that employed Mr Gorringer made an error of judgement, and that Mr Gorringer's supervisor, whilst he was on probation, had failed to identify that Mr Gorringer was deemed by Mr Gray to be unsuitable for the job he was employed for. Mr Gray's view would also suggest that Dr Brian Heim was mistaken in the information he wrote about Mr Gorringer's skills and ability to the AEC to obtain a permit for the station.

Mr Gray also documented that he found Mr Gorringer's knowledge of the technical aspects of the anatomy, physiology and particularly nutritional requirements of cattle and horses to be far below what could reasonably be expected of someone employed in the capacity of VET lecturer. Mr Gray documented that he can demonstrate that Mr Gorringer is far from an expert in the husbandry of any livestock including the horses which had been entrusted to his care. It should be noted that Mr Gray has not provided any information or documents to support his view of Mr Gorringer.

Dr Brian Heim also raised the issue of culpability in his email of 17 November 2009 (09:41) to the Vice Chancellor, Charles Webb, Professor Robert Wasson and Mr Barry McKnight:

Before you take action which could end the career of Ian and severely undermine the leadership credibility of Andrew Vodic and myself, can you please answer a question for me: What will standing down Ian accomplish that hasn't already been addressed by Andrew and myself? Or is this a knee-jerk reaction to a report that confirmed what CDU already knew through the efforts of DPI and AEC and have taken steps to rectify.

I accept that Ian made some poor management decisions which have contributed significantly to the current state of the cattle. However, after reading the report and talking with Robert yesterday, it seems to me that the term management is being used synonymously with Ian Gray. It is my opinion that Ian can be held responsible for adding to poor management decisions existing over a period of years, namely since when Helen Garnett decided to give control of station management to Ken Suter and FAS in roughly 2006. Now Ian is being held solely accountable for a long litany of management errors instituted well before his arrival. Indeed, when Ian was previously here for 3 years as station manager the herd was in excellent condition.

Where is the accountability for Ken Suter who was responsible for the station since 2006? I took over as line manager on 28 September of this year, with Andrew Vodic stepping in to assist only 3 weeks ago. Yet Robert said yesterday that this current situation is a direct reflection on my abilities as a leader and manager. What have Andrew and I failed to do since we began managing the situation? And what has Ian failed to do? If the answer is as simple as 'resolve'

the situation, my response would be that resolution is not a simple matter that can occur overnight.

Realistically, no new issues were raised in Toby's complaint. Robert said yesterday that CDU had to take action based on the report. It is my opinion that CDU has already done that in an effective, sustained and appropriate manner. It may not have been as quick as it could have been as identified in the report, but the initial complaint happened in early September under a different management structure.

It is my belief that if you are going to stand Ian down, you should do it for medical and safety reasons. Require him to take two weeks leave to rest and become psychologically fit. You might even require medical evaluations given that he has lost significant weight since he commenced in May. It doesn't seem fair to take what could be (and will be) interpreted as punitive action when he is actively addressing the welfare issues. And rather than Robert and Barry coming down to do it, send me/or Andrew along with Elizabeth McDonald. This will allow both Andrew and myself to maintain leadership credibility.

SUPERVISION

In an interview conducted with Mr Douglas Jenkins (CDU Livestock Lecturer) on 8 April 2010 he was asked what supervision was provided to him as the acting Station Manager, he replied *none*. Asked what the monitoring and management of aspects relating to the welfare and treatment of cattle was in 2009 he could not provide an answer.

There is no doubt that there was a lack of sufficient supervision/oversight by employees tasked with supervising/managing the Mataranka Station Manager.

This investigation also identified that there was a lack of understanding by staff as to what their duties/responsibilities were.

I refer to an email dated 1 June 2009 in which Mr Tony Jensen, Lecturer Beef cattle/Horsemanship at CDU Katherine Rural Campus emailed Ian Gray regarding purchasing stock lick. Mr Jensen advised that he had ordered 4 tonne of 28 percent heifer lick and that two tonne was left over from the previous year. Mr Jensen advised that the way the cows *'are chewing through the lick'* an estimated 2 tonnes more would be required before the end of the year.

Mr Gray responded that only Grant Parker, Nichola Walters or himself had the authority to place orders and then only following consultation with him.

Mr Jensen replied to Mr Gray that nobody had told him of the new arrangements and wrote *'Obviously we need to sit down and discuss exactly where I fit into the whole scheme of things because at the moment I have no idea what's going on'*.

On 20 October 2009 (04:57pm) Ms Vicki Williams Campus Administrator CDU Katherine emailed Andrew Vodic:

This is the summary I have put together, for your information. I have also included as requested the student complaints — sorry they are in my hand writing.

Below is a summary of the past few weeks of items I am aware of. I have not been to Mataranka so cannot comment personally on this. I do feel however that there are enough issues being raised from a number of areas, that questions should be asked.

On commencement, Ian Gray was asked in his letter to contact me regarding his induction. Campus Administration now does the local Inductions as per PMD advice and training. I tried to contact him on several occasions, in a variety of mechanisms over the 2 weeks, making myself available to fit in with the trips to Katherine from Mataranka, and station duties. He did not contact me to undertake his induction. In speaking with Cath Taylor, he said he knew Di Snell and would work through her. Unfortunately, this did not instil me with confidence regarding his credibility. I have however assisted him when he has requested it for HR issues since then (eg what recruitment forms etc).

My apologies for not having dates, as I was taking each item separately and hopefully directed them to the correct area. I always encourage line management first and then Support and Equity.

1. *A few weeks ago, Nichola Walters from Mataranka Station called me. I had had contact with her when we had some other issues with staff down there. Her voice was trembling and she cried on and off during the conversation. She didn't know what to do and who to talk to. She advised that the animal welfare issues were distressing her, and she felt that Ian would not let her do anything, and that if she did anything of her own initiative, for the sake of the animals she was told off. She advised that he wasn't giving her any instructions and then telling her off when she got on with 'routine jobs' of the day. She also stated that he had threatened her job, by saying that he wasn't going to re-employ her. She was crying about what he was likely to do when he got back, that he was going to sack her on the spot — I can't remember over which particular issue she felt she would be in trouble for.*

I asked her what she felt we could do, but she was unable to say. I advised her that there were policies and procedures within CDU that we could draw upon, such as she was on a contract, and he wouldn't be able to sack her on the spot, but a process would need to be undertaken. I advised her that she should talk to the next management level up, but she felt this would get her into more trouble. I also advised her to then speak with Elizabeth in Support and Equity, which she would consider. I also advised her about the confidential services of EASA. For an immediate strategy, if she felt that a situation was occurring when Ian returned that she should not say anything in response, but say that she was not comfortable, and she needed to take some time out into Mataranka and would be back in the morning. I told her not to argue with him, and if she was at all concerned to call me. I rang Elizabeth to advise her of the

call in case I needed her to come down ASAP. She didn't ring me so I assumed all was well.

From this phone call, as I didn't know Nicki well, I asked to speak with Doug Jenkins who had been acting Manager, and had employed Nicki. I try not to take one instance alone. I asked Doug as to how he found Nicki as a worker, and he responded that she was a reliable hard worker. He advised that you only had to give her, work list for the day and she would get on with the job. No problems. I asked her how she got on in the team, and he said she was easy to get along with. This was my interpretation in my original communications with her, but only having brief contact I could not really say. During this conversation, Doug perceived the purpose of my enquiry, and indicated that while he had been part of the recruitment of Ian Gray, he felt that he was not performing as per expectations. Doug is now a lecturer in AgRO by choice, not in a management position.

I then asked Toby Gorringer, who lives down there and who was on site, his opinion of how Nicki worked. He is a man of few words, but said that he believed she was a good worker, just got on with the job. I asked how she worked with others and he said fine.

2. *We had a staff member leaving and going to Taminmin High School in their Rural Ops program. I was cheekily teasing him about going to the competition etc, but his response was more concerning, which he didn't want to elaborate on. In an effort to understand why he was leaving — as bad press doesn't do us any good at all — I asked him if he would come and chat to me about his reasons why. I was unaware of any reasons for leaving. He advised that he was leaving because of Ian Gray. He indicated that he had worked with him before, but had conversations with Brian and he agreed to start from fresh. He said that he had always been responsible for the Show & Stud Cattle and over the few weeks preceding, Ian had advised him what were not now his responsibilities. (Name Withheld) indicated that he accepted the decisions, but he was leaving because he felt the farming practices were going to be detrimental to the stock's welfare. I asked him if there was anything that could change the situation, and he advised that he did not want to leave, but could not stay and see the outcomes.*

At this time I was concerned regarding this situation and I spoke with Brian Heim as I was led to believe that the station was coming back under training, and I assumed it would come under him. I indicated the above and suggested that now was a time to look into these things as Ian was still on probation.

3. *A couple of weeks later students asked to see me about their concerns at Mataranka. They were there doing their practical skills attainment, & expected to be there for 6 weeks. I said that I could be available to meet them that Friday afternoon. There were 7 students who signed the notes of concern. I was clear that I would take the notes of their concerns, but only of what they had actually witnessed, I was surprised that it went on for two pages — even in my*

scrappy handwriting. The students were very agitated and wanting some immediate action. I asked them what was their particular concerns.

- a. One was that they were supposed to be learning best practices, and all they were doing was watching bad practices & animals suffer.*
- b. Second, they were distressed by the animal welfare issues.*

They advised that they had spoken to the Lecturers, and Team Leader, & I advised that their concerns were best sent to the senior management, who Brian was probably the best. A number of them want to complain to the RSPCA and the Media. I agreed to send it on to Brian on their behalf. I also asked them what they expected to be the outcome? They advised that they expected a number of cattle to die or be shot, but they wanted to see the animals fed. I asked them if they would like to stay back at KRC, but they declined.

I forwarded this on to Brian. His response came across as an attitude of blame on the Lecturers to be stirring them up, as they had different management opinions.

After two weeks, one of the students phoned me and asked where else I could send their complaints, because nothing had changed. I said Support and Equity, which they asked me to do. I sent it on to Chris White. Brian responded that it was not really appropriate here.

- 4. The other day, Nicki rang again in distress. She felt that nothing was changing with the Cattle welfare. She felt Ian was blaming her, and his behaviours were frightening her. I asked her if she had followed up anything from the last time we talked as I hadn't heard anything. She said no she hadn't, she had just tried to do her work and stay out of the way. She stated that he told her she was not to talk to anyone else in the University, and indicated that her job was at risk. (Nicki's contract had run out and was extended until mid November I understand). Nicki said that she couldn't sleep, and she had been to the doctor who had given her a Dr's Certificate, but she was too scared to give it to him for fear of what he would say. She used the term that she expected 'him to go right off'. I advised her to make a copy, and fax a copy to the Rural Campus, but that Ian needed to have the original. I advised her to contact EAS during this period for to assist with her distress. I also recommended she speak with Brian Heim (who I still believed to be the Station Managers supervisor. I also encouraged her to speak to Elizabeth in Support and Equity and gave her all the relevant numbers. I received the sick certificate, which turned out to be a Workers Compensation form and then thought I should let Brian know that it was coming. Brian advised me upon leaving that Nicky had spoken to him.*
- 5. There have been, during my days at the Rural Campus, where staff at the tea break have made references to circumstances occurring at the Mataranka, and at the Rural Campus where they have not been 'allowed' or have been in trouble for doing something that, as experienced stockmen teaching in the Agriculture courses, they would have experience to undertake. I have not*

followed up on any of this or participated in these discussions, as I have not seen any of the situations.

6. *Brian sent out an email advising all staff to support the Action Plan at Mataranka and even if they had different opinions. He indicated that cattle were being managed as drought cattle with shooting of cattle where they were unable to get up. He advised that Ian was working within budgetary constraints in managing the station.*

In my opinion these are individual incidents, but when lined up do beg to ask questions.

MONITORING & MANAGEMENT

This investigation has revealed that the management of Mataranka Station in 2009 and continuing has some deficiencies.

In relation to the 'Waybill Books' in an email dated 20 January 2010 (16:23) the Acting Team Leader of Agriculture and Rural Operations Team Mr Danie Luttig asked the following: *'Ian asked if anybody knows the whereabouts of the Mataranka waybill books. If you know please let us know as soon as possible. I remember us looking for it last year sometime when we wanted to move some cattle to town/feedlot, but can't remember if we found it'.* I am advised that the Waybill Books were located in Ian Gray's briefcase shortly after this email was sent.

There is reason to believe that the AEC may not have been provided with correct information about the staffing at Mataranka Station in 2010. As of 18 March 2010 my Office was advised that there were only two permanent workers at Mataranka Station, that being the Station Manager Mr Ian Gray and the Station Hand Mr Robin Files. A lecturer named Wayne Spence who was the KRC horse co-ordinator apparently assisted at Mataranka where possible, but subsequently resigned as did Mr Files.

On 8 April 2010 my Office was advised that there was only one permanent staff member at Mataranka that being Ian Gray. Apparently the Station Hand and Overseer positions remained unfilled.

Board of Studies

Dr Heim provided Explanatory Notes to my Investigation in a memorandum. He wrote:

The staff of the KRC and MS meet routinely for what is termed the Board of Studies (Bos). The purpose of this group is to work through training and other issues, sort out timetables and generally sort out logistical and other issues which impact on training. While the meeting is primarily for the teaching staff, other staff including the staff from the station often participate in the meetings. The BOS also assists in organising required work at the station, through allocation of physical and human resources, in association with training delivery.

The following documents are the minutes from BOS meeting held between 1 Jan 2009 and 31 December 2009. Other meetings were held but were not

minuted. BOS meetings in the middle portion of the year had minimal attendance, primarily because lecturers were not present or available due to training commitments elsewhere.

The minutes are for meetings held on the following dates and minutes for other meetings in calendar year 2009 do not exist to my knowledge.

17 April 2009

30 October 2009

6 November 2009

27 November 2009

11 December 2009

This memo demonstrates that only one recorded meeting took place in 2009 prior to the complaints made in September 2009. After the complaints were made there was a meeting held each month, with two in November.

In the meeting of 30 October 2009, under action items, there was to be a BOS meeting held each Friday with the notation '*all staff to attend*'. It is apparent that this action item could not be met.

Also listed was the item '*Staffing*'. The Committee '*recognised that there are insufficient staff to operate effectively at the Station*'. The outcome of this item is to timetable students to provide assistance with the workload.

Conclusion – The adequacy of plans, budget, staffing levels, supervision, monitoring and management to ensure the welfare and treatment of cattle and horses at Mataranka Station fell well below industry standard.

THE PROCESSES AND PRACTICES OF CDU AND OF THE CDU MATARANKA STATION FOR RECEIVING, MANAGING AND RESPONDING TO ADVERSE EVENTS, DROUGHT, PASTURE SHORTAGES, THE PURCHASE OF SUPPLEMENTARY FEED, THE MOVEMENT, SALE OR DESTRUCTION OF CATTLE IN TIMES OF SHORTAGE, RESPONDING TO REPORTS OF CATTLE AT RISK OF HARM

The *Australian Code of Practice for the Care and Use of Animals for Scientific Purposes* ('the Code') states in Section 2 (xi) that the Institution must establish mechanisms to respond to enquiries or complaints concerning the use of animals within the institution and ensuring that personnel and students may voice concerns without jeopardising their employment, careers or coursework.

The Code at point 2.2.28 states that investigators, teachers and animal facility managers should promptly notify the AEC of any unexpected adverse events that may impact on the wellbeing of an animal in their care. This investigation has revealed that the animal facility manager, Mr Ian Gray, and some of the teachers failed to adhere to this requirement.

The Code also states at point 2.2.33 that where inspections detect activities that are non-compliant with the Code, the AEC **must ensure** that such activities cease **immediately** and remedial action is initiated. **[My emphasis]**

The AEC conducted a number of inspections of Mataranka Station. On 17 September 2009 the AEC inspection report documents that the Strategic Plan was last updated in 2001. It also records that Mataranka Station's records of monitoring animal health and wellbeing are two years old and that there are no up-to-date records available. In a subsequent report the AEC documented that the records of monitoring animal health and wellbeing related to a period four years ago and that no records have been collected since.

In addition, the AEC report states that there is no written emergency plan, documentation for adverse events or contingency plan for extreme events.

The AEC noted that assistance is needed for the day to day monitoring and maintenance of cattle in poor condition as the Manager cannot do this adequately without assistance. The AEC also noted that there were communication problems at the station resulting in

conflict between various staff members and their families *'which is ultimately impacting on the welfare of the cattle by stressing those attempting to remedy the poor condition of some cattle'*.

The AEC despite the adverse findings from inspections in 2009 and the requirement of 2.2.33 of the Code did not immediately cease the activities of Mataranka Station.

THE MOVEMENT, SALE OR DESTRUCTION OF CATTLE

Other than emails such as the one shown below (10.12.09), or notebook entries of Ms Nichola Walters, no formal records were provided to my investigation regarding the movement, sale or destruction of cattle in 2009.

On 10 December 2009 (09:13) Douglas Jenkins emailed Tim Biggs updating him on cattle sales, this email was on-forwarded to Ian Gray on 14 December 2009:

- *473 head trucked today 10.12.09*
- *148 head to truck Sat or Sunday (have been dipped and will be scratched Sat).*
- *42 D bulls sold to seals through territory rural for delivery 23 December (Steers at Phoenix Park to top up body truck and dog load) recommend putting the bulls into Phoenix Park asap to fill them up as weight on scales Darwin and if it rains trucking out is still possible with limited staff available at this time of year.*
- *Cows at Phoenix Park need to be preg tested by someone with export accreditation. Cows being looked at this weekend or early next week with Wellard's through territory rural...*

As part of my investigation I requested a copy of records relating to *'paddock records'*. I was advised by CDU staff that these paddock record books consisted of a white document and a pink document (copy). On 8 February 2010 (18:48) Dr Brian Heim emailed the Vice Chancellor about my request for these documents, Dr Heim advised that the paddock books mentioned *'were something that the manager who departed in March 2008 had made up and he used them. It was a duplicate book that he used for cattle returns. To my knowledge, they have not been used since that time. Ian told me just now that he does not use them'*.

I question the validity of this statement. Mr Jenkins was interviewed on 8 April 2010. Mr Jenkins stated that he used these books up until his departure in December 2008 and he showed copies of the pages that he had sent to Mr Ken Suter. Mr Jenkins stated that Mr Parker also used these books in 2009 whilst acting as Station Manager. Mr Jenkins provided an email¹¹⁶ from him to Mr Biggs asking for a copy of the cattle movement record books. He was advised to direct this request to Mr Suter. Mr Jenkins in an attempt to locate these cattle movement record books emailed¹¹⁷ Mr Gray. On 6 April 2010 (06:21) Mr Gray responded that he had supplied *'Brian Heim with a copy of the record(s) following the initial Ombudsman request. I will bring a copy to Katherine with me this morning...'*

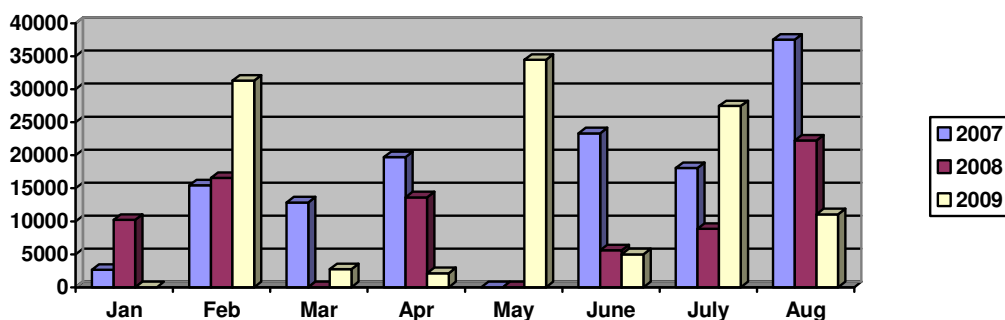
¹¹⁶ Doug Jenkins email of 25 March 2010 at 10:11.

¹¹⁷ Doug Jenkins email of 3 April 2010 to Ian Gray.

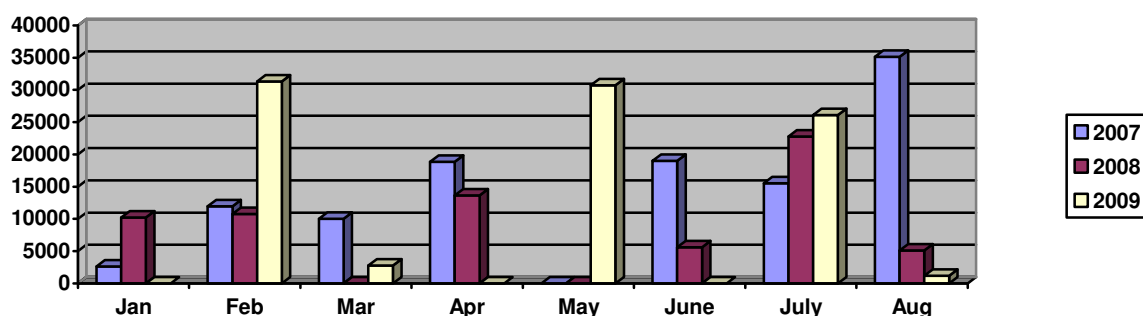
My initial request was in February 2010. Between February and April 2010 these books and copies have gone missing and have not been produced for my examination.

THE PURCHASE OF SUPPLEMENTARY FEED

As described in this report, there was a lack of feed and lick provided for most of 2009 to maintain or increase the BCS of cattle held at Mataranka Station. Below are table comparisons relating to feed purchases for Mataranka Station January to August 2007 – 2009 and lick purchases for Mataranka Station 2007 – 2009.



The above chart documents feed purchases for Mataranka Station January to August 2007 – 2009.



The above chart documents lick purchases for Mataranka Station January to August 2007 – 2009.

DESTRUCTION OF ANIMALS – LICENCE REQUIREMENTS

The *Firearms Act* sets out the provisions required for a person to lawfully use a firearm. In response to my Notice to Produce, Charles Darwin University provided documents in support of persons using firearms for the destruction of animals at Mataranka. A document that supported the request that staff provide licences was provided. (Dr Heim's email (09/02/10 - 11:29) to staff requiring copies of firearm/s licence). Charles Darwin University has a Corporate Licence¹¹⁸ (No. 43936) that lists 4 firearms owned by the university. This licence is valid between 19 April 2009 and 19 April 2010. These firearms are listed as being required for *Occupational Requirements - Educational/Scientific Research*.

Section 9(4) of the *Firearms Act* requires a corporate licence to contain the (a) *name of the person (who must be an employee of the applicant) who will be the representative of*

¹¹⁸ Section 14 of the *Firearms Act* stipulates that licence is valid for 1 year.

the holder of the licence in respect of activities conducted under the licence; and (b) the names and addresses of person who will (i) be responsible for the security of firearms possessed under the licence; (ii) have direct access to firearms possessed under the licence; or (iii) have control over issuing firearms possessed under the licence to employees of the holder of the licence.

Mr Gray the Station Manager (May 2009 to June 2010) was not a part of CDU's Corporate licence until 13 January 2010, yet he was responsible for the security of firearms held at Mataranka Station from 4 May 2009, had direct access to the firearms and had control over which employees had access to these corporate firearms. No records were kept of when these firearms were taken from the firearms cabinet, whom they were given too, when they were used and what they were used for. As stated, the Station Hand Ms Nichola Walters was also shooting cattle in 2009. She was not a part of the CDU Corporate licence at the time, yet was using the University firearms.

In November 2008 Dr Heim applied to the AEC seeking approval for '*Projects Involving Animals for Research or Teaching*'. At point 26.4(c) he wrote that individuals holding a CDU corporate gun license perform euthanasia on cattle. Mr Wayne Spence was employed on 4 December 2007 as a VET Lecturer Beef Cattle/Horse Production, his supervisor was Mr Tim Biggs. His primary location of work is documented as being KRC. There is nothing in his job description that stated that the use of firearms was a requisite of the job. Mr Ian Gray was employed by Charles Darwin University commencing 4 May 2009. The job position that Mr Gray applied for did not require him to hold a shooter/firearm licence. If the position of Station Manager required him to euthanise animals he should have been entered onto CDU's Corporate Employees Licence on his appointment on 4 May 2009.



DOR photo - Downer destruction Mataranka Station –2009

THE ADEQUACY OF PRACTICES, PROCESSES AND STANDARDS FOR PREVENTING OR REMEDYING NEGLECT OF CATTLE AT CDU MATARANKA STATION DURING 2009

The *Australian Code of Practice for the Care and Use of Animals for Scientific Purposes* states (3.1.4) that investigators and teachers must not begin a scientific or teaching activity involving the use of animals before written AEC approval is obtained, and must adhere to all requirements of the AEC.

As with most NT agencies, annual reports are required to be submitted by Charles Darwin University. The annual reports available from 2005 – 2009 were perused.

The 2005 - 2009 annual reports do not mention Mataranka Station. The only reference to ethical standards for research and teaching involving animals is a replication in the 2005 - 2008 annual reports which is the same each year:

The University maintains high ethical standards for research and teaching involving animals and humans. Its code of conduct for research forms the basis of an ethical approach to research. The code sets out requirements regarding data, statements of authorship and other issues. The University has two ethics bodies with responsibility for human research ethics and animal ethics, which monitor all ethical considerations associated with research carried out under the auspices of the University. Any CDU staff or students intending to conduct research involving animals, or which may impact on humans or animals, must obtain ethical clearance.

Despite CDU knowing that ethical clearance was required, in the case of Mataranka Station there were several years from 2005-2009 when the Station had not sought or obtained ethical clearance.

No standard, practice or process for preventing or remedying neglect of cattle from 2005 to 2009 was provided to my investigation.

BODY CONDITION SCORE (B.C.S¹¹⁹)

All photographs shown in this section of the report were taken at Mataranka Station.

Throughout this report BCS has been referred to as a measure for the condition of cattle and horses. Below is a description of how BCS is determined.

BCS 1: Emaciated – Bone structure of shoulder, ribs, back, hooks and pins sharp to touch and easily visible. Little evidence of fat deposits or muscling.



BCS 2: Thin – Beginning of fat cover over the loin, back and fore ribs. Backbone still highly visible. Processes of the spine can be identified individually by touch and may still be visible. Spaces between the processes are less pronounced.



¹¹⁹ Reference: NTG Douglas Daly Research Farm 2008

BCS 3: Moderate – 12th and 13th ribs are not visible to the eye unless animal has been shrunk. The transverse spinous processes can only be felt with firm pressure to feel rounded – not noticeable to the eye. Spaces between the processes not visible and only distinguishable with firm pressure. Areas on each side of the tailhead are fairly well filled but not mounded.



BCS 4: Good – Cow appears fleshy and obviously carries considerable fat. Very spongy fat cover over ribs and round tailhead. 'Rounds' or 'pones' becoming obvious. Some fat around vulva and in pelvis.

(no photo available at time of print)

BCS 5: Fat – Cow has lost definition. Contours disappear across back and sides as cow takes on a smooth, block-like appearance. Tailhead and hips buried in fatty tissue and look blocky; 'rounds' or 'pones' of fat are protruding. Bone structure no longer visible and barely palpable. Large fatty deposits may even impair animal's mobility.

(No photo available at time of print)

Mr Ian Braithwaite B.V.Sc conducted an inspection of cattle on 18 February 2010. Mr Braithwaite wrote that a BCS of 0.5 – 1 would indicate poor cows not far from death. He also wrote that the body condition score of cows is highly influenced by the size of the calf at foot. *'Strategic weaning facilities and weaner supplementation strategies are an important part of maintaining the BCS of the cows'.*

Body Condition Score (BCS) at calving is critical to a cow's ability to cycle and get back in calf and wean a calf the following year. Cows with a higher BCS (3 - 4) will have more chance of cycling and getting back in calf than cows of lower BCS. Cows calving in better condition will also be capable of higher milk production and result in the production of heavier weaners.

An assessment of the BCS of breeding females should be carried out at such a time to allow decisions to be made in terms of planning the management of breeding cows to ensure they are in adequate body condition score at calving. This planning process should

consider the age and lactation status of the animal and the quality and quantity of pasture available. The critical period in terms of increasing body condition of a cow is between when she weans one calf and when she calves again. It is during this period of her production cycle that her nutrient requirements are lowest and she has the best chance of putting on weight.

The most important factor influencing the level of supply of nutrients to beef cattle is intake. Quality and quantity of pasture can be estimated and used to predict intake and nutrient supply to grazing animals to identify deficiencies.

The digestibility of pasture influences intake. The digestibility and protein content of pasture can be estimated using Near Infrared Reflectance Spectroscopy (NIRS) dung sample technology.

WATER CONSUMPTION

The 'Cattle and Land Management Best Practices in the Katherine region 2009' provides information regarding the water consumption requirements of cattle.

An extract from this document is shown below:

For Brahman-type cattle (Bos indicus), daily water requirements are estimated to be 4.5L/kg DM (dry matter) intake of feed at ambient temperatures of 25 degrees Celsius, rising to 8L/kg DM feed intake at 35 degrees Celsius. Productive breeder cattle require at least 30percent more water than dry cows. High humidity with higher temperatures increase thirst as does water containing salt at concentrations above 2,000mg per litre.

A water trough with dimensions of 6m x 0.375 radius holds 1.325 cubic metres of water of 1,325L and takes 11 minutes to fill at flow rate of 50L a minute. Cattle need about 30-50cm head space (depending on the size of animal) to access the trough and their drinking rate is about five litres of water per minute.

The number of Brahman weaners (250kg) on dry feed at the end of the dry season (30 degrees Celsius) that can be supplied with their daily water requirements by a trough holding 1,325L may be calculated as follows:

- *Each weaner will require 27L per day.*
- *The trough can supply the requirements of 49 head (1,325/27). If 20 animals on each side (head space 30cm) can access the trough at once, all 40 head are able to drink their requirements in about 5.5 minutes and the water supply should keep up.*
- *If the trough refills at 1,200L every 10 minutes, 44 weaners can drink their allowance every 10 minutes, or 264 head an hour.*
- *At this rate, a total of about 800 head can be watered over a three hour period. The maximum time suggested for a mob of cattle to remain at watering points on a daily basis is six hours.*

In reality, water requirements of cattle vary from day to day and they usually drink about one third of their requirements at one time. A common rule of thumb is to allow sufficient trough space and water supply for 10percent of the herd to drink at once.

Liveweight (kg)	Temperature		
	25 degrees Celsius	30 degrees Celsius	35 degrees Celsius
250	20	27	36
300	24	32	43
350	28	38	50
400	32	43	58
Pregnant (450)	47	63	84
Lactating (12L milk)	59	75	96

The NT Government Agnote *'Feeding Livestock in Temporary Holding Facilities in the Northern Territory'* also tables the average daily water consumption of cattle. These are average figures only. There will be variation in intake depending on ambient temperatures and water content of feed:

Bodyweight (kg)	Average water consumption (L/day)
50	6 - 7
70	7 - 9
90	10 - 11
120	14 - 16
150	18 - 20
190	20 - 25
350	25 - 35
450	35 - 45
Lactating female	45 - 110

This investigation revealed that in some paddocks insufficient water was available for cattle. These deficiencies were identified as distance from water source to water source; broken water pumps/pipes; and animals locked in yards without appropriate water source.

The sad thing about what occurred at Mataranka Station in 2009 is that Mataranka Station has a plentiful supply of water. What was lacking was the planning and installation of infrastructure, bores, troughs, pumps etc. The Mataranka Station Advisory Committee's Chair has informed me that CDU now recognises that and has committed to improving the water placements for the future.

FOOD CONSUMPTION

Reference: *NTG Douglas Daly Research Farm 2008* and *Agnote - Feeding Livestock in Temporary Holding Facilities in the Northern Territory*.

While it is possible to calculate accurate feeding levels for livestock, the feeding environment can greatly influence the amount that animals will actually eat. Feed must be free of contamination and spoilage, and be presented to animals in a system that allows easy and equal access. Animals should be grouped in similar classes to limit bullying and protect shy feeders. If shy feeders do not commence eating within 24 hours, they should be separated from the group for feeding.

Breeder Cows

Late stages of pregnancy and peak-lactation cause a substantial drain on energy and other nutrients in the animal. For example, energy requirements for maintaining a lactating breeder are about 20 percent greater than for a dry cow (NRC 2000). Unable to shut down these processes, a cow on inadequate nutrition will utilise body tissues as sources of nutrients which will cause a decline in body condition. Pregnant and lactating animals therefore require a higher quality diet in order to maintain body condition.

Bulls

Entire males have a slightly higher energy requirement for maintenance than castrates or females of the same breed and weight. However, it is important to consider the future use of bulls if they are being confined for a prolonged period. Young bulls that will be joining a breeding herd should be in good body condition to provide energy and protein reserves for increased physical activity and decreased feed intake when in the herd (NRC 2000).

Feed Factors

The amount of feed needed to meet maintenance requirements will vary with the type and quality of feed available. Energy, protein, and digestibility of feeds are central in determining nutritional adequacy and feeding levels for different classes of stock. The range of feeds available in the NT is limited, particularly in the central and southern regions. When sourcing feeds, importance should be placed on nutritional suitability as well as cost.

Energy

A 400kg steer will need 48 MJ of Energy and 385 grams of protein per day to maintain weight where a 400kg lactating heifer will need 82 MJ of Energy and 916 grams of protein per day.

A 450kg mature cow in peak lactation (3 months after calving) requires 80 MJ of Energy and 911 grams of protein per day to maintain weight where a dry and pregnant 450kg mature cow requires 60 MJ of Energy and 570 grams of protein per day to maintain weight. A 450kg heifer in peak lactation will need 88 MJ of Energy and 963 grams of protein per day.

Feeding Local Feeds in the NT

The below table provides the nutritional composition of a range of feeds seasonally available in the NT. These are approximate figures only, and there will be a considerable range within and between batches of feeds. Nutritional information of feeds is always provided on a dry matter (DM) basis. Most grains and hay contain about 90 percent DM, whereas silages contain about 30 percent DM, with the remaining portion being water. This must be taken into consideration when determining how much fodder to feed.

Table 1: Nutrient composition of feeds readily available in the NT

FEED	Metabolisable energy ¹²⁰ (MJ ME/kg DM)	Crude protein (%)
Cattle cubes	10	12
Good legume hay (eg lucerne)	8.5-10	12-15
Cavalcade hay	7	12
Good grass hay (eg pangola, Rhodes)	7-9	7.5-10
Forage sorghum hay	8-8.5	8-10
Forage sorghum silage	8.5	9
Sorghum grain	13-13.5	10-11
Rangeland pastures (eg. Mitchell, Flinders, mature buffel)	5-8	4-7.5

Table 2: Minimum¹²¹ feed requirements for full hand feeding of cattle ('as fed' kg/head/day)

Class & Liveweight (kg)	FEED TYPE						
	Cattle Cubes	Good legume hay	Cavalcade Hay	Good Grass Hay	Forage Sorghum Hay	Forage Sorghum Silage	Grain: Rangeland Pasture 30 : 70
Weaners 100-120	1.8	2.3	2.9	2.8	2.5	6.8	2.7
Weaners 120-140	2.1	2.6	3.3	3.2	2.8	7.7	3.0
Dry cattle 200-300	3.8	4.7	6.0	5.8	5.1	14.2	5.5
Dry cattle 300-400	4.6	5.7	7.2	7.0	6.1	17.0	6.6
Dry cattle 400-500	5.3	6.5	8.3	8.0	7.0	19.5	7.6
Dry cattle 500-600	5.8	7.1	9.1	8.8	7.7	21.4	8.3
Breeders Approx 450 Late preg/ Early lactation	5.6	7.0	8.9	8.6	6.4	17.8	8.2
Bulls 500	6.1	7.5	9.5	9.2	8.1	22.4	8.7
Bulls 600	6.7	8.2	10.4	10.1	8.8	24.6	9.6
Bulls 700	7.3	9.0	11.4	11.1	9.7	26.9	10.5

¹²⁰ Energy unit commonly used in ruminant nutrition

¹²¹ Compliant with Animal Welfare feed requirements guidelines (PISC 2004) and energy maintenance requirements of different classes of cattle (SCA 1990).

The above table provides the minimum dietary requirements of cattle for a range of local feed options. It is important to note that not all feeds will be nutritionally adequate to meet the requirements of all classes of animals due to their daily feed intake ability.

Good grass and legume hays are adequate for maintaining most classes of livestock, particularly those in a non-productive state. Rangeland pasture hays are inexpensive but may be too fibrous for sufficient intake of energy and protein by animals to meet their maintenance requirements and will need to be supplemented with grain. Lucerne and/or copra may also be used to supplement poor quality hay when feeding lactating breeders or working bulls which have higher maintenance requirements.

This investigation has revealed that insufficient feed and supplement was provided to animals held at Mataranka Station, leading to the poor condition or death of a vast number of animals.

PURCHASE OF FEED

As stated, confusion about duties/responsibilities was identified as a major problem at Mataranka Station. Some of this confusion is documented below.

In June 2009 several emails were sent between CDU staff, the subject title was *Total Horse Feed*. Those emails relevantly were:

06/06/2009 (09:21am) Diane Snell Finance Officer to Ian Gray and Grant Parker:

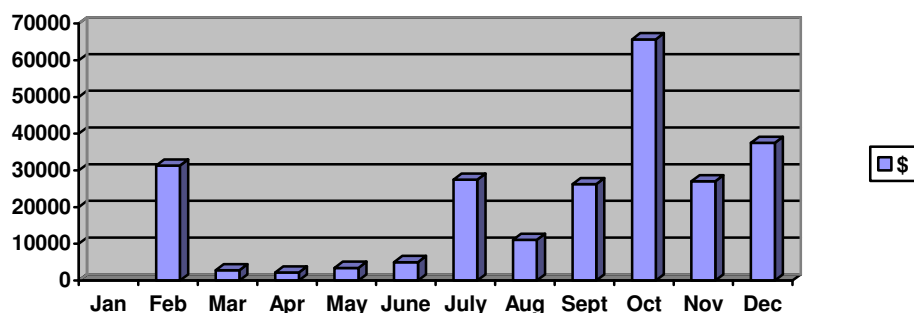
Why are you ordering another 40 bags of Total from Landmark, when there is a pallet sitting at Elders waiting to be picked up????? Could you please organise to have it collected.

The 'Mataranka Station Feed Purchases' for the period 1 January 2009 to 31 December 2009 were provided to my Office. The only reference I find to a purchase from Elders (req number R271495) was for 2 tonne of weaner pellets ordered on 1 April 2009. The above email, 2 months after the order was placed for the pellets say it had not been collected. The result can only be that these pellets were not being fed to the cattle during this period.

On 08/06/2009 (12:10) Mr Gray emailed Mr Parker and Ms Snell:

I have spoke to Di about this. When we get a chance we need to pick this up from Elders plus some more Uramol from Landmark. Landmark should also have some lucerne chaff and horse pellets for us also... Were you able to track down any hay?...

The complete Mataranka Station Feed Purchases for the period 1 January 2009 to 31 December 2009 are shown in volume 2(Annexure CDU B4-1). Below is a feed expenditure table for 2009:



What can be seen from this table is that after complaints in early September 2009 a substantial amount more than budgeted was purchased for Mataranka Station.

A cattle expert was asked how much feed should be purchased on a property with 4500 cattle. The expert advised that assuming the station is not drought feeding and the dry lasts 7 months, the Station would require to feed 60-100 tonnes of supplements (either blocks or loose mix); 50-75 tonnes of hay; and in relation to pellets purchase would be on a needs basis depending on the circumstances.

At Mataranka Station there are no reliable records of how many cattle there actually were between May to December 2009.

There are no records of how many were in yards or for how long. Therefore it is not possible to calculate if the feed provided was adequate according to the tables published by NTG Douglas Daly Research Farm and Agnote.

The best evidence is therefore the condition of the cattle in September and October 2009. That evidence is contained in photos and the reports of DPI, the reports of the AEC, complaints by students, the report of Mr Tom Stockwell, and the information given to the Ombudsman's investigator by various people, and I accept that many died from malnutrition and many others were emaciated¹²².

There is no conclusion open except that they were not fed adequately.

¹²² Emaciated – Bone structure of shoulder, ribs, back, hooks and pins sharp to touch and easily visible. Little evidence of fat deposits or muscling.

6

THE RISK MANAGEMENT PROCESSES OF CDU WITH RESPECT TO MANAGING CATTLE AT MATARANKA CAMPUS

I have no hesitation in stating that there was no risk management processes in place for managing cattle and horses at Mataranka Station; for assessing or monitoring risks to the cattle; and no plan for cattle and horse management relating either to the welfare of the animals, nor the commercial viability of the operation of the Station. None have been produced despite a summons being served for evidence of these records to be produced.

7

THE INTERACTION OF CDU AND THE MATARANKA STATION WITH THE DEPARTMENT OF PRIMARY INDUSTRIES AND WHETHER OR NOT CDU MAY HAVE BEEN IN BREACH OF THE *ANIMAL WELFARE ACT* IN THE MANAGEMENT OF CATTLE AT MATARANKA STATION DURING 2009 OR IN 2010 UNTIL THE CONCLUSION OF THIS INVESTIGATION

In my view there have been several breaches of the *Animal Welfare Act*. Licences for teaching were not obtained for Mataranka Station until 2010. A licence should have been obtained in 2005 and renewed every 2 years.

Cattle and horses had not been fed sufficient food and/or water and/or provided appropriate treatments to maintain their health. Many subsequently died of malnutrition or were killed by firearm destruction. Many more were observed to be either severely malnourished, tick infested, were being eaten alive by ants or other predatory animal or were too weak to get up.

This investigation has also revealed that information provided to DPI was not always complete or entirely accurate.

It is my view that there was a conflict of interest in Professor Robert Wasson the Deputy Vice-Chancellor Research and International also being the Chairman of the CDU Animal Research Ethics Committee and a Committee member of the Department of Local Government & Housing Animal Welfare Advisory Committee.

In one instance Professor Wasson wrote (15 October 2009) to the Animal Welfare Branch (DLGHS) indicating that a further investigation by the Branch would *seem to be unnecessary*:

Please find enclosed a copy of the report on Mataranka Station by the CDU Animal Research Ethics Committee. You will see that we have stipulated a number of requirements, with monthly reports of the condition of the affected cattle. An action plan and time frame to respond to the requirements of the AREC is being developed. We are also anticipating a formal complaint from with the University which, if it materialises, will be investigated by an experienced individual independent of CDU [Tom Stockwell]. Also note that DPI have now carried out three inspections and written reports of their visits are available. Under the circumstances, a further investigation by the Animal Welfare Branch would seem to be unnecessary, and, moreover, will make it difficult to obtain the responses from the station manager that the Animal Research Ethics Committee requires. This is because staff of the station are trying to meet the Committee's requirements and their own best practise, and further demands may make this difficult. Finally, when communicating with the office of the Honourable R Knight, please extend an invitation for him to visit Mataranka to see for himself what is happening.

The Department of Local Government and Housing contains the Animal Welfare Branch (consisting of one person) which is the lead agency for the administration of the *Animal Welfare Act*. No budget allocation is provided to this Branch.

As can be seen within this investigation report, Professor Wasson was privy to CDU information that is not documented as being provided to AEC members employed outside of CDU.

In one case prior to his attendance to inspect Mataranka with AEC member Ms Brackenreg, Professor Wasson was advised of a foal dying from malnutrition. Ms Brackenreg is not documented as having been included in these communications and the report endorsed by her and Professor Wasson makes no mention of this foal. In another instance draft AEC reports were provided to Dr Heim and others for '*tidying up and word-smithing*' before being finalised and provided several weeks later to the AEC. The Vice Chancellor in response to receiving a copy of the draft report stated that Professor Wasson clarified that these phrases used by Dr Heim were not actions requested by him or the AEC and that Professor Wasson had requested that Dr Heim, through the AEC EO, check for factual errors in the draft.

AEC reports were eventually provided to DPI for their consideration. In some instances the information within these reports did not completely and accurately describe the situation at Mataranka.

Professor Wasson refers in his memo¹²³ to Mataranka and Katherine staff that the credibility of all those involved with Mataranka will be further compromised if ‘*we cannot work together to continue to improve conditions for the animals....*’ In my view the lack of comprehensive information provided in AEC reports, having CDU members ‘*tidy up and word-smith*’ these reports and the conflict of interest as described above were attempts to maintain the credibility of CDU in the face of substantial evidence that indicates mismanagement.

On 9 September 2009 (13:19) the Executive Officer of the CDU AEC emailed Professor Robert Wasson who was at the time the Chairman of the AEC and CDU Deputy Vice-Chancellor of Research:

... Monday I got a telephone call from Brian Redunze (sic Radunz) the Chief Veterinary Officer from the Dept of Primary Industry threatening prosecuting CDU for animal neglect at Mataranka Station. Many phone calls to many people..... As a result Brian Heim is to report on the meeting and implement various actions. As a result the Vice Chancellor has requested the AEC do a facility inspection as soon as possible and for you to be in attendance... To conclude, there will be no prosecution and the Dept P.I Inspector, ‘Scotty’ wanted to join us on our facility inspection, which I have invited him to do so. I will forward the relevant emails when you return and we can discuss further.

Professor Wasson’s conflict of interest appears to have been considered by him when he emailed Mr Gray, Mr Parker and others on 15 December 2009 (09:01):

... from now on the management responsibilities from this end lie with Barry McKnight to whom I have copied this email. It is important that I am neither involved in management decisions at Mataranka nor appear to be involved because as Chair of the Animal Research Ethics Committee I have a role that assesses the effectiveness of management as manifested in the state of the animals. So from now on please involve Barry in your email correspondence, not (AEC EO) and I.

This investigation revealed confusion about the reporting structure at Mataranka Station. Despite Professor Wasson’s email to staff that Mr McKnight had management responsibilities, Mr McKnight (Pro Vice-Chancellor VET) emailed Mr Gray, Mr Parker (cc Dr Heim, Professor Wasson, Mr Biggs):

Confirming Bob Wasson’s email that communications relating to management matters at Mataranka Station go to Tim Biggs only. Tim as A/NT Manager (PI & SC) will communicate with Brian and/or I as he deems necessary.

¹²³ Professor Wasson’s memo 11 December 2009

TEACHING & RESEARCH INVOLVING ANIMALS – LICENCE REQUIREMENTS

The *Animal Welfare Act* ('the Act') is the legislation governing animal welfare within the Northern Territory.

Research on animals is regulated in the Northern Territory. In order to conduct animal research, an applicant must be licensed and in the case of CDU must be licenced. Licences may be subject to conditions in relation to:

- *use of animals in the teaching or research;*
- *welfare of the animals used in or bred for the teaching or research;*
- *facilities and equipment relevant to the use or breeding of animals in the course of the teaching or research;*
- *adoption of a specific code of practice.*

Animal welfare inspectors/officers are appointed under the Act, and include members of the Northern Territory Police Force, the Department of Resources stock inspectors and veterinarians and employees of Local Government Housing and Sport.

Instruments of appointment relevant for the 2009 period were provided to this Office that confirmed that Ms Patricia Angus (DLGHS) was appointed by the Minister for Local Government as the Animal Welfare Authority pursuant to section 26(1) of the *Animal Welfare Act*.

Charles Darwin University's Mataranka Station is a teaching facility; as such the facility required a licence to operate. Mataranka Station was not a part of CDU's licence until 19 January 2010 after application from Professor Wasson for Charles Darwin University (submitted on 17 December 2009). Professor Wasson's request for amendment to CDU's licence was submitted after complaints of cattle neglect highlighted an oversight by CDU. No licence had ever been obtained specifically for Mataranka (and the licence for Katherine and Alice Springs had expired in 2005).

What is interesting is that CDU's licence (No. 2 issued 04/12/2008) was issued to Casuarina and Palmerston. Katherine and Alice Springs were later added and on 19 January 2010 Mataranka Station was added. The Licence itself was not altered in any other way. The date of issue on this licence is 01/12/2008 when in fact it was not endorsed for Mataranka until 19/01/2010. This gives the impression to any person reading this Licence that Mataranka Station was licenced on 1 December 2008 when this was not the case. In my view a separate Licence should be issued for each CDU Training and Research facility that accurately reflects when the application was made, what teaching is being conducted at each premises and depicts the correct date of endorsement by the Animal Welfare Authority.

AEC permit problems for Mataranka Station were also identified in 2009. On 14 October 2009 (13:09) the AEC EO emailed Professor Wasson:

The govt may have to consider CDUs case very, very carefully. Given my reading of the Act, Item 38 of the Act, if they prosecute we may loose our animal welfare licence plus any other penalty. As far as I can make out, it depends on what they prosecute for, but the maximum penalty would be 100 penalty units (\$?) and up to 12 months imprisonment. There are mechanisms for appeal and the Minister can also withdraw the infringement notice. I'm waiting to hear back from someone to see what the value of a penalty unit is.

On 19 November 2009¹²⁴ the AEC noted that additional procedures were being conducted on cattle that weren't included in CDU's original animal ethics application form submitted in 2009. This was subsequently rectified.

An AEC permit allows a teaching facility to conduct scientific training at their premises. Unfortunately the requisite permits for Mataranka Station had not been obtained prior to 2009. A couple of reasons have been provided as to why these permits were not obtained. For example the permit for Katherine Rural Campus was believed to have covered Mataranka Station; the AEC failed to submit applications; and finally the Executive Officer¹²⁵ of the AEC did not know that Mataranka Station existed. The Executive Officer of the AEC in interview confirmed that s/he was not aware that Mataranka Station and Katherine Rural Campus were not the same facility. This is not viewed as her/his fault, as on appointment s/he had not been made aware that these were two separate facilities. What is concerning is that an employee of CDU who is also the Executive Officer of the AEC did not know that CDU had a separate training facility at Mataranka. It would be expected that on the appointment of an AEC member that a list of Licenced facilities would be provided to that person. However, it is noted that if a list had been provided to the AEC Executive Officer it would have failed to list Mataranka Station as Professor Wasson, who promulgated the list, had not entered Mataranka.

Courses on offer at Mataranka Station relate to pregnancy testing of cattle, artificially inseminating cows (Cert III Beef Cattle Artificial Insemination), castrating bulls, dehorning cattle, amongst others. Certificate II and III courses are and were held at these facilities during the 2009 period in which the licence had not been obtained (2005 to 2009) and the permit when obtained had not covered some of these courses.

Section 29 of the *Animal Welfare Act* is relevant to this issue; it states a licence is to be held for premises used for teaching or research. If an educational institution is not intended to be used for scientific teaching purposes then a licence is not required, however Mataranka Station is and was a premises used for teaching and research.

The penalty for failing to obtain a licence is found at section 29(1).

Section 29. When licence required

- (1) A person may use premises for teaching or research only if the person holds a licence. Penalty: 10 penalty units or imprisonment for 12 months.*
- (2) A person holding a permit, or a person assisting a permit holder to conduct a teaching or research program, does not require a licence.*
- (3) A person in charge of animals in a child-care establishment, pre-school or educational institution does not require a licence unless the animals are used or intended to be used for scientific teaching purposes.*

¹²⁴ AEC Executive Officer CDU AEC dated 19 November 2009 to Mr Tim Biggs and Dr Brian Heim. Volume 2

¹²⁵ Email from Jenny Carter to Professor Robert Wasson and Ms Maryanne McKaige, untitled, on 10 February 2010. Volume 2

Section 34 provides for the conditions of a licence:

34. Conditions of licence

(1) A licence is subject to the conditions that the licensee must –

(a) establish and maintain an ethics committee in accordance with the Regulations or enter into an arrangement with an established ethics committee that has agreed to exercise its powers and perform its functions in relation to the licensee; and
(b) comply with directions given to the licensee by the ethics committee.

(2) A licence may be subject to the additional conditions that the Authority considers are desirable for the welfare of the animals to be used or bred in or on the licensed premises, including that the licensee must –

(a) make specified provisions for the breeding, care, use or handling of the animals;
(b) provide specified facilities or equipment for use in connection with the animals;
(c) consult with or seek the approval of the ethics committee about specified matters;
(d) provide the ethics committee with the information it requests relating to the teaching or research under the licence; and
(e) comply with a specified adopted code of practice.

Between 2005 and 2009 CDU's Mataranka Station was unlicensed, as such CDU were in breach of the *Animal Welfare Act*. The most concerning part is that the application for the licence made late 2009 was by the Deputy Vice-Chancellor of Research who is also the Chairman of the AEC - Professor Robert Wasson. Despite being aware that the required licence did not exist, Professor Wasson as the Chairman of the AEC failed to inform the Animal Welfare Authority, which in turn may have led to the revocation of that licence, in which he was the applicant.

CDU'S POSITION 1 OCTOBER 2010

The University deeply regrets any distress and suffering of animals as described in the Ombudsman's draft report and as variously brought to the University's attention. The University remains committed to the highest standards of animal husbandry and professional practice at our rural campuses. The University's cooperation in this investigation...is noted. At all times the University has been open, transparent and as comprehensive as possible based on the information available in responding to the Ombudsman...Notwithstanding the University's concerns regarding specific aspects of the Ombudsman's draft report...the University accepts responsibility for any fault on its part...

The University accepts the view of the Ombudsman that the former Station Manager, Mr Ian Gray, played the most significant role in the operational failures that led to the serious neglect of animals at Mataranka Station. However, it is important to acknowledge that the actions of Mr Gray were not solely responsible, and that the complete picture of events has significant underlying complexity. For example, it is reasonable to suggest that other elements that may have contributed to the outcome include: poor management practices and record keeping frameworks in place prior to the appointment of Mr Gray; failure to conclude the expected sale of cattle at a critical time in 2009; conflicting advice on aspects of animal husbandry; significant bushfires over two consecutive seasons reducing forage; differing viewpoints in general around cattle management practices; and a small workforce with deep-seated personal differences and aspirations... The University requests that the Ombudsman make explicit mention of the complex factors that played a part in the situation at Mataranka Station in 2009.

The University requests that (the following) be included in the Ombudsman's final report.

The University has taken a range of actions in the last twelve months in response to concerns about animal welfare and management at Mataranka Station. The University has outlined many of these in previous submissions to the Ombudsman on 1 March 2010 and 31 August 2010, as well as in regular email correspondence with the Ombudsman's Office in the period ensuing since the last submission.

Actions taken by the University since March 2010 to improve the situation at Mataranka Station and safeguard against difficulties reoccurring in the future include the following:

- A Mataranka Station Advisory Committee (MSAC) has been established to advise University senior management and the Station Manager on practices and management strategies that will underpin efficient and effective operation of the Mataranka Station and the related teaching and research activities in the future. The MSAC has a Chair and three other members external to the University. The MSAC first met on 2 and 3 June 2010 and again on 5 and 6 August 2010 onsite at Mataranka Station and Katherine Rural Campus. Following the August meeting, the MSAC Chair reported to the Vice Chancellor that significant and satisfactory progress had been made in relation to the management of the station and the condition of stock. The Chair of the MSAC is regularly briefed concerning actions and progress at Mataranka Station between meetings. The next meeting of the MSAC will be held in early December at the Katherine Rural Campus.
- Following from a meeting between the Ombudsman and the University Chancellor and Vice-Chancellor on 10 June 2010, and between the Ombudsman and other members of University senior management and legal representatives on 15 June, the University suspended the Station Manager Mr Ian Gray and commenced formal misconduct investigation processes in relation to his activities at Mataranka Station. Mr Gray has subsequently left his employment with the University. The activities of some of the other staff members named in the draft report were also investigated, in consultation with the University's legal representatives.
- Mr Garry Riggs, from Lakefield Station, was appointed as Station Manager effective from 11 June for 6 months. Recruitment of a new Station Manager on a three year contract is in process. A new Station Overseer and two full-time station hands have been recruited to Mataranka Station in the period since April 2010. Staff from Katherine Rural Campus have provided assistance on an as-needs basis to assist in operations such as mustering and fire fighting. Mr Riggs has fortnightly telephone meetings with the Pro-Vice-Chancellor VET to report on operations at Mataranka Station and provides regular written reports to the PVC VET. These reports currently form the basis of reporting to the Mataranka Station Advisory Committee at each meeting. At the most recent telephone meeting with the PVC VET and Senior Deputy Vice-Chancellor (27 September 2010), Mr Riggs indicated that in his opinion, 99% of cattle at Mataranka Station now have a Body Condition Score (BCS) of 3 or above. Since June 2010 the size of the herd at Mataranka Station has been substantially reduced through sales, thereby reducing grazing pressure on the pastures in the latter part of the dry season.
- A comprehensive audit of the financial management, planning and operation of Mataranka Station since 2008 by Deloitte has been finalised.

- An external review of Mataranka Station by Dr Doug McGhie of Science Matters has commenced. This review will provide the University with an assessment of the current state of Mataranka Station from training, academic, commercial and community engagement view points. The review will also critically assess the future options for Mataranka Station as a semi-commercial business enterprise and make clear, evidence-based recommendations for its future. Dr McGhie will prepare a full business plan based upon his review within three months, in line with the Ombudsman's recommendation.
- As of August 2010, additional funding of \$288,000 has been allocated for essential infrastructure improvements, including fencing and water resources to assist in improved stock management and the overall carrying capacity of Mataranka Station. Since commencement in June 2010, Mr Riggs has purchased and provided to stock significant quantities of correctly balanced supplement, the effects of which are evident in the improved BCS of the cattle and the condition of their coats.
- Prof Bob Wasson resigned as Chair of the University Animal Ethics Committee (AEC) following the June 10 meeting between the Vice- Chancellor and the Ombudsman, where the Ombudsman made clear that she perceived Prof Wasson faced *an irreconcilable conflict of interest* in his role as Chair of the AEC. Prof Ross Spark, Deputy Director of the Menzies School of Health Research, was appointed to the position of Chair for an interim period, with Prof Keith Christian appointed to the Chair for a further interim period following the resignation of Prof Spark due to changed employment.
- Planning for a review of the AEC has commenced. Outcomes of the review will include improved procedures to be implemented prior to 2011. Consideration will be given to appointing an external chair of the AEC if a suitable candidate can be found.
- Staff workshops at Katherine Rural Campus, including staff at Mataranka Station, for strategic planning and staff culture review will be conducted by the Chair of the MSAC in early December 2010.
- The University, as part of an ongoing review of academic governance, is reconsidering the policies, procedures and processes for handling student grievances and complaints, including ways to improve communication, awareness and understanding by students and staff.
- The Deloitte audit and the MSAC have both highlighted the need for improved record keeping at Mataranka Station. The University is addressing this through the Mataranka Station Management Plan, overseen by the MSAC, and will implement a networked computer database system for stock and general station management records. In addition, regular reporting on the Management Plan from the Station Manager to the MSAC will provide a separate, independently reviewed record of activities and operations at Mataranka Station.

PADDOCKS AT MATARANKA STATION 2009

1. Hill Paddock is 45km². On the boarder of this paddock is 17 mile bore/trough.
2. Wire Hill Paddock is 14km² a creek and one trough is available in this paddock.
3. Yellow Waterhole Paddock is 48km² there are two creeks, half a dozen swamps and one trough available in this paddock.
4. Big Horse Paddock is 5km², there is one bore recorded in this paddock.
5. Crater Paddock is 54km² there are two bores recorded in this paddock, there should be three.

6. Tsumengeri Paddock is 65km² there are two bores recorded in this paddock.
7. Desert Paddock is 172km² with two troughs and a large dam within the paddock.
8. Kutain Paddock is 73km² with two bores within this paddock.
9. Tiger Hill Paddock is 44km², Parnell bore is on the corner of this paddock.
10. Moray Hill Paddock is 55km² Parnell bore is on the corner of this paddock.
11. 17 Mile Paddock is 53km² there are two bores recorded in this paddock.
12. Roper Paddock is 19km² there is one bore and several water holes recorded in this paddock.
13. Lancewood Paddock is 50km² there is one bore recorded in this paddock.
14. Parnell Paddock is 22km², there is one bore on the corner of this paddock.
15. Toms Paddocks are 9km² and 6km² respectively, there is one bore recorded in these paddocks.
16. Bernies Paddock is 49km², there is no bore recorded in this paddock.
17. Ammo Paddock is recorded as having one trough.
18. Highway Paddock is recorded as having 1 trough and several water holes that are good until June each year.

DEFINITIONS

SECTION 4 OF THE *ANIMAL WELFARE ACT*

animal means –

(a) a live member of a vertebrate species including an amphibian, bird, mammal (other than a human being) and reptile; ...

confine, in relation to an animal, means to restrict its freedom of movement, including –

(a) by enclosure in a cage, pit, yard, field or paddock; and

(b) by pinioning, mutilation, tethering or other manner of restraint;

ethics committee means an animal ethics committee established under Division 2 of Part 5;

Inspector means a person who is an animal welfare inspector under section 57 and includes a member of the Police Force when exercising the powers of an inspector under this Act;

Permit means a permit to conduct a teaching or research program

Possession includes custody, care, control or supervision

Reasonable action, in relation to the treatment of an animal that is suffering, includes:

(a) obtaining veterinary treatment; and

(b) destroying the animal in a manner that causes it to die quickly and without unnecessary suffering;

Stock animals includes cattle, buffaloes, horses (including mules and donkeys), sheep, deer, goats, camels, swine, crocodiles and poultry;

Suffering includes pain and distress;

Teaching or research means teaching or research involving the use or breeding of animals;

Veterinarian means a registered veterinarian or registered veterinary specialist as defined in the *Veterinarians Act*;

Veterinary treatment means veterinary services as defined in the *Veterinarians Act*;

Welfare means health, safety and well-being.

LEGISLATION

ANIMAL WELFARE ACT

6. Neglect, cruelty etc.

(1) A person must not neglect or commit an act of cruelty on an animal.

(2) A person in charge of an animal must –

(a) exercise reasonable care, control or supervision of the animal to maintain the animal's welfare and prevent the neglect of the animal or the commission of an act of cruelty on it;

(b) if it is necessary for the animal's welfare – obtain veterinary treatment for it; and

(c) if the animal is suffering – take reasonable action to alleviate the suffering.

(3) In this section, an act of cruelty includes the following:

(a) an act that causes an animal unnecessary suffering;

(b) an act that causes an animal suffering and is unreasonable in the circumstances;

(c) treatment that is inhumane in the circumstances.

7. Abandonment

A person must not abandon an animal.

8. Provision of food, drink and shelter

(1) A person in charge of an animal must provide the animal with food, drink and shelter –

(a) that is appropriate and sufficient; and

(b) that it is reasonably practicable for the person to provide.

(2) [Omitted]

(3) If an animal has been confined for a period exceeding 24 hours without appropriate and sufficient food or drink, any person may enter the premises where it is confined to supply the animal with food or drink and the person incurs no liability for entering the premises.

(4) A person who supplies an animal with food or drink under subsection (3) is entitled to be paid by the person in charge of the animal the reasonable costs of the food or drink and may recover those costs in a court of competent jurisdiction as a debt owed to him or her.

(5) Subsections (3) and (4) do not apply to or in relation to –

(a) an animal confined in a railway truck; or

(b) stock animals being transported in accordance with an adopted code of practice.

26. Establishment of Authority

(1) The Minister must appoint a Chief Executive Officer¹²⁶ or an employee, as defined in the Public Sector Employment and Management Act, to be the Animal Welfare Authority.

(2) The Minister may appoint an employee, as defined in the Public Sector Employment and Management Act, to act from time to time as the Authority during the absence from the Territory or from duty of the person appointed to be the Authority.

(3) An appointment under this section is to be by instrument in writing.

¹²⁶ Reference: DHLGRS website - The Executive Director of Language, Community and Workplace Services has been appointed to be the Animal Welfare Authority, in accordance with section 26 of the Animal Welfare Act.

41. Animal Ethics Committee

(1) A licensee required by the Authority to establish and maintain an animal ethics committee must do so in accordance with the Regulations.

(2) An ethics committee is to be constituted in accordance with the Regulations and has the powers and functions prescribed by the Regulations.

