

A report on Murdoch University's governance and oversight of farm management

23 June 2022



ISBN: 978-0-6453426-4-2

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CHAPTER ONE

Introduction

- [1] Murdoch University operates four farms which hold livestock, including cattle, for teaching and research purposes.
- [2] Mr Kim Thomas was appointed Livestock Manager in July 2003. The role is responsible for the operational and financial management of the farms and associated livestock.
- [3] The Commission commenced an investigation following reports of Mr Thomas' non-compliance with biosecurity requirements in relation to the identification and movement of cattle.
- [4] The investigation revealed that Mr Thomas was exhibiting university cattle as if they were his own to win accolades and recognition in the cattle industry. This included the receipt of prize money to which he was not entitled.
- [5] Mr Thomas also took advantage of his position to benefit private cattle studs by loaning them university bulls to improve the genetics of their herds. His conduct included temporarily transferring ownership of the bulls so the private studs could register progeny as their own.
- [6] Mr Thomas' non-compliance with the systems for the identification and traceability of cattle made it extraordinarily difficult for Murdoch University to know what they owned and how the cattle were being used.
- [7] But Murdoch University's lack of proper governance and oversight of the farms created a breeding ground for misconduct.
- [8] Serious misconduct occurs when a public officer corruptly takes advantage of their employment to obtain a benefit for themselves or another person. The Commission has formed an opinion of serious misconduct by Mr Thomas.¹
- [9] Murdoch University and Mr Thomas were given an opportunity to respond to a draft of this report. Murdoch University's responses have been considered and where appropriate, incorporated.
- [10] Mr Thomas was granted an extension of time but did not respond.

¹ *Corruption, Crime and Misconduct Act 2003* (CCM Act) s 217A(3).

CHAPTER TWO

Identification and traceability of cattle

National Livestock Identification System

- [11] The National Livestock Identification System (NLIS) is Australia's system for the identification and traceability of cattle and other livestock.² It was introduced to enhance Australia's ability to trace cattle during disease and food safety incidents, and provides a competitive advantage in a global market.³
- [12] The NLIS was legislated for cattle in Western Australia in 2005.⁴ Three elements enable lifetime traceability:
- cattle are identified by an electronic (RFID) device from their property of birth;⁵
 - physical locations where cattle are kept are identified by a Property Identification Code (PIC);⁶ and
 - cattle movements are recorded in the NLIS centralised database.⁷
- [13] Whenever cattle are moved from a property they must be accompanied by a waybill.⁸ The waybill serial number is recorded in the NLIS database together with the consigning and destination PICs, and the date of movement.⁹
- [14] It is an offence to possess or move cattle without the correct identification, or to make a false or misleading entry in the NLIS database or on a waybill.¹⁰

DPIRD registered identifiers

- [15] Before 1 January 2022, it was mandatory for an owner of cattle to apply registered identifiers, in the form of earmarks and brands, allocated by the

² Integrity Systems, 'National Livestock Identification System', (Web Page) <<https://www.integritysystems.com.au/identification--traceability/national-livestock-identification-system/>>.

³ Integrity Systems, 'NLIS Standards', (Web Page) <<https://www.integritysystems.com.au/identification--traceability/nlis-standards/>>.

⁴ *Enzootic Diseases Regulations 1970* as amended in Government Gazette 14 June 2005.

⁵ *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* (BAM Regs) regs 47, 54 and 82.

⁶ BAM Regs regs 7(1) and 8(1).

⁷ BAM Regs reg 84.

⁸ BAM Regs regs 189 and 190.

⁹ BAM Regs reg 84(1).

¹⁰ BAM Regs reg 73, 76, 82 and 211.

Department of Primary Industries and Regional Development (DPIRD), in addition to the NLIS device.¹¹

[16] These earmarks and brands identified the property of birth and did not reflect changes in ownership.¹²

[17] With the NLIS now well established in Western Australia, earmarking and branding have been made optional.¹³

Breed society registration

[18] In addition to NLIS identification, purebred cattle must be registered to a breed society to provide legitimacy to their pedigree lineage. Registering also enables them to be exhibited.

[19] Cattle registered with a breed society receive identifiers, for example a tattoo and stud name, which identify the breeder (not the owner) of the animal.¹⁴

[20] Registration certificates include both the breeder and owner of an animal, and provide prima facie evidence of legal ownership. Consent of the registered owner is required for ownership to be amended.¹⁵

¹¹ BAM Regs reg 76 was replaced by the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Amendment Regulations 2021*.

¹² DPIRD, Consultation summary report - May 2021, 'Proposal to make earmarking of sheep, and earmarking and/or branding of cattle, optional',
<[fa5bf4d481767ea84436c690f9a1ce25_Consultation_report_optional_earmarking_and_branding.pdf](#)
([amazonaws.com](#))>.

¹³ DPIRD, Consultation summary report - May 2021, 'Proposal to make earmarking of sheep, and earmarking and/or branding of cattle, optional',
<[fa5bf4d481767ea84436c690f9a1ce25_Consultation_report_optional_earmarking_and_branding.pdf](#)
([amazonaws.com](#))>.

¹⁴ Exhibit No. 02161-2020-0188; 02161-2020-0189.

¹⁵ Exhibit No. 02161-2020-0140.

CHAPTER THREE

Murdoch University Farms

- [21] Murdoch University operates four farms located at the South Street campus, Mundijong, Mardella and Whitby Falls.
- [22] The farms' budget for 2020 comprised \$264,730 in revenue and \$1,175,590 in expenses.¹⁶
- [23] The farms hold livestock, including cattle, which are used for teaching and research purposes.
- [24] The Livestock Manager is responsible for the operational and financial management of the farms and associated livestock. This includes stock identification, NLIS and waybill compliance, and registering cattle with breed societies.

Compliance with identification and traceability requirements

- [25] In October 2019 DPIRD conducted an audit at the South Street campus farm. They found false information entered on the NLIS database, non-compliance with the requirement to record all livestock movements, and missing and incomplete waybills. Corrective actions were issued to the Livestock Manager, Mr Kim Thomas.
- [26] In February 2020 DPIRD inspectors stopped a truck transporting cattle from the Mardella farm to the South Street campus. None of the cattle had an NLIS device, many were not earmarked or branded, and the driver did not have a waybill for their transportation.
- [27] In June 2020 DPIRD inspectors conducted inspections at the Mundijong, Mardella and Whitby Falls farms. They identified further non-compliance with cattle identification and traceability requirements.
- [28] Suspecting the continuing biosecurity breaches masked other questionable conduct in relation to the ownership and use of Murdoch University's cattle, DPIRD notified the Commission of suspected serious misconduct by the Livestock Manager.

¹⁶ Exhibit No. 02161-2020-0194.

The Commission's investigation

- [29] Given the seriousness of the alleged conduct and estimated value of the cattle herds, the Commission decided to investigate the matter. A cooperative investigation was established with DPIRD.¹⁷
- [30] The investigation was protracted owing to the difficulty in identifying and tracing Murdoch University cattle due to Mr Thomas' administrative failings.
- [31] Commission officers persevered utilising a number of investigative strategies. What they uncovered indicated Mr Thomas was using Murdoch University owned cattle without authority to benefit himself and others.
- [32] In January 2022 Mr Thomas was summonsed to the Commission to give evidence about these matters.

¹⁷ CCM Act s 33(1)(c).

CHAPTER FOUR

Mr Kim Thomas

- [33] Mr Thomas was appointed to the Livestock Manager role at Murdoch University in July 2003.
- [34] His qualifications include a Certificate in Agriculture from the WA College of Agriculture; a Bachelor of Business in Agriculture, majoring in farm management; and a Postgraduate Diploma in Education, specialising in agricultural education.
- [35] Prior to joining Murdoch University, Mr Thomas spent three years as a lecturer and farm manager for the Muresk Institute and another year as an agricultural teacher at the WA College of Agriculture.
- [36] He described farming as his life's passion.¹⁸

Records management

- [37] Mr Thomas gave evidence that he set up Murdoch University's NLIS account on 3 February 2006.¹⁹ He was the only farm employee with access. The Commission obtained records of his cattle transfers dating back to 2006.
- [38] Various explanations were given for his admitted administrative failings. Mr Thomas claimed to have poor computer literacy.²⁰ This was contrary to his qualifications and career knowledge gained by him. He said he was still learning how to use the NLIS, despite his familiarity with the database and the ready availability of user guides and helpdesk support.²¹ He said he was too busy running the farms and managing public perception to have time for biosecurity recordkeeping.²²
- [39] Mr Thomas did not dispute that his conduct interfered with the ability to identify and trace Murdoch University cattle.²³ Cattle identification is essential to enable legal proof of ownership.
- [40] A review of the farms completed by Ernst & Young in early 2021 found there was no accurate and complete point in time record of livestock. Record management practices were informal and ad hoc; an Excel spreadsheet was maintained by Mr Thomas. This was a single point of failure.

¹⁸ KM Thomas transcript, private examination, 10 January 2022 p 9.

¹⁹ KM Thomas transcript, private examination, 10 January 2022 p 25.

²⁰ KM Thomas transcript, private examination, 10 January 2022 p 77.

²¹ KM Thomas transcript, private examination, 10 January 2022 p 25.

²² KM Thomas transcript, private examination, 10 January 2022 p 78.

²³ KM Thomas transcript, private examination, 11 January 2022 p 19.

Oversight of Mr Thomas' farm management

- [41] Mr Thomas generally described receiving little to no oversight over the years in relation to his management of the farms.²⁴ Other information gathered by the Commission indicates that with significant changes in leadership and management over the years senior managers did not have the experience or expertise to manage the farm. According to one statement there was no-one Mr Thomas could go to for advice, guidance, operational direction or personal development.
- [42] In its response to the draft report Murdoch University notes that Mr Thomas had a supervisor throughout his employment and his performance was reviewed from time to time under the same process for other University employees. The fact that Mr Thomas was able to deceive the University and conceal his actions from his managers does not amount to 'little or no oversight' and Murdoch University considers the assertion by the Commission is incorrect. The farms review completed by Ernst & Young found Murdoch University did not have an effective governance structure in place to define and monitor key administrative and operational requirements for the farms.
- [43] Mr Thomas told the Commission there had been several university restructures during his tenure, with the farms swinging between the Veterinary School and Technical Services in the organisational structure.²⁵
- [44] There had also been frequent changes to his supervisor.²⁶ Some were veterinary academics. Others technical resource managers. None had experience managing a farm.²⁷
- [45] The morning of his attendance at the Commission Mr Thomas had been informed he had a new supervisor in a newly created position following another restructure.²⁸
- [46] Murdoch University in its response submits there is nothing unusual about a large institution with thousands of employees being restructured over the course of nearly twenty years. It is also not uncommon for there to be a turnover of staff and changes to supervisors over such a long period of time. While this is correct, it does not detract from the fact that there was a lack of continuity or expertise in supervision.
- [47] There appears to have been little oversight by Murdoch University's animal ethics committee. In November 2021 a cursory audit was performed by a

²⁴ KM Thomas transcript, private examination, 10 January 2022 p 16-17, 37 and 118.

²⁵ KM Thomas transcript, private examination, 10 January 2022 p 9.

²⁶ KM Thomas transcript, private examination, 10 January 2022 p 10-11.

²⁷ KM Thomas transcript, private examination, 10 January 2022 p 11.

²⁸ KM Thomas transcript, private examination, 10 January 2022 p 9-10.

veterinary service. It concluded any mistakes made by Mr Thomas were genuine. In its response, Murdoch University submits that the University's Animal Welfare Officer was in very regular contact with Mr Thomas and attended the farms on a very regular basis. There are regular inspections of the farm animals and facilities and a comprehensive external triennial review of the University's compliance with the *Australian Code for the Care and Use of Animals for Scientific Purposes 2013* is conducted.

- [48] The combination of Mr Thomas' senior management position, the considerable autonomy he was given, and his control of a substantial asset, namely the cattle herds, presented a misconduct risk.

CHAPTER FIVE

Murdoch University cattle at the Perth Royal Show

[49] When Mr Thomas joined Murdoch University he set up a cattle club for students to exhibit cattle at the Perth Royal Show. He had run a similar program when at the Muresk Institute.

[50] Mr Thomas explained his supervisors at the university showed little interest in what he was doing and left him to his own devices.²⁹

[51] The Perth Royal Show is the most prestigious event in the WA showing calendar. Exhibiting cattle was promoted as benefitting Murdoch University and its students.³⁰ Mr Thomas told the Commission:

Murdoch has gained negative publicity in the media for various reasons over the last seven years. Murdoch needs to increase its public perception and we've got a media department that want good stories. They want new good Murdoch stories. And I'm very good at showing the cattle, preparing the cattle. We have won over the last 17 years, we have won 10 of the led steer and heifer competition awards. We have 10 grand champions. That made media, makes radio and it also goes to the agricultural colleges and they get to see it. ...The more publicity that is positive for Murdoch, the better I am doing my job, that is what I believe.³¹

[52] While Murdoch University did receive recognition in part for its contribution to agriculture through the breeds exhibited, Mr Thomas ensured he was the recipient of many of the accolades due the university.

[53] He readily admitted to the Commission that from the program's inception, a number of Murdoch University owned cattle had been exhibited under private stud names.³²

[54] Murdoch University's Illawarra cattle in particular were assured of winning each year as the only exhibit in their class but were consistently exhibited under Mr Thomas' name as the registered owner.

[55] To compete at the Perth Royal Show, cattle must be either:

- bred by the exhibitor;
- owned, leased or syndicated by the exhibitor for a minimum of 6 months; or
- exhibited by the original owner under arrangement with the purchaser.

²⁹ KM Thomas transcript, private examination, 10 January 2022 p 37.

³⁰ KM Thomas transcript, private examination, 10 January 2022 p 57-58.

³¹ KM Thomas transcript, private examination, 10 January 2022 p 57.

³² KM Thomas transcript, private examination, 10 January 2022 p 52, 98.

- [56] In order to meet these requirements, Mr Thomas registered Murdoch University owned cattle under a private stud name with the relevant breed society. Mr Thomas then provided the certificates of registration, showing the registered owner of the cattle, when enrolling them for the show. Cattle were also identified with the private stud's registered breeder tattoo.
- [57] This appearance of ownership allowed the private studs to exhibit cattle which in truth belonged to Murdoch University. It also meant any calves born were recognised by the breed society as having been bred by the private stud.
- [58] Mr Thomas claimed that Dr Michael Laurence, a Murdoch University academic, provided authority for university owned cattle to be shown in this manner.³³ Dr Laurence told the Commission he had never discussed such an arrangement with Mr Thomas and would have considered the suggestion inappropriate.³⁴
- [59] Mr Thomas paid the enrolment fees for cattle exhibited under a personal name. It would likely have raised questions from Murdoch University's finance office had he sought to do otherwise.
- [60] At times he wrote his own PIC on the enrolment paperwork. This furthered the deception that the cattle were not associated with Murdoch University. Mr Thomas claimed he did not understand fully what he was doing when he filled out the PIC details.³⁵ The Commission does not accept this.
- [61] Mr Thomas also provided his personal bank account details on the enrolment forms for the payment of prize money. He said any money received was spent on feeding the students during the show and on a party held for the students after the show.³⁶ However, a financial analysis by the Commission of credit card expenditure showed that although there were more indicators of a slightly larger spend in September for some years compared to other months, the expenditure did not account for all the prize money. Mr Thomas' claim about buying food for students during the show is not supported if the expenditure was made by credit card.
- [62] Whether or not Mr Thomas' claim is true, the prize money belonged to Murdoch University and it was for the university to determine how it should be spent.
- [63] Although Mr Thomas enlisted the students to parade the cattle enrolled under a private stud name, there was nothing to indicate to the judges, other competitors, or members of the public that these cattle were owned and reared by Murdoch University.

³³ KM Thomas transcript, private examination, 10 January 2022 p 59.

³⁴ Exhibit No. 02161-2020-0196.

³⁵ KM Thomas transcript, private examination, 11 January 2022 p 33-34.

³⁶ KM Thomas transcript, private examination, 10 January 2022 p 82-83, 107.

[64] When the cattle won, Murdoch University did not receive the credit, the publicity or the prize money. Instead Mr Thomas took these accolades to build his reputation in the cattle industry. But it was a reputation based on lies. Mr Thomas used his position and ability to register Murdoch University cattle under different names to benefit himself and others.³⁷

³⁷ CCM Act s 4(b).

CHAPTER SIX

The spreadsheet

- [65] Mr Thomas kept an Excel spreadsheet in which he entered details of the cattle under his control. Remarkably, there appears little in the way of secondary documentation to support many of the entries.
- [66] The spreadsheet did not reflect the changes in ownership Mr Thomas recorded with the breed societies.
- [67] When examined by the Commission Mr Thomas often added 'owned by Murdoch' in response to a question about ownership even though the particular record being referred to did not have those words.
- [68] On 22 January 2021 Mr Thomas sent a copy of the spreadsheet to his supervisor. This copy did not include details of any bull which Mr Thomas had loaned out to other breeders.
- [69] Murdoch University would be unaware of their ownership of the bulls if it relied on the records created by Mr Thomas.
- [70] On 12 May 2021 Mr Thomas became aware of the Commission's investigation when certain notices were served. Two days later, on 14 May 2021 Mr Thomas sent a copy of the spreadsheet to a staff member responsible for uploading records to SharePoint. This copy included the Murdoch University bulls that had been loaned out.
- [71] The Commission considers this timing of the amended list as no coincidence. Even then, one Murdoch University bull Q7 was not recorded on the spreadsheet.

Loaning out Murdoch University bulls

- [72] As well as taking cattle to the Royal Show, Mr Thomas told the Commission he had a practice of loaning Murdoch University bulls to teaching facilities and private studs.³⁸
- [73] Almost all of these loans occurred without Mr Thomas seeking approval from his supervisor and without a written agreement being put in place. He did not oversee the cattle while they were on loan. He simply trusted that they would be properly cared for and insured.

³⁸ KM Thomas transcript, private examination, 11 January 2022 p 57-58.

- [74] Mr Thomas told the Commission he entered the details of the loans on his Excel spreadsheet.³⁹ The Commission's investigation revealed this information was added to the spreadsheet after Mr Thomas became aware of the Commission's interest in the farms.
- [75] Mr Thomas justified the loans to the private studs as a way to minimise bull fighting on the university farms while thanking the studs for assistance he claimed they had provided Murdoch University. He agreed there was no documentation in existence to verify these claims.⁴⁰
- [76] Dr Laurence told the Commission the loaning of bulls was not good biosecurity practice given the potential for disease spread.⁴¹ Mr Thomas' lack of compliance with biosecurity recordkeeping requirements compounded the risk to Murdoch University and its reputation.
- [77] Whether there was any benefit to Murdoch University in the loan of the cattle, there was clear benefit to the private studs. Genetics factored in the choice of which bulls went to the private studs and Mr Thomas agreed this enabled them to improve their herds.⁴²
- [78] Moreover, Mr Thomas changed the registered ownership of the bulls when he lent them. This enabled the private studs to register any progeny as their own. But it was done without the knowledge or consent of Murdoch University. Mr Thomas was essentially giving away Murdoch University resources.
- [79] Overall, Mr Thomas' modus operandi with respect to cattle identification, registration and recordkeeping made it extraordinarily difficult for anyone else at Murdoch University to know what cattle the university owned, had anyone been interested enough to ask those questions.

³⁹ KM Thomas transcript, private examination, 11 January 2022 p 57-58.

⁴⁰ KM Thomas transcript, private examination, 11 January 2022 p 67.

⁴¹ Exhibit No. 02161-2020-0196.

⁴² KM Thomas transcript, private examination, 11 January 2022 p 61 and 63.

CHAPTER SEVEN

Murdoch University's response to the draft report

- [80] The University does take issue with some of the Commission's comments in relation to the governance and oversight of the employee. It would seem that the employee breached the trust afforded to him and was able to conceal his actions from his managers over a long period of time.
- [81] As the Commission is aware, the University began to confront these issues directly about two years ago. Murdoch University commissioned an extensive review from Ernst & Young of the adequacy and effectiveness of certain key controls over the operations and management of University's farms in October 2020. Ernst & Young delivered its report in February 2021, which was then tabled at the University's Audit & Risk Committee on 3 March 2021.
- [82] The Ernst & Young report identified the need to establish overarching governance structures and process to define and monitor the key administrative and operational expectations and requirements for the farms, define records management requirements including stock controls, and to monitor the consistent application of the processes involved in financial management activities.
- [83] The University is advanced in its implementation of the recommendations in the Ernst & Young report and has now re-engaged Ernst & Young to conduct a follow-up review.
- [84] Murdoch University has fully co-operated with the Commission during the course of this investigation.

CHAPTER EIGHT

Conclusion

- [85] The investigation was undertaken principally because of the suspected biosecurity hazards.
- [86] The value of Australia's export of animals and animal products relies on being able to maintain and demonstrate Western Australia's excellent animal health and residue-safe food status, by continuing to maintain a comprehensive livestock traceability system, regulated stock movement to manage pests, and industry supported disease control programs.
- [87] Within Western Australia, the Livestock Biosecurity Program (program) is part of the national animal health framework that underpins and enhances Australia's and Western Australia's market access for animals and animal products. Western Australia also has a mandatory livestock ownership, identification and movement system, even if kept as pets. Livestock owners must register as an owner of livestock and meet identification and movement requirements according to species.
- [88] The program manages a number of regulatory activities to support stock identification and traceability, disease surveillance, animal movement requirements and preparedness to detect and respond to diseases such as foot and mouth disease and bovine spongiform encephalopathy. The consequences of these diseases are rated as being catastrophic to the Australian economy, and diseases such as H5N1 avian influenza and rabies may even cause death in humans.
- [89] The investigation established that for years Mr Thomas dishonestly registered Murdoch cattle in other names. He did this in part to promote his status as a breeder. In doing so he created a biosecurity risk.
- [90] Presentations at the Royal Show benefitted students who participated by giving them valuable experience, but the value to Murdoch University was much less than if Mr Thomas had correctly acknowledged that the cattle belonged to Murdoch University. By manipulating the spreadsheet and registering cattle with others, Mr Thomas gained a benefit in circumstances that amount to serious misconduct.
- [91] Although the amount of prize money he obtained by his deception was relatively modest, and may have been used in part to reward the students, the money was nevertheless not his property but that of Murdoch University. His actions were a significant breach of trust reposed in him.

- [92] Mr Thomas's deception remained uncovered for years due to the lack of proper governance surrounding the Murdoch University farms.
- [93] There was a succession of supervisors, some well removed from the practical knowledge of farming with livestock. There was little control over important records and inadequate auditing.
- [94] As a result, harm was done to Murdoch University which should have gained more credit and publicity for the presentation of its cattle at the Royal Show. Moreover Murdoch University was deprived of the opportunity to control its prize money. This harm is perhaps ephemeral.
- [95] The real harm is the potential risk to Australia's biosecurity. Mr Thomas's repeated non-compliance with cattle identification and traceability requirements put biosecurity at risk.