

IN THE DISTRICT COURT
AT MANUKAU

CRI-2018-092-012517

**ROYAL NEW ZEALAND SOCIETY FOR THE PREVENTION OF CRUELTY
TO ANIMALS**

Prosecutor

v

JANINE ANNE WALLACE

BARBARA GLOVER

Defendants

Hearing Commenced: 18 January 2022 held in Courtroom 1

Appearances: L Radich for the Prosecutor

D Gardiner for the Defendant Wallace

K Stoikoff and A Cranstoun for the Defendant Glover

NOTES OF EVIDENCE TAKEN BEFORE JUDGE GRAU

MR RADICH CALLS**KEVIN RICHARD PLOWRIGHT (SWORN)****PHOTOGRAPH BOOKLET HANDED UP**

Q. Thank you, we'll come to that booklet in due course, but first of all could I
5 just ask you to please state your full name for the Court?

A. Kevin Richard Plowright.

Q. In 2017, Mr Plowright, what was your occupation?

A. An SPCA inspector.

Q. How long had you been in that position?

10 A. I'd done approximately 10 years in that stint. I think altogether probably maybe 12 years or something like that.

Q. I'll just get you, if you don't mind, to pull the microphone a little bit closer to your mouth so we can ensure that everybody can hear (inaudible 11:10:15)

15 A. Is that better?

Q. I think that's better, thank you. And when you say an animal welfare inspector, that's a formal position, not just a job description?

A. Yeah, it's a formal position, we're warranted inspectors.

Q. And were you warranted at this time?

20 A. Yes, correct.

Q. Is there a distinction between a senior animal welfare inspector and just an animal welfare inspector, or is that the same thing?

A. I was a senior animal welfare inspector.

Q. But it's correct to say, isn't it, that you no longer work in that role? You've
25 moved on to different things.

A. Yeah, I no longer work in that position.

Q. Okay, when did you leave that position?

A. When did I leave? Two and a half years ago. I think it was July 2019 or June 2019.

30 Q. As you know, we're going to talk about events in throughout 2017, particularly the second half of 2017 and the first half of 2018, so just to confirm, were you a warranted inspector throughout that period?

A. Yes, correct.

Q. Without going into an enormous amount of detail, I understand that not everyone will understand the full scope of that role, in general terms what does that role involve?

5 A. So we respond to animal welfare complaints. We receive a call from the public and we respond and go and do an inspection from there of whatever type of animals that might be.

Q. Turning to the matter that brings us to court today, what was your first involvement with something concerning Volkerson Kennels?

10 A. So that would have been a call from a – call of concern to do with welfare of dogs on the animal – and a job would have been written up from there.

Q. I just want to stop you to make sure we don't get into hearsay, so please don't tell us what information was received from other –

A. Okay.

Q. But you acted upon some information received, correct?

15 A. Correct, yeah, correct.

Q. Okay, and when was that?

A. That would have been in... it was July 2017.

Q. Prior to that did you have any association with this property or this operation?

20 A. No.

Q. Did you know any of the people involved?

A. No.

Q. Now, I see you've brought with you today a notebook, I understand, is that correct?

25 A. That's correct.

Q. Now, does that contain notes of various visits to the property?

A. That's correct.

Q. Can I ask you when – it might vary from time from day-to-day, but in general terms, when would you create the notes that you've kept in your notebook?

30

A. On this particular one, it's a – if it's a visit another property – animal – I'll often do them just at the time 'cos it's simple but if it's with an advantage of body-worn camera, I would do them within 24-hours. I would have the notes finished up.

Q. Now, in this case when you did the inspections that we're going to come to, were you wearing one of these body-worn cameras that we've spoken of?

A. That's correct.

5 Q. And so, do I understand correctly that in this case you, after the visit, used that footage to assist –

A. Yeah.

Q. – in putting your notes together?

A. That's correct, yeah.

10 Q. And just to reiterate, how soon afterwards would that have happened?

A. Oh, within the 24 hours that the – normally after when I get back or at the very worst, if it was a big day and late, would have been the next morning.

Q. Thank you, Mr Plowright. Your Honour, I seek your Honour's leave for the witness to refer to his notes as we go along.

15 **THE COURT ADDRESSES COUNSEL – ANY OBJECTIONS (11:14:16)**

OBJECTION: MR GARDINER (11:14:22)

LEGAL DISCUSSION – CONTEMPORANEOUS NOTES

1115

THE COURT:

20 Q. Mr Plowright, you said that when you did the inspections here you wore the body-worn camera and after the visit used the footage to help put your notes together.

A. Yes, correct.

Q. Is that the case for every inspection you did on this property, that you did
25 your notes –

A. Every –

Q. – in a reasonably short time?

A. Because there were so many animals on the property, it was – I found it easier to do it in that manner, and they were written up within the 24 hours

of the visit. I will talk to my camera, describing stuff at different stages for those notes.

MS CRANSTOUN ADDRESSES THE COURT – ONE QUESTION ARISING
(11:16:19)

5 **MS CRANSTOUN:**

Did you make notes of the – did you make a visit in 2018 to the Glover property?

WITNESS:

Yes.

MS CRANSTOUN:

10 Did you make notes on that visit?

WITNESS:

It would have been – I would imagine that it would be done afterwards, but again, off the body-worn camera, the footage.

MS CRANSTOUN:

15 We haven't been disclosed any notes from the May 2018 visit. I don't know whether that's just an oversight, but that would be the only objection we would have to reference to the notes.

MR RADICH ADDRESSES THE COURT – CHECK DURING BREAK
(11:16:58)

20 **LEAVE GRANTED TO REFER TO NOTES**

EXAMINATION CONTINUES: MR RADICH

Q. So Mr Plowright, you received information from the member of the public and what did you do in relation to that?

A. From there I went with Inspector Laurie Davis and that was on the – yes,
25 that would have been on the 28th of July. We arrived at the property with Inspector Laurie Davis for the purpose of an inspection.

- Q. Where is the property?
- A. The property is, if I can refer to the notes, is 1478 Miranda Road in Mangatangi.
- 5 Q. Which is an area, a rural area south of Auckland, sort of northern Waikato area, is that about right?
- A. Yes, that's about right.
- Q. What kind of property is it?
- A. It's a farm. I think it's approximately a 500 acre farm, 550 acres, thereabouts. Rural.
- 10 Q. Now, the information you'd received from a member of the public related to what kind of animals?
- A. Dogs.
- Q. Did you know anything about dogs relating to that property before you went –
- 15 A. No.
- Q. – or did you go there cold?
- A. Yeah, cold.
- Q. You said you were with Ms Davis, from whom we'll hear in due course. Did you go with anyone else or was it just the two of you?
- 20 A. Just the two of us on the first day.
- Q. And that, from your notebook, appears to have taken place early afternoon, correct?
- A. That's correct.
- Q. What did you find as you entered the property?
- 25 A. As we entered the property, as we entered up the driveway on the left-hand side of the driveway is a cottage and there's some dog pens near that cottage, then up further, up the driveway on the right-hand side is the main dwelling.
- Q. You mentioned it being a property of around about 500 acres. Is it in –
- 30 sorry, presumably it's relatively isolated, or was there other –
- A. Yes.
- Q. – houses in close proximity?
- A. No, I can't see any houses from there.

Q. And is it flat land, and the relevance of this might come in later, but is it flat land or rolling land or mountainous land?

A. Well, it starts off flat lower down round the housing, but there's – it heads off to the back of the property, it's quite a hilly-type area. It's not flat.

5 1120

Q. Who was the first person you came across?

A. The woman identified herself Anne Glover.

Q. And did she – what was the nature of your interaction with her?

10 A. So we, displayed (inaudible 11:20:21) appointments and explained the reason for our visit and from there, she let us know that she wasn't in charge of the drugs. It was her mother and sister and they were out and due back soon.

Q. Now was– where did you come across her? Was she at the cottage, the house or somewhere else?

15 A. We went up to the house first and she came out from there and we– I think we went down to the cottage from there.

Q. At this point, had you come across any dogs?

A. Ah, we'd seen dogs in the pens down by the cottage and we decided to start an inspection down there.

20 Q. So, speaking then to that inspection, can you tell us your initial observations?

A. So there was a number of pups in a pen. It has a reasonable sized pen. It was quite muddy, being winter time and there was well one kennel and there were pups were there. I'm just referring to my notes, five pups in
25 that area and we've got from eight to 10 weeks old. Yeah there was a kennel but there was also air cargo crates for shelter and they were yeah, inadequate and probably water inside.

Q. Could I ask you to turn to the first page– page number one of that booklet you have in front of you– the photo booklet?

30 A. Yep.

Q. Now, did you take some photos during this inspection on the 28th of July?

A. Yes, I did.

Q. And we can see a series of photos beginning on page 1 with the date 28 July 2017 at the top of the page?

A. Yes.

Q. Are these photos that you took during that inspection?

A. That's correct.

5 Q. Can you – just to be clear, there are other photos that– this is just a selection of the photos?

A. That's right.

Q. Can you just speak to what we're seeing for example in the first photo on the top of page 1?

10 A. So, that was the shelter that was available for the dogs so there was yeah, five of them there, yeah, there's not quite enough shelter for all the pups who were there. There were the air cargo crates on either side. They could potentially shelter from the sun but not rain and it was winter and it had been raining a bit.

15 Q. The bottom photo on page one, are we looking at that same enclosure there with the dogs' enclosure?

A. That's correct, yeah.

Q. As you go over the page, we can see another photo at the top of page 2, we're just seeing the same general area there– this time with both the pups and those shelters?

20 A. That's correct.

Q. What did you observe or what comment do you have to make in relation to that area, anything of note?

A. So just the– yeah, not suitable enough shelter for the number of pups that were in there and obviously, the mud that was in there.

25 Q. Just down at the bottom–

MR RADICH ADDRESSES THE COURT – THINGS TO WHICH CHARGES RELATE (11:24:09)

EXAMINATION CONTINUES: MR RADICH

Q. The bottom of page 2, can you tell us what we're looking at here?

30 A. So, that's a dog that's tethered on a short leash to a, chained to a picket fence on the fact is, and this image here, there's three tied up along the fence line with the younger pups.

Q. And again, what comment – if any– can you make in relation to that photo?

1125

5 A. So yeah just lack of shelter and the risk to the pups being tethered on short leads to track it, unable to display normal patterns of behaviour on such short tethers.

Q. Sorry, unable to, sorry what?

A. Display normal patterns of behaviour.

Q. Can you explain what you mean by that?

10 A. They're so restricted in their movement but they can't do what dogs should be doing.

Q. Onto the top photo –

THE COURT:

15 Q. Sorry to interrupt but I'm not a dog aficionado at all, so what should dogs be doing that they can't do when they're tethered like that?

A. So if it was a very short term tether, like just for five minutes or something not an issue at all, but it's the longer term tethering which was the regular thing that was happening not so much in this picture but other pictures will show bare area digging. So it was just long term tethering in this manner. That's the length of duration of time tethered like that.

20 Q. Right and so what should they be doing that they can't be doing when they're tethered up?

A. Abilities to move freely to find shelter, so if the sun comes out and it's too out they're unable to find the shade, if it's raining they can't find their shelter, they can't find that as if they're in a penned area they can go in the kennel or if it's, yeah if too hot they can find a cool area and have those freedoms and abilities to move.

EXAMINATION CONTINUES: MR RADICH

30 Q. If we go over the page to page 3, the top photo we can see two dogs, you got that?

A. Yes.

Q. Is that basically a close up of the previous photo, it's a different photo of course but we're seeing –

A. Yes.

Q. – a smaller part of the photo on the previous page?

5 A. Yeah, that's the far two dogs and there you can see the birth disturbed.

Q. And we can see there is a bowl there, is that correct?

A. Yes.

Q. Can you recall if the other dogs had a bowl, if all dogs had a bowl or just one?

10 A. There's that one bowl next to one bowl and that's mostly the only one for those ones.

Q. So these were part of your initial observations of the property, is that correct?

A. That's correct.

15 Q. Now just and to circle back a little bit, you've mentioned meeting Anne Glover when you first went to the property and at that stage neither Janine Wallace nor Barbara Glover were present, correct?

A. That's correct.

Q. When did you first come across them?

20 A. So Anne had mentioned yeah she doesn't know what to do with the dogs, she doesn't know which ones bite and which ones don't and there was a number of them and her mother and sister were due home soon. So we decided to leave the property and to come back when they were going to be there. So we left the property and returned to the property at quarter
25 past one.

Q. So you were not gone for long certainly obviously less than an hour, is that right?

A. That's right, just up the road for a cup of coffee and came back again.

Q. And when you returned were Ms Barbara Glover and Ms Wallace there?

30 A. Yes.

Q. What happened?

A. We, myself and Lori introduced ourselves, explained the reason for the visit, displayed warrants et cetera and yeah we'd asked regarding an inspection of the German Shepherd dogs.

Q. At that stage did you have an idea of the scale in terms of the number of dogs you were going to be dealing with?

A. No, not at all.

Q. Did you ask any of the occupants about that?

5 A. I think we just asked to see all the dogs that are on the property and went from there.

Q. Can I ask you then with reference to your notes to continue in your observations and it might be best if you understand you're familiar with the photo booklets, so if you come to a part which is supported by a photograph please feel free to refer to that as well. So with that in mind, 10 what did you do next or observe next?

A. What we observed was Ms Wallace and Glover looked yeah very puffed and were wearing dirty clothing with mud and food. They'd obviously been cleaning frantically prior to us turning up, yeah, we asked them to 15 show all the dogs, exactly how many they had. We sighted a female dog free running on the property. No issue there. There as another three dogs in a cage in a car, yeah, no issue there. There were three pups tethered on the, that's the photos that we've just looked at. They are on the choke chain, no shelter.

20 1130

Q. Can I just pause you there— you've used – again for those of us not familiar with the terminology, what's a choke chain?

A. So it's a chain, it can be called a check chain or choke chain or slip chain. It's a chain that's can tighten up and loosen off. It's a chain— a small chain 25 that's designed to slide in and out.

Q. And so those— are those dogs, in the photos we've just seen that were tethered to the fence, are they on these leashes you described as choke chains?

A. Yes.

30 Q. Thank you. May I trouble Madame Registrar to put the Code of Welfare before the witness?

A. This is the interview notes.

Q. Sorry, that's the interview notes. Code of Welfare, sorry. Is that a document with which you are generally familiar?

WITNESS REFERRED TO CODE OF WELFARE

A. Yes, a Code of Welfare for dogs, 2010.

Q. And can I ask you to turn to page 13 please?

A. Yep.

5 Q. Where we're looking at a heading of "Containment Tethering and Shelter" about halfway down the page, under the subheading: "Recommended Best Practice" at paragraph B, it says: "Dogs should not be left unattended or routinely tethered by choke chains or other devices which tighten around the neck"?

10 A. That's correct.

Q. Thank you, if you could just put that to one side for one moment. So what did you then observe or do next?

A. From there, we went into the – around the house area so inside the picket fence around the outside of the main dwelling and so after a couple of
15 dogs, three dogs in a cage, in the car, three pups tethered.

Q. In terms of those dogs in the car, just to be clear, you see no problem with that?

A. Yeah.

Q. There was no issue?

20 A. Yeah.

THE COURT ADDRESSES MR RADICH – ADJOURNMENT(11:33:40)

COURT ADJOURNS: 11.33 AM

COURT RESUMES: 11.51 AM

EXAMINATION CONTINUES: MR RADICH

5 Q. Thank you Mr Plowright. I think shortly before the break you'd mentioned a double dog cage, was that something amongst your observations that you recall?

A. That's correct, there was – double dog cage, holding two dogs, in the notes I've put: "Stinks of urine and a filthy stain."

Q. If I pause you there, can I get you to go to page 3 of the photo booklet.

A. Yeah.

10 Q. And see the bottom photo on that page, is that the double dog cage that you're referring to?

A. Yes it is.

Q. If we go over the page there are two photos there, what are we seeing and why did you take those photos?

15 A. So it's the faecal matter on the flooring, skidding and – yeah the state of the flooring and living in their on faeces.

Q. I've asked you a lot about what you saw and heard, what about anything you smelt in relation to this?

20 A. Yeah it was an offensive odour of yeah urine and faeces, coming from the pen.

Q. If you go over the page then to page 5, can you see at the top there something headed "Portable Puppy Pen"?

A. That's correct.

25 Q. And again with reference to your notes, what did you observe in relation to that?

A. "Small puppy pen, three six week old pups, no water, bowl knocked over." And that's what I've got in there for that.

Q. Was there – were you able to conclude anything or did you form any views about whether this was a temporary or permanent accommodation?

30 A. It was a temporary setup – yeah it's an attempt at some form of shelter with a horse cover over one end but it'd been pulled down, but it came to be inadequate shelter.

Q. What about around inside the pen, anything in relation to that?

A. Just muddy and worn.

Q. Below that photo we can see a photo of the dog tethered to a tree.

A. That's correct.

5 Q. Is that referred to in your notes as a dog tethered to the tree in the corner of the yard, is that the dog we're talking about?

A. "Dog tethered, had bare dirt, holes had been dug." I had for that one.

Q. So when you say *holes had been dug* what does that – what does that mean?

10 A. Well if they're confined in an area on a chain for a length of time they'll start digging holes out of boredom or to make it more comfortable for themselves, dig a hole to lay in or, that sort of thing.

Q. All right, moving on in your notes what did you observe next?

A. "One single dog in a cage run, adult dog, reeks of thick faeces, filthy" I've put in there.

15 Q. If you go to page 6 of the photo booklet.

A. Yeah.

Q. Is that what we're seeing there?

A. That is.

20 Q. So that's, in the top photo we can see the dog in question and are there some bones there on the inside of that cage?

A. That's correct.

Q. Okay, the close up in the bottom photo, it may be self-evident but what are we looking at there?

A. yeah it's faeces, a build-up of faeces.

25 Q. Okay moving on what else did you observe?

A. There was an aviary, two cockatoos –

Q. Sorry we don't need to worry about the cockatoos –

30 A. No welfare concerns there. "Large male German Shepherd tethered by a short lead to the front porch, choke chain. Ms Wallace showed the remaining dogs as Ms Glover wasn't feeling well."

Q. So you – to this point had you, Ms Wallace and Ms Glover –

A. Were both present –

Q. Ms Wallace and Ms Glover were both present, okay.

A. Yeah and Ms Wallace continued with us from there.

Q. At this stage, obviously it's a big property but to this point we're just dealing with a relatively small area around the house is that right or is it –

A. At that point we'd just been around the house, and yeah from there Ms Wallace led us off and we went to a garden shed which contained
5 10 pups.

Q. And on page 7 of the booklet do we see the exterior of that shed?

A. That's the garden shed. In the top photo Ms Wallace is just opening up.

Q. And in the bottom photo on page 7 and the top photo on page 8 are we then seeing two photos from the interior of that shed?

10 A. That's correct.

Q. Can you tell us what you sensed, observed, in relation to the puppy shed if we call it that?

A. Yeah so the – yeah most obvious thing was the odour, the offensive odour coming out of there, the main levels, there's puppy urine and faeces, were
15 in a shed, there was no ability for them to come out and defecate away from that environment so they were living and sleeping in everything in – defecating in the same area.

OBJECTION: MR GARDINER (11:57:53)

20 WITNESS STOOD DOWN

LEGAL DISCUSSION – COURT AS CHAMBERS

1200

EXAMINATION CONTINUES: MR RADICH

Q. Thank you Mr Plowright. We had been speaking about a puppy shed, we
25 are on page 8 of the photo booklet and I don't think I have asked you to comment specifically as yet on the top photo on that page, but it's again self-evident we're looking at the floor of the puppy shed, is that correct?

A. That's correct.

Q. And we can see a lot of newspaper and even dirt, mud or faecal matter
30 or something like that, is that right?

A. Yes, the faecal matter, wet newspaper urine soaked, et cetera.

Q. Next, did Ms Wallace take you to a large utility shed?

A. Just looking at that old dog running loose in the utility shed, the floor is covered in faeces.

5 Q. Okay, sorry, if just confirm with reference to your notes, did you go to a utility shed?

A. Yes, correct.

Q. Okay, thank you. And do we see a photo from that utility shed at the bottom of page 8?

A. That's correct.

10 Q. Okay, what – now we can't see the whole of the dog there, are you able to shed any light on anything else in relation to that dog that's tethering?

A. I believe that one would have been loose in there with just the faecal matter and urine on the floor.

Q. Okay, where did you go to next?

15 A. From there, we went to the stables, the stables a little bit further off and at the end of the stable pups were contained.

Q. When you talk about stables, if we look at page 9 of the photo booklet we can see the photo at the bottom headed "Deer shed/stables" from rear is that the stables you're referring to the right?

20 A. Yes it is.

Q. So we're talking about a deer shed you've also referred to as "stables" is that right?

A. That's right.

25 Q. Okay. And just to cover it off there's another photo at the top there headed "Outside utility shed". To what does that relate?

A. So that's another dog tethered to the outside of the utility shed on the short leash.

Q. Was that a choke chain?

A. Yes.

30 Q. Did that dog have access to water?

A. No.

Q. So getting, moving on there to that Deer shed/stable, what did you observe in relation to that?

A. There was three eight week old pups, on one side there was two sides. Each of those doors open up to some separate contained area concrete floor, so there were three pups around eight weeks old in one, there was no water, yes, filthy, faeces and urine soaked floor, very high ammonia levels, no ventilation, window shut. The stable number 2, three pups nine weeks old. The same filthy state as the last stable (inaudible 12:08:53) just laying in the faeces in both stables, Ms Wallace (inaudible 12:08:59).

5

Q. Is that are we seeing one of those a photo from inside those stables in the top photo on page 10?

10

A. That's correct.

Q. When you talk about it might be obvious, but I apologise if so, but you've spoken a few times about high ammonia levels, what are you referring to there?

15

A. It's the build-up of ammonia from the urine, old urine, it's builds-up yeah offensive ammonia levels.

Q. Did Mrs Wallace say anything in relation to, tell you anything in relation to those pups in the stable?

20

A. She said the pups were normally outside daytime, but yes, I felt it was very unlikely with the large amounts of faeces from inside there, and there was no sign of them being outside on the grass.

1210

Q. And did you then, were you then taken by Ms Wallace to a woolshed?

A. Yes, a woolshed.

Q. And is that the building we see at the bottom of page 10?

25

A. Yes, it is.

Q. What did you find inside the woolshed?

30

A. So there's a woolshed, dogs were contained in sheep pens. It smells of faecal and urine, there's slat flooring, so there were – slat flooring, a build-up of faeces underneath as well. Five female adult German Shepherds and one male were contained in there, so six dogs contained in there. Wooden rails chewed and posts have been chewed in the pens.

Q. On page 11, can we see two photos from within that woolshed?

A. Yes.

Q. In the top photo in particular can we see the slat flooring to which you refer?

A. Yes.

5 Q. Is that any issue? You've mentioned that, but did that give you any cause for concern or is that fine?

A. So there – you've obviously got an updraft from there, you've got a shelter from sun and rain overhead, but yeah, just the – the comfort level of that and of course the cleanliness of it, with faecal matter falling down below and the odour coming up.

10 Q. The dogs in there, did they have access to water?

A. There – they were, I'll just check the notes. I don't believe the... I haven't made note of no water, not – I haven't made note of that.

15 Q. Okay, thank you. You have referred to rails being chewed, however. Is that just an observation or is that something to which you attached any significance?

A. So that's a boredom – if they're contained for long periods of time they'll just take out their frustration on chewing things.

Q. Underneath the woolshed, did you look underneath the woolshed?

20 A. I'm not sure on that. I haven't made notes in here. I have done – whether it was on this particular occasion or not, I couldn't actually answer honestly.

Q. Okay, that's fine. Moving on, what happened or where did you go next?

25 A. From there... the cattle yards, so there was cattle yards on the property not too far off and they had like a carport-type roof covering part of the yards, on the concrete floor, and there were dogs tethered in there, on the – by leashes.

Q. And can we see those dogs on page or some of those dogs on page 12?

A. Yes, that's correct.

Q. And on page 13, are we looking at two more dogs within the cattle yards?

30 A. Yes.

Q. And similarly on page 14, is that correct?

A. Yes, that's correct.

Q. And also the top photo on page 15?

A. Yes, that's correct.

Q. What observations did you make in relation to those cattle yards generally, or was there anything there that gave you concern?

5 A. The tethering by choke chains, the short leads, some had no water, been knocked over – I'll just check with my notes on the cattle yards – no bedding, filthy, faeces and urine, yeah, tethered, choke chains, so yeah, but I think it's plain old patterns of behaviour, tethered on short leads and dirty environment.

10 Q. All right, after that cattle area were you taken to some dog enclosures? And by that I mean enclosures that had obviously been designed to contain dogs?

A. That's right, yes.

Q. Do we see the first of those at the bottom of page 15?

A. Yes.

Q. And also on page 16?

15 A. Yes.

1215

Q. 17 and 18 also, is that right?

A. Yes.

20 Q. So, what can you tell us about what you observed there in relation to the kennel runs and any causes for concern you might have had?

25 A. So, yeah, the space of it so and Glover was there hosing it out prior to when we got there so there was a huge build up of faeces being hosed out at the time. There was an obvious odour of faeces and urine at the time so in that fenced area there's a – it's July, there's grass everywhere and there's, yeah with those dogs exercising regularly, there'd be more sign of being trampled down, a sign of dog exercise in there but– so it showed long periods of time in quite shabby kennels. There was no significant drainage system for hosing or anything. It was just hose it out on the grass.

30 Q. And I don't think I referred you to page 19 but just for completeness, page 19 relating to that same areas as well, I think, anything of significant in those photos, what are we looking at?

A. So that's some of the remnants of the faeces and that had been hosed out and the filthy buckets and food bowls and that type of thing that were—that had obviously been taken out.

Q. So after that, did you have a discussion with Ms Glover and Ms Wallace?

5 A. Yes.

Q. What was the general nature of that discussion?

A. Basically myself and Inspector Davis, we expressed our concerns for the condition of the dogs and yes, letting them know they're not being, they're not meeting the Code of Welfare for dogs and our feeling once there's too many dogs, by that time we had 32 adult dogs and 31 pups and there were too many dogs and not enough personnel to be able to cater for them all. There was no facilities for the dogs. They're being kept in sheds, barns, wherever.

10 Q. You noted 32 adult German Shepherds and 31 German Shepherd pups, does that relate to the number of dogs you saw yourself, did you see all of those or was that what you were told were how many there—

A. No, that's what we— that's what we saw so we saw 63 in total.

Q. Were you aware of any other dogs on the property?

A. No.

20 Q. So, having raised these concerns with Ms Glover and Ms Wallace, what did you do?

A. From there, we issued a 130 instruction, a notice to mitigate suffering and we put down a list of instructions from there. We went through and spoke to both of them for that to make sure that everyone was on the same page for what needed to be done.

25 Q. And speaking of that same page, is that the page we can see at page 20 of the photo booklet?

A. Yes, that's correct.

Q. And this is obviously a form of document that you would be pretty familiar with but even us lawyers aren't necessarily familiar with notices issued under sections (inaudible 12:18:50) from the Animal Welfare Act, so in general terms, what's the purpose of this notice?

30 A. It is a written instruction to mitigate and prevent suffering of an animal so it's a list of instructions to get them back on track to comply with the Code

of Welfare and Animal Welfare Act. There'd be a time period put down there to have things sorted by.

Q. And we can see on that document the two defendant's names at the top, Barbara Glover and Janine Wallace?

5 A. Yes.

Q. And I won't take you through to documenting in its entirety but essentially, there are four areas in particular in the middle of that page that you identified as needing attention, is that right?

A. Yes.

10 Q. And the first one is: "daily cleaning of all enclosed contained pups and dogs, adequate ventilation, immediately and daily"?

A. Correct.

Q. "Shelter, provide adequate shelter to protect from all weather elements, mindful of cleaning and opportunity for dogs to display normal patterns of behaviour immediately for all dogs that had no shelter today." Is that correct?

1220

A. Yeah.

Q. Enclosures existing to be improved upon within five months, 31 December 2017, is that correct?

20

A. That's correct.

Q. Now when you talk about "enclosures existing" are you referring to all structures that contain dogs or just the purpose-built dog kennels?

A. So, yes, the purpose-built dog kennels, so they mentioned to us they were going to look at rebuilding kennels and offered they could be done within a time period.

25

Q. Okay. And then the final point on that note is, "Puppy pen enclosures requires flooring to prevent mud and to provide dry living conditions – seven days" is that right?

30 A. Yes, that's correct.

Q. Meaning you wanted the puppy pen in particular cleaned up and improved within seven days?

A. Yes.

- Q. Okay. And that's, the time on that notice I think we can see is 2.40 pm, 14:40 pm near the top right?
- A. Yes.
- 5 Q. So that first inspection had taken, it was about two and a half hours after you first arrived at the property, is that right?
- A. That's correct.
- Q. What did you do next?
- A. So yes, from there, we leave the property and we arrange for a, we do a re-inspection on the 4th of August.
- 10 Q. And so do you have your notes from that day as well?
- A. Yes, I do.
- Q. Okay. And have you got the photo booklet open on page 21 where we have got some photos taken from the 4th of August?
- A. Yes.
- 15 Q. Okay. All right, so did you and Inspector Davis return to the property that morning, the 4th of August just after quarter past 10 in the morning?
- A. Yes.
- Q. And what was the general purpose of this visit?
- A. It was a re-check for compliance basically.
- 20 Q. What was your first observation when you came back?
- A. Yes, lack of change.
- Q. Can you elaborate on that?
- A. Yes, so the, we're on page 21, the puppy shed is still, yes, doesn't look that nice, there's still dogs and pups tethered without shelter, tethered by the short leads, dogs without water, yes, dog tethered to the tree, no shelter, no water.
- 25 Q. Okay, we will go through some of these photos if we can to tighten up those observations if we may. On page 21, we're seeing – we don't need to dwell on this, but we're seeing the exterior of the puppy shed in the top photo and the interior of the puppy shed in the bottom photo, correct?
- 30 A. Yes.
- Q. Not sure if we can actually see any puppies in that bottom photo, but were there puppies in that shed?
- A. Yes.

- Q. If we go over the page, do we then see seven of those photos in the top photo and some in the bottom photo as well?
- A. Yes.
- 5 Q. We can see that there is at least is that a water bowl or a water vessel there in that bottom photo?
- A. Yes, yes.
- Q. Okay, but to your impression had there been any improvement in the general cleanliness?
- 10 A. No, there was still odorous. I'll just check on my notes, yes, but there's still the same odorous, it's still pups kept in there for a long time, so there's still no significant improvement.
- Q. If we go over the page to page 23, can we see in the top photo a photo taken in the cattle yards to which you referred earlier?
- A. Yes.
- 15 Q. And what can we see in that photo?
- A. A dog tethered by a track chain on a short lead, yes, bowls upside down, dirty, dirty living area.
- Q. Oh, so that bowl I wasn't clear on that, that bowl was upside down?
- A. It's an upside bowl.
- 20 Q. Right, okay. And in a general sense, however, we're only seeing one of the many photos you took of the cattle yards for reasons of convenience, but in a general sense did you observe any improvements in the cattle yard area?
- A. No.
- 25 Q. On the bottom of page 23, we have got what's referred to as the "puppy pen" with that cover on top. Is that the same puppy pen we referred to in the previous visit?
- A. Yes.
- Q. And did you observe any improvements in relation to that?
- 30 A. No.

THE COURT:

Q. Was the, in the notice, was this the last bit that said “puppy pen enclosure requires flooring to prevent mud” was that the one that was referred to in the notice?

5 A. No, it’s actually referred to the pups by the cottage in the muddy, just to do something -

Q. Oh, okay.

A. – to reduce the mud.

Q. Right.

10 A. So we suggested mulch or something along those lines.

Q. So that was where the puppies were tethered to the fence?

A. No, they were free-running in a yard next to the cottage and so it was really just the, yes, putting some mulch down or something along those lines to make the so they’re not in the mud.

15 Q. Right, okay.

EXAMINATION CONTINUES: MR RADICH

Q. If you go over onto page 24, are we there again seeing the deer shed stable that we spoke of in relation to the previous visit?

A. Yes.

20 Q. What can we see in those photos, particularly the bottom one that which shows the interior?

A. So there was a helper on this occasion, a what do you call them, the overseas visitors that help out and do WWOOF, is that what they’re called –

25 Q. WWOOF yes.

A. – shovelling up the faecal matter and newspaper, then they were laying the fresh paper over the top of the filthy concrete, so there was actually very little improvement, still horrendously odorous.

Q. Did those dogs have anywhere to lie down?

30 A. No, there was nowhere, they’re defaecating, sleeping and living in the, all in the same area.

Q. Did they have anything in the way of behavioural enrichment?

A. No and the bones were in with the faecal matter again.

Q. If we go over the page to page 25, the top photo is a little bit dark, but is that what you're referring to there?

A. Yes, that was one of the, yes, some of the bones that were in with the faecal matter and there's smaller bones on the other page as well, the other bones, but yes, just bones laying in on that sort of thing.

Q. Okay. Now did you also, I'm not sure that we have any photos in relation to the woolshed on this occasion, but did you also go to the woolshed?

A. Yes, I'll just check my notes if you don't mind. Woolshed, no cleaning, strong odours of faeces and urine, six dogs approximately. One of the dogs tethered by a short lead. Large amount of faeces. The dogs were circling around through the faeces, inappropriate flooring slats". And I put "No sign the dogs being exercised around the woolshed or within the immediate area".

Q. When you refer to those slats being "inappropriate" can you explain why?

A. Like just on my feet, not ideal for around my feet, but also the up breeze, the constant up breeze blowing up.

Q. And then did you also see some dogs tethered under the roof cattle yards?

A. Yes.

Q. Any observations in relation to them?

A. I'm just going through my notes.

Q. What might be easier, Mr Plowright, would it be easier if I just direct you to the photo perhaps or if you just speak to the photos, maybe it will just if you can just tell us?

A. Yes, I'm not a speed reader, sorry.

Q. No, no, that's all right, sorry, my apologies. The bottom photo on page 25 what are we observing there?

1230

A. That's a dog tethered on a short lead to the picket fence.

Q. Now we can't see there but did that dog have access to water?

A. No, checking the notes, no.

Q. Over the page to page 26?

A. Yeah.

Q. We're seeing a double garage at the top, correct?

A. Yes.

Q. And along the fence, can we see some dogs there as well?

A. Yeah it's tethered short leads to the fence.

5 Q. Now is that the same fence, just to be completely clear if you flip back to page 2, is that the same fence that we're looking at there or is that a different fence?

A. I'd say that is the same fence. That's the same fence line.

10 Q. So the dogs that we can see on the top of page 26, are they – I'm not sure if it's completely clear from the photo but are they tethered to the fence or are they're just standing there for everyone –

A. Yes, tethered to the fence, you can see they're tethered on the fence though.

Q. The bottom photo, is this the photo from inside the double garage?

A. This is inside the double garage.

15 Q. What did you find inside the double garage?

20 A. Dogs were in there, so we heard dogs barking from inside the garage that we weren't made aware of dogs being in there. So we actually asked Ms Wallace about them and then we went in to have a look from there. So inside there there's dogs inside air cargo crates, yeah filthy condition and very odorous.

Q. Was there a dog inside that bottom crate that we can see on page 26?

A. Yes there is.

Q. You mentioned Ms Wallace in relation to this particular event just to be clear, was she accompanying you during this inspection?

25 A. Yes.

Q. Was Ms Glover?

A. Not for that part, no.

Q. If we go over the page to page 27, what are we observing there?

30 A. There's other – there's another crate that had been used from the top picture so there's, yeah faecal matter, urine and there's a lower picture, yeah a dog, yeah, dirty living conditions, confined, no water.

Q. Aside from the water and the – what you describe as dirty conditions, did that give you any other – did the dogs in those cages give you any other concerns?

A. Yeah just the – just having faeces inside cages like that it just indicates long term confinement for them to be defecating and urinating in the same place that they sleep in this regularly that's all the cages of that condition.

5 Q. And that crate you saw on the previous page and this cage, are they of a suitable size in your view for such containment?

A. It's a transport crate, it could be completely suitable, it's all depends on how it's used but if it's for long term containment no it's not suitable. If you're to use the crate or cage for a timeout, for a sleep overnights and that and let out in the morning it could be completely suitable but there
10 wouldn't be the faeces, urine build up that there is because they wouldn't be in there for long periods of time.

Q. Over the page on page 28, the top photo is not a terribly good photo but I think that looks like one of those transport crates as well, is that correct?

A. That's correct.

15 Q. And the bottom photo has the heading 'Kennel' and 'Run' can you explain what we're looking at there?

1235

A. So that's the single kennel run that's located in the back of the property within the picket-fenced area, and there's... the faecal build-up and...

20 Q. Over the page to page 29, two photos, one a close-up of a cage and floor, is that essentially a close-up of the dog-house we see in the previous photo on page 28?

A. Yes, that's correct.

Q. Anything of note in that top photo, or is that nothing much?

25 A. The same, yeah. Faecal build-up and that type of thing, not cleaned.

Q. The bottom photo, again, not terribly clear but can you shed any light?

A. So that's Inspector Davis holding a – onto the chain round the tree, so this just indicates the long-term tethering with a completely – area void of any grass, it was growing lush absolutely everywhere else, except in this
30 area without shelter, that just shows containing a dog without shelter for long periods of time.

Q. On page 30, what are we observing there? Are these the purpose-built dog kennels that we spoke about previously?

A. Yes.

Q. Okay, and what can we see there in those two photos on page 30?

A. They're still pretty poor condition and I'll just refer to my notes, if I may...

Q. Yes.

5 A. Old kennels, da-da-da... kennels behind them... the kennel runs behind the green line fencing, very small, old kennels, dogs matted with faeces, it stinks of faeces and ammonia inside the fenced area around the old kennels, and a female Shepherd on the loose, thin, poor movement, I put on there, back legs. Trees, chains attached, no grass.

Q. Okay, now –

10 A. Approximately eight dogs with the old cages.

Q. In a general sense, had you seen improvements from the previous visit?

A. No, it was a disappointing re-inspection. There was – no meaningful improvements had happened.

Q. And did you discuss this with either Ms Wallace or Ms Glover?

15 A. Yes, we did.

Q. What was the nature of those discussions?

A. Myself and Inspector Davis discussed our findings with Ms Wallace and I haven't got Ms Glover there at this one, so I'm presuming she's not there. Saying again, there's too many dogs for them to be able to care for. So
20 Ms Glover did come out for that. We sat down at a table and discussed it. That one went through and just, yeah, put it on the table as: "You've got no facilities, far too many dogs," and so – yeah, they surrendered ownership of five dogs to us.

Q. Tell us about that. The phrase "surrendering dogs," what was going on
25 there? What was that all about?

A. So we talked about the failings to comply with, you know, the code of welfare, the Animal Welfare Act, and the fact they'd got far too many and just let them know we'd be forced into the position of having to start seizing dogs if there was no meaningful improvement, and would rather
30 work with them so we can both get down to, yeah, compliance of – them having a manageable level and no issues, so they agreed to surrender five dogs.

Q. Okay, and were those dogs, I don't think there's any issue taken with it, a two-year-old adult female named Regina?

A. Yes.

Q. An eight month female named Dazzle?

A. Yeah.

Q. A four-year-old male named Furbo?

5 A. Yeah.

Q. A four-year-old female named Fina, F-I-N-A?

A. Yeah.

1240

Q. And a three year old female Jemma with a J.

10 A. That's correct.

Q. How did you decide or – how were these five dogs identified as dogs that you were asking me to surrender?

A. So when she gave them the opportunity instead of us seizing which ones they didn't comply with, we just gave them the opportunity to start
15 de-stocking and to really encourage them to start selling and de-stocking what they had to a manageable level, so we allowed them to pick the five dogs that they wanted to surrender.

Q. And did you also issue a further notice to them?

A. Yeah another notice to mitigate suffering was also issued.

20 Q. Okay and is that the dog we can see on page 31?

A. Yes it is.

Q. At 12.20 pm on Friday the 4th of August 2017?

A. Yes.

Q. And you've identified some related but phrased slightly different concerns
25 about halfway down is that right?

A. Yes that's correct.

Q. And you've said: "All dogs living areas listed below to be fully cleaned and disinfected immediately and cleaned on a regular basis."

A. Yeah.

30 Q. "Crates and garage, puppy shed 1, 2 and 3, wool shed, yard, all kennel runs at the property."

A. Yeah.

- Q. Ensure dogs have access to adequate shelter immediately and then clarify: "This is in addition with the previous notice issued the week before" is that right?
- A. That's correct.
- 5 Q. Okay. And did you then leave the property that day?
- A. Yes.
- Q. 4 August.
- A. Yeah.
- Q. Was your next visit to the property on 11 August?
- 10 A. Yeah on 11th August.
- Q. So basically we're going to have essentially one week intervals here is that right?
- A. Yeah.
- Q. Had you told them that you'd be coming back or was this unannounced?
- 15 A. It was unannounced but even on their, it says on the notice, it says there will be a reinspection within – and there's a time period. "A re-inspection will be made on or after –" we just put the 5th of August and we came back on the 11th so there's going to be a follow up inspection to check for compliance or the written instruction. And the date is unannounced, we
- 20 don't ring prior to our arrival.
- Q. Now on this occasion the 11th of August, was it you and Inspector Davis again but this time with another SPCA employer Charlotte Clark, is that right?
- A. That's correct.
- 25 Q. And did you arrive late morning I think, you might say about 10.48 is that right?
- A. That's right.
- Q. Okay so you entered the property, what did you observe?
- A. We were there to re-check for compliance, pups tethered on short leads,
- 30 choke chains, nine, eight and a half week old pups, in the small pen, no water, two dogs in crates in the garage.
- Q. So I'll pause you there, and we'll just look at some of the photos and you can speak to them. Again we see on page 38, the top photo there, what's described as a puppy pen is that the same –

- A. Yes.
- Q. Same place we've seen previously?
- A. Yeah.
- Q. Anything to observe there, any changes, any improvements?
- 5 A. Attempted to put another horse cover on for shelter, it's been moved, so it's not just on the same bit of grass, it seems to be grassy but yeah.
- Q. How many pups were contained in there?
- A. I'll just check on my notes, notes may not be in the same order as the...
- Q. If I can help Mr – if you look at the first entry in relation to your visit that
- 10 day at 10.48 am that might help.
- A. Oh yep: "Nine times eight and a half week old pups in the small pen, no water", yeah so just no water, it's obviously been knocked over.
- Q. Was there a water container in there that had been knocked over is that what you're saying?
- 15 A. There's – a bowl in there, it's been likely, it could've contained water and was knocked over but with that many pups in that area, that's going to get knocked over, so it's unsuitable water container, you'd put something that won't get knocked over.
- Q. You say that many pups in that kind of enclosure is – is nine pups an
- 20 acceptable number for that size of puppy pen?
- A. It's a pretty large number of pups in there, for the size area.
- Q. Now you mentioned as well just in relation to your notes, that there were two dogs in crates in the garage is that right?
- A. That's correct.
- 25 Q. Thank you and now these are slightly out of order, but if we go to pages 39 and 40 do we see those?
- A. Yeah the bottom picture on 39, and the top picture on 40.
- Q. Now we've spoken about those, the cage/crates in question there previously and you've spoken about your concerns, I won't get you to go
- 30 over there but in general, in short did you see any improvement?
- A. It was fresher newspaper down but there was, yeah no – no meaningful improvements.
- Q. Did you then go and inspect two male dogs confined to what you described as the *double run*?

A. "Two times adult dogs in a double portable run, water blasted, much cleaner, has water."

Q. Okay so, in that area you had seen some improvement in relation to those two dogs in fairness?

5 A. Yes, yes.

Q. Okay. On the front deck did you observe some dogs there, front deck of the house?

A. I've got dogs caged in a car –

Q. And there were no concerns with those dogs?

10 A. No. Three dogs tethered by short leashes and choke chains.

Q. Okay. So the choke chains you've referred to earlier, were they still being used?

A. Yes.

Q. Had you spoken to Ms Wallace or Ms Glover about the use of those?

15 A. Yes, multiple times.

Q. And what, can you recall what response you'd had?

A. Ms Glover referred to it as *leash training*. But yeah we expressed our concerns, tethering in that manner.

20 Q. Apologies for going through the photos in slightly – slightly out of order but if we go back on page 38 to the utility shed, the photo at the bottom.

A. Yeah.

Q. Can you tell us what we're observing there? May or may not be in your notes so if you can speak to the photo in any case –

25 A. Oh okay, yeah so it's a bit, a dog tethered, that'll be the utility shed, there's a tractor in there and it's tethered in the shed.

Q. And can you see in that photo any access to water?

A. No.

Q. The top photo on page 39 is also labelled *utility shed*, what can you tell us in relation to that top photo?

30 A. That's the free running dog in the utility shed.

Q. And any – you've told us about your concerns in relation to that area on previous visits, any improvements observed?

A. It'd been cleaned out a bit, it looks better than on other occasions.

Q. To a level that you were satisfied with?

A. Heading in the right direction but – yeah, no – yeah bedding and that sort of thing would be ideal but, it's a – it was a – it was an attempt at cleaning.

Q. Okay, did you also inspect the pups in the stables?

1250

5 A. Yes.

Q. And actually, sorry, my apologies, before I get to that, I'll just take you through some of the other photos so we are going at least through the photos in order. On page 41, we can see a dog and what's described as the "The Old Runs", is that correct?

10 A. Yes.

Q. And is that the same over the page and a different dog and a different area?

A. Yes.

Q. And then similarly, onto page 43 likewise?

15 A. Yes.

Q. Any concerns there, any improvements, any comments you want to make?

A. Yeah, they were cleaner so yeah, there's— had been improvement made there.

20 Q. To a level that alleviate your concerns?

A. No— not necessarily alleviated concerns, sort of, yeah, cleaning's regular type thing so it had been cleaner.

Q. Aside from cleaning, you've spoken on some occasions about behaviour or behavioural enrichment, I think you elaborated on that for her honour at one point as well. Did any of the dogs that you were observing here have anything for behavioural enrichment?

25 A. Not in the pens, no.

Q. Over the page, we get to – what I was about to get to before. We're back in the deer shed stables. The stables with nine puppies, correct?

30 A. Yes.

Q. And we can see the newspaper on the floor. Did you observe any improvements here?

A. I think it's a bit tidier than how it was before so there had been improvements. It's not as horrific as it was before but of course, airflow

and no concrete being a porous type surface is still going to maintain that sort of urine level and that sort of thing.

Q. When you talk about a porous surface, you mean one that will absorb and retain the liquids?

5 A. That's correct.

Q. Now did you have any conversations with Ms Wallace along the way that you noted or recall?

A. So, as we were leaving the deer shed area, I asked her: "Are you going to show us the dogs in the deer shed?" so this is the first time I could
10 hear– that building was stables at the end and in the front of it was called the deer sheds and we were always told there's no dogs in the deer sheds just in the stables.

Q. Who had told you that?

A. But on this occasion–

15 Q. Sorry, who had told you that and when?

A. Ms Wallace on the first occasion. Our first visit, there were no dogs in there, according to Ms Wallace so on this occasion, we could– I could hear barking from in there and as she went to lead us away, I mentioned I could hear barking from in there.

20 Q. What happened next well?

A. Well, Ms Wallace said: "Oh, yes, that's right, sorry" and said: "They've only been in there for three days" but there were dogs inside the deer shed so yeah, smelt the ammonia levels, faeces which Ms Wallace suggested they'd just been in there for three days but the condition inside
25 would suggest otherwise.

Q. Did you discuss with Ms Wallace the number of dogs on the property and in her care?

A. Yes.

Q. And you recall in general terms the nature of that discussion?

30 A. I said that: "The numbers are not adding up. We've sighted 61 dogs today. We counted 63 on the first inspection and they surrendered five to us. There should now be 53". Yeah, so yeah, there was no– they said sometimes dogs come and go, that type of thing but I got no real answer to that.

Q. So did you have a clear idea of the total number of dogs on the property?

A. No.

Q. Did you discuss the option with Ms Glover and Ms Wallace of again, surrendering more dogs to the SPCA to get your numbers to a more manageable level?

A. Yes, and that was declined.

Q. Did you then issue a further notice?

A. Yes.

Q. And is that the notice that we see on page 46 of the booklet?

A. Yes.

Q. And again, we can— just to run through the basics of it without labouring the point, this is dated 11 August 2017 at 11.55?

A. Yes.

Q. And the points you've raised here, specifically: "Any dog tethered must have a minimum of 2 metre tether and have access to adequate shelter at all times— immediately" underlined?

A. Yes.

Q. "Water vessels provided to dogs must be secure and" and is that or? "Unable to be tipped over"?

A. And unable to be tipped over.

Q. "Immediately", again, underlined. Double garage containing dogs in crates, dirty conditions and high ammonia level to be cleaned and ventilated immediately"?

OBJECTION: MS STOIKOFF (12:56:39)

EXAMINATION CONTINUES: MR RADICH

Q. Very good, Mr Plowright, could you pick up then from the bullet point beginning: "Two adult dogs"?

A. "Two adult dogs confined inside deer shed, no natural light and exposed to high ammonia levels to be relocated and provided with opportunity to display normal patterns of behaviour immediately. This is in addition to the previous instructions numbered and on which date was given".

Q. And just to confirm, in relation to that notice and the other notices referred to, who did you give those?

A. That was given to Ms Wallace and Ms Glover.

MR RADICH ADDRESSES THE COURT – NEXT TOPIC TO COVER

5 (12:57:35)

COURT ADJOURNS: 12.58 PM

COURT RESUMES: 2.31 PM

LEGAL DISCUSSION – WAITING FOR COUNSEL (14:31:13)

EXAMINATION CONTINUES: MR RADICH

5 Q. So Mr Plowright, where we left off you'd finished talking to us about the third inspection on the 11th of August?

A. That's right.

Q. And I want to turn now to the next inspection which was, correct me if I'm wrong on the 12th of October?

A. That's correct.

10 Q. And again you've got your notebook with you in relation to that to refer to if you need it.

A. Thank you.

Q. First of all, what – was there anything that prompted this further visit on the 12th of October or was it just something that you were doing as a normal follow up?

A. That's a follow-on from the earlier notice that had been issued, it's an inspection to check the compliance.

Q. And so did you go this time with, again with Inspector Davis but it was just the two of you this time?

20 A. That's correct.

Q. And did you get to the property at about 11.28 am that morning?

A. That's right.

Q. What happened when you arrived?

A. It had been a couple of months since the last visit, the first things we sighted were the pens next to the cottage and they contained the two adult dogs with shelter and one pup without shelter. Ms Wallace and Mrs Glover were present for the inspection. They'd started a construction on the new kennel block which they showed. There was a dog, Analy, that was tethered in a utility shed on a one metre tether and there's probably days where the faeces on the ground surrounding the dog.

30

Q. We'll come to that, if I just take you back a little bit, in relation to that new kennel block could you tell us about that please?

- A. So it was a, yeah large construction 20 metres by six metres, all the boxing steel reinforcing, there was drainage going in that for a new kennel block so that was something good to see.
- Q. Had that been under construction when you previously been at the property or is this just arisen –
- 5 A. This is, yeah this is, this has just been started.
- Q. What sort of – do you have any – are you able to help us at all with what sort of capacity it might have been able to hold when completed in terms of the number of dogs?
- 10 A. I believe it was designed to be 17 kennels, yeah so for holding-wise you could probably put pups in a kennel to put extras in but you're probably looking at it because all the dogs are entire – you're looking at a dog per run, so yeah potentially housing for 17 dogs or less with pups in a run if that makes sense.
- 15 Q. So after you'd inspected that kennel block that was under construction, did you do as much as you've done on the previous visit to look around for other dogs and see their conditions?
- A. That's right, we followed on with the inspection.
- Q. Now you mentioned first of all you used a dog named Analy, can I ask you to go to page 47 please?
- 20 A. Yeah.
- Q. The dog in the top photo there, can you tell us who we're looking at there?
- A. So that's Analy or the name that was given to us is Analy it's tethered in the utility shed.
- 25 Q. Can I – well you say: "...the name that was given to us," it was – who gave that to you?
- A. Ms Wallace.
- Q. So it wasn't done by any microchip check or anything like that?
- A. No, no.
- 30 Q. Now in relation to that dog Analy we can see and (inaudible 14:36:20) as benefit this is now photographed in evidence that relates to charges 1 and 37, one being Ms Wallace and 37 being the corresponding charge for Ms Glover. So can you tell us please what you observed in relation to that dog Analy?

A. Yeah tethered on a short lead and dirty living area you can see the faecal matter build up within that area.

Q. Is the dog tethered in that photo, I just wasn't completely sure looking at it?

5 A. Yes.

Q. And was that with, you mentioned being on a short lead was that with a choker chain or just a lead that you described as short?

A. The notes on here, so there's a short chain so we tried to check chain on a short lead, Ms Wallace was questioned about that and she said she
10 tried to chain as recommended but Analy got tangled on the back legs and injured that's why she likes a short tether.

Q. What can you say in relation to the area around Analy that we can see and I'm talking about the area on the ground that we can see in that photo there?

15 A. Yes, built with faecal matter and generally the dirty and faeces, et cetera.

Q. What about those bits of white, is that dry faecal matter? Is that stones, what are we looking at there?

A. Yes, no, that's dry faecal matter.

Q. Moving on from Analy, we can see at the bottom of that page and for your
20 Honour's benefit this relates to charges 2 and 38, a photo of a dog with a red lead, is that correct?

A. That's correct.

Q. What can you tell us about that?

A. So there is no water in the bowl, yeah it's tethered on a short leash, choke
25 chain in spite of the dog being there for some time.

Q. Any shelter for the dog?

A. No shelter.

Q. Any shelter for the dog?

A. No shelter.

30 Q. I should ask in relation to that first dog in the utility shed, we can't see whether that's a roof or an open area, was there shelter for that first dog?

A. It does have shelter, that's an enclosed area so it does have shelter.

Q. And did either of those dogs have anything in the way of behavioural enrichment?

A. No.

Q. Turning over the page to page 48 where we're back inside the double garage, is that correct?

A. Yeah that's inside the double garage.

5 Q. And for your Honour's benefit these two photos on this page relate to charges 3 and 39. Can you tell us what we're looking at there?

A. So yeah three dogs contained inside crates inside the garage. I've put some notes: "Three dogs were shut in crates within the garage, frantic scratching and barking from one of the dogs. No water for any dog, garage smells of urine, garage very dirty."

10

Q. What about the crates themselves in terms of their cleanliness?

A. Yeah again, yeah unclean, faecal matter, et cetera.

1440

15 Q. If we go over the page, the photo up the top I will not dwell on because there's no charge that relates to that, but that's something that you note in your notes as being a dog held in a small collapsible cage?

A. That's correct.

Q. Okay. Down to the bottom photo on page 49 which relates to charges 4 and 40, what are we seeing there?

20 A. Yes, so a dog tethered by lead without shelter.

Q. We can see a bowl there, so presumably, that dog had access to water in fairness?

A. Yes, I haven't put in the notes. I've got "no shelter area around tree, dirt, the holes dug".

25 Q. Okay.

A. So I'm presuming there's water in there.

Q. Okay. Can we see any holes in that photo or is it not clear?

A. It's just the digging and scratching and that sort of thing all around in that area.

30 Q. And what, if anything, does that tell you about the length of time without don't be specific if you can't, but about the length of time the dog might've been there?

A. It was just beautiful lush grass everywhere at the end of the chain and not a blade of grass within the chain, so yes, it's been there for some time.

Q. Over the page, we go to the puppy pen in the top photo and for clarity, there's no charge relating to the top photo. We can see that those dogs have a water bowl, is that correct?

A. That's correct.

5 Q. And there's no faecal build-up or anything in that area they are in is there?

A. That's correct.

Q. Moving to the bottom photo which on page 50 which relates to charges 5 and 41, what can you tell us about that dog?

10 A. That's, yes, a pup tied up, no shelter, no water, it's upside down, tethered by a chain. It had been there, you can see the wear on the grass.

Q. What about in terms of the hygiene of the area, any issues there or is that okay?

15 A. It's a wet ground, so there's no form of shelter or dryness that it's in, yes. You can see the ground's a bit muddy and wet so there's no where to get out of the wet.

Q. And was that dog, we can see it tethered there, is that from your knowledge of the property, is that tethered around the old enclosure, have I got that right?

20 A. It's a caging area in unused but in caging, it was tethered to the outside of that.

Q. Okay. Over to page 51, are we actually seeing the same dog there?

A. That's the same dog.

Q. Okay, so that also relates to charges 5 and 41. What are we viewing there in those two photos, anything of note or have we covered it all?

25 A. It's just showing the choke chain clearly and, yes, just closer up on that.

Q. Okay. Over to page 52, as we move to an area described as the "old runs".

A. Yes.

30 Q. And this relates to charges 6 and 42 as it does for the subsequent two pages as well. Starting with the first photo on the top of page 52, what are we looking at there?

A. Yes, so it's the large build-up of faecal matter through the flooring of it. It's got remnants of water in the bowl, but it's, yes, not appropriate for dogs to be drinking.

Q. So can I just pause you there. What do you say remnants of water, can you elaborate on that what you mean?

A. It was water when it went in there, but it's been in for a very long time, it's nearly all gone, but it's green sludgy, yes, non-drinkable liquid.

5 Q. Over the page to page 53. I'm not sure if this is the same dog or a different dog in the same area, but this is also that area known as the "old runs" is that correct?

A. That's correct.

Q. Okay. Top photo, can you tell us what we're looking at?

10 A. So yes, a lot of the main issue there is the amount of faecal matter that's in there and it's been spread in traipsed through everywhere, you can see the slide marks and that in it, but there's no ability for the dogs to get out of their own faeces.

1445

15 Q. And the bottom photo, much the same as that?

A. Yeah, the same— same situation.

Q. But we can with this one see two bowls, correct, as opposed to the previous-

A. That's right

20 Q. Kennel, where we saw just one. Can you tell us anything in relation to those, bearing in mind also though seeing them close up on page 54?

A. Yeah, one looks empty and the other's got some water in the bottom of it. A bit greeny [*sic*], but yeah. How drinkable that is, I'm not sure but yeah, certainly not fresh water going in. Not daily water.

25 Q. And did any of the dogs that we've seen so far have anything in the way of behavioural enrichment?

A. No.

Q. Over the page we go to page 55.

THE COURT:

30 Q. Can I just – sorry to interrupt, but just ask what might be a foolish question from someone who does not know a lot about dogs but for a dog in an enclosure like this, what would be there for behavioural enrichment, what would put in there?

- A. Because they're in there, yeah, for such long periods of time, you can have KONG balls, chew toys, anything for— activity for the brain to be able to play with something. If it's got a— some dogs have a favourite toy or something in there to, a KONG toy is a hard rubber ball and you put biscuits in there and as they roll it, one biscuit'll fall out at a time, so it's like a very slow release feeder.
- 5
- Q. So, toys basically in layman's terms for them to play with?
- A. Yeah, anything— a chewy toy, whatever the dog enjoys.

EXAMINATION CONTINUES: MR RADICH

- 10 Q. As we move onto page 55, Mr Plowright, which relates to charges 7 and 43, we're looking at there— an area around the cattle yards, is that correct?
- A. that's right.
- Q. Now, can you tell us what we're looking at in those two photos on page 15 55?
- A. So that's a tethered dog— tethered by leash and choke chain. It's on the outer breaches of the cattle yard but you can see the faecal matter built up to the outside of the dog's movement. The dog's been pacing so much, moving around, it's swept all the faeces and dirt off to one side so, and again, no water or ability to display any normal patterns of behaviour. It would still be open to draught weather potentially going in.
- 20 Q. It does— it is in a sense undercover though, that dog, there is a roof there?
- A. There is a roof over the top.
- 25 Q. Still relating to charges 7 and 43, we go over to the page and inside the cattle yard, can you speak to what we see there, please?
- A. Yeah, so more tethering and again, yeah, just dirty conditions, no bedding, no water, upturned bowls seems to be the theme, yeah much of the same.
- 30 Q. Any comment in relation to the standard of cleanliness and hygiene that we see in those photos?
- A. Yes, again, the same poor level of hygiene, the faecal matter, dirty, that's only the concrete to lay on— dirty concrete.

Q. And if you go over the page again, the top photo on page 57 also relates to charges 7 and 43, that's still in the cattle yards, that photo?

A. That's in the cattle yards, yes.

5 Q. And that dog we can see here, there is some kind of a plastic container there, did that contain water or nutrition or anything?

A. I believe it did.

Q. Now again, it may be clear or it may not from the photo, but is that dog tethered or is it loose?

A. Tethered.

10 1450

Q. Then we turn to or rather go to the bottom photo on page 57, as we've moved, is it correct, to the deer shed stables?

A. Okay... there's...

Q. Sorry, bottom photo on page 57.

15 A. Yep, that's good, yeah, there's the two pups in the deer shed. So again, on the notes, it's got a high ammonia level.

Q. Okay, what else did you observe in relation to that area?

A. Deer shed had one pup, no water, three times pups on the other side, not as bad but still not ideal. Porous, smelly concrete floor.

20 Q. So are we seeing in the bottom photo on page 57, are we seeing the section of the stables that had three puppies in one enclosure?

A. There would've been three pups in there.

Q. And then over the page on page 58 at the top, are we seeing a dog that was by itself in that area?

25 A. That's correct, and that's the one with no water.

Q. Okay. And were these dogs loose or tethered?

A. No, they're loose within there.

Q. I can see there's an error in my charging document there which I'll correct in due course.

30 **THE COURT:**

So are we up to charge 8?

MR RADICH:

This is charge 8, yes, charges 8 and 44.

LEGAL DISCUSSION – WORDING OF CHARGE (14:51:42)**EXAMINATION CONTINUES: MR RADICH**

- 5 Q. The dogs that we're looking at there, would you call them puppies or adult dogs?
- A. Pups.
- Q. They're pups, okay, my apologies. Just for general information as much as anything, what do you – is there an age at which you call a dog a puppy and an age at which you call it an adult? Is there (inaudible 14:52:17)
- 10 A. Oh, probably a one-year-old might be the switch-over. Ten months old would be almost like a teenager, if you like.
- Q. Okay, and is that a – at what age are they fully grown, typically?
- A. Probably two would be a – yeah, typical age for full-grown.
- 15 Q. Okay, thank you, so those dogs are not fully grown?
- A. No.
- Q. Okay, I'm not sure, you may have covered it – if you did, then I apologise, but the standard of cleanliness or hygiene in those two stabling areas, do you have any comment?
- 20 A. It was better, certainly not as bad as what it had been on previous ones, but it was still that porous surface concrete, not very good air flow, and – yeah, it was very odorous.
- Q. Thank you, okay. Over – sorry, bottom photo on that page, we're looking at the front entrance of the deer stables, correct?
- 25 A. Yes.
- Q. Now, as we go inside, can you tell us what we're looking at there on page 59?
- A. Yeah, so that's a dog inside there, and that's the – you can see urine and faecal build-up within there, the dog within there.
- 30 Q. So my apologies for the confusion in relation to charge 8, your Honour, but can I ask you just to confirm, which of those photos inside are we

looking at the inside of the deer shed? Is it those ones with the puppies or is it now this photo we're looking at on page 59?

A. So the – if we're over on page 58 –

Q. Yes?

5 A. – the pup is in what we called the stables.

Q. Right.

A. And so there's two – if you like, there's two – yeah, it's sort of divided up, the shed, so what we're looking at in the picture below on page 58 is the entrance into the deer area, and if you walk around the back on the grass area, there's just about identical doors at the back which are those stable doors and that's into the pen areas where you get the two stable-type set-up.

10

Q. Okay, my apologies for that confusion.

A. It is a little confusing.

15 1455

Q. No, that's on me, that's all good, so photos in the puppy shed, sorry, the photos of the puppies on pages 57 and 58, note – I'm wrong, no charges relate to those, sorry, your Honour.

THE COURT:

20 Okay, that's helpful.

EXAMINATION CONTINUES: MR RADICH

Q. And it's once we get into the deer shed that we get to charges 8 and 44. So looking at the photo on page 59 inside of the deer shed stables, can you tell us what we're seeing there? Apologies for double (inaudible 14:55:27)?

25

A. Yes, that's an adult dog in here and that's, you know, the faecal build-up and the urinating on the concrete, you know, a porous concrete surface. You can see the urine staining as it's absorbed into the – there's an outline of how it's absorbed in, in old urine stains.

30

Q. And was that dog tethered or loose?

A. That dog, I think was tethered, if I just... A female tethered by a short chain. Yeah, there was one dog tethered in there, so tethered by a short

chain, urine, faeces within a small area, no bedding, and the three other dogs were shut in cubicles in there, so it's – and they weren't tethered.

Q. Okay, can you tell us about the conditions you noted in relation to those three – first of all, adult dogs or puppies?

5 A. Adult dogs.

Q. Right.

A. I've got no ventilation, smelt badly, bones laying amongst the poo, the – Ms Wallace said the female tied up in there was tethered because of fights with the others and so it had to be chained.

10 Q. And is that the dog that we see on page 60?

A. Yes.

Q. That's where in the bottom photo we can see the –

A. See the chain.

15 Q. – marks of part of the chain, correct, and just to reiterate, so she was the only dog inside the deer shed that was tethered, is that correct?

A. That's correct.

Q. Okay, thank you. On page 61, which now relates to charges 9 and 45, we're in the woolshed, correct?

A. That's correct.

20 Q. And what did you note in relation to the woolshed?

A. There was five seven-month-old pups contained in shed pens without water. The woolshed stunk of urine and faeces. Wooden rails chewed by the dogs. A water bowl knocked over, bones laying amongst the faeces, and yeah, a dog trying to climb out over the rails.

25 Q. Is that shown on page 61? We can see a dog up there, or are you talking about something different?

A. I can't tell you because it's so long, I can't tell you exactly which one it was. This one may just be sitting up saying hello to us on there, I couldn't tell you exactly.

30 Q. If we go over the page to page 62 and 63, we're still in the woolshed here, are we?

A. That's correct.

Q. What are we looking at in those photos, pages 62 and 63?

A. Yeah, so just dogs contained inside the pens. They're shed pens where you'd keep sheep prior to shearing or that type of thing, drenching, shearing, whatever.

Q. Anything of note on page 63?

5 A. More of the same type of thing, dogs contained, water things knocked over, so yeah, inappropriate water vessels just keep being knocked over.

Q. For those of us not familiar with methods of watering, of keeping dogs hydrated, you said "inappropriate" because it's been tipped over. Tell me what other options there might be.

10 A. Well, instead of using light vessels that can easily be knocked, flipped or whatever, you can get concrete water bowls, you can get stainless steel buckets and tie them by the handle to something so they don't fall over, so there's – they're fairly easy to do that, buckets are – sometimes dogs chew things, so if you use the stainless ones they won't chew it. You can
15 tie them up by the handle and they won't get knocked over.

Q. You've told us in relation to these dogs and others as well that there was some faecal build-up at times. Housing of this kind would need to be cleaned, for a dog living in it for much of the day, for example, how often would you have to clean that?

20 1500

A. Oh, every day, every day. At least once a day, ideally you'd really pick up in the morning and pick up in the evening if there was anything but at least once a day.

Q. And as we go onto page 64 we're then onto the next day, so just to wrap
25 up on, in terms of the 12th of October, having done that inspection, did you have some interactions with Ms Wallace?

A. Yes, I'll just refer to my notes, we just left the property and said we're going to discuss the outcome, it was – yeah disappointing outcome from this inspection.

30 Q. Okay. And, did you discuss with Ms Wallace or Ms Glover the specifics that you find as to the kind of stuff that we've been discussing in this moment?

A. No we didn't.

Q. And did you issue any of, notices of the nature that we've seen on previous visits?

A. No.

Q. And what was the reason for that?

5 A. We need to go away and have a think because we were doing, instruction, instruction, instruction, and they're just not being complied with, little improvements here and there but in general they're not being complied with so we have to rethink what we're doing, to simply write another notice wouldn't cover what had been happening.

10 Q. And so what did you resolve to do?

A. We decided to bring a vet and do a reinspection the following day, and using the veterinarian with us and that way we can do a thorough inspection and go through one dog at a time and just check out absolutely everything, and hands on every dog.

15 Q. And, is that veterinarian Dr Jess Beer from whom we'll hear later in this trial?

A. That's correct.

Q. So then moving onto that date on the 13th of October, did you arrive at the property at about late morning, about 9.30? 11.30 I beg your pardon

20 –

A. 11.30.

Q. And was Inspector Davis with you again?

A. Yes correct.

Q. And some other people as well, who else was with you?

25 A. It was, local community constable was with us, we had animal control with us as well, as well as Jess Beer, the veterinarian.

Q. So on that day as you entered the property what was your first interaction with either Ms Wallace or Ms Glover?

30 A. We came up and saw Ms Glover first, and yeah we – let her know the reason for the visit.

Q. How did you explain that to her and what sort of terms did you put it in?

A. We explained the reason for the reinspection, we read the Bill of Rights, sorry – reinspection, read her the Bill of Rights. Yeah she explained that Ms Wallace was due home soon, she asked us to – delay the inspection

but we said, sorry we need to – get on with – because we’re doing a hands on of every single dog on the property, so we started our inspection.

Q. And can I ask as well – you spoke previously when you took custody of some dogs that were voluntarily surrendered, that your purpose in that was to essentially lighten the load for them in terms of their caring capacity of the property?

A. That's right.

Q. Was your same purpose, was that your same purpose here, or was there something else?

A. Well, it was – basically to have a look through, to have that level of expertise to go with us to do that – myself or Inspector Lori were not vets, so to have that higher level of examination with us, just make a sound decision – we felt there was a, you know likelihood of something being removed and if it was, if the vet had guided us towards that then we will do that from there, there was still, it was – yeah, too many dogs in their care was the ultimate thing but yeah we need to, no, the dogs’ welfare compromised and if there is, we’ll look at removing them.

1505

Q. Okay. So did you go to the property with any number of dogs in mind that you intended to remove or was it going to be something done on the file?

A. No, no. No decision was made on that, just that deeper inspection needed, but, of course, we’re talking about 60 odd German Shepherds and for us putting our hands on each one which is two people, it’s, yes, we’ll do a visual what we’ve done apart from the friendly ones that come up, but yes, we just done visuals from there and so now this was a fuller inspection.

Q. Okay, so turning then to the photos and refer to your notes if you need to, at the top of page 64, we begin to see images from that visit to the property on the 13th of October 2017. The top photo is labelled “Monty”. Can you tell us what we’re seeing there and for her Honour’s benefit, this is charges 10 and 46?

A. Yes, so this is a young dog that’s tied up without shelter, no water, on a short lead and tethered to a choke chain around the dog’s neck.

Q. And you said “no water”, we can see what looks to be a concrete water vessel there, is that right?

A. Yes, yes.

Q. Was there any water in that?

5 A. Just check with my notes, I don’t believe there was. Yes, no shelter, no water.

Q. And in terms of the lead or the leash is that something that was satisfactory in your eyes?

A. No.

10 Q. And for what reason is apologies to be repeating yourself?

A. It could’ve been tethered there, but if it’s on a couple of metre tether to a collar and shelter, and water it could’ve been okay but it’s exposed to the elements and yes, there’s zero shelter. It’s a risk for the choke chain, there’s no water and the same type of issues.

15 Q. You state the obvious, was there any behavioural enrichment toys and such there?

A. No.

Q. In the bottom photo which is labelled “old runs, 3 adult dogs, Astro, Dolly and Mafia” can you tell us what we’re seeing there?

20 A. Yes, so that’s just the old pens in there, it’s been cleaned out since the day before, it has been hosed out. Looks like water in those. I’ll just refer to my notes if I may.

Q. And while you’re doing so I can, this one’s a little bit more complicated in terms of the charges your Honour, but Astro relates to charges 11 and 25 47. Dolly relates to charges 12, 13, 48 and 49, and Mafi to charges 14, 15, 50 and 51.

A. So these, yes, these dogs removed under veterinary guidance. So yes, that was – there was health issues found with them.

Q. Well, and we will hear, of course, from the vet herself in relation to that. 30 Can you tell us anything about the condition of the in which they were housed of any relevance?

A. Yes, just there’s the same set-up, I haven’t got anything further in that one, but it’s hosed out it’s something out, but yes, not ideal not that my

notes, what have I got? “Veterinary advised dog underway matted ears, sorry, ear infections, three times dog seized”.

Q. So, we don't it was technically not hearsay, but we don't need to get into what was said anyway.

5 A. Okay.

Q. Just in terms of the conditions there, was there anything that gave you concern in those, in the way they were housed there?

A. So it's the same poor as type of environment, lack of stimulation and that sort of thing, and not much sign of them getting out of there, so yes just that type of thing.

10

Q. Okay. Now those dogs that we see on that page, Monty in the top photo and Astro, Dolly and Mafia in the bottom, is that – what did you do in relation to those dogs?

A. They were taken into our possession, so we removed them.

15

Q. And we go and find that in relation to a number of other dogs as we go through, but it might be the first time that we got to dogs that you seized rather than surrendered, what do you do, what's the process of seizing them on the day?

20

A. Yes, so to take a dog into our possession, it's obviously an issue under the Animal Welfare Act to do with, so for some it's veterinary or for the pup tied up, no shelter, no water and so we just find those ingredients that, yes, satisfy that to enable us to take them into our possession.

Q. Just interested in the mechanics ultimately anything though, you're going to be seizing a large number of dogs, how do you transport them or where do you take them?

25

A. So for that type of thing, I will try and have, we call the “drivers” field officers is their correct name for the SPCA and they'll come with us and if there's anything to remove, they will help us out with that.

Q. All right, at that point as you've spoken about those dogs on page 64 and you'd interact with Ms Glover to that point. Did you then have some interactions with Ms Wallace?

30

A. That's right.

Q. And in brief, what did you find there, what did you discuss with her rather?

- A. I'll just refer to my notes. "Ms Wallace arrived home. Informed of what we were doing and gave the Bill of Rights." Yes, that's it from there. I believe she asked about what grounds we had to remove them and I just asked her to Google the Animal Welfare Act in the appropriate section, otherwise she can have a look in her own time and said to me verbally.
- 5 Q. Okay. And did you then move, continue to move around the property to inspect other dogs?
- A. Yes.
- 10 Q. And we can see on page 65, the area that we've seen some previous photos described on previous inspections as the utility shed. Just to be clear, there's no charge in relation to that, so we can probably skip over those photos on page 65 without a great deal of mention, and we then go over to page 66. The top photo, the dog is, the photo is labelled "Casper" and for her Honour's benefit, that's charges 16 and 52. What can you tell
- 15 us about Casper?
- A. Yes, inadequate shelter, yes, dirty conditions, tethered by short leash to a cheek chain, no water, upside down bowl, so much the same as previous.
- 20 Q. One general question that is where at this point, the names of the dog, was these the names that were given to you by somebody?
- A. Ms Wallace, yes.
- Q. The bottom photo on page 66 is a photo that's labelled Zita?
- A. Yes.
- Q. This is charges 17 and 53, what can you tell us about that?
- 25 A. Yes, again, inadequate shelter, tethered, yes, no water, dirty conditions.
- Q. Now were these dogs seized as well, Casper and Zita?
- A. Yes.
- Q. If we go over the page we can see top photo on page 67, another photo of Zita, but nothing there that we need to add there presumably?
- 30 A. No. Yes.
- Q. Who's that in the second photo?
- A. Animal Control, Rhys Heatley. The bottom photo is taken where is that in the cattle yards by the looks of it?
- Q. That's in the cattle yards.

1515

Q. And to be clear there's no charge to which that photo relates, so we won't dwell on that but in fairness would it be fair to say the ground at least in that photo looks all a bit cleaner?

5 A. Yes, it does, yes and water in the bucket.

Q. Now then on page 68, we have some stills from these colleagues' body-worn camera in relation to a dog called Debbie, is that right?

A. That's correct.

10 Q. Now this is charges 18, 19, 54 and 55, now can you – these photos are a little less clear than some of the others so can you tell us what we're looking at in those photos on page 68?

15 A. So this is a room that was actually off the utility shed, we'd never been told of dogs in here before and I think it was their vocalising dogs that drew us to realise there was dogs inside there. It was Ms Wallace that opened it up for us and there was, yeah the dogs inside there. So one's a pregnant bitch in the crates so of obviously dark conditions hence a torch being used, yeah dirty conditions like and I have a look on my notes. "Locked in the room, utility shed opened, dog shut in cargo crates, adult female (inaudible 15:16:30), ear infection, these are just my observations.

20 Q. What was called, are you able to speak to the mattered cope, can you – I know it's a self-explanatory phrase but when you mentioned that, what do you mean?

A. So yeah it's like faecal matter and that all clumped in, big knots of dirt and that sort of thing, all clogged up dirt and faeces and that sort of thing.

25 Q. And over the page are we still in that utility shed locked room on page 69?

A. Yes that's the dog coming out that Ms Wallace has on the leash. So that's the dog on the bottom picture, you see the coat doesn't look particularly good.

30 **THE COURT:**

Q. Is that the dog coming out of the crate that's in the top picture?

A. It's coming out of the top and out at the bottom.

Q. Yeah.

A. And it's a pregnant bitch.

Q. And that's Debbie?

A. Debbie.

Q. Yeah.

5 EXAMINATION CONTINUES: MR RADICH

Q. Onto page 70, we see an external photo of the (inaudible 15:17:45) shed on top there, correct?

A. That's correct.

10 Q. And then this photo on the bottom caused a bit of mirth between counsel, it's labelled 'Paris' but where is Paris in that photo?

A. It's a silhouette and it is a very difficult one too, in my booklet I can see his silhouette but yeah it's very easy to see nothing in that one.

Q. The silhouette you're talking about is in the middle of the photo?

15 A. It's in the doorway, the door's being held opened by Jess Beer the veterinary and it's actually a dog in there but not a particularly good photograph.

Q. So the charges relating to Paris or the charge – yeah charges relating to Paris are charges 20 and 66. If we go over the page we then get a much better view of Paris on page 71?

20 A. Yeah.

Q. Is that a – are we seeing there that's a – are we seeing Paris in those images as well or is that someone else?

A. That's taken of Lori's, I would say that's Paris coming out so that will be, yeah dog 8 Paris.

25 Q. In any case she can speak to that in due course but in any case what can you tell us about Paris' condition?

A. You can see the mad thing in the poor coat condition in the bottom one and what have we got in there, but yeah no bedding, freedom for the dogs' ability to display normal patterns of behaviour.

30 Q. Again sorry I beat the drum again but you've mentioned no ability to show normal patterns of behaviour, was that different for any of the dogs we'd spoken about previously?

A. Yes, I've probably even, probably moreso for these ones, it's being a dead area there's no visual stimulation at all. So you've got concrete floor, ply walls to the top and there's nothing else.

5 Q. Over the page we go again to page 72 it doesn't relate to any charges, here we're just looking in the wool shed, correct?

A. That's correct.

Q. And is that an area where there were no dogs in there at that time?

A. There were no dogs in there so it's just an area of the floor after the dogs had been removed.

10 Q. If we then go over the page to page 73 and that might actually help because if we look at the top photo on page 73, we can see the two metal water vessels if that's what they are in the same position so we are looking at the same area on pages 72 and 73 I take it?

A. Yes it's the same pen.

15 Q. Now the bottom photo there is labelled Desney, is that correct?

A. That's correct.

Q. What can you tell us about Desney and the conditions in which Desney was found? Sorry, apologise your Honour, took charges 21, 22, 67 and 68.

20 **THE COURT:**

Is that Desney at the top as well?

MR RADICH:

That's what I was going to ask. Can you shed any light on that Mr Plowright?

25

WITNESS:

I can't honestly answer that with the – after this time I don't recall.

EXAMINATION CONTINUES: MR RADICH

Q. What did you note in relation to Desney in any case?

30 A. Sorry, I'm on the wrong parts. Desney, three times pups, poor containment, pups trying to climb out, a risk of harm injuring themselves.

- Q. Sorry that's the parts we're getting to and we'll get to those in a moment, just in relation to Desney, is there anything to add in relation to Desney, if not we'll just speak to the vet –
- A. A woolshed adult female ear infection, skin problems.
- 5 Q. All right, okay.
- A. Dog 9 Desney.
- Q. Thank you. And just to be clear, Desney like the other dogs we've been referring to in this part by name, was Desney seized as well?
- A. Yes.
- 10 Q. So I can – when you've got – we're going through then you've been talking about dog 8, dog 9 –
- A. I was just going through from my notes as I've...
- Q. But does that relate to Desney being the 9th dog that was seized on this day?
- 15 A. Yeah, yeah it was just law and order from my notes.
- Q. Onto page 74 and I think you've got onto this, is this an area in the woolshed where there was some puppies?
- A. That's right, yeah.
- Q. The top photo labelled –
- 20 A. Yeah three pups.
- Q. – "Elite puppy and Emma?"
- A. That's correct.
- Q. And for your Honour's benefit these are Elite is charges 23 and 69. Puppy is charges 24 and 70 and Emma is charges 25 and 71. So are those
- 25 three dogs all being housed in the same conditions there, what can you tell us about them?
- A. Yeah so with the same conditions, the drought coming up through the floor yeah, hygienic area but they're all trying to get out and clambering over and the risk of injury to them with all those slats and that was actually
- 30 quite high.
- Q. Can you elaborate on that? Can you tell us why there's a significant risk of injury there?
- A. Because they can climb it, it's like ladders if you like the runs up the side and if they're trying to get out there which they were trying to do while we

were there. You know they're trying to clamber out and climb up on it so they're getting partially up and out but if they fall back they can put a leg in there and easily break a leg.

5 Q. And we – well here of course especially in relation to those dogs as well but those three dogs, were all of those three puppies were also seized, correct?

A. That's correct.

10 Q. Taken number seized 12? It probably doesn't matter a great deal I should've mentioned it but if Desney was dog number 9 previously seized plus these three, 12 dogs seized at this point, does that sound about right?

A. Yeah.

1525

15 Q. Okay, the bottom photo on page 74 is a still from a body cam, so we're not going to criticise anyone's photography, but it's not a very clear image.

A. No.

Q. Is there anything of note that we can see there, though?

A. No.

Q. Is that the vet whom we'll hear from later in the trial there in the photo?

20 A. That's correct, yeah.

Q. Just to her right in the photo, as we look at it, there's a window with some light coming through it.

A. Yeah.

Q. Underneath that, is there something?

25 A. Yeah, there's a dog in another pen, so there's different – the pens, there's a few of them that adjoin each other.

Q. So to be clear, is that not necessarily one of the dogs we've just been talking about, Elite puppy or it might have been a different dog?

A. It could have been a different dog.

30 Q. Okay. Now on page 75, we see two photos relating to the woolshed. No specific charge in relation to either of these, but can you tell us what of significance we see in here, first of all in the top photo?

A. Yes, that's the amount of chewing that's going on, on the wood and, yeah, claw marks and chewing. That's most likely due to – some dogs chew

everything in sight they possibly can, but if there's a lack of stimulation for them, they will chew out of boredom and the dogs have been chewing up the boards.

Q. And then the bottom photo?

5 A. That's faecal build-up underneath and obviously that's not sheep matter under there too, it's the dog faeces and urine being – falling through.

MR RADICH ADDRESSES THE COURT – TIME (15:27:01)

EXAMINATION CONTINUES: MR RADICH

10 Q. So then on page 76, are we seeing – labelled there as well, the hay barn at the top, is that correct?

A. That's correct.

Q. And did you locate a dog next to that barn?

15 A. Yeah, so there was a dog next to that barn. It was shaking its head, which is – head on a tilt and shaking its head, which is a sign of ear infection or likely ear infection.

Q. And in the bottom photo we can see the area next to the hay barn, correct?

A. That's correct.

20 Q. And it's – you're somewhat in the distance there, I'm assuming it's you or whoever else it might be there, but are we seeing a dog in that photo?

A. That's correct.

Q. Okay, and is that a dog that was seized named Dani, D-A-N-I?

A. Yes, that's correct.

Q. Okay, so that photo –

25 **THE COURT:**

Q. Is this the dog to your right-hand side? Sorry, my eyes aren't very good.

A. Yes, I believe it's actually Rhys, the animal controller. He's got a similar hairdo as myself.

Q. And that's Dani, is it?

30 A. Yes.

EXAMINATION CONTINUES: MR RADICH

Q. So Dani relates to charges 26, 27, 72 and 73. Did that dog have any behavioural enrichment?

5 A. Well, that dog was a lot better off than – there's in the – the free running in there.

Q. Oh, so that dog wasn't tethered? My apologies, was that it?

A. No.

Q. Okay, thank you. So what else can you tell us in relation to Dani, in that case?

10 A. So I think the main real concern was the ear infection.

Q. Okay. I'll just pause and make a brief note.

A. Oh, sorry, I might have misinformed you on that. I'm just checking over my notes. I've got Dani... with the tethered, short lead – oh, no, that's...

Q. Are you sure that's not the next dog?

15 A. Of the, I've... oh, penned next to the barn, (**inaudible** 15:29:46) adult dog, sorry, it's me reading, it's getting late in the day, I'm reading my notes badly. Yeah, penned next to the barn, one times adult dog, head shaking, ear infection, dog 13, Dani.

Q. Yes.

20 A. Sorry, yeah, then...

Q. And then the next dog –

THE COURT:

Q. Sorry, what was that? Adult dog, ear infection?

A. Head shaking.

25 Q. Yes.

A. Ear infection, and that was for Dani –

Q. Right.

A. – so there was an appendix to the barn, so it was free running in there, in that area next to the barn, but it was displaying sign of ear infection with the shaking its head, et cetera.

30

Q. Right.

EXAMINATION CONTINUES: MR RADICH

Q. Do we move then inside the hay barn? And is that where you found another dog that was seized, named Parelle?

A. Yes.

5 Q. And do we see Parelle in the bottom photo on page 77?

A. Yeah, I've just got in barn, one time adult dog –

Q. Sorry, I'll just pause you there. Just to confirm, the bottom photo on page 77, are we looking at Parelle there?

A. Yes, yes.

10 Q. Okay, and that's charges 28 and 74. Okay, now what are we looking at in the bottom photo there?

A. No water, underweight, lack of lighting in the shed, tethered on the short lead, yeah, no water.

Q. Over the page at page 78, do we see two more photos of Parelle there?

15 A. Yes.

Q. And then we have a general photo on the top of page 79 of the hay barn, is that correct?

A. That's correct.

MR RADICH ADDRESSES THE COURT – TIME REMAINING (15:31:57)

20 **COURT ADJOURNS: 3.32 PM**

COURT RESUMES: 3.48 PM

EXAMINATION CONTINUES: MR RADICH

Q. Mr Plowright we left off inside the hay barn and we'll stay there if we can on page 79.

5 A. Yes.

Q. And you spoke about – we've spoken about Parelle (inaudible 15:49:01) being one of the dogs located in that hay barn, was another dog located there who you came to know as Ritzer?

A. That's correct.

10 Q. And are we seeing a series of photos in relation to Ritzer beginning at the bottom of page 79?

A. Yes that's correct.

Q. Charges 29 and 75 for the court's benefit.

THE COURT ADDRESSES MR RADICH – CHARGES (15:49:29)

15 **EXAMINATION CONTINUES: MR RADICH**

Q. 65 my apologies, 29 and 65. Okay what did you find in relation to Ritzer?

A. So the next dog was tethered in a small enclosure in a barn, the tether was twisted up around the rear hoc of the dog's leg, the hoc was swollen, the dog's legs was forced up by its head and likely been there for some time. Due to the swelling the dog was unable to weight bear on the leg when released.

20

Q. I'll talk more about the leg in a moment, what about the conditions within that containment area?

A. Yeah so, small area, no obvious water – it is – yeah, hay – it was on hay, so yeah sort of tethering on the short leash was an issue and which did cause injury in this case.

25

Q. And on page 80, can we see that lead?

A. That's right.

Q. And that up by the dog's head what do we see there?

30 A. That's his back leg with his – got the leash tangled around the leg and is up forward by its head.

Q. How tightly was that leash around the leg?

A. Very tight, what can happen is the dog moves around – it can act like a tourniquet if you like, gets tighter and tighter.

5 Q. Then in the bottom photo on page 80 we've seen largely the same thing correct?

A. Yes.

Q. So what did you, and or anyone else there who took action do in relation to that leash and the lead?

10 A. So releasing the leash to allow the dog's leg to be back in the normal position, and to unwrap it from its leg.

Q. Was that an easy task?

A. Well I had to be very careful of the dog, making sure we keep the dog nice and calm but allow to do that.

Q. How was the dog's behaviour in this time?

15 A. Upon release it was, no way it was gonna pop his – behaviour was lovely, there was no, aggression or anything like that, but yes she was pretty pleased to be untethered.

Q. Okay, on page 82, what stage of that process are we looking at there?

20 A. So the dog has just been released from and just about to be walked out, and you can see on the angle of the leg that I'm holding up, she's not gonna pop that leg down.

Q. So the photo, the top photo there we can see with the leg held up in the air, the still photo doesn't show movement of course but when the dog was moving was the leg staying there or was –

25 A. Yes, yes, she would not weight bear on it, so she would not put it on the ground.

Q. On page 83, what can we see there?

30 A. Yeah that's still the dog holding the leg up off the ground, you can see the swelling, they're not particularly great pictures but you can – even so you can see the swelling that's in the leg there, in the foot.

Q. Okay, and we'll have someone else speak to the – are you able to speak to the photos on page 84 or is that something that would be best addressed with the vet?

A. I think best addressed to the vet on that one, it's more veterinary that one.

Q. Okay so was Ritzer also seized along with Parelle bringing the total number of these dogs seized to 15?

A. Yes correct.

5 Q. Was there any further interaction with Ms Wallace or Ms Glover on that day?

A. So a further 130 instruction was written and handed to Ms Wallace, and each action was discussed.

Q. And is that the document we see at the back of the booklet on page 86?

A. Yes that's correct.

10 Q. Okay, we can see dated 13 October 2017, so I'll ask you if you wouldn't mind to read the substance of the notice beginning: "Under the –" the typed part that says: "In order to prevent or mitigate animal suffering." If you could read what you've written under that please?

1555

15 A. Sure. We've got: "Front property runs, two adults, female with matted dirty fur, requires grooming within 48 hours. One female pup in the run next with no shelter. Shelter required immediately. Any crated dog must not be crated for any longer than one hour. Every dog must have access to fresh water, suitable sleeping area free from urine and faecal matter, dry as well, woolshed flooring is not suitable for housing dogs due to the risk of injury. Tethered dogs must not be tethered by choke chains and must have a minimum length of two metres in length, effective immediately. Ensure that dogs have opportunity to display normal patterns of behaviour, effective immediately" and that's daily.

20 Q. Thank you for that, now those seized dogs came into SPCA custody, I take it?

A. that's correct.

Q. And are you able to, speaking in broad terms, are you aware, only if you have direct knowledge of yourself about what happened to Ritzer thereafter?

30

A. Taken straight back for a veterinary examination and treatment.

Q. And did your involvement with the seized dogs end at that point or did it continue?

A. It's— it becomes more a veterinary (inaudible 15:56:34) but of course, I keep tabs on what's going on and that sort of thing. I am still have a— see what's going on.

5 Q. We're shortly to play an interview that you did with Ms Wallace the following month in November. Before we do though, in terms of your overall findings in relation to the property, can you have any— do you have any comment on, for example, the number of dogs on the property relative to its capacity?

10 A. Yeah, so that's the biggest issue is the sheer volume of the dogs and how many people are there to care for them so you are talking very high numbers so that was— and of course, the lack of facilities and in fact, we never really knew how many dogs they owned altogether. We'd seen— every occasion we found more in areas we'd not seen before so that was a— yeah, a concern that such a small number of people are trying to care
15 for such a large amount of dogs.

Q. You mentioned you found dogs in locations you hadn't been aware of previously. In relation to Ritzer and Parelle who were found in that hay barn on the 13th of October, had you been to that hay barn on the previous visits?

20 A. We'd enquired about that hay barn as we were at the wool shed and we were told no dogs in there so yeah, we took Ms Wallace for her word.

Q. You've spoken about the new enclosures that were under construction. Upon completion, would they have been sufficient in your view to house the number of dogs on the property?

25 A. No, not the number of dogs, no. Still too many. Great kennels but still not enough to house the numbers they have.

Q. Did you then, as the investigation continued, did you then conduct an interview with Ms Wallace on the 9th of November 2017?

A. Yes, I did.

30 Q. And where was that interview conducted?

A. Auckland SPCA.

Q. And how did that come about, did you invite her to come and speak to you or?

A. Yes, so, yes so invitation for interview.

Q. And she brought with her a support person named Ray Sheath, is that correct?

A. That's correct.

Q. And you and one of the persons, Inspector Davis who's referred as being
5 involved as this as well, was she also present?

A. Yes, that's correct.

Q. Thank you, Mr Plowright.

MR RADICH ADDRESSES THE COURT – TRANSCRIPT (15:59:14)

10 **DVD RECORDED INTERVIEW OF JANINE ANNE WALLACE PLAYED**

THE COURT ADDRESSES COUNSEL – STOP NOW (16:57:26)

COURT ADJOURNS: 4.58 PM

COURT RESUMES ON WEDNESDAY 19 JANUARY 2022 AT 10.07 AM**KEVIN RICHARD PLOWRIGHT (RE-SWORN)****DVD RECORDED INTERVIEW OF JANINE ANNE WALLACE CONTINUES**
1104**5 EXAMINATION CONTINUES: MR RADICH**

Q. Thank you, Mr Plowright. I just wanted to confirm a couple of minor things in relation to that interview. Do you have the transcript in front of you?

A. No, I don't.

Q. Oh, you don't? My apologies. Madam Registrar, can you put that before
10 Mr Plowright, please?

WITNESS REFERRED TO TRANSCRIPT OF DVD RECORDED INTERVIEW

A. Thank you.

Q. Could I ask you to turn to page 23? And since you obviously haven't had
15 it with you and been following along, I'll just ask you to have a quick skim
down that page, and about one third of the way down there's a sentence
I want to ask you about that begins: "You were smashing..." Just take a
moment to refresh your memory about that passage.

A. I've got it. Yeah, I can see that.

Q. Yes, so at that point Ms Wallace describes you as smashing the door to
20 the hay barn down. Could you tell us about your method of entry to the
building?

A. So the half-round hay barn had, if you like, hangar doors, double hangar
doors. The latches for the door were two round metal things on each door
and as the doors are shut they go over each other and there's a metal pin
25 that sits down in between that pin to keep the door shut, so I did – I
couldn't lift the pin out to open up the doors. Whether it was heat or
whatever, the metal expanding, I couldn't pull it out. I did grab a cinder
block and I gave it a couple of knocks from underneath but it didn't
actually budge from that and from there I actually went off and took some
30 photos underneath the north shed and I got a – one of our field officers

had a hammer in the wagon and tapped it up from underneath to release the pin to open the doors.

Q. Can I refer you to page 76 of the photo booklet?

A. Yeah.

5 Q. Is that the door that you're talking about?

A. That's correct.

Q. Now in that photo we can see that it's been opened by that point, correct?

A. That's correct.

Q. Did you cause any damage to it when opening it, as far as you're aware?

10 A. No, absolutely zero. We weren't hitting the door, it was just a metal pin that was held the – held the doors open, is with a metal pin sitting on top, but it was tapped from underneath with the hammer to open that.

Q. Thank you, and just if we could go to page 40, please, sorry, of the transcript, not of the photo booklet, my apologies. You can put the photo
15 booklet to one side.

A. Yes.

Q. Yes, now just at the top of that page and from the previous page there's been a discussion there about rehoming the dogs and that sort of process. You might recall that at this point there were a couple of people
20 talking over each other and your line has been recorded in the second line on page 40 as: "Oh, I think we'll rehome them today." Does that sound right to you?

A. No, no, that's – no. That's not what was said.

Q. Okay, well, what were your intentions in terms of a timeframe for
25 rehoming, if you had any?

A. Oh, well, there was no intention at that stage. It is what it is, so yeah, it would've been lovely to rehome them that day but no, that's not something – that's obviously a transcribing oversight.

Q. Okay, thank you, and the other brief thing I wanted to touch on there, it's
30 not so much of a transcribing oversight but perhaps an alternative spelling. Throughout that passage, further down on that page and on the previous page, talking about the dog, predominantly on that page, actually, about two thirds of the way down –

A. On page 40?

Q. Page 40, yes, you can see a reference to Retsa, R-E-T-S-A.

A. Oh, okay, Retsa, yeah.

1110

5 Q. Can you just clarify which dog has been referred to there because it's we've seen the similar spelling for a different, referred to in the photo booklet?

A. Yes, so that'll be Ritzer.

Q. Okay, so just to confirm we don't know which is the correct spelling, but we're talking about the same animal there I take it?

10 A. Yes.

Q. Yes, okay. Thank you. Now, after that interview did your investigation continue and there were internal processes you needed to go through?

A. Yes, obviously transcribing, yes, the file it was continued to be worked on.

15 Q. I'll just get you again, pull the microphone closer to your mouth.

A. Sorry.

Q. Thank you Mr Plowright. Then did the property come to your attention again in May of 2018?

20 A. Yes, so, received the call from a complainant, Animal Control and regarding someone in the area with concerns for numbers of dogs sounding distressed coming from the back of the farm, a large farm which was and the farm was 1478 Miranda Road.

Q. So what did you do in relation to that inquiry? I should actually say, have you brought your notebook with you in relation to that day as well?

25 A. Yes, I have, yes.

Q. Okay. Can you tell us specifically what when referring to that as you need, can you tell us specifically what day that was?

30 A. So it was 18th of May 2018, so I've got "At 9.44, I received a call from Animal Control, Officer Rhys Heatley regarding information regarding that they had received regarding distress sounds of dogs coming from the back of a bush block at a farm thought to be 1478 Miranda Road, Mangatangi." So from there at 11.20, I met up with the Animal Control officer and the complainant and yes –

Q. Please don't tell us just for hearsay reasons, what the complainant, what the person who had made this complaint actually said, but just tell us what you did?

5 A. The property we were pointed out the area, we were taken up the back of an area and pointed to a bush block that we thought was the property of Anne Glover and the animal control officer and myself walked in the direction of the barking.

10 Q. Right, thank you. Can I ask, trouble Madam registrar please to distribute the second photo booklet, there should be two copies there, one for the witness, one for her Honour. Just in relation to this, Ms Plowright, we might start actually at the very last page because that's a map, the very last page of the booklet, I think the very last page actually does have a number 49.

A. Yes.

15 Q. Now that's a photo that's labelled 1478 Miranda Road, Mangatangi?

A. That's right.

Q. Can you and we will come to the what's identified in that photo is the location dogs were found in a minute, but in broad terms what are we looking at there?

20 A. So that's the distance from location of the dog to the distance in the red arrow pointed the beginning of that, there's location of the house.

Q. Now, the house we're talking about, is that the house that you've been referring to in relation to the 2017 inspection?

A. Yes.

25 Q. And where on that diagram is that on that image is that?

A. That's as I said on the Miranda Road and there's a, yes, and the address written there, so the highlighted in red is the dwelling, at the other end of the line is a circle where the dogs were located.

30 Q. Now the dogs we've been speaking about at this point in relation to the earlier inspections up to and including October 2017, where were they all found and what general area were they?

A. Around the house area shedding all located around the dwelling area.

Q. Okay, so with that in mind you've received this information and you went on this day in May 2018 to the property?

1115

A. Yes.

Q. And what did you do or what happened once you arrived?

5 A. So we, yeah walked closer towards the sound of the dogs and yeah from there, I sighted German Shepherd dogs who were tethered to trees, in a bush, like a bit of a gulley, there's a bank and – tea tree and that sort of thing growing on a bit of a bank.

10 Q. Just a bit to unpack there so forgive me if I double back a little bit, when you arrived at the property did you speak to or interact with anyone from –

A. No, there was no one there at all.

Q. And who were you with?

A. Rhys Heatley an Animal Control Officer.

Q. Anybody else?

15 A. No not at that stage.

Q. You mentioned hearing dogs barking, where were you when you heard those dogs barking?

A. On a different property.

Q. Okay, is that somewhere we can see on that image roughly –

20 A. I –

Q. Can't pinpoint the location but –

A. I couldn't tell you exactly on that map where, we don't have property details on, where properties run so I would've been on, from that I would've been on the right-hand side of that.

25 Q. So when you got to the property, the Glover property, where did you enter it from?

30 A. It was from a neighbouring property, so the person that owned that property said I could go across his property and pointed to the area and said I could go through the, cross over the boundary fence, so I went over a stock fence.

Q. And how far from the dogs you ultimately found roughly might you have been there either in terms of metres or in terms of minutes walking, that kind of thing?

A. Just a little bit difficult terrain, getting into, so probably, I dunno, 10 or 15 minutes or something walking through there, to get to the location, that sort of thing.

Q. And who was with you at that time?

5 A. So this is just the animal control officer through that time.

Q. Okay.

THE COURT:

Q. So are you able to point out on the map where you entered the property? Through the stock fence?

10 A. So, a little difficult without having boundary – things on there but I would, if you're looking at – if you're looking at the page holding it upright I would've been to the right of the circle, so it would've been, yeah a property to the right of that circle.

EXAMINATION CONTINUES: MR RADICH

15 Q. So when you say holding it up, what –

A. Holding it up like this –

Q. In portrait format rather than landscape?

A. Yeah, to the right over here so it would've entered the boundary fence over this way.

20 Q. Okay so – because everything's being recorded we need to get it in writing but you've indicated an area where the picture is held in portrait format to the right of the red circle –

A. Yeah.

25 Q. But your finger was moving so without specificity as to actually how far to the right?

A. Yeah it's a bit – difficult to say wherever the boundary line is there, on the property I would, can only guess.

30 Q. Can I ask you about the terrain, you mentioned the terrain not being easy and that it doesn't always get conveyed that easily, in a two dimensional image like this, tell us about the general terrain we're looking at there please?

A. It was bushy, steep, streams up and down, so it was, yeah it was a little bit – little bit of a difficult terrain, of course it was winter time as well so it's a bit slippery but yeah we managed to – because we could only go for, towards what we could hear so we just walked in that direction.

5 Q. And after that 10 to 15 minutes of walking what did you find?

A. It was German Shepherds, the barking got louder and louder and – we found yeah half a dozen German Shepherd dogs tethered in differing locations, in a slope, bit of a gully, bit of – some were on a bank, yeah trees around, some had no water, there was no shelter for any of them

10 1120

Q. Did you encounter any other people?

A. No.

Q. Just you and Inspector Heatley?

A. Just us.

15 Q. Okay. Can we then go back earlier in the booklet to page 3 please and do we see there on page 3, basically the start of a chapter of photos that were taken by you that goes through to page 27. If you just flip through those, can you confirm that they are your photos?

A. Yes, that's correct.

20 Q. Thank you. Now on, we just need to work through those. On page 4 starting off, the top photo we'll start with the photo because it's the first photo there even if it's not in chronological order, can you tell us what we're looking at there?

25 A. So that's the dog on location at the bottom, so it's obviously tangled, there's a bit of chain and yes, tangled around the tree and that's the dog back at the SPCA. You can see a bit of a (inaudible 11:21:29) and that sort of thing on the dog.

Q. Now we can see the dog has been described as "Tiffany" and it's got after it in the description "SPCA VN 297315" what does that mean?

30 A. So that's a, we give every incoming animal a village number so just for the purpose of identification.

Q. And for her Honour's benefit the charges relating to Tiffany, 30, 31, 66 and 67. Could you please tell us about the conditions in which you found that dog on page 4?

A. So my first notice because I don't have names or village numbers in my notes because I didn't know, so I've just got I think it was in that sort of order. So German Shepherd, very thin body condition, tethered to a tree, no water, was available, big wound on the rump, inflamed. The ground was worn-down, the tree indicating that it had been there for days/weeks, no shelter, risk of entanglement from other trees".

Q. If you go over the page and we're seeing two further photos taken afterwards back at the SPCA of that same dog?

A. Yes, that's correct.

10 Q. And you describe in your notes there "wound on a rump". Does that have any relevance to what we're looking at there?

A. So on the bottom picture you can see the wound on the rump, the loss of fur and redness.

Q. Right, it's not terribly clear from the photo?

15 A. Yes.

Q. And the wound can mean anything from something very minor to something very serious, so can you, are you able to shed any more light on that?

A. So it will be like a surface type of infection whether it's a flea allergy or that sort of thing, so it's not a, yes, not a wound, but it's enough to have an inflamed skin.

Q. The next dog I want you to look at is on page 6 please, a dog labelled there as "Princess".

A. Yes.

25 Q. And this, it relates to charges 32 and 68. Can you tell us please about the conditions in which that dog was found?

A. So yes, tethered without shelter and the ground is worn where it was tethered.

Q. You mentioned earlier in general terms about shelter. We can see that these dogs are around trees, would you describe trees as shelter or what are you meaning when you say they had no shelter?

A. So we're in May, so during winter times it was particularly wet at that particular time of the year, so you hadn't got adequate shelter from the rain. If it rains they get wet. If it was there they were briefly there. On a

hot day, it might be lovely and cool under the trees, but however, we're talking the middle of winter.

1125

5 Q. Over the page to the third dog named Tiana, this is charges 33 and 69 and we can see in that bottom photo there a bucket, at least you have referred to some of the other dogs having no access to water, what can you tell us about this dog?

10 A. Yes, so this has got a bucket and the bucket's tied to the tree so that's granites that can't be tipped over, and yes, but again no shelter and this given entanglement as well, there's so many little trees around, it doesn't take much for a dog to get tangled in that particular set up.

Q. You've spoken in relation to the other dogs you talked about too about the ground around them, did you note anything that you can recall anything in relation to this dog of that nature?

15 A. Again, worn.

Q. Just so I'm not repeating myself, was that different for any of the other dogs that you came across?

A. No, all the dogs had - you could see it had been worn from repeatedly movement in the short area.

20 Q. Over the page to page 8, you can see a dog named Image and this is where we get slightly out of order in respect of the charging numbers, but images charges 36 and 72 for the Court's benefit. Can you tell us what you observed in relation to image?

25 A. So the normal characteristics with the other long grass, no shelter. This one had a water bucket tied up. There were the in the lower picture you'll see the dogs one ear sticking down low and the head on the tilt which it was displaying the shaking its head, so it yes, it was displaying severe ear infection was going on with the dog.

Q. Did you know anything in relation to the dogs total skin?

30 A. On the initial time that I was there with the animal control officer, I just noted 1x female severe ear infection and another dog with a skin infection. If I look down when we returned after –

Q. Perhaps we can speak to the vests in relation to that later perhaps.

A. Okay.

Q. Onto page 9, a dog identified by the name Neli relates to charges 35 and 71. Same question again, what can you tell us in relation to that dog?

A. So no shelter or inadequate shelter for that time of year, yes, tethered bucket of water, but yes, warm ground, risk of entanglement and, of course, isolated.

Q. Can you just clarify that, do you mean this dog was isolated in relation to the other dogs or in relation to the other wider world?

A. So all of the dogs were isolated away from anyone, so if there's an entanglement situation going on, it's so far away from the dwelling that there's no one there to supervise.

Q. To page 10, a dog named Antonio relating to charges 34 and 70. Again, your observations please?

A. Just yes, tethered to a tree, yes, risk of entanglement, warm area, inadequate shelter. Has a bucket there for water.

Q. Now what we, of course, can't tell from those photos is how close the dogs were to each other. Are you able to help us in relation to that?

A. So they were, yes, just in an area, similar area to the courtroom with them scattered somewhere on a bank that was going up and others were at the bottom area of that, more of a flat area. This one here's a more of a flatter area, other ones were removed from the one beforehand, the one described in this image was up on a bank, but they're all within a – this sort of size area if not smaller.

1130

Q. Did you see any evidence of what you've described in your earlier evidence as behavioural enrichment aids, the toys, that sort of thing, for any of those dogs?

A. No, no.

Q. Did you see any evidence of food or feeding in this area?

A. Not – if, you know, I might if I can have a look at the notes. I don't recall off the top of my head seeing any sign of feeding, but I can skim through my notes and –

Q. By all means.

A. No, I just have – dogs were untangled and released from the trees they were chained to. Some of the dogs were very thirsty upon release. So I haven't – I haven't sighted anything to do with food.

5 Q. Thank you. Can we just work through the remainder of your photos which are not specific to particular dogs? So beginning at page 11, if there's anything to add, please add it, but if there's not, then we'll move through these reasonably quickly, but just to provide a bit more visual assistance.

A. Yeah, just inadequate shelter again and warned, indicating that's taken some time to do that, to the area.

10 **THE COURT:**

Q. Is there water in the bucket?

A. I did make notes on how many did and didn't have water.

Q. Because I think you said that some dogs were thirsty and some of them seem to have buckets, at least.

15 A. So I had four dogs had no water, so two dogs did have water. I didn't do any – by doing my notes, I didn't have any way to identify at that stage.

EXAMINATION CONTINUES: MR RADICH

20 Q. Are you able to clarify, when you say they didn't have water, whether you mean there was no bucket or there was an empty bucket, or a bucket that had been tipped over?

A. It had – it had been four of them either had a bucket that was empty or something that had been knocked over, and zero water, just no –

Q. So just to confirm, they did all have a bucket?

25 A. A drinking vessel. They weren't all a bucket tied with string, which would have been more ideal, but some were knocked over.

Q. Thank you. On page 12, what are we looking at there? Anything to add?

A. That's just a worn area, lack of shelter, a dirty area, obviously.

Q. On page 13 it appears to be the same dog in the same situation, so –

A. Yeah.

30 Q. We can move on from that one helpfully enough, I assume?

A. Yeah.

Q. On page 14, tell us what we're looking at.

A. So that's one of the dogs being released and this is one of the buckets, tethered, so the bucket is empty in this case, and that's the dog being released.

Q. Did you have water with you to give to the dogs that were thirsty?

5 A. No, but at the bottom of the gully there was a stream. We did in our vehicles but we had to – once our 4x4 wheel drives couldn't go any further, we had to walk down on foot to get to the location, so we had water in the vehicles but not on us, but there was a stream at the bottom of the gully.

10 Q. Okay, onto page 15 and I think there is actually a duplicated photo here, that bottom photo we've already seen on page 10 –

A. Yeah.

Q. – in relation to Antonio, so we needn't touch on that, but the top photo, what do we see?

15 A. That is a bucket of water that does have water in it.

Q. Page 16?

A. Just the – yeah, the dog tethered, trees and chained and risk of entanglement.

20 Q. Page 17, are we looking at the same dog there on page 17 that we've seen on the previous page?

A. I would say so, yes, it very much looks like her.

Q. On page 18, what can you tell us about those photos?

A. Again, we have no shelter, the bottom one's tangled, yeah, all much the same, there's inadequate shelter.

25 Q. When you say tangled, were you able to give us an idea of the length of these chains, if they'd been straight out?

30 A. So they would have been, yeah, they would've been perfect two metre, thereabouts length chains and yeah, so had the dogs had even a simple plastic kennel and the water bucket tied, there wouldn't have been an issue. If there's no risk of entanglement, it wouldn't have been an issue but you can see in the bottom picture that the chain is looped around the tree on the left, then it goes around the little one, around another one, around another one, around a shrub – every time that dog tries to move

around, so even if it had water in the bucket, the chances are it's not even going to be able to reach it 'cos it's going to be tangled.

Q. Then on page 19, the top photo appears to be that same dog in question.

A. Yeah.

5 Q. The bottom photo, it's self-explanatory, can you describe it for us?

A. Yeah, it's an upside-down water bowl that's been knocked over.

Q. On page 20 we appear to be looking again perhaps at the top photo of the same dog, is that it?

A. I think that's the same dog, yeah.

10 Q. And that bottom photo gives us – is that –

A. I think that's the same dog again. It's obviously pulled its way out of the shrub into a different location.

Q. Now that area that that dog is in there, you described the terrain as ironically slightly different depending on where they were positioned. This dog, is that on flat land or –

15

A. No.

Q. – sloped land?

A. No, a number of them were, at least four of them were on a bank, if you like, it was sloped.

20 Q. On page 21?

A. It's a young dog. I think this one was a little bit timid but yeah, without shelter, warm, but there's a bucket of water for this one, tethered.

Q. And on page 22?

A. That's the same dog. Again it was, yeah, a risk of entanglement.

25 Q. Nothing more to add there without repeating ourselves?

A. Yeah.

Q. On page 23, a little bit of visual variation here. What are we looking at?

A. So there was a cargo crate that was there with – obviously a dog had been in it at some time. There was empty bowls and a bit of faecal matter and filth in there as well.

30

Q. How close was this to the area where the dogs were?

A. This was in the vicinity, as I described the vicinity as similar to the courtroom size, so that was within that vicinity.

Q. On pages 24, 25 –

THE COURT ADDRESSES MR RADICH – SUITABLE BREAKING POINT
(11:38:01)

COURT ADJOURNS: 11.38 AM

COURT RESUMES: 11.58 AM

EXAMINATION CONTINUES: MR RADICH

Q. Thank you Mr Plowright, just a few more questions from me, I think we got up to page 24.

5 A. Yeah.

Q. Of the May 2018 photograph booklet. Here we're looking at a couple of very similar looking photos, a closeup of a part of a dog, what are we looking at?

10 A. So that's the dog with the skin infection on the rump, that's the – taken on location, you can see the little bit of chain and grass so it's still at location so yeah it's just redness and infection, and hair loss.

Q. Is that – if you flick back, holding your finger on page 24, but if you flick back to page 5, that seems to be the same, or a very similar photo there in relation to Tiffany, is that correct?

15 A. That's correct.

Q. Okay thank you. On page 25, are we looking at the same or a different dog?

A. No that's the same dog, it's obviously had a little bit of a clip around the area to expose the site.

20 Q. And on page 26 the same or a different dog?

A. Yeah same dog.

Q. What's going on in the top photo?

25 A. He's obviously been knocked out for treatment for that, so yeah I'm not sure what else – the veterinary – they're doing with the procedure but it's the same dog that appears to be on the table, seems to be a tube pointed down towards its mouth so it's been taken out for some reason, whether it was sensitive on the area, I'm not sure, the veterinary records will show.

Q. Okay. And finally on page 27, the same dog there I take it in the top and left-hand photos?

30 A. Yes that's correct.

Q. And we can ignore the photo of the dog's mouth I understand, that's – not of relevance to anything we're looking at today is it?

A. No, it's lovely white teeth.

Q. Sorry?

A. Lovely white teeth.

5 Q. White teeth yes whiter than mine, that's for sure. Thank you very much Mr Plowright, so getting back to the chain events of the day, were you and Mr Heatley or Inspector Heatley had first located the dogs, you've taken photos, what did you then do?

A. I put a call through to Lori, I called her earlier to advise what was happening –

Q. So to be clear, Lori you're meaning –

10 A. Oh Inspector Davis.

Q. Inspector Davis, I think we'll hear in this trial.

15 A. Yeah, so she was, trying to get a couple of other people to assist and to go and do an inspection at the property, at the Volkerson Kennels, so I think she had arrived while I was yeah trying to locate the dogs and I'd let her know what we were doing from there, so I couldn't, because of the type of terrain I couldn't actually remove the dogs and take them back the way I'd go there, it was, yeah it was – impractical to do that so I had to go to the main entrance to look at getting the dogs from, going up the main entrance and doing it that way.

20 Q. So do I understand correctly that you left the dogs there in situ.

A. Yeah.

Q. And you exited that area by which avenue?

25 A. I had to go by foot to get back to – yeah another property and then back to where the vehicles were located, and then from there down the road and up through the main entrance.

Q. And at the point when you're back at the main entrance, did you have any interactions with Ms Wallace or Ms Glover?

30 A. So I've got, arrived at 1.18, I arrived going up the driveway after the leaving the bush area. Inspector Davis was there, as well as Inspector Taylor and Williams, went to the main house, main Glover house, I stated to Ms Wallace that I'd like to ask her some questions regarding the six German Shepherds tied up in the bush.

Q. And just before you do that, just in terms of any response she gives, please just try to restrict things to what she said or did rather than your impressions of behaviour.

A. Okay. So yeah I read the, started to read the Bill of Rights.

5 Q. And then what happened?

A. Ms Wallace departed from me.

Q. Did she say anything?

A. She was going to call the police and then went inside the house.

Q. And did you have any further communication with her at the time?

10 A. No.

Q. So at this time, where were the dogs, the six dogs we've been talking about?

A. Still in the bush location.

Q. What did you do next?

15 A. We had, a couple of four wheel drives, and we went up there with Inspector Taylor Williams, a trainee at the time, Robbie Lloyd was with us too and the animal control officer Rhys Heatley was with us too, he had the four wheel drive, went up there in a couple of vehicles heading in the right direction to try and locate them from the farm side, so we travelled
20 off as far as we could in the four wheel drives until we – yeah we're just starting to get stuck in the four wheel drives, and we had to stop and get out and walk from there.

Q. And how long did you have to walk for before you got to the location of the dogs?

25 1205

A. We were probably walking further, I don't know, 10, 15 minutes, something along those—something like that. 10 minutes.

Q. And how long did you drive for before you got out for?

30 A. Quite some time to get there, it was a little bit difficult with the time of year and the terrain so we were yeah driving for yeah, probably 15 minutes or something like that. Slowly, though, of course.

EXAMINATION CONTINUES: MR RADICH

Q. So in total, roughly how long did it take you to get from the area around the house to the place where the dogs were?

5 A. Yeah, it probab – it would've taken probably at least half an hour to get to the location after leaving.

Q. You've mentioned about the time of the year and that sort of thing, where the conditions dry or wet at this time?

A. No, wet, wet.

10 Q. Are there any other around the area where the dogs were, were there any other structures around there, any houses?

A. No, no.

Q. Any cottages, anything?

A. No, nothing, absolutely nothing.

Q. So when you eventually got to the dogs, what did you do?

15 A. From there, we had– I think there was six of us all together and that way, we got one dog each to remove and to walk back so we've done, yeah photographs and that type of thing, released the dogs. Those that had no water and were very thirsty. We stopped, there was a little creek or stream down the bottom, we stopped there and allowed them to have a drink before proceeding onto the vehicle where we have water in the vehicles for them.

Q. And once back in the vehicles, what did you do?

20 A. So, from there we tracked our way back to the main house. From there, we filled out a 129 notice and also left a blank surrender of ownership form and went up to the house but they are unwilling to communicate. They were left on the door.

Q. Where did you take the dogs?

A. From there, back to the SPCA for the examination treatment, that sort of thing.

30 **EXHIBIT 1 PRODUCED – FIRST BOOKLET “IMAGES FROM INSPECTION”**

EXHIBIT 2 PRODUCED – SECOND BOOKLET “MAY 2018”

EXHIBIT 3 PRODUCED – AUDIO FILE ACCOMPANYING TRANSCRIPT

LEGAL DISCUSSION – CODE OF WELFARE (12:08:27)

1210

CROSS-EXAMINATION: MR GARDINER

Q. Mr Plowright, thank you for that. Sorry about the delay in starting.

A. No problem.

5 Q. Just going to the first visit to the farm, I will just say what my approach will be before I will obviously go through and see points that are different visits were led to the charges being laid, but what I am going to do initially is just situate what we are talking about in terms of location of buildings and so on, one to the other and to the house -

10 A. Yes.

Q. – and to the farm. So we will start first of all, you arrived on the 28th of July at 2017 and that was your first visit to the farm in relation to at all or in relation to that?

A. 28th of July, that's the first I went to the property.

15 Q. Yes. Now you hadn't been to the farm before had you?

A. No.

Q. And when you arrived at the farm, you got to speak to Mrs Glover and her daughter, Janine, correct?

A. The owners and person in charge of the dogs.

20 Q. So you spoke initially to Anne Glover?

A. Correct.

Q. And she indicated that her mother and Janine were not there, correct?

A. Correct.

Q. You arrived at what time?

25 A. 12.14.

Q. 12.14?

A. Yes.

Q. And you decided to leave, you went away and came back at 1.15?

A. That's correct.

30 Q. And when you came, and you then spent a – you had interaction with both, initially with Mrs Glover and Janine, both together?

A. That's correct.

Q. And then just with Janine?

A. That's correct, yes.

Q. And you spent a total period at the farm on the ground doing what you have given evidence on for about what, an hour and a quarter, would that be right?

5 A. Well, it would be something like that, I don't have the exact, I don't have the leaving time, but yes, it would easily take that period of time.

Q. Right. So is that, that's a fair statement and during that hour and a quarter, well, I will now just deal with the approach to the farm. When you come into the farm there's a long driveway which leads up to the main house, correct?

10

A. Yes.

Q. Probably about three or 400 hundred metres, would that be?

A. Something like that?

Q. And on the left as you come into the driveway there's a cottage, a farm cottage?

15

A. Yes.

Q. And there were, there was an area, a field adjacent to that. Were there any German Shepherd dogs in that field at that time?

A. I'm not sure what you're referring to the "field"?

20 Q. On the left, on the left.

A. On the left, no.

Q. It's a fenced area?

A. A fenced, yes, that's what we refer to as the "pens".

Q. Right.

25 A. So that's, okay, so there was some young German Shepherd pups in there, yes.

Q. And so you continued on around a sweeper, it's a sort of a drive it sweeps around?

A. Yes.

30 Q. And you park in front of the house?

A. Yes.

Q. And there were two SPCA vehicles?

A. I think so.

Q. And you were driving one of the vehicles and Lori, Inspector Laurie Davis was driving the second one, would that be?

A. Yes.

1215

5 Q. Now, just want to position the different buildings that you refer to in your evidence in relation to the starting point which was the house. The house is surrounded by a picket fence?

A. Yes.

10 Q. That picket fence certainly is on the frontage. It's on the left-hand side, one is left-hand side as one comes through the gate, correct, going down to the back of an area which surrounds— a fenced area which surrounds the house?

A. There's a picket fencing that surrounds the house.

Q. All four sides?

15 A. Yeah, the garage is incorporated in that, accessible from the outside or within the picket fence.

Q. And the garage is double garaged?

A. A double garage.

Q. There was a vehicle parked in front of it?

20 A. Yes.

Q. You referred in your evidence to it being a car but it wasn't a car, it was a van, wasn't it, in fact, if you just bear with me, I'll give more, be a little bit more precise. It was a van— there was a van with an area at the back, it wasn't a car— in which there were cages in which were some dogs and it was o— the windows were down?

25

A. I recall it as a— more of a station wagon than a van so I think station wagon.

Q. So, cars are not quite the right description?

A. No, that's—

30 Q. The car means a Sedan?

A. Yeah, okay, that's note taking yeah, okay.

Q. So you went onto the property, you went through the picket— the gate and you approached the house?

A. I believe they came out to the gates so we met out the front so we didn't actually go up and knock on the door if you like.

Q. And on the left, there was a double garage?

A. That's correct.

5 Q. And there was no sound of barking that came from that garage at that time?

A. Not that we're aware of, no.

Q. But if there was barking, you couldn't help but hear it, could you?

10 A. Well, there was barking everywhere. We had no idea where— so we weren't looking for locations so there was barking coming from lots of places so.

Q. Now just adjacent to— within probably about 30 metres from the double garage, there's what is called the utility shed, correct?

A. Yes.

15 Q. Can I just show you a photograph, I have only got two unfortunately, your Honour but I may produce this in evidence.

WITNESS REFERRED TO PHOTOGRAPH

20 Q. There is a note on the back which describes it as: "Kennel entrance, implement shared and double garage" so it's covering the three. The three things that we've just covered but that's this photo?

A. Yep.

Q. So you agree that that's the utility shed that you talk about when you gave evidence?

25 A. Yeah, because the farm equipment parked in there, we've described it as a utility shed.

Q. And you used the term "farm" because basically, the kennels which are situated near the house in the environs of the house, I will come back to this point later. They, the property itself is actually quite a large farm?

A. Yes.

30 Q. Right, so the house looks out on the fields, we've got the utility shed here which is next to the house, a short distance from the house and that — and if we walk another hundred metres, we've got the cattle sheds, correct?

A. Yeah, that's correct.

Q. So, I'll just show—

A. Yes, that's correct.

Q. Perhaps, if we put them in a sequence. Now, I should say that these
 5 photographs were taken recently by Ms Wallace but they do reflect what
 the situation was at the time.

1220

A. Yes, absolutely yes.

Q. Yeah. Now if we go, we go now to the cattle sheds, and these – will show
 10 you a further, have about 15 photos your Honour, unfortunately they're
 small.

THE COURT ADDRESSES MR GARDINER – PHOTOGRAPHS (12:20:34)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Yes that's the cattle area.

A. So if we just put –

15 THE COURT ADDRESSES MR GARDINER – PHOTOGRAPHS (12:20:47)

LEGAL DISCUSSION

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Now this third photo, shows the cattle sheds.

A. Yes correct.

20 Q. And we've had a number in the SPCA booklet, number of photos which
 have shown this part of the cattle shed correct?

A. Yeah I recognise it yes.

MR GARDINER ADDRESSES THE COURT – PRODUCE PHOTOGRAPHS (12:22:19)

25 LEGAL DISCUSSION – BREAK TO TAKE PHOTOCOPIES (12:22:30)

COURT ADJOURNS: 12.25 PM

COURT RESUMES: 12.44 PM

MR GARDINER ADDRESSES THE COURT – WHERE WE WERE (12:45:09)

LEGAL DISCUSSION – TWO DIFFERENT BOOKLETS

MR GARDINER ADDRESSES THE COURT – TRAVERSES BOOKLET

5 **PHOTOGRAPHS (12:45:36)**

CROSS-EXAMINATION CONTINUES: MR GARDINER

A. We've established, Mr Plowright, these photographs were taken recently but – and I'll ask you to confirm in relation to the photographs that I refer to that they – it's the same situation that applied at the time that you took
10 your action –

THE COURT ADDRESSES MR GARDINER – WITNESS CANNOT KNOW (12:46:29)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. I'm just going to – that's page 1, we've got the utility shed, double garage,
15 and the picket fence which is part of the picket fence that surrounds the house, right? You arrived on the first inspection. That's on the 28th of July 2017. You drove up and parked near the double garage, would that be right?

A. That's correct.

20 Q. Just going to the second photograph at the bottom of page 1, that shows the cattle sheds, correct?

A. Correct.

Q. And the cattle sheds were about 100 metres further along from the utility shed.

25 A. Yes.

Q. On the right.

A. On the same side as the utility shed.

Q. Yes, and there's a path that – it's sort of a rogue one, for want of a better term, which is unsealed, which leads down towards other buildings to which you have referred in your evidence.

A. Yes.

5 Q. Just going to page 2, pages 2 and 3, these show, in the photographs at the bottom of page 2 you've got the exterior to the cattle shed but at the top of that page you've got an interior shot.

A. Yeah.

Q. And that's looking from the front door down into the cattle shed, correct?

10 A. Yes.

Q. And if we go to page 3, again, these are two further interior shots of the cattle shed.

A. Yep.

15 Q. And the top of page 4, there's – that shows the back yard, the back of the cattle shed leading into the cattle yards.

A. Yeah, correct.

Q. Now, do you – just looking at the cattle shed, the interior shots, they show that the cattle sheds have a high stud and they're light and airy. Do you agree with that?

20 A. There's air flow underneath, yeah.

Q. Plenty of ventilation.

A. Yeah.

Q. You agree with that?

A. Yeah.

25 Q. And the dogs tethered inside the shed had a large area within which they can – within which to relax.

A. They were tethered.

Q. Subject to the tether, subject to the tether.

A. Okay.

30 1250

Q. And that the construction of the shed means that they're going to be or the cab sheds means that they're going to be protected from the elements?

- A. Without having a kennel-type area, there is no protection from any side draughts or that you're open to all draughts that are blowing in if it's a windy day, they'll be copping that. There's not a shelter, if you like, that's great for on a hot day, summertime. It's probably actually lovely under there, a nice bit of draught, but yes, wintertime there'd been an issue. Ideally, there'd be a kennel under there as well that they can go into a kennel and on a suitable length lead in a clean area.
- 5 Q. I will come back to German Shepherds as a dog later, but I'll just continue on -
- 10 A. Yes, sure.
- Q. – but I'll just continue on this track.
- A. Sure.
- Q. At the bottom of page 4, there's a deer shed, this is the deer shed?
- A. Yes.
- 15 Q. Now when we talk about the front of the deer shed, we've got this photo shows the door leading into that part of the deer shed where deers would be kept, is that right?
- A. If they were, yes.
- Q. If they were in and we also have a situation where there's a window open at the back and if we went around to the back of that shed, we have the stable doors to which you referred in your evidence?
- 20 A. Yes, that's correct.
- Q. We have got one in their co-position, but one as you come around the corner and then you've got one next door to it, but they lead to separate cubicles for want of a better term?
- 25 A. That's correct.
- Q. And you can open the top door –
- A. And lead the bottom open and shut.
- Q. And lead the bottom shut?
- 30 A. Yes.
- Q. And inside of the deer shed, we have a number of cubicles where deer would be normally kept, but which a dog, dogs at different times were occupational?

A. So it's not an area deer could be kept, it's if they needed to be any type of, yes, drenching, that type of thing. It's an area, it's a minimal lights that keep them calm and in to do whatever's needed to be done with them.

5 Q. Now just going to the minimal light issue, at the bottom of page 5, we have an interior shot showing skylights, a skylight for want of a better term which allows light to come into what is after all quite a small building, you agree with that?

A. Yes, this is an area of corrugated glare light, yes.

10 Q. Yes. And there is a high stud, there was a high stud in this building, you accept that?

A. Oh, about reasonably high, yes.

Q. And there is nothing, there is no ceiling as such which means, that leans itself to greater airiness, would you agree with that?

A. No, sorry, again, no.

15 Q. What would you say the dimensions of the deer shed were, you know, on your rough estimation, on your estimations you recall?

A. Are you incorporating the entire building or the?

Q. Incorporating what the, yes, the length, the width and the height?

20 A. Well, we can see a picture of it in the lower picture here whether it's I'd be guestimating the measurements of it Dan, but yes, I didn't measure –

Q. But you're not a qualified builder?

A. I'm not a qualified builder, I could take a stab at it as a, but, yes.

Q. But do you accept that there it was plenty of room, it was a well ventilated building?

25 A. No, no, you can see the lack of windows in there, in the clear light and in summertime you can make it warm in there and if stable doors were open, there would be more ventilation, however, they weren't.

**MS STOIKOFF ADDRESSES THE COURT – WHAT PHOTOGRAPH –
BOTTOM OF PAGE 4 (12:54:39)**

30 CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Just starting to the deer shed, there's a window open the bottom of page 4, there's a corresponding window on the other side?

A. Correct, for the other pen.

Q. Yes. So that window that we can see opened at the back, that is open to the cubicle which is the first stable -

A. Yes, if you're looking at it on the left-hand side.

5 Q. - door, has the first stable door at the back?

A. Yes.

Q. And the one, the cubicle next to the, this one, on the other side of the building -

A. Also has a window.

10 Q. Yes, it's duplicate -

A. Yes.

Q. - of what we have on this side of the building. So it has a window and it has that stable door which opens up. Do we have any other windows on the other side of the building?

15 A. Not on the same side or on the front face, but -

Q. No, on the other side of the building which we can't see?

A. No, as far as I'm aware there's none, that's the idea of having deer in there is that lack of visibility, you don't want a window with deer in there, so there won't be.

20 1255

Q. And just going to the top of page 6 we have again the interior of the deer shed, but looking from - and so that's from either one of the cubicles, would you accept that?

A. Yes.

25 Q. Now at the bottom of the photograph we have this wool shed.

A. Yes.

Q. And that's about 100 metres, now the deer shed as one walks down the track, it goes down a track, is on one's left, but the wool shed is on the same - it's on the right, on the same side as the utilities shed and the cattle yards.

30

A. Yes correct.

Q. And all, when we're at the wool shed we're probably about 400 metres from the house would that be, looking back -

A. Something like that yeah.

Q. Is that right?

A. Yeah.

Q. So if you go to page 7, and we've got an interior shot, top shot is an interior shot of the deer shed, correction wool shed.

5 A. Yeah.

Q. We've got a press for pressing bales which is there in the middle.

A. Yeah.

Q. To the back, and it's not showing here, there's a – there are a couple of sheering units, do you remember that?

10 A. Yeah I believe there were, there was a sheering shed yeah.

Q. Yeah and the dogs that you've – that were in the wool shed were behind that, those – the wooden wall which one can see just looking front on in the photo correct?

A. Yes.

15 Q. And behind that, and we've got another perspective of the – this area where the press is, wool press, to the right, which shows actually sheering sheers which are hanging, which is situated on the right wall at towards the back, the front of the picture, would you accept that is approximately where they were?

20 A. I can't actually see any sheers, it's not a particularly great – I can see a container of drench, is it around there the container of drench is – the right-hand side of the front of the picture you said?

Q. No I was talking about the sheering –

THE COURT ADDRESSES MR GARDINER – CLARIFICATION (12:58:39)

25 CROSS-EXAMINATION CONTINUES: MR GARDINER

A. Can't tell what they are from –

Q. No that's all right, it's really, the point of this is contextual, then we go to page 8, and we've got, remember on the – just going to the top of page 7 we've got – that high wooden wall, and the dogs that were behind that
30 and then on page – the bottom of, top of page 8 we've got an area behind that wooden wall which is on the previous page.

A. Okay.

Q. And we go to the – area behind, the photo top of page 8 which shows some of the area that's behind that, wooden divide, dividing wall.

A. Yeah.

5 Q. Now there was a part of – this doesn't show the full area but there were basically there are three general areas which are part of this area, is that your recall?

1300

A. That's right.

10 Q. And in the first area, you can fence it all, if you can pull something across. There were the puppies?

A. So the first area– are you referring to the doorway?

Q. The top of page 8, top of page 8?

A. Oh , the top of page 8?

Q. Yes?

15 A. Okay, yep.

Q. So we had an area where the puppies were and then there were some more mature dogs in two other areas, they were separated from the puppies but could interact with each other, is that your recall?

A. Yeah, something along those lines, yeah.

20 Q. And going back to the bottom of page 8, we have a photograph which shows the back part looking towards the area that the puppies were occupying, do you accept that?

A. No, I believe that that's where an adult dog was kept behind that one and it was one tethered on one occasion. That's, 'cos that's the very back one.

25 Q. Just going to the top photograph of page 8, we can see that's got: "Slats" , is that "slat", it's got "slats", do you accept that?

A. Yeah.

30 Q. You accept that this is a shearing shed. It is a shed that basically those slats exist so that sheep who are in the shed can defecate, urinate and it just goes through the holes down underneath the building, do you accept that?

- A. Yeah, I think the biggest one in the shed is the urinating so there's no wet and that sort of thing to keep it drier and easier for the shearers to work but yeah, it's...
- Q. And this building is quite an old building?
- 5 A. Yeah.
- Q. You'd say— again, it's an estimate, probably about 90 years old?
- A. We don't know.
- Q. Would you accept it could be?
- A. Oh, it —
- 10 Q. It's been there a while?
- A. 1960s or something, who knows when it's been built, yeah.
- Q. Now under the building, you mention that there were faeces and so on. Now, you took one photograph of the broad area under this building, right, understand, is that correct?
- 15 A. I took photographs of under there.
- Q. Right, you took photographs under there and it's quite a large building but you never got down underneath and actually did close ups?
- A. No, no thank you.
- Q. Right. So, there's a bit of a desk work in saying that: Yeah, it's got faeces from the dogs and so on in this area when which where animal, do you accept that?
- 20 A. No, I have sheep myself. I am very aware of what sheep faeces look like and they're certainly not big and brown and chunky.
- Q. But you accept that also other animals might be kept in this building at different stages, like goats?
- 25 A. Possible.
- Q. Livestock generally?
- A. Yeah, but again, the big difference in faecal matter between the sheep, goat or anything like that.
- 30 Q. And the area under the building is about two metres, there's like a two metre drop. We just go back to—
- A. No.

Q. We'll go back to page six. Picture a building from the exterior. Now one access is this building by going up to those steps to the right of the building, correct?

A. That's correct.

5 Q. And you, I can't remember whether, is the door a sliding door?

A. A sliding door.

Q. Now, when one goes to the back of the building, would you agree that there's, there's some that seems to be accessed, you can look into the back of the building, that's where you took your photographs from?

10 A. That's correct, yes.

Q. And we've got– but looking at it visually, I know it's not always accurate to do an estimate in this way but it looks as though it's a two metre drop from underneath the floor?

A. Absolutely not, no, no. That's a two metre thing is– that's above my head.

15 The floor levels, no, I had to stoop down and photograph in there so, yeah. I'm 6'3" so it's potentially five foot from the ground to the floor.

Q. So, you had to stoop down but not very much?

A. Yeah, like I say. My guesstimation [sic] to the height would not be 2 metres, it would be more along the five foot–

20 Q. Metre and a half, metre and a half?

A. Oh, yeah, something like that, yeah.

1305

Q. So let's go to photograph 9 – page 9, rather. We've got – standing next to the side or just to the front of the woolshed, when we look back we can
25 see the cattle shed, and we've got the deer shed on the right, and there's a cattle shed further down within – if you can see that on the left, that's the cattle shed which we covered earlier.

A. Right, it's a little difficult to see in the pictures but that's possibly it.

Q. Correct, definition is not – but it's not a very large distance, is it?

30 A. No, no, it's not a huge distance, no.

Q. Right, now just looking at the – from the woolshed, we go along this path, we just turn around and walk away from the house and looking ahead of us, probably a couple of hundred metres, we've got the hay barn, would that be right?

A. Yes.

Q. And in the prosecution booklet we've got a front-on picture of the hay barn.

A. Yeah, so –

5 Q. That hasn't been reproduced here. It is what it is –

A. Yep, yep, no, that's –

Q. – but there was a photograph to the right of the hay barn as one looks at it and the photograph at the bottom of page 9 is very reminiscent of that. That's where the dog Dani was found.

10 A. That's correct, yes.

Q. Now, just under page 10, the top page, we've got a photograph of the interior of the hay barn. It's got no hay in it but it's got a trailer –

A. Yep.

Q. – and this is looking down the length of the hay barn, correct?

15 A. Okay, yeah.

Q. You accept that?

A. Yeah.

Q. And you accept it's got sort of like areas where light can come in?

A. Yeah, there are some – clear light in the –

20 Q. Right.

A. – the rounds.

Q. And that was the case at the time, wasn't it?

A. Yes.

Q. Yes.

25 A. Yeah, totally.

Q. And just going back on that point to the woolshed, there's a lot of natural light coming into there, isn't there? Just looking at page 7?

A. It's still minimal. You've got a big area with a couple of strips of clear light. It's not – you wouldn't call it a well-lit area.

30 Q. Right, but we've got – we've clearly got a window at the back of the area with the wool presses.

A. Oh, sorry, we're in the woolshed now?

Q. Yeah, I've gone back to page 7.

A. Oh, sorry.

Q. Yeah, we'll get to the hay barn, I'll come back to the hay barn in a minute. We'll go back to the woolshed, so we're talking about natural light. We've got natural light in the woolshed, just looking at the bottom of page 7, which is in the area when you come in the door at the far end, to your right as you come in the door.

A. Yes.

Q. And you've got one which – to your left as you walk down towards –

A. Yes, there's three windows I can see in total.

Q. And there are also windows on the other side of the building at the back of the area where the dogs were. Correct? Bottom of page 8.

A. Yeah, they're the same as the two at the end. The top picture on page 7 has the same windows from the bottom picture on page 8, and there's the extra third window we can see on 7, top and bottom on the right-hand side.

Q. Righto, and we also have a situation – did you spend a reasonable amount of time in the woolshed at the time when you went there?

A. Only as necessary to be in there that was...

Q. Under the eaves, the eaves, under the area between the roof and where it fits to the – I'm not a builder either –

A. That's okay, I know what you're saying, I know exactly –

Q. Where it fits to the building, there was a lot of – the birds could come in quite easily into that woolshed. In other words, there was ventilation provided by the way in which the building was built, so that fresh air was coming in under the eaves.

A. I can see a little bit of light coming in one part but not in the others. No, birds can access any corrugated iron roof dwelling, so it's not a special design to...

1310

Q. Right and the light that you mentioned, for example, we can see it at page 7, bottom of page 7?

A. Yes.

Q. Yes.

A. So yes, there will be some type of airflow up through the corrugations of the iron, so there'll be airflow coming up through the floor as well.

- Q. Yes. And, of course, among other things that woolshed would've been built with that in mind bearing in mind that when sheep are being sheared, there's a huge number of sheep which would be pushed through and processed by the shearers, correct?
- 5 A. Yes, the holding pens, one at a time, shorn, released.
- Q. Yes. Right, but there are, there could be, what, what was the capacity of the holding pens, how many sheep could they hold?
- A. Well –
- Q. About 10, 20, 15?
- 10 A. Probably even more.
- Q. Probably more?
- A. Probably packed them in fairly tight.
- Q. And get them out pretty quick -
- A. Yes.
- 15 Q. – once they started. So just going back to page 10, where was – Ritzer was and Parelle, the two dogs that you picked up on the 13th of October 2017, where were they situated just looking, getting a full shot of the interior?
- A. So they were both from inside the barn both without me looking at my
- 20 notes, Parelle [*sic*] was one of the dogs in the barn.
- Q. Yes.
- A. And Ritzer was as well, so they would've been on the because we're at the back of it looking forward, so they would've been on the right-hand side.
- 25 Q. Right. So the back of the, the area at the back which you have just referred to, that's accessed by quite tall doors which you had to force entry to?
- A. Had to pop the pin to, you can see the hanger doors –
- Q. Right.
- 30 A. – yes, would refer to them as...
- Q. So those type of doors were at both end to the hay bale and we're looking at those doors there, they're at the end away from where you would've entered, correct? You would've entered at the end as we look down the

hay barn, we've got the trailer situated there and as we would walk toward the trailer from the door through which you got entry, correct?

A. I'm sorry, so the first person in came in through the back entrance.

Q. Right.

5 A. Okay and it was after that point the doors were opened from the front and then the dogs were removed –

Q. Right.

A. – through the front. Location of the pen was somewhere near the right-hand side of the picture whether it was next to the trailer or opposite the trailer on the right-hand side or back further from a picture, yes, I
10 couldn't tell you exactly.

Q. So when you refer to the back entrance, you're – we're walking down from the woolshed, we approach the hay barn. We've got this area from the page 9 which shows bales of hay, baled hay?

15 A. Around the back –

Q. Around the back.

A. – in picture 9.

Q. Right.

A. Yes.

20 Q. And we would be where you've got entry from is at the end of the road for want of a better term which led from the woolshed, would that be right?

A. So I didn't go in through that way, so I didn't gain entrance from that way.

Q. Right.

A. And that's all, but I think the animal control officer was looking at the shepherd from there and then went in from that exit.
25

Q. Right. So where did you – you came, you went around the building and came from the other door, through the other door?

A. I came through the main entrance, I actually went back to photograph underneath the woolshed and then came back to the barn when the front
30 doors were open from there and I went in from there.

Q. Right.

THE COURT ADDRESSES MR GARDINER – LUNCH (13:14:32)

COURT ADJOURNS: 1.14 PM

COURT RESUMES: 2.17 PM**CROSS-EXAMINATION CONTINUES: MR GARDINER**

- Q. Right, Mr Plowright, let's resume. So just going back to paragraph— page 10 of the booklet. Eventually, entry was gained at both ends of the hay barn, correct?
- 5 A. Yes.
- Q. Initial entry into the hay barn was done by the animal control officer?
- A. Correct.
- Q. Who was that again?
- 10 A. Rhys Heatley.
- Q. And that hay barn at the time was full of hay and it had— the dog Ritzer was in a cage or in a crate, was that the case?
- A. No, it was in a — if you like— a wire pen, so hurricane fencing wire, galvanised iron construction so it was a small pen and it was tethered within the pen.
- 15 Q. So I'll come back, I'll come back to that later and Parelle, the dog Parelle, Parelle, that was also in the shed?
- A. Yeah.
- Q. And how was that?
- 20 A. Tethered to the outside of the pen.
- Q. And it was a long tether?
- A. No, a shorter tether.
- Q. Shorter tether and just going to the bottom of page 10, we've got a dog which is in the corner of a cage. This is one of the old cages. One of the old cages?
- 25 A. Yes.
- Q. Kennel. And that dog was Astro, correct?
- A. I don't have the, yeah, the locations of — I couldn't tell you by recognising the dog.
- 30 Q. And going to page eleven, that's a view of you looking into the old kennel?
- A. That's actually the animal control officer, Rhys. We've very similar hair dos.
- Q. Just shows that hair can be mistaken as to identity.

A. Yeah, he lacks a goatee.

Q. So, just put that to one side at this stage. Just again, second top, you know, I just want to deal with animal welfare issues in relation to situations right across the board– domestic, city, urban and rural, correct?

5 A. Yes.

Q. Right, so we can – there's no legal restriction on the type of, generally speaking, on the type of dog or the size of dog that you can have in an urban home, correct?

A. Yeah, you're talking council restrictions, are you?

10 Q. Well, from your point of view. Your perspective?

A. So, my side is I'm an animal welfare inspector and the council bylaws may differ from different areas but as far as my knowledge of the Dog Control Act and the different bylaws, most in rural areas do not have a set number that you're allowed to have there so yeah, numbers aren't

15 restricted.

Q. But if you were looking at someone in an apartment for example, that apartment only could have a German Shepherd, correct?

A. Um–

Q. Staying in the apartment with him or her?

20 A. If a – it would be highly unlikely a German Shepherd, in fact I've never known of a German Shepherd being in an apartment because (1) you're going to unless it was owned, but basically, no, it would be highly unlikely, most apartments don't allow pets, some do now, so there are– some are pet friendly but they'll be more suitable sized dogs for that type of thing,

25 just smaller breeds. Not a large breed.

Q. But generally speaking, just take a home– a suburban home. We could have a situation where the owner of that home, generally speaking, could have any size dog in that home as a pet?

A. Any size individual dog? Yes.

30 Q. Any size individual dog?

A. Yes, so different council bylaws can restrict you too if you're a high density house you might be restricted to one dog per property if that's (inaudible 14:23:41) yeah it could be any size. There'll be some giant whatever.

Q. Right, so if we're looking at Epsom for example, you could have how many dogs in a quarter acre property?

A. I couldn't tell you. That's counsel bylaws. I don't know, I couldn't actually answer that for you.

5 Q. So, whatever the type of dog, whether it's small, medium, large, just say a suburban setting, that dog for example could have an owner that goes off and leaves in a run, dog run all day, the owner and his wife are both working, the kids are at school, there'd be nothing to prevent that situation, would there?

10 A. No, that's a bit of, 'course, that sort of situation, the dog run, kennel runs are quite popular in use and if both couples are working, the dog could be in there depending on fencing or that type of thing. It's possible it could be in there but while they're aware, but it be obviously out in the morning and out through the rest of the evening so it's a—if they don't have
15 containment. It's possible. We're hypothetically talking, yeah.

1425

Q. And the amount of exercise that dog would require would probably be, at very least an hour a day, that would be true?

A. Yeah, yeah. Let's go for a walk yeah.

20 Q. Yeah under the dog code.

A. Yeah exercise yeah.

Q. And, there'd be probably no problem in relation to the grooming of the dog, that wouldn't really concern you for example?

A. We do have issues of matting of different breeds, some breeds require
25 grooming and if they're not groomed they become matted and knotted and from there can actually cause pinching on the skin and can actually be painful for the dog.

Q. Now we'll just take the German Shepherd breed, you've dealt with German Shepherds before?

30 A. Yes.

Q. But you hadn't dealt with pedigree German Shepherds have you?

A. Yes I have.

Q. Recently or?

A. I'm not working – I've worked as an inspector for two and a half years, I own a German Shepherd, I own a Belgian Shepherd.

Q. Right. Now these dogs are actually verbal dogs, they're designed for that purpose, they're designed to herd sheep correct?

5 A. Historically but they've been bred well away from that now.

Q. Right, and are you aware that this particular Volkerson Kennels is a private kennel, it's not open to the public in terms of looking after dogs for anyone else, are you aware of that?

A. Yeah that's – yeah.

10 Q. And as it came through in the transcript of interview, they're a – they run as a hobby, as opposed to a commercial enterprise.

A. So are you telling me this or –

Q. Well I'm asking you –

A. What my opinion is?

15 Q. If you know, from your own personal knowledge.

A. So, when you're advertising pups of \$5,000 each, each litter, you can have German Shepherds – can have quite good size litters, you can go from eight to 12 puppies in a litter, so \$5,000 each that's a pretty good hobby.

20 Q. But this particular kennel used about six or seven, five or six different vets? Correct?

A. Yeah.

Q. You have access to all their records?

A. Yeah.

25 Q. They spent significant amounts of money in terms of looking after their dogs?

A. Significance about some money particular on – to do with breeding.

Q. Righto. And when it came to breeding they tended to use one or two particular vets in that area.

30 A. Yeah.

Q. And the accounts for one of the vets ran up to about 50 grand, \$50,000 over a period of time, you accept that?

A. Possible, yeah I don't recall so I don't know, you're –

Q. So in other words –

A. I can't confirm or deny.

Q. And these people have got a substantial investment in the dogs, you understand that?

A. In their hobby.

5 Q. In their hobby and, well we'll just take an analogous situation. Do you know anything about horse racing?

A. No not at all.

Q. Horse breeding?

A. No.

10 Q. And how problematic it can be even though you have large amounts paid for a particular sire for example, or a mere, can be quite problematic in terms of being a breeder, you understand that?

A. Yes I do, I'm aware of breeding and –

15 Q. So what I'm driving at is that it's all very well taking a figure that is posted, but we have it, say \$5,000 just by way of example, nice round sale, but the cost of breeding the dog, paying for vets, paying for artificial insemination, importing dogs, is significant, you agree with that?

A. As is the sale price.

20 Q. Yeah, but in terms of – well for example, we'll just take the sales price, Ms – there is, you accept that just going on that interview that you had with Janine Wallace that her mother is registered for GST. Accept that?

A. Yeah okay, not sure what for but –

25 Q. Well let's take it \$5,000 that's going to be reduced by the GST, any profit that is made is going to be subject to tax, you've got hobby costs in relation to vets, vets are not cheap are they, you know from personal experience –

1430

A. So if there was tax and GST paid off the sales, they would be then classed commercial, would it not?

30 Q. Well, she – I'm not – but essentially the position of the defendant was at that interview that it was a hobby, not a business. That it was a love – her mother, for this particular type of dog, which dogs she had had for 60 years. You accept that?

A. I don't –

Q. You accept that was stated?

A. Yes, it was stated to me, yes.

Q. Right.

A. I do not agree with it, but yes.

5 Q. And there will be evidence given of the significant prizewinning capabilities of these dogs. They've won Best of Breed, you know, Best Bitch, Best Sire, et cetera, et cetera, in the year 2017 to 18, you accept that?

A. Yeah, that's fine. It's no issue with that.

10 Q. So these dogs are valuable dogs, so do you accept that they – a sire, for example, a German Shepherd sire and his pedigree, could be 80, \$90,000, a good pedigree German Shepherd sire? Do you accept that? Are you in a position to comment on that?

A. Yeah, I mean, you can pay – if you're importing dogs, if you're paying
15 80 or \$90,000, that's incredibly excessive, but importation recently has gone up with all the COVID issues, but yeah, it...

Q. And a similar situation can apply to a bitch who's been bred from. A bitch with the right bloodlines can be quite valuable. Do you accept that?

A. Yeah, could be.

20 Q. And we had a situation here when you went to the property for the first time – there were 63 dogs.

A. Valuable dogs?

Q. Right? And practically half of those just – I'm generalising, I'm not giving you a precise –

25 A. Yep, that's all right.

Q. – number for this but for the purpose of the point, half of these were puppies, correct?

A. Yeah, I'd say at least half were young, ranging down to young pups.

30 Q. And you've given evidence to my learned friend that a puppy, if you were going to explain, he asked you this question, the difference between a puppy and a dog, if I can use those, that distinction, it's a bit artificial but it's the puppy – a dog is a puppy up to, say, 12 months.

A. So that's how I would describe it, yeah. It's a year, it's now entering into the maturing into – is mature.\

- Q. So when a puppy – but puppies have to be nurtured quite carefully by anyone who's breeding them, just like babies, from an early age, correct? You know, from up to four months.
- 5 A. No, that's what the bitch does. Not the – sorry, are you talking about young puppies, nursing pups?
- Q. No, very young puppies.
- A. Yeah, so the bitch nurses the pups. That's the mother dog's role, to –
- Q. And we – I think – and you accept that we might well have a situation where a bitch who's pregnant is living in the house during that – after it's
- 10 given birth and looking after its puppies, you accept that?
- A. You can house them wherever, inside a house –
- Q. But when you executed a search warrant there was, at one stage in the process –
- A. Yeah.
- 15 Q. – there were quite a few puppies in one of the rooms –
- A. Yeah, that's right.
- Q. – and they were on newspaper and so on and they were clearly very young, correct?
- A. Yeah.
- 20 Q. How old were they, by your estimation?
- A. I'm only going by memory there, but yeah, they were – some old – I think there was actually two rooms with pups in there, it wasn't just one room, so there was two litters of pups there, one being younger and one being older.
- 25 Q. Right, and in terms of the number of litters that these kennels had, you accept that they were a comparatively small number of litters given the dogs, the bitches are capable of being inseminated and having puppies –
- A. There were always pups. There were – I couldn't answer that because
- 30 I've never shown all the dogs. I couldn't give you an honest overview of everything, but –
- Q. We'll come to that. I'm going to put some propositions to you in relation to each of these, you know, these visits, and get your response.
- A. Yeah, no problem.

1435

Q. But just in terms of – just going back to the interview, we had Ms Wallace talking about – she gave quite a detailed explanation of the litters that various dogs from Volkerson Kennels had, right?

5 A. Yes.

Q. And essentially we have a situation in this case where two bitches were taken or seized by yourself for the SPCA, and I'm giving you quite a status as the OC at the time, so these dogs were seized and they were found to be pregnant, and they had litters.

10 A. Correct.

Q. And those puppies, which were not seized per se, their parents were, they were not returned to the defendants, were they?

A. No.

Q. Why was that?

15 A. Because they were seized pregnant, and if they're pregnant at the time that they're carrying on, we're not returning anything to the property 'cos there were no facilities to return to, so there was not a –

Q. We're going to explore that –

A. Okay.

20 Q. – proposition.

A. Sure.

Q. Now, just getting back to the pictures, I just want to point to something, a couple of things which were there. Just going to the top of page 1 –

A. Are we – which booklet, sorry?

25 Q. This one.

A. Okay, yes.

Q. The one we looked at just prior to the break.

A. Yeah, sure.

30 Q. Just going to the top of page 1, there are two important buildings that aren't shown here. I just want to determine their location because they are relevant to the proceedings. Just by that – see where the car is, in this case, on this day there was a car parked there, that's when these photos were taken, but at the time right next to the utility shed there was

a cedar building. You described it, I think, in your notes from your evidence as a garden shed.

A. Yes.

5 Q. It was cedar and there were – and some puppies were – I'll come to – were found in there.

A. Yeah.

10 Q. Now, just going, putting that to one side, when we talk about the old kennels, they were situated to the left – well, you see, correction, on the right just by the car there's a gate that leads into an area through which you can access the old kennels.

A. That's correct, yes.

Q. And just going to the left of the utility shed as I look at it, that's on this side, on the other side –

A. Yes.

15 Q. – that's also a gate through which you could, at the time, access the old kennels.

A. That's right, yeah, I think that's right.

Q. Now, there was some evidence given in the transcript about new kennels being build.

20 A. Yeah.

Q. And those new kennels were – as a result of one of your notices, they were going to build a new set of kennels early on – early on –

A. Yeah.

Q. – by December 2017.

25 A. Yeah.

Q. Correct?

A. Yeah.

Q. And they got going, didn't they?

A. That's it, yeah, that was –

30 Q. And they got the experts in to give them advice on the construction, they telephoned, they got your views and Laurie Davis' views on what they needed –

A. Yes.

Q. – well, the person dealing with you was Janine Wallace –

A. Yes.

Q. – but she consulted you and there was some discussion, for example, on a suitable sealant for the concrete –

A. That's right.

5 Q. – which would facilitate hosing down –

A. That's right.

Q. – the area.

A. Yeah.

Q. And did she at any stage talk to you about what the cost was going to be?

10 A. Oh –

Q. Or what it had cost them?

A. I don't know if she put a cost on it. I know it would be significant. It would be, yeah, a significant cost to build a block of that size.

15 Q. So would a statement that it was a cost between, say, subject to some greater detail later, a cost somewhere between 150 and \$200,000, or \$190,000, that wouldn't surprise you?

A. Oh, I couldn't answer that but yeah, it was a good quality build that they had built, it was – yeah.

20 Q. Right, and each run within that new set of kennels was quite large, wasn't it?

A. It was a reasonable size, yeah.

1440

Q. Right. And it was clearly big enough to take a large dog, a large adult dog, an entire or a bitch?

25 A. Yes.

Q. And certain circumstances a whole lot of puppies could be put in one of them?

A. Yes.

Q. And –

30 A. In a group that's, yes, it's (inaudible 14:40:24).

Q. These are different scenarios.

A. Yes, okay.

Q. And the third possibility was to perhaps to have two dogs in the kennel?

A. Yes. If they were, if you were in a situation where they were either de-sexed or young enough age not to have because you can imagine if you've got dogs only sexed, you get a bitch come and sees them, the bitches want to fight, the males want to fight, we've got so, if you've got two bitches of males that are or one of each, they're going to breathe instantly as soon as one sees them, so yes, it's a bit of a juggling act for entire dogs.

Q. Yes and so when we talk about young dogs, puppies, again, it could be anything from say four and a half months to –

10 A. Yes, of course, they hit sexual maturity they can potentially get a bitch pregnant at eight months old.

Q. Right.

A. So it's still, you know, I will class as a puppy, but it can still be impregnated.

15 Q. Right. And do you accept that under current rules a bitch can only have say four, up to four litters in its lifetime, you accept that?

A. Yes, I'd have to check on the Code of Welfare on that one, but I don't know off the top of my head the exact numbers of that.

Q. You accept that that could be the case?

20 A. Yes, it could be, yes.

Q. Right. Now, apart from in the transcript of interview there was some, the focus was very much on Volkerson Kennels, but there was mention also made of the farm itself, the farm operation and I think and do you accept that there was, it's fair to say that Ms Wallace didn't want to talk about the farm, she just wanted to focus on the kennels which was the subject of your interest, correct?

1442

A. Ms Wallace wanted to talk about only what she wanted to and did so regardless of the subject picked and choose what she answered.

30 Q. Righto, I'm going to deal specifically with the interview later but I just start, but essentially you accept that this, these kennels there's a mixture of farm buildings generally and stuff and matters that are more specific to a dog kennel, a breeding establishment. Do you accept that there is a separation between the two but there is – they are co-existent?

A. I don't know, I can't answer that.

Q. Well for example, the kennels are basically adjacent to a farmhouse, right? Do you accept that?

A. We're talking about the old kennel block?

5 Q. We're talking about the old kennel block –

A. Yeah.

Q. – and the new kennel block was built on the site of the (inaudible 14:43:41), on the site of the old kennel block which involved you know obviously that had to be demolished and the new one built to replace it.

10 Do you accept that?

A. The location, yeah.

Q. Yeah, so yeah. It's probably fair to say in that location?

A. Yeah.

Q. And it might have been adjusted –

15 A. Yeah no that's fine, in that location that's fine.

Q. – which the (inaudible 14:44:03). It's probably a fair way of putting it. So we got a situation where there was a – you accept that there was a working dry stop farm which was adjacent which was encompassed the area occupied by the kennels, but in relation to which the defendant
20 Wallace said she had nothing to do with the farm itself, do you accept that?

A. Sorry just to get my brain around what you're asking did Janine not have anything to do with the running of the farm. Is that what you're saying?

Q. Well yeah and I'll specify it. She mentioned that included pedigree
25 Angers Beef Cattle, Simmental Beef Cattle which were pedigree, do you accept that?

A. Yeah.

OBJECTION: MR RADICH – CLARIFICATION QUESTIONS (14:45:04)

1445

30 **CROSS-EXAMINATION CONTINUES: MR GARDINER**

Q. I put it on the basis that initially she said it in the interview and she also referred to pedigree red deer and South African goats. Right?

A. Yes.

Q. And there were a couple of horses also on the property.

A. Yes.

5 Q. And, you're an experienced man in this area, you looked around and you can see, you know your cattle and you could see the Simmental Beef cattle.

A. Yes we saw some cattle yes.

THE COURT:

10 Sorry to interrupt, Ms Wallace can you keep your mask on please in the courtroom? Thank you.

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. You could see the Angus Beef cattle?

A. Yes.

Q. You can see the pedigree red deer?

15 A. I don't know if I did see any deer to be honest –

Q. Well there was a paddock full of them, you didn't see –

A. I don't recall off the top of my head, could've been there, my focus was the dogs so I certainly didn't wanna be looking into the farmland to do with the stock, it's all – yeah.

20 Q. And you didn't see any goats.

A. Yes I did.

Q. Oh you did righto. So the other animals that we're talking about, there's still quite a few different categories but you can't remember whether you saw any deer is that right?

25 A. Yeah I'm not sure off the top – this is five years back –

Q. Yeah I appreciate that.

A. And I don't know sort of, the farm animals I cited but I don't recall, but it could've been –

Q. But on the other hand, you went there quite a few times.

30 A. Yes I have.

Q. Which I'll be exploring.

A. Okay.

Q. Now can you remember just from your investigation at the time, how many dogs were registered to Ms Glover?

A. I think we got information from the animal control – yeah I'm not sure, I'm not sure off the top of my head, it'd be 60 to 70 registered dogs.

5 Q. But you accept that in 2018 with the dogs that are taken by then, 20, five were surrendered and there were another 15 seized by 2018. So the number had reduced to about 50.

A. I have no idea – I've never been shown all the dogs, I don't know any –

10 Q. Right. Now, when you came to the property you were aware, you didn't know who was living at the farmhouse?

A. The first arrival?

Q. The building you've described as cottage, you didn't know who lived there, this is the one surrounded by the picket fence.

A. So is this when I arrived on the first time –

15 Q. Yeah the 27th.

A. No.

THE COURT ADDRESSES MR GARDINER – CLARIFY (14:48:35)

CROSS-EXAMINATION CONTINUES: MR GARDINER

20 Q. At the front of the drive on the left as you drive in, there's a first, there's a cottage.

A. Yes.

Q. Then you drive around the drive and you reach the main house. Now you described in your evidence to my learned friend as cottage but really it's the farmhouse isn't it?

25 A. No sorry I refer to the cottage is the smaller building on the left-hand side of the – and the main dwelling is the one as you carry on to the picket fence out the front.

Q. So, shall we call that –

A. Well main dwelling.

30 Q. We'll call it main dwelling. So, you established that the people who resided in the house were three women, Ms Glover and her two daughters Anne and Janine?

A. Well we didn't ask who resides in the house, we just asked about owner – who's in charge of the dogs so the names were offered from there, there could've been unknown numbers of people living there.

5 Q. But you had interactions with three people, initially Anne and then later with Ms Glover and Janine.

A. Yes.

1450

10 Q. Now you mentioned, and in fact you were talking in relation to the discovery of the six dogs in May 2018. You were talking about being quite incredibly wet, that's during that winter?

A. Yeah, yeah.

Q. But, the winter of 2017 was also incredibly wet, wasn't it?

A. No, yeah.

Q. That's the previous year, this is a time when you first went to the property?

15 A. I couldn't tell you off the top of my head.

Q. And do you accept that if the weather is incredibly wet, the ground's going to become saturated by rain and turn to mud and puppies will run around, they play when they're outside and they're going to get muddy, do you accept that?

20 A. So you are asking if sodden ground with pups running over it – if it's in a contained area of that set up of what you're describing, if it's a contained area– yes, but if it's in a large grass area, you will get minimal damage, you'll get some damage but...

Q. Now on this occasion, just go to booklet 1

25 **WITNESS REFERRED TO BOOKLET 1**

THE COURT ADDRESSES MR GARDINER – WHICH BOOKLET? (14:51:54)

CROSS-EXAMINATION CONTINUES: MR GARDINER

30 Q. Now the early, the photos in the early part of this, page 1 and the top of page 2, there are the property which, there an enclosed area which is near the cottage, near the front of the drive, correct?

A. Yes.

Q. And basically, how many dogs— there were five dogs, five puppies, is that looking at the page, photo at the top of page 2, would that be a fair statement?

A. Yes.

5 Q. And these puppies— you've described, this area looks quite dry at the time the photograph was taken?

A. It's— it was wet at the time and you can see the mud on the— the pups. It's certainly not dry and I believe that's (inaudible 14:53:14) in the— in a — one of the notices that was put in there to put something down over the
10 top of the mud. The area is a good size but— good confinement (inaudible 14:53:26) better shelter in the month leading, it needed addressing. It could be a simple fix, mulched down bark, whatever just to take that level of mud away.

Q. So you're talking about an optimal situation but these dogs are out in the
15 open. They're interacting, looking at the three at the front, they're interacting well with one another?

A. They're young happy pups but it's just the mud and the shelter that needs improving. The area's good, (inaudible 14:53:56) size of the area but just something to minimise the mud and to improve the shelter.

20 Q. And the area at the back, those three kennels, there's no dog inside those. They're out there, enjoying the fresh air and enjoying it an experience which is an enriching one, wouldn't you agree?

A. Like I said, that wasn't an issue. It's a good size area and they've got a number of them to entertain themselves and interact and that sort of thing
25 so that's not the issue. The issue's just something to minimise the mud and to improve the shelter for when it's not lovely and they want to be out and it's night time or raining, they can retreat into shelter.

Q. Now, you accept that the German Shepherd is officially classed as, do you accept, is officially classed as a working dog?

30 A. Yeah, I'll— it's not—

Q. That category?

A. So, there is a category called working dogs, working German Shepherds and there's also show German Shepherds.

1455

Q. Right, so these dogs are bred in such a way that they could either be out there on the farm working if that was the use to which they – the owner wanted to put them, or the ones with better confirmation, could well compete in shows, you accept that?

5 A. I have no experience in the show world so, but – yeah if someone was to train a dog up for stock yes you can, any type of dog.

Q. Righto, and do you accept that German Shepherds are used, apart from working on the farm, it could be used for a whole range of activities including police dogs?

10 A. Yes the use for – yeah wide range of jobs.

Q. Yeah and do you accept that German Shepherds which hadn't been bred from had been – do you know this from your personal knowledge, have been provided by Volkerson Kennels to different organisations such as, say the police, and also to the blind, society for the blind as guide dogs and so on?

A. If that was the case it would've been a very long time ago.

Q. But it could well had been the case, you don't know whether that was the case.

A. No but certainly the adult dogs now with the very slopey back, they're not going to have the power and strength to climb over a six foot high wooden fence that a police dog's required to.

Q. But they can, they are a very – German Shepherd is, two important qualities, it's intelligent and it's agile correct?

A. You're talking about, there's German Shepherds and there's German Shepherds, and there's German Shepherds, you're talking about the show world, they're not agile, they look pretty, they have sloping backs to make them have that sprinting stance but it can often weaken the back end and when you have dogs like that, they're not going to be able to jump over great heights. You have your working lines that are bred for working and they will be agile and they will be able to go up, so they're different purpose bred things so –

Q. Now German Shepherds, also come with different types of coat, do you accept that?

A. Yes I do.

Q. And there are some which have long hair?

A. Yes.

Q. And others which have short hair.

A. Yeah.

5 Q. Then you can have different German Shepherds with a coat of many colours?

A. Yes.

10 Q. And so on. But the, a dog which has got, is long haired naturally it's going to, its hair is going to mat more readily than another dog, short haired one correct?

A. Yes it's higher maintenance yes.

Q. High maintenance. So just looking, going to the photo, bottom of page 2, we've got these dogs along the fence line, I think we can see three, and they're on, what you described as short tethers. Right?

15 A. Yes.

Q. Now when you came to the property, you were there on this first visit for an hour and a quarter, right?

A. Yes.

20 Q. On the ground. And you covered the whole of the property and went to every building except the hay barn, you went to all the other buildings.

A. Not quite, yes into the building but only into the areas, we didn't go into the lockup part of the utility shed, we didn't go into the front deer area, only the back stable part of the deer shed.

25 Q. But when you go to – when you come and you're a stranger, and there are a number of, you were walking around with Janine, and you mentioned, that there is a tendency by these dogs to bark, if they sense a presence or, you accept that?

A. Some dogs bark some dogs don't.

30 Q. Right but the hearing of a German Shepherd is, well they have big ears and it's very acute, would you say that?

A. Yes they have big ears.

Q. And would you say, that's a good point you've answered the first question there which I - (inaudible 14:59:49) – and the second question is that they do have very good hearing, like most dogs.

A. They had reasonable hearing but the sense of smell is there, is the trait that – they have stronger –

1500

5 Q. Right, that's a good point, so their sense of smell being the strongest, they would sense an alien presence in the barn.

A. Unless of course they're housed in high ammonia levels –

10 Q. I'm going to come to that. Now, just going back to these dogs on the fenceline on short leashes, you came and were there for a short period of time. These dogs were on the fenceline on short tethers and you felt that that was wrong and they should be on a two metre tether. Fair comment?

A. So what was –

Q. That's from the page 2.

15 A. Yes, I can see the picture. Yes, but they shouldn't be tethered by choke chains on a short lead, the dogs, as they are. Ideally, each with a plastic kennel, a flat collar and a two metre chain, and there'd be a (inaudible 15:01:05) or bucket of water tied up, brilliant.

Q. But these dogs are well spaced along that fenceline, aren't they? They've got plenty of room between each of them.

A. Yeah.

20 Q. We also have a situation where the house is about 20 metres to the right of these dogs and the picket fence.

A. Yes, that's correct.

25 Q. You have the three – you don't have to accept this proposition, but I'll just say that there were only three people living in that house, Mrs Glover and her two daughters Anne and Janine, so these people, when they're not going about their duties in the kennels, or correction, Mrs Glover and Janine, if they weren't going around their duties in the kennel, they would be coming and going within the house. Do you accept that that's a strong likelihood?

30 A. Yes, I agree they could be coming and going from the house.

Q. And you had other – now, you mentioned in terms of these dogs... Now these, I just put it to you that the tethering these dogs in this way was part of their training and that Janine would – and do you accept that that's quite a reasonable proposition?

A. No, I don't accept that.

Q. Do you accept that dogs have to be trained to be on short tether to be walked and behave responsibly and in a disciplined way?

5 A. I don't accept that as a huge difference between teaching a dog to walk on a leash with the tethering it –

Q. Right.

A. – to a picket fence.

10 Q. And this is a rural setting, not an urban one. These dogs are in the – they're working dogs, they're in that – they're described as working dogs, they're in that category as German Shepherds.

A. So they're – a working dog performs a task. These were show dogs.

Q. Right, but they're capable of performing other tasks. I've mentioned some examples; police dogs –

A. Not these dogs.

15 Q. Well, you're making an assumption that these dogs are incapable by virtue of their breeding to be used as – for other purposes. It's a bit like saying a thoroughbred racehorse when it retires can't be used for any other purpose, whether it's, you know, as a hack or as – I'm not sure if this is correct, but perhaps as a showjumper, trained as a showjumper, 20 so these dogs by virtue of their breeding can be used for other purposes, and they were and have been. You don't accept that's a possibility?

A. With the dogs that I saw there, it's possible they could be trained for different purposes, odour detection...

1505

25 A. With the dogs that I saw there, it's possible they could be trained for different purposes, odour detection, there's something that's needed utility, police dogs, no.

Q. Right but one thing they have, one characteristic is a German Shepherd is they're quite bright, correct?

30 A. Yeah, yeah very bright dogs, yeah.

Q. Would it be fair to say that these dogs almost universally were dogs of good temperament, do you accept that?

A. I actually thought their temperaments were lovely. They – most of the dogs there they had lovely temperaments. I didn't have an issue with the temperaments there were some very nice dogs.

5 Q. So we don't have a situation where there were a whole lot of dogs who were badly treated and developed very unfortunate characteristics as a result of that?

A. Sorry the question is?

Q. We don't have a situation where dogs have been ill-treated and developed –

10 A. (inaudible 15:05:57), that's the reason we're here today.

Q. – unpleasant characteristics?

A. The dogs were not aggressive.

15 Q. No, so what you're saying is these dogs were not treated as well as they might be in six or seven areas but notwithstanding that they were dogs of delightful temperament. Do you accept that?

A. I thought the majority of the temperaments on the dogs were nice temperaments.

Q. Right, in fact they were the sort of dog that you would like to have as oneself?

20 A. No.

Q. Oh you don't?

A. No.

Q. Right. So just –

A. I don't want the vet bills.

25 Q. Now just going to – one of the points you make in terms of these dogs being tethered and not having sufficient behavioural enrichment is that they're in one place. They're tethered or in one place and you talk about worn ground. Do you accept that if the dogs are rotated, you could have a situation where there's three dogs for example at the bottom of page 2
30 are on the fence, they're tethered at this point of time but the following day there could be another three dogs it's quite different?

A. You're asking me can someone rotate, yes you could. You'd still have no shelter and inappropriately tethering.

Q. But are you saying that you can have a situation where if you want to put your dog out in the rural there enjoying nature and they breed for this environment, you're saying that there is no enrichment, no behavioural enrichment implicit in that situation. Is that what you're saying?

5 A. It's the long periods of tethering in that manner and without the access to shelter then it's –

Q. Can I just go back –

THE COURT ADDRESSES MR GARDINER – LET WITNESS FINISH ANSWER (15:08:08)

10

WITNESS:

So it's inappropriate tethering with a choke chain on a short lead, the risk of injury, weather changes, weather can change in (inaudible 15:08:33). You've got these dogs tied up without shelter to untether them and take them to where
15 there's no facilities to keep these dogs.

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. But just getting back, you've said these are dogs there not temporarily. You spent an hour and a quarter there, you make an inference, you talk about a warn ground on a particular spot and you impute for that a – you
20 reach a conclusion based upon that that they had been there ceaselessly continuously. Don't you see fall in that logic?

A. So the dogs had been tethered there in that manner on a regular basis, whether it's the same one or they're rotated one put there and put there and swap back and whatever, there's dogs tethered there for long periods
25 of time.

Q. No, no, for long periods, over a long period of time dogs had been tethered in that way, is that what you're saying?

A. No.

Q. As opposed to dogs being tethered there on individual occasions for long
30 periods of time. There's a distinction between the two situations for recognising?

A. On every visit which there were numerous ones which you'll get to, the pups were – they're tethered in the same way on every visit no matter what time.

5 Q. But you didn't identify specific parts. You didn't do a chip, a computer chip test you know saying, which showed that this particular dog was there on the first visit, there on the second visit, there on the third visit, did you?

10 A. No, it was potentially no need for that. It's our methodology from the very beginning was just to have issues resolved. So it was – that was where we were certainly trying to steer things into so from micro-chipping, whether they're micro-chipped, so it was to that level of an investigation at that stage.

Q. Do you accept that all these dogs are from day one were micro-chipped and registered dogs, do you accept that?

15 A. No, I can't answer that, no.

Q. You never looked into it?

A. I know what numbers and dogs have come back, what are the dogs there? Are they these ones on this list? I have no idea. Are they other ones? I don't know.

20 Q. But just getting back to this situation, what you're saying or seem to be saying is that we have dogs which have been tethered on the same spot, may not be the same dogs but they've been tethered at this very same spot at the fence?

25 A. It's the tethering, whether it's the one dog or a different dog it's the tethering in that manner that's putting the pups at risk.

Q. Righto. I just want to look at something. Just go to the Animal Welfare Code 2010, we look at the minimum standard 4 this is at page 13?

A. Yes.

30 Q. And it says there that: "Dogs must not be contained or tethered in a way that causes them injury or distress. Collars must fit comfortably without damaging the skin or restricting breathing." There's nothing there to indicate that a dog which is tethered temporarily first of all breaches the code, do you accept that?

A. If I can read the recommended best practice number (b): “Dogs should not be left unattended or routinely tethered by choke chains or devices such the tighten around the neck.”

5 Q. Right, it also says: “Collars should be checked frequently particularly in young grown dogs and loosen if they become tight to prevent effects such as chafing of the skin or restriction of breathing?”

A. That’s correct.

Q. Did you inspect each of these dogs to see whether they had chafing on their necks?

10 A. So the –

Q. Whether they were in discomfort?

A. So the main, what they’re describing is actually the collars for that what they’re actually talking about here is when people put a collar on a pup and it grows and it becomes so tight it starts breaking the skin surface.

15 So a choke chain loosens off and tightens up. So it’s not that type of injury. If it’s going to be an injury, it will be potentially fatal from choking.

Q. Right and you used three different terms to describe a choke chain, can you just go through those again?

20 A. Well I call them, there’s cheek chains, choke chain, I don’t believe a third, what third one did I use?

Q. Well just say it’s a cheek chain or a choke chain, they’re not illegal, are they?

A. No.

Q. They’re used commonly on farms?

25 A. It’s a training tool they’re used everywhere.

Q. Used everywhere. And they, if they presented a real risk of injury to the dog, they would be forbidden, wouldn’t it?

30 A. They’re designed for walking. It’s a walking and training and it’s no, they’re not designed for tethering to, there is a difference. This is tethering.

1515

Q. But none of these dogs were in distress, correct?

A. I didn’t find them in a state of emergency but it’s– putting them each, one of them were at risk, tethering in that manner.

Q. But none of them had actual injuries?

A. No.

Q. You're completely unaware of how long each of these dogs was tethered there?

5 A. I don't– I can't, I'm not there for huge periods of time, I don't have surveillance or whatever– that, but the ground way would suggest that the tethering happens on long periods of time.

Q. But no the other alternative, the other interpretation is that dogs are tethered at those distances on the picket fence at the same place but not necessarily the same dog and not necessarily for lengthy periods of time on each occasion that a tethering occurs, wouldn't you accept that that's a more obvious interpretation?

A. I don't accept that's more obvious. That's your interpretation, not mine, I don't accept that.

15 Q. But you're making a series of assumptions. You're making an assumption that just because it's worn, there's only one inference that can be legitimately drawn from that situation and I'm putting it to you that you are wholly wrong in that?

A. I don't accept that. There's adult dogs– the same dog, the same tree, the same spot, no shelter.

Q. We're going to come to the adult dogs in 2018 which is what you were alluding to?

A. I wasn't actually, but that's fine.

Q. Photo, I just want to go to the photo at paragraph– page 5, the bottom dog. Now this is a tree which is obviously offering extensive shade to the dog underneath, correct?

A. Yes.

Q. And the dog exposed – it's got– surrounded by greenery in front of it and it's in the fresh air, do you accept that?

30 A. Plenty of fresh air.

Q. Plenty of fresh air and it's– it wasn't raining on this day when you went, when you visited, was it?

A. I haven't got that, no, the time that picture was taken, it wasn't raining but the tree is no, for shade in summer but not adequate for rain.

Q. Right, but you accept, well, haven't you had the , I ask you if you had the personal experience of getting under a tree during the rain, being wholly protected by the rain, do you accept that, that can occur?

5 A. Yes, I do. It's like that for about 30 seconds until the rain works its way through and then you're drenched.

Q. Well, perhaps we're in, you might have been in a tropical downpour but putting it– taking this dog, surely what happens when you have a tree like this is that sucks, a big tree, a lovely tree, a generous tree, it sucks- it prevents grass growing under it, then the grass doesn't get any sunlight on it, do you accept?

A. No I don't.

Q. You don't?

A. No.

Q. You haven't been, you don't accept that? You're just getting back to – we have dogs and portable puppies, three puppies they're in that cage, and they were all– they looked healthy?

A. Yes.

Q. And they were getting on with each other, interacting well?

A. Yeah, just the containment needed improvement.

20 Q. How old were those puppies?

A. I can refer to my notes but I'm just looking at the picture, probably around, I don't know, it must be coming up to eight weeks old when I can refer to the notes, three times. Yeah, going back to the bitch sitting under the tree, I do actually have written for that one but there was a wheelie bin on its side, not sure if that's actually visible in the picture but that could have been used as a shelter for that one as well, I've got in my notes.

Q. But there's no evidence that it was used as a shelter, that's an inference. Didn't you make a suggestion about the wheelie bin being used as a shelter?

30 A. I put: "No shelter? Wheelie bin on it's side, possible shelter," is what I've written in my notes.

1520

Q. Right.

A. So and I don't have an issue with a wheelie bin being used as a shelter if it can keep it dry, although as long as it's clean in there and you can throw some bedding.

Q. Right.

5 A. I put: "Three six week old pups, no water, bowl knocked over" –

Q. Right.

A. – is my notes for that one.

10 Q. But essentially, just dealing with this issue of bowls and being knocked over, there will be evidence given in the case from people who are very knowledgeable about German Shepherds, it's quite common for dogs even adult dogs to knock over their bowls?

A. Yes, absolutely.

15 Q. Yes. So we can have a situation where a dog has run from the bowl, knocked it over or knocked it over when someone partially drunk it and that relation has occurred, we can have that situation but common couldn't we?

A. Yes.

20 Q. And you could have a situation where if we have a person who is doing a circuit where these dogs are, for example, where the and this person has – it's not a commercial kennel, they're not interacting with people, other people's dogs and looking after them and dealing with the public in that regard, but we have a situation where they could set their own routine, do you accept that?

A. Yes, they're responsible for their own routine.

25 Q. Yes. And that you accept that they're not only responsible for their own routine, they could be flexible about the order in which some dogs, their water is checked when they're fed and so on because clearly, you can't feed them at all the same time, you can't do their water at the same time, it's a question of oversight, you accept that?

30 A. Yes, they're responsible for their own routines.

Q. Exactly, and you can have a situation relating to puppies, for example, where there's a requirement to clean, you accept that puppies urinate in poo a lot more than adult dogs?

A. Yes, well –

Q. Do you accept that?

A. – they all defaecate a lot, but probably a few more times the young pups.

Q. Right and they would defaecate five or six times a day and urinate, you accept that?

5 A. Yes, well, possible, yes.

Q. And they can knock over their water bowls or they can contaminate their water bowls by playing with them or putting their feet in it?

A. And that's why suitable containments and suitable water bowls are more ideal once it can't be knocked over.

10 Q. Right.

A. All those shallow ones not the tall buckets tied by strings because obviously, they could fall in and drown at that age, but shallow heavy containers that can't be knocked over.

15 Q. Right. I'm just going to kennel, the kennel at the bottom of page 6. You gave evidence that this was faeces?

A. Yes.

Q. Is that correct?

A. Yes.

Q. Did you have it analysed?

20 A. No.

Q. I put it to you that this proposition that it's not here, it's the skin of cattle, the hair from a cattle hide because of meat that the animal has eaten and do you accept that?

A. Well, I don't accept that's what it is, but.

25 Q. But it could be?

A. No, if that was hide there would still be some hide left, there would be the fur if it was hide itself, it's very thick, they're not going to eat all the hide. You say that it is the hide, is that what you're suggesting?

Q. Yes, I'm putting that proposition to you?

30 A. No, it's not the hide.

Q. But it's part of a cattle, an animal which the dog is fed on and these are part of the remains, you accept that?

A. No, I don't.

Q. Could be?

A. No, I don't accept that there.

Q. Why don't you accept it?

1525

5 A. It's, yeah faecal matter build up, you can clearly see bones in the upper picture, you can see remnants of bones in there, and you can clearly make out what they are, and if that was part of the – hide of an animal you would see that it's a hide of an animal, you'd be able to tell that.

10 Q. Just looking at the top single dog pen, there's a small – it's hard to detect it from there but you can't see what is in the photo below, very readily, in that top photo can you?

A. No.

Q. So that indicates that notwithstanding the apparent size of what we have in the second photo, there's a comparatively small area which – in which this, excuse me in which this applies. This is looking at the –

15 A. I'm sorry, I've lost the – what was the question you were asking me?

Q. First photo –

A. I can't see, yeah the first photo –

Q. We've got no evidence of there, there's not much that you can see of this – what you believe is faeces at the front of the cage –

20 A. You can see the build up at the very front at the picture, just the bit around the top.

Q. The point I'm making is that this picture at the bottom is a very small percentage of the total area in that cage at the top. It's a matter of inference, the focus in the second photo is on what you described as faecal matter, but the area must have been quite small because it doesn't, you can't see – you can see very little of it in the top cage.

25 A. You can see the darker, it's just the photograph, you can see the darker stain at the bit of the – top part of it, it's in an area but yeah it's – far from ideal and needs cleaning, if it was a – if that used to be a cow hide it must be so broken down it's absolute unrecognisable and oozing out of the cage, it's oozing out.

30 Q. Just, was this the trip where Ms Wallace referred to the water blaster, having a problem with the water blaster and being out – getting it repaired or was that one of the –

A. Yeah I think that was on the first, was it on the first visit she mentioned that, I do recall her saying she had an issue with the water blaster.

Q. And this farm, the kennels were quite lucky because they had a farm bore with their own water which could be disseminated to different parts of the farm which required it, did she mention that to you?

A. I don't recall, it's possible yeah.

Q. Which, in the abstract, if that'd been the case that would've facilitated the distribution of water to different animals, made it much easier in other words, you accept that?

A. No, it's just –

THE COURT ADDRESSES MR GARDINER – HYPOTHETICALS (15:28:37)

COURT ADJOURNS: 3.28 PM

COURT RESUMES: 3.54 PM**CROSS-EXAMINATION CONTINUES: MR GARDINER**

Q. Now, I asked you earlier, Mr Plowright, about a building which was right next to the utility shed.

5 A. That's right.

Q. And I think the defendant Wallace referred to it as the puppy shed. It's described as a puppy shed at page 7, and there were 10 puppies in it.

A. Yeah, that's correct.

10 Q. And you in your earlier evidence to my learned friend referred to this as the garden shed.

A. Yes, I – yeah.

Q. But in effect it wasn't a garden shed because the only occupants, the only thing in it, was 10 puppies.

A. There was a shed with puppies in it.

15 Q. Righto, and they numbered 10, as the booklet indicates?

A. Yes.

Q. Now, we've got – just going to the bottom of the page, we've got newspaper spread around, and going to the top of page 8, there's more newspaper, and it looks quite grotty, you'd accept that?

20 A. Yes.

Q. It's been – but would you accept also that the 10 puppies who are weeing and they're pooing, would just say that during the period they're in there, 10 puppies pooped two times, you know, that's 20, 20 poos and a lot of urination, wouldn't you accept that it's quite reasonable to expect that it would get soiled quite quickly?

25

A. If they're contained to the sleeping area without having access, with having to defecate in that area, yes, it will get soiled quickly.

Q. But we're making an assumption here that it won't be cleaned out prior to them going to sleep that night. Remember, this is a shed which is only – which is a hop, step and jump from the double garage and it's a slightly longer distance between the garage and the house, so it's a very short distance, ready access by the occupants, particularly Ms Wallace, to that

30

shed to change the paper, to give them water and to get them settled for the night.

A. So the issue of this area is that it's – they're contained in a shed, in fact, the window's shut on that, it's porous, it's full of faecal matter and urine which we can see in the photo, it should be set up so that the pups can come out of there into the grassed area. They're not going to – when pups are very, very young, soon after they're born, they'll defecate in their whelping box and the mother will lick that up and clean that, but as they get bigger they need to access other areas away to learn how to defecate properly, so there's – they're living, basically, in their litterbox, if you like. There's no ability to escape that.

Q. Well, there is –

A. Regardless of how close it is to the house.

Q. Right, and also it's about 50 metres from a paddock which is just across from it where they can go out and play and run around and be exercised. What do you say to that?

A. Well, with the amount of build-up in there, with the number of poos you've suggested that they do a day, that's happening in there and there's no sign of them being out from that.

Q. No, I wasn't saying it's the number of poos in a day, I was saying – we've got another witness, Mr Sheath, who will say – another lady who'll give evidence later or I expect to give evidence later to the effect that puppies defecate, they do it continuously, they urinate, that newspaper has to be changed continuously so it's nice and clean, and what I'm suggesting to you is that even if we say one puppy defecates up to five times a day, we just take on average, what, 10 puppies and just say they do it two times, that's a hell of a lot of faeces and a hell of a lot of urine which needs to be cleaned out so that they – before the next, before they do it again, so in that way by giving – having them under supervision and monitoring it, you change the paper, you do this, that and the other thing, you give them fresh water, and you're in a position to do so because it's – you've got close access to the house and vice versa. Don't you accept that that's likely to have been done or could've been done or would've been done?

1600

A. No, it's clearly there's a breakdown in what it has been or should've been happening and as I'll go back to that they are spending long periods of time in there, hence the faecal and the urine build-up in there and the odorous is it's a little shed with a little window that wasn't open and it absolutely hummed in there, it stunk.

Q. Right-o, just the point I'm making is that you come, you spend an hour and a quarter here, this is the state when you arrive. We could have had a miss – I put it to you that Ms Wallace could've been up to between as she said in the interview between four and five every morning. She could already have been over there fed the dogs, watered them, changed the newspaper, et cetera and then soiled it in short order. You come later in the, she might've done it twice, for example, but the point that I'm making is that when you have puppies, the defaecating, urinating and it's a, they do it anyway and there'll be professional evidence to indicate this otherwise, then it will get soiled and it will be necessary to change it. So you're making, aren't you just making an inference based upon that situation and presuming that they were in that situation for hours and slept in it. For example, overnight and it was like that until you turned up at 1.15?

A. So no matter on each visit they were there regardless of the time in the shed, and that the faecal build-up would've also imply in support that they had been in there for long periods of time, it hasn't been changed twice that morning, that's not just an hour of pups messing about and making filth, this is over a certain duration of it they cannot escape, that you've got them living in the area and toileting and they cannot escape it, you need to have a separate area to be able to sleep and to run around and to romp, and whether it's in a newspaper laid down on top of a porous wooden floor was, yes, far from ideal, hence the even the odour that –

Q. We just take a child, a child, a human being, a child, a baby poos and wees at, you know, regularly and has to be changed. When we have dogs which haven't got a mother who can sort of tidy up the poo and the urine as it occurs, but it can occur with these children, a child sleeping in an act in and which is soiled and et cetera. By an analogy the situation of the puppies is not much different, but they're less equipped in the sense

that they haven't got a mother who can clean up after them like a human being?

A. So there's no way that this is an acceptable way to raise any kind of pups if you've got a professional saying it is, I suggest querying how professional they are, but as the pups get older and more mobile and start eating solids, you need to give them more and more and more area, you need to give them a bigger and bigger area, and a suitable area where you can clean faecal matter, be able to clean down effectively. This is a porous environment, it's far from okay regardless of how close the shed is to the house.

Q. Righto. So just the final point on this, this is not a situation of you extrapolating unduly from the situation and coming to a conclusion which is based upon the assumption that the newspaper hasn't been removed and they've been in that situation for hours if not a day, is that what you're saying?

A. Long periods of time confined within that area.

Q. So long periods of time with by your calculation be what?

1605

A. Well regardless of you've talked about many visits, on every visit there were pups in there while they were there, yes, they were contained in there.

Q. Right but we also have pups just taking photograph booklet 1 going to page 80 and this is page 38, this is the later visit where you have a puppy pen with the large number of dogs and an awning over the top and there, they all seem to be interacting and there's a large adult dog which seems to be secured to it, to the puppy cage, you see that?

A. Yes, I can see the picture.

Q. Okay. So these puppies appear to be happy, they – you've got no problem with that particular situation?

A. No, the caging should be much bigger than that to give them room to move. You can see the, as opposed to what should've had – they're going to walk over any food, trip over the water because there's too many pups, they're too big for that small little pen to a bigger pen, so it's yes,

it's doing things smarter, it's giving them the benefit to have success and they don't need to be so many in such a small area.

Q. So we had a situation really, it's a bit like going to a, a situation where the directing staff memo is such and such, but it's not necessarily the correct way of assessing and dealing with the situation, you're dealing with a situation perfect as opposed to minimum standards and what can be appropriate in the circumstances?

A. No, it needs to be able to not be housed and defaecate in the same area, there's no ability to escape defaecation. They need to be able to escape that.

Q. Yes, well, and even though the defaecation occurs in the area within which the animal is living?

A. From the picture you pointed out that on page 30, the numbers of pups in there how much free space is there for the playing of those, they're going to be rolling around in faeces, knocking over water, it's just setting up more sensible, just do a bigger area, it's not – I mean it's not asking for ridiculous things, it's just basic, that is basic.

Q. So and is that, these pups, my understanding is that these pups are the pups that were in the puppy house? I know that you're insufficient –

A. Sorry, page 30, you're referring to -

Q. Page 38, top of page 38. You're not in a position to comment on that and I'm not sure it takes us much further anyway?

A. No.

Q. Just going to, I just want to come back to a point which I have covered. This is not a commercial kennel, it's a private kennel, they breed dogs, the witness, Ms Wallace has said for a hobby, but it's not a commercial cat kennel in the sense that dogs are being housed, and a fee paid by the person who's dog is housed there, it's not that sort of kennel, you accept that?

A. So you're asking me to accept it's not a boarding facility?

Q. It's not a boarding facility, it's called Volkerson Kennels, but it houses the dogs which Ms Janine Wallace is connected with, that's it, pure and simple, start and finish, do you accept that?

A. I'm sorry, can you repeat, what am I accepting, sorry, I misunderstand?

Q. You accept that this is not a boarding house as you determined?

A. I accept it's not a boarding facility.

Q. Right. It's not a boarding facility where people leave their dog to be looked after for a period of time, pay for it and then –

5 A. That's correct, I accept that, yes.

Q. Now I put it to you my instructions are that the puppies which you saw which are the usual rotation is that they are taken from the house where you say where you saw them, that's the puppy house.

THE COURT:

10 Which puppies and which visit?

MR GARDINER:

These are the puppies' first visit your Honour.

1610

THE COURT:

15 Right.

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. These are the puppies' first visit. These are the ones in the puppy house or the garden shed as you otherwise describe it. They are taken and during the day they were put in a pen, a portable pen but brought inside every night to allow them to exercise and play. Do you accept that that could well have been the case?

20

A. I can't comment, anything could've been brought in the house, I have no idea. My concern is that pups living in that environment.

Q. Right, so just bear with me just a moment. Now just getting back to the offence of odour, you had mentioned a number of times the different areas where the dogs were cared, you've described the smell of ammonia. None of the animals had eye infections, did they?

25

A. I don't recall any eye infections, no.

Q. Right. And when we talk about ammonia, we're talking about how the smell of urine and faeces might affect a human being as opposed to a dog, correct?

5 A. Ammonia is ammonia regardless of this ammonia level build-up when you got build-up of urine over a period of time you get to ammonia levels, the years going by we ended up needing to carrying ammonia level recorders with like an alarm on there for some of the cat houses and that sort of thing. An alarm would go off and it's time for us to get out where it's dangerously high.

10 Q. So just getting back to getting rid of ammonia and cleaning, you accept that if concrete has a, say it's new concrete and has a sealant, that will facilitate the cleaning?

A. Yes.

15 Q. And the best way to clean in that situation would be water blastering, correct?

A. Yeah it could be water blasting, scrubbing, hosing, that type of thing whatever –

Q. Yeah.

20 A. – they'd probably water blast, it would be more of a wash, so a low level water blaster.

Q. And one of the points you made to my learned friend when talking about I think it's a deer house, was that a newspaper was removed but concrete being porous you still had the problem with the odour, is that correct?

A. So you're talking about the stables in the deer building –

25 Q. Yes, that's right.

A. Yeah, so on one of the days we arrived there was a WWOOFer (inaudible 16:13:32) worker scraping the new soil newspaper, putting it in the wheelbarrow and fresh paper then laid over the top and it's faecally smeared and urine so it's a concrete from there. So yes, there's still an element of strong odour in there.

30

Q. Now you in relation to the old kennels where this issue – and these kennels were, you accept that they were approximately 40 years old. Would you accept that they could well be the case?

A. I accept they could be, I don't know.

Q. But you don't know?

A. No.

Q. But they're old?

A. Their facility was not that old, it's a, yeah but it's certainly not as old as
5 the woolsheds or anything like that.

Q. Right.

A. But it was probably a newer addition out at the out buildings.

Q. So it was certainly serviceable?

A. Serviceable?

10 Q. It could be you know it's fit for purpose?

A. For dogs?

Q. For dogs.

A. No.

Q. Like this is the old, the old kennel area?

15 A. Sorry, old kennel area are we –

Q. Yeah we're going back, we're talking about concrete flooring. You had a
problem in deer house that were in the stable area, there was concrete
flooring, newspaper removed there was still a smell?

A. Yeah.

20 1615

Q. After the WWOOFer, you know the international – the foreign worker had
been, presumably, she had cleared away the paper, newspaper, and
there was a bin that – was there a bin nearby which had all the stuff that
she was cleaning – cleaned away?

25 A. I think there was. Something was around, she was putting the soiled
newspaper in.

Q. Right, and when she –

THE COURT:

Q. Where are we talking about now? Are we back in the deer stables?

30 A. I think we're in the stables.

MR GARDINER:

It's the same point –

THE COURT:

We've left the old dog kennels?

CROSS-EXAMINATION CONTINUES: MR GARDINER

5 Q. Yes, I'm going to come back – the same point applies to the flooring in each place, your Honour. So just getting back to the – so the solution would be to waterblast it.

A. Yes.

Q. But that wouldn't be the answer because it would still remain unsealed. Can you seal old concrete?

10 A. Yes. Yes.

Q. You can?

A. Yes.

Q. So you then have to seal the old concrete, but you didn't suggest, you didn't give any advice to this effect in any of these 130 notices, did you?

15 A. It's advice on the – so that's an instruction, so on numerous occasions I –

Q. No –

A. – had conversations, the porousness, including from where the pups were contained in the little puppy shed, to the floors, everywhere, that was the – every day, everything was porous.

20 Q. Righto, I'll just finish with the –

A. Look about washable and cleanable.

Q. Noted. We just put three propositions. You sent many of these notices to –

25 A. I can check through, but yeah, I'm not sure about going through each one, but you've looked at them, there's not?

Q. Well, we can look at each but as far as you – is it quite possible you never mentioned in any of these notices the need to combine waterblasting and in relation to concrete flooring which was porous to combine it with a sealant on the concrete to facilitate cleaning and kill the odour? You never actually spelt that out, did you?

30 A. I spelt it out many times verbally. In fact, even the – you mentioned liaising, Janine liaising with myself to do with the new build and taking on

advice, and that was the advice, was exactly that point, was that while the concrete's new, make sure it's sealed and washable.

Q. Righto. That was in relation to the new build –

A. Yes.

5 Q. – but did you give that advice in relation to the old kennels pending the new build?

A. For the old kennels? For – all of that was –

Q. You know, having a sealant put down over it.

10 A. That was a comment made to all of the dogs, how all of the dogs were being kept. None of them were being kept on a washable surface, so whether the old kennels were sealed – it's a very old set-up, were they sealed at some point and it's worn off? I don't know, but yeah.

Q. Now, just – it's accepted in relation to the – it may well be accepted in relation, for argument's sake, in relation to the old kennels, that you
15 recommended using a disinfectant, a food disinfectant. Would that be right?

A. A food disinfectant?

Q. Yeah, I'm just looking at my note.

A. No, yeah, just – no, an animal related disinfectant.

20 Q. And that disinfectant would have been designed to remove the smell.

A. There's different things on the market, so I never recommended a brand or whatever. It's just that this is – yeah, use a cleaning product and you get cleaning slash bacteria-killing animal-friendly designed for that type of thing. I have no idea what a "food disinfectant" is.

25 Q. We accept that that may well be the case but while you mentioned you made such a recommendation, it was used and it was of no effect. It masked the smell but didn't resolve it, it didn't cure it. It still was there. Do you accept that?

A. So we're talking about the new –

30 Q. No, we're talking about the old one.

A. That they sealed it?

1620

Q. The old one was being pulled down to replace it with the new one. The new kennels?

A. Yeah, okay.

Q. Right?

A. Yep.

5 Q. And at this discussion about masking- getting rid of the smell, whether it-
with kennels whether they be concrete or wood and they were water-
blasted so you water-blast them. Then to get rid of the smell would be
removed temporarily but it would still be there because of the porous
nature of wood and/or concrete and your recommendation, your advice
is to use a specialised disinfectant for want of a better term. Do you
10 accept that such a disinfectant might well be used but you could still have
a bad odour: ammonia odour?

A. A urine ammonia order. If there's a build up and it's not been cleaned
regularly, absolutely. It's – nothing's powerful enough on the market to
disguise build-up.

15 Q. And we have a situation where natural fresh-squeeze lemons were used,
household disinfectants but they weren't suitable– they didn't work. Do
you accept that could well be the case?

A. If the– if it's not been cleaned regularly, nothing's going to mask it.

20 Q. And eventually, solace – salvation was achieved by consulting a
professional cleaning company and my advice is that the only thing that
would– my client's advice was apparently and I just put this to you– was
that unless you used an appropriate substance, the cleaning the cells–
kennels would reactivate the problem, the urine odour intensified and to
get over this, you use a biodegradable liquid which contains special active
25 enzymes. Do you accept that was the way through?

A. That's just talking to someone that's selling (inaudible 16:22:31) I have no
idea on their products or what they do or whatever. It's just simple regular
cleaning and use a dog-friendly cleaning product, regardless of the brand.
I don't have to –

30 Q. And there's a brand called the Urine Digester because this particular
problem is faced in public with human beings in public, in schools, club
toilets, rugby clubs, urinals used by the public et cetera so you can have
this problem unless you use the right product. In all your infinite, you
know, your extensive experience, you were unable to identify a product

which would help them solve the problem that you were concerned about?

A. Yes, clean regularly.

Q. Now, just in relation to the puppy house, you mentioned lack of ventilation.
5 I put it to you that the way it was built, it was built in cedar and there was the ability for fresh air to come in through the cedar- you know, the overlapping cedar. Cedar tiles. Do you accept that that was a position?

A. That could be a little bit like that but it was lined with building paper.

Q. So, the answer would be it had a window which could be opened but as
10 you're aware that they did have a major home invasion which affected one of the members of the family. Are you aware of that?

A. Yes, I am. Yeah.

Q. And the defendant, Wallace mentions this in the transcript of the interview?

15 A. Yes, she did. Yes, she did.

Q. And how three woman on their own in a rural setting were quite concerned about their security. Do you accept that that was quite a legitimate concern to have?

1625

20 A. Absolutely, yeah totally, yes.

Q. Because this particular farm is on the main road, a highway but it travels if you're isolated from other, from neighbours, do you accept that?

A. I do.

Q. And the – we're also at a situation where it had security cameras, do you
25 accept that?

A. I'm not sure of the security cameras, I didn't hear mention that ones.

Q. Were you involved in removal of security cameras perhaps at the time of the execution of the search warrant?

A. No, no –

30 Q. You don't?

A. – I've never seen – I've heard mention of security cameras but I've never seen them like there was, no.

Q. Just in relation to that utility shed, there were a couple of dogs there on the first visit?

- A. Yes.
- Q. And there was one which was secured outside the shed?
- A. That's right, yes.
- Q. Is that correct? This is the utility shed?
- 5 A. Yes, no, I'm with you.
- Q. And then there was another one which was inside?
- A. Yes.
- Q. You're quite sure of the kind of dogs that was secured outside the shed on the gate?
- 10 A. Yes, like I can refer back to the pictures if you like.
- Q. Yeah. It might be page 9, top page.
- A. Yes, so that's the dog they're tethered out the front of it and there was one running loose and behind the gate.
- Q. Righto. And did you go inside the utility shed?
- 15 A. No.
- Q. You didn't? Now their utility shed was quite large and it was full of farming equipment?
- A. Correct.
- Q. Do you accept that?
- 20 A. Yeah.
- Q. And when you're going to access on a subsequent visit to there were a couple of doors that went off the shed, one on your left as you come in?
- A. That's correct.
- Q. And you open that door and it led into like a storage area and then you went through another door into what could be described again as a storage area but slash office area for want of a better term?
- 25 A. Yes, yeah.
- Q. And you didn't go into that part of the shed on this visit?
- A. No.
- 30 Q. And you didn't hear any dogs calling out on this visit from that area?
- A. No because the dog behind the gate was on the loose and there was, yeah quite protective of his area. They would run up and down telling us to go away.
- Q. Righto.

A. So we didn't venture close in there.

Q. And you accept that that dog might well have been there for security purposes for the farm?

A. Yeah, yeah absolutely, yeah.

5 Q. Yeah just going to page 9, this shows an area which appears to be inside the deer house?

A. Is that over the page, is it?

Q. That's the top of page 10.

A. Top of page?

10 Q. 10 of the prosecution booklet.

A. I've got some puppies in the (inaudible 16:28:25) of page 10 of the photograph booklet.

Q. Yeah.

A. I've got pups in the stables in the deer shed.

15 Q. (inaudible 16:28:41).

A. I've got the woolshed on the bottom picture and it's 10.

Q. Just going, yeah can I just go back just in relation to the puppy, the dog outside the utility shed, this was on a short tether?

A. Yes.

20 Q. But, and there was no water in the immediate vicinity?

A. I'd have to check my notes with that one, I'll just if you don't mind I'd have to find... Right, utility sheds, (inaudible 16:29:23) 18 say: "Utility shed, one times dog tethered by short lead and choke chain, no water, adult dog running loose in the utility shed."

25 Q. Righto now that dog which is tethered to the utility shed on the gate, you had no way of knowing how long that dog had been there, correct?

A. It was there on the occasion, so yes.

Q. On this occasion?

A. Yeah.

30 Q. And also that dog seemed contented, it wasn't, it didn't seem distressed or anything like that, did it?

A. At the time it's, yeah relaxed enough.

1630

- Q. Now, in relation to the stables, you gave evidence about the lack of cleanliness in the areas the pups, three pups were accommodated on the left-hand side as you looked at the back of the stables. I think (**inaudible** 16:30:51) she described a very high ammonia level, old urine, offensive smell and you've discussed the – and there was a person cleaning this area, and you've described how, just putting down fresh newspaper again. Righto, just in relation to the stable, I just want to put a proposition to you that essentially the construction of the shed, they had a concrete floor, wooden walls, two double house windows on each side. This is at the back, and I'll put this proposition, the windows and high ceiling allow natural light and air circulation throughout the shed, do you accept that?
- 5
- 10
- A. If the windows are open and if there's a stable door and the top one was open, it would allow circulation. However, the same – the dogs are on the same urine and faecal-soaked concrete from below.
- 15
- Q. But do you accept that if the weather is very wet, and it apparently was at this time of the year, the dogs were often coming in – that's in this year, 2017, the dogs were often coming in from exercise wet and the newspaper was, you know, put into disarray and soiled and so on, even though it was removed and replaced regularly? Do you accept that that could well have been the case?
- 20
- A. No, well, if they'd just come in from exercising, on the visits that we done we never turned up and saw any dogs being exercised at the time. We had the odd dog on the loose in an area but yeah, we certainly didn't see that.
- 25
- Q. Yeah, but do you accept that if a person has a regimen of getting up at four to five o'clock in the morning, a lot will have been done by the time you descend on the property for an inspection at, say, 1.15 in the afternoon?
- A. Yes, and that would be evidence and what we'd be looking at.
- 30
- Q. Right, I just put a proposition to you that you said there's no evidence of the dogs being exercised, but surely the dogs would be exercised in the early morning when it's, you know, when it's nice and fresh. You know, human beings would tend to exercise in the morning, for argument's sake, well, some, so wouldn't there be an analogous situation where –

A. So if 63 dogs were being exercised in the winter, as we've talked about, with the lush grass everywhere, it'd be evident where this exercise area is.

5 Q. Righto, but we're talking about 60 dogs, just broadly speaking, half of which are puppies of varying age from, say, four and a half weeks through to a year. Clearly the requirements of dogs, different dogs for exercise, would differ according to their state of development.

A. Yes.

Q. You accept that?

10 A. Yeah, totally.

Q. And the recommendation under the code is for an hour a day for dogs. Do you accept that?

A. Yes.

1635

15 Q. So in effect, if you took the code literally, notwithstanding the enrichment, you know, behavioural enrichment, you could have a dog that's in custody for 23 hours out of 24 a day. It's not being exercised so therefore, it could be in a kennel. Confined in a kennel or a run, do you think—

A. It would still need to have an area where it can sleep in a clean, healthy
20 area and an area to exercise in or to stretch its legs in. It cannot be confined for 23 hours a day in an area where it cannot escape urine and faeces. There needs to be a—

Q. I'm not putting— yes, no, I accept that. I'm not putting this as proposition to the effect that this is what occurred. I'm saying that technically, you
25 could have a situation where, having regard to the model code, arguably, you know if the dog gets an hour's exercise, that's enough. It could be just kept in a cage?

THE COURT ADDRESSES MR GARDINER – HYPOTHETICAL PROPOSITIONS (16:36:04)

30 CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Now, the inspection on the 1st visit ended with a notice being given— which I think is at page 20?

A. That's correct.

Q. And you made some suggestions about cleaning and the shelter to provide— to protect from all weather elements et cetera?

A. They were written instructions.

5 Q. Written instructions. And you were aware of the intention to rebuild the kennels?

A. Yes.

Q. And you gave a timeframe five months by 31st of December?

A. Yeah, so a timeframe agreed upon between all of us.

10 Q. Now, you gave evidence to my learned friend that you arranged for re-inspection on the 4th of August and really, when one looks at the bottom of the notice, a re-inspection would be made on or after the 4th of August?

A. Yes.

15 Q. But, as is your practice, you didn't advertise a precise date that you would come and do the reinspection?

A. No, that's right. No.

Q. But people were on— they were on warning that you would come back and follow up and see what—

20 A. But they were aware we would come back and that was yeah, dogs were kept from (inaudible 16:38:50)

Q. Now, when you came back on the 28th of July?

A. Is that still the first visit 28th —

25 Q. Correction the— my apologies. Yes, on the 4th of August. You mentioned, just looking at pages 21 to 22, that you felt that there was still a smell in relation to the— well, first of all, you considered that the kennel, you've still got dirty newspaper in the puppy house. You've got puppies at the top of page 22 and another photo of the newspaper and a dog at the bottom of page 22 so all these photos on the 20th and 22nd relate to the puppy house, correct?

30 1640

A. Yes, that's correct.

Q. And you saw no improvement in the situation in relation to the puppy house. We had a — going to the top of page 23, your argument was that

the – you considered that there were no improvements in the cattle yard, is that correct?

A. If I can just refer to my notes if you don't mind. Dogs tethered under a roof (inaudible 16:41:15) yard still tethered by short leads. Faecal matter not being picked up regularly enough, high ammonia levels and that's the notes I've written on the day.

Q. That's in relation to puppy house and –

A. No, that's the roofed cattle yards is what you've asked about in the notes for the pups was that it was cleaner than last time but still smells odorous. It had been cleaned out since our last visits and but it was still odorous.

Q. And you came to a similar conclusion in relation to the deer house that it was still odorous and you were concerned I take it about defecating, sleeping, living in the same area?

A. The notes read: "Pups two times stable, stable pens, the British backpacker was cleaning one of the stables with a shovel scraping up the solid newspaper and laying fresh paper over the top of the still filthy concrete floor. Pups in both stables even while it was being – the pups were in there while it's been cleaned. No other form of cleaning other than the shovel and newspaper."

Q. Right –

A. I've got: "The floor is porous and absorbs all the filthy odours, needs water blasting disinfectants and sealing the floor and walls when it's dry."

Q. But the point that applies and it's a matter we traverse safer as well but I just, in relation to both these areas of puppy house and the deer house on this visit, both of these clean efforts are made to clean both areas, you accept that?

A. There was effort made, a better effort made in the puppy house or there had been fresh paper put down wherever that issue of inappropriate containment of the pups in there were still there. So but an effort had been made there, that was a step in the right direction. The shovelling up the newspaper and putting down that sort of thing, there's also a comment on the bones laying in amongst the faeces at the same time. So that's obviously inappropriate as well.

Q. But the – you accept that the puppies are in both these locations weren't necessarily confined in the same area all day. They could've been taken out given the regiment – the exercise regime that –

A. Your client is suggesting?

5 Q. Yeah my client has suggested or said she or will say that she followed. You accept that they weren't confined in the one area all day. Do you accept that that's likely to be the case?

A. I don't know, I can't comment on that that each time I've seen them they've all been contained in the same place.

10 Q. So if you don't know you can't comment, you can't really come to a conclusion that they're there all the time. You're saying that the accommodation in these two instances for example, the puppy house and the deer house needed to be – the main problem was basically because of the porous nature of the wood and the concrete and they had to be rectified and there were ways to rectify that –

1645

A. So the –

Q. But you don't specify the ways in your notices, do you?

A. No, everything's verbally discussed and suggestions are given every time
20 how to remedy things and for periods of time in there, the faecal matter build-up is an indicator of periods of time in there. They're not in there for an hour for a quick playa after they got back from a– they're in there for long period, that's a lot of build up and to achieve that amount of faeces, they've been in there for a long period of time.

25 Q. But there might– again, I think we've covered that point earlier. Just going to– you've got a dog tethered on the fence– a picket fence surrounding the house. That dog seems to be on the outside of the fence, is that so?

A. I'm sorry, what page are we on?

Q. Page 25?

30 A. Appears to be, where is that– is that on the, in around the house area I'm presuming from that–

Q. Yes, well, there's a picket fence, it's surrounding the house?

A. Yeah, I presume it's on that, as you look at the main dwelling on the left-hand side picket fence running down there, I think that's the fence.

Q. Although it looks like the, right, but it could be either on the inside or the outside of that fence, possibly at the front?

5 A. Actually, yeah, it rings a bell now, I think that's actually is that's actually on the outside, that's in the paddock area not on the inside and the above picture is obviously the (inaudible 16:47:04) that I was referring to in the stable area.

Q. Now again, there's— this dog, you've commented in your evidence-in-chief that it didn't have any water. There's no water bowl there?

10 A. I will just go through and check notes. I've just got it, yeah, (inaudible 16:48:04) dogs tethered on short leads".

Q. Now, at page 26, there's mention of a – you've got that crate at the bottom?

A. Yes.

Q. Where— that crate was in the garage, was it?

15 A. That's correct.

Q. And there was a dog in the crate?

20 A. I believe so. That was not shown (inaudible 16:48:50) garage smelled badly, Inspector Lori walked in, walked out again, overwhelmed by the odour. High ammonia levels, young dog in collapsible crates, little room to move, no water. One dog in an air cargo crate which would be the picture there, barking and scratching frantically within the crate. Some empty crates, very soiled newspaper. Garage is in filthy, odorous condition, difficult to breathe due to high ammonia levels.

25 Q. Now, you accept that the crates are quite an a permissible thing to be used for accommodation for a dog but, you know, you accept that?

30 A. So, accommodation, probably no. What a— that's an air cargo crate that they typically ship dogs around the country or overseas or whatever it happens to be and— but often people will use them as a lockdown area if you like so that or could maybe there's one that could be— people have them in their house and at night-time, instead of the dog roaming the house. They're sent to their crates and that's their little bed set-up in there and they sit out the night in that and let out in the morning, so they are used for all sorts of different things.

1650

Q. Right, so this crate could be used as accommodation for different dogs at different times, for different purposes.

A. Accommodation? It's an indoor sleeping area. It's like a time out. It's not accommodation, it's not going to live in there. Accommodation you live in. You're not going to live in that.

Q. No, but this dog can be let in and out readily by any occupant of the house, because it's only, the front door is only about 20 metres away, isn't it?

A. Yeah –

Q. Well, 30 metres away.

A. Yeah, and again, it's the defecating that gives away the length of time that – the dog's not going to defecate in there if it doesn't need to.

Q. But isn't a dog – you can have situations where dogs really might have no – you can train dogs not to defecate just like cats, can't you? Would that be –

A. Just by having regular routines. Whether it's a crate, whether it's a kennel, it's that regularly letting them out. They're not going to defecate in the area, including even where there's a run with an attached kennel run attachment, if they're let out, they won't defecate in there. It's – you'll get the odd one that's got terrible toileting issues and might be out running around and then jump in and soil it, but that's a rarity. That's not – and for all the dogs to be affected by that, it's not possible.

THE COURT:

Q. So just to make clear, are you saying that most dogs, if they can, will go somewhere else to defecate other than the area that they're sleeping in or –

A. Yeah, the natural behaviour for a dog, if given opportunity, is to defecate on grass, garden, that type of thing and if they're on a concrete area or wooden or something, if they've got the opportunity they're going to go for the grass or a garden or that type of thing, so it's – you can have the dog in – I have dogs in at night-time, I put them in a kennel run attachment outside, and that's so that if a hedgehog or something comes out at night I'm not going to be woken up by barking dogs, so they settle down and in the morning, let them out and they don't defecate in there. If there's

anything in there, I've slept in that morning or – but it's a rarity. The kennels will be clean. They don't defecate in – I'll use crates similar to that too, to house a dog overnight. I have working dogs and have the back of the ute split into two dog cages. I go away and travel with the dogs, doing detection work, and the dogs don't defecate in there. I let them out on regular breaks and it's clean. There is no urine, there is no faeces.

Q. Right, so they basically wait a certain time until they're let out.

A. Yeah, yeah, and if they have to go then they have to go.

10 Q. Then they do their business.

A. Yeah.

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. But this situation, just taking up where your answer to her Honour left off, this is a situation where you're transporting a couple of dogs and you can use a crate. The advice that the SPCA gives in that situation is for transportation you use a crate for a dog, correct?

15 A. Not necessarily. It's – transportation is (inaudible 16:54:16) some dogs will just travel in the car or whatever, but yes, you can – if you're shipping a dog up or down the country, absolutely. You can use an air cargo crate, is the proper name for these type of crates.

20 Q. Or travelling in a ute, quite permissible.

A. Yeah, you tie it down and pop them in there.

Q. Now, just in relation to the dogs around the house, I put it to you, just go back to that point, that those dogs were tethered for approximately an hour before you arrived. What would you say to that?

25 A. Sorry, which –

Q. These are the dogs around the house itself, tethered on the fenceline.

A. Just in general?

Q. Yeah, in general...

30 1655

THE COURT ADDRESSES MR GARDINER – SECOND VISIT (16:55:07)

CROSS-EXAMINATION CONTINUES: MR GARDINER

A. Are you referring to pictures on the, in the –

Q. Yes, dogs tethered on the fence.

THE COURT TO MR GARDINER:

5 Q. Which picture is that?

A. That will be page, you have got dogs tethered on the fence at page 26, top photo.

CROSS-EXAMINATION CONTINUES: MR GARDINER

A. Oh, ok, yes, sorry.

10 Q. And then you have got one over at, this is on the second visit your Honour, a dog tethered on the outside picket fence, page 25, bottom.

A. So yes, I can't see any serious wear on the fence, they could've been there for an hour.

Q. Right.

15 A. However, it's the tethering on the short lead and the choke chains that are at issue, are they being supervised like that or unsupervised and left them like that is a concern.

Q. Right, but I put it to you that that these dogs weren't unsupervised because the owner and or Janine was close-by, none of the areas
20 Volkerson Kennels was, we've gone through all the places where the dogs were, you know, at different times and none of those areas were far from each other, do you accept and she was, you accept that?

A. (no audible answer 16:56:26)

Q. So she could, basically, these dogs were under "supervision", they weren't just left to be there she said: "They were there for an hour". They
25 weren't there to be there all day.

A. Yes, there were dogs tethered to picket fence, the cattle yards, to outside the utility shed, to wherever else they happened to be, that's a, yes, a large number of dogs. You're not supervising them all at once in different
30 locations.

Q. No, but this is a, this weather, the weather was benign when one, we don't have lashing rain in any of these photos, it's a benign situation, then it's

not too hot, they're in the fresh air and they're getting natural justifiable enrichment more so than an animal in an urban centre just by way of an analogy which has left them in the house all day or at the back in a small back yard all day. Wouldn't you accept that these dogs are very fortunate?

5

A. No, no, I would not accept that.

Q. Right-o. Now when you talk about "enrichment" are you talking – I think there's mention of toys, dogs playing with toys. Is it – in its natural environment does a German Shepherd play with toys or does it actually relate to the natural environment surrounding it, and enjoy it, enjoy it's freedom in that environment?

10

A. So you've got to think about what the animal is and what they used to be ancestors of the wolf, what they were, their sense of smell, their teeth, their hearing, everything is designed for hunting and that's what the wolf did. So with the toys and everything, you're simulating hunting. When you're throwing the toy in there and he's shaking his head, he's actually killing a bunny in his brain. The biscuits and the comb that I mention, rolling around trying to, he's using his nose and it's the scent work, he can smell them in there, so he's using his brain to problem solve, so it's that natural enrichment connected as well, but there are substitutes of that that they can feel stimulated by the frisbee. It's not because they love frisbees it just triggers the prey drive, they want to chase and to run and to grab and enjoy, so it's that, yes.

15

20

Q. And that involves the use of the frisbee involves the interaction between the human being and the dog because the human being has to throw the frisbee?

25

A. Yes, well that was given as a, just that example, but there's other things; the toys, the tug toys are all to do with the biting and shaking, and that sort of thing.

30

Q. I put it to you that, well, first of all, the defendant would argue that the dogs' puppies particularly did have toys which they could use, they couldn't be left alone with them, they had to be supervised because notwithstanding what you say because a dog can damage itself using the toy, it can perhaps break it, swallow a part for argument-sake, do you

accept that? They need to be supervised, you just can't leave a puppy, for example, with "toys" as you call it?

A. It's appropriate toys.

Q. Appropriate toys?

5 A. Yes, you can. So obviously not small breakable chewable as you've suggested?

Q. Right.

A. And there are appropriate toys that you can leave with pups to play with and that sort of thing.

10 Q. Right.

THE COURT ADDRESSES MR GARDINER – STOP NOW (17:00:36)

MR GARDINER ADDRESSES THE COURT – END OF SECOND VISIT (17:00:45)

LEGAL DISCUSSION – TIMETABLING OF WITNESSES, 9.30 AM START (17:01:19)

COURT ADJOURNS: 5.08 PM

COURT RESUMES ON THURSDAY 20 JANUARY 2022 AT 9.34 AM**LEGAL DISCUSSION****CROSS-EXAMINATION CONTINUES: MR GARDINER**

- Q. I think yesterday we were at a stage where we got to the end and we were
5 getting to the end of the visit from the 4th of August. I just want to go
through each of the inspections and then come back and deal with the
charges, and then I'll have another topic which I'll address before I finish,
broadly speaking. Righto, just in relation to the visit on the 4th of August,
no charges arose from that visit but there was a further Animal Welfare
10 Act warning. That's under s 130 and that's at page 31 of the folder, the
first photographic – prosecution exhibit 1.
- A. Yes, a written instruction.
- Q. Right. And we'll just go to that briefly – page 31. And essentially the
focus of that particular instruction was that certain – you described the
15 inspection as covering 31 adults, 32 puppies, German Shepherd dogs,
and you described them as living in dirty conditions with inadequate
shelter, a lack of behavioural enrichment, exposed to high ammonia
levels. You go on to say that all dog areas were listed below to be fully
cleaned and disinfected immediately and cleaned on a regular basis, and
20 then you specify various places and you have a number of additional
requirements. Now, after the second visit, at the time you issued this
notice, they had for want of a better term, they'd improved – the conditions
had improved, would you say, somewhat from the previous visit but there
were still problems?
- 25 A. Yes. Yes, in some areas, no in other areas, and no further issues.
- Q. And it's worth noting that the previous notice was issued – that's at page
20 – was issued on the 28th of July at the end of the first visit.
- A. Yes.
- Q. So we have a period of just a week during which they had to improve their
30 act, from your point of view. You came back within the week, on the
expiration exactly of one week. Do you think – correct? You were there
on –

A. Yes, there was about a week difference, yes.

Q. Right, do you think you gave them sufficient time to rectify the problems that you identified?

A. Absolutely, yeah. Easy.

5 Q. You weren't putting undue pressure on them?

A. No, seven days is a generous time period to address the issues needed and to rectify everything that was identified.

Q. Right, and we had a further visit one week later. That was on the 11th of August, correct?

10 A. Correct, yes.

Q. And the photographic booklet has a series of photographs from page 38 on –

A. Yes.

15 Q. – with a notice, further notice of this issue on the 11th of August, and that's at page 46.

A. That's correct.

20 Q. And we'll just have a look at that notice. Essentially, in that notice you say, you talk about tethering. Any tethered dog must have a minimum of a two metre tether and have access to adequate shelter at all times, immediately.

A. Yes.

Q. Just looking at that requirement, do you believe that – you talk about the tethering but the minimum – the code of conduct in relation to dogs doesn't specify the length of the tether, does it?

25 A. No, it's not going to give you a measurement but it's a common-sense measurement, and so they can move more freely in a tethered area. It's not ridiculously long, so it's going to be entangled in whatever objects, but it's a safe tethering distance so that's something, a measurement that we've put in there that's realistic within the code.

30 0945

Q. Right and did you, at this stage, identify what you meant by "adequate shelter at all times"?

A. Yes, of course, we did, even the suggestion it's just adequate shelter.

- Q. Right, but if we, if we have a situation if they're tethered, for example, dogs are tethered on a fence-line joining the main house, surely they've got access to adequate shelter because they're under and this is the point that I covered yesterday under the overall supervision of I can only speak for my client, Ms Wallace?
- 5 A. And sorry, what was the question?
- Q. Surely if they're tethered on a fence-line within almost spitting distance of the house they're under supervision of the owner?
- A. Well, they're tethered without shelter. As we know the weather in New Zealand is so changeable the sun comes out –
- 10 Q. Well, come on, even in –
- A. – I'll cross the road at lunch time and it was screaming hot, so it's the access to be able to if it's a cold wind to get out of the wind to, yes.
- Q. Well, we'll just take the last two days here in Auckland, we had unremitting heat with the weather, it's constant, right, at this time of the year, so it's not changeable or variable, you know, it's not going to rain immediately or whatever and this is at a time of the year where you would expect the weather not to be very changeable, this is this particular incident?
- 15 A. No, I don't agree with that, but.
- 20 Q. Right. Aren't you putting forward a unrealistically high requirement which is almost arbitrary?
- A. It's the most basic requirement there possibly is Dan, it's just a tether in a safe manner. It can be a plastic shelter, it doesn't have to be anything clever, even a plastic a cheap as kennel as you like and that's adequate.
- 25 We would've gone tick, tick, tick, thank you very much, job done, onto the next, so it was very, very simple, it's not complex or tricky.
- Q. Right. Just going to water vessels provided, you said they have to be secured and unable to be tipped over.
- A. Yes.
- 30 Q. Would it be fair to describe the water vessels that you had seen on a previous visit and this visit as being, you know, they were different. For example, you had concrete water vessels?
- A. Yes.
- Q. You had, did you have buckets, did you see any buckets?

A. On occasions there were buckets, yes, varied, I agree with that.

Q. Yes, and there were smaller dog more conventional water vessels?

A. Yes, very (inaudible 09:47:44)

Q. Low, like low level?

5 A. Yes.

Q. But again even if they had vessels that could be, water vessels that could be turned over, we could have a situation, of course, where the water vessels could be if they had been turned over could be righted and water replenished couldn't they?

10 A. Yes, well unfortunately, on our visits the water bowls were over and not replenished.

Q. But arguably, they had been, the dogs had not been there very long in the situations where you found them during the investigation and where there was a water vessel not there or it had been turned over, that reflected the short duration of the stable dog, do you accept that?

15

A. No.

Q. So you're making an assumption, would you say that your conclusion is based upon a series of assumptions?

A. No, on multiple visits –

20 Q. Well, hold on, you've only got two visits at this stage.

A. And each time there's tethering, no water, it's a regular thing not just "a" dog. If it was "a" dog, absolutely, but we're talking about multiple dogs on several visits.

25

Q. Right. So you identified an issue with the dogs in the crates in the garage, and there were a couple of adult dogs in the deer shed and a high ammonia level. So essentially, the thrust of this particular notice was in terms of cleaning, cleaning requirement, producing the ammonia levels and no short, no tethering and no, and water vessels which couldn't be knocked over?

30 A. Yes, shelter, water, cleaning.

Q. Though could sum it up what we have is almost a council of perfection, do you agree with that?

A. Sorry, can you repeat that?

0950

Q. What we have in this notice from you is a counsel of perfection.

A. No. Perfection? That's not –

Q. Perfection, by you.

A. It is the most basic form of animal care. It's not perfection, it's the other
5 – it's the most basic, it's kindergarten –

Q. Well, no –

A. – not university standards.

OBJECTION: MR RADICH (09:50:28)

**THE COURT ADDRESSES MR GARDINER – LET WITNESS FINISH
10 ANSWER (09:50:31)**

CROSS-EXAMINATION CONTINUES: MARGARDINER

Q. Do you want to add, Mr Plowright, to what you said –

A. No, no, just – I was just answering the question and it's not something,
we're not looking for high-end quality care. We're simply going for the
15 most basic form of care, your basics of shelter, water, cleanliness. It's
basic stuff. It's not anything clever.

Q. Well, can I just ask you some questions in relation to that? First of all,
you said if one or two water bowls were turned over or knocked over, that
would be something that you would give a tick to overall, but you're saying
20 that more than one or two were knocked over by the dogs and therefore
you're assuming that the water was not regularly replenished and they
didn't have water available to them at all times.

A. It wasn't what I was saying, that one or two knocked over – when you've
got properties we visit and you've got a dog and it's knocked its water
25 bowl over, it's free running, it's not such an issue but this is a commercial
operation with huge numbers of dogs, huge, and so these things that you
trivialise are actually really important on a – because you cannot monitor
63 dogs all at one time. You need to make sure they set simplistic things,
shelter, water, clean.

30 Q. Yeah, but what you're saying is you turn up, the cavalry from the SPCA,
as it were, and you ask – you look at it and you say there should be more

water – that the water containers shouldn't be turned over to this degree, even though dogs are dogs, and they – we should have more, we should have bigger water containers, for example, which can't be as easily knocked over. Do you agree?

5 A. No, I didn't say anything about bigger water containers. Just containers that can't be knocked over.

Q. Right, so if we have a bucket, that would be an ideal – full of water, that would be an ideal water container because it – don't you agree?

10 A. Well, depending on the age. If they're very young pups, no, you need a shallower one, but for an adult dog or an older pup, yeah, absolutely, bucket, tethered, perfect.

Q. And your counsel – you're talking about tethering, you're saying – are you saying never use a short tether?

A. Yeah, you –

15 Q. Is that what you were saying?

A. There's a difference. If you're talking about tethering, you've got different types of tethering. You've got – I've taken my dog for a walk and I've tethered it outside the dairy as I've gone in for an ice-cream, that's perfectly, absolutely acceptable if you're just going for a walk, but it's a walking leash. This is something to have the dog close to you. It's not a suitable form of tethering for any durations of time. It's not a – it's not designed for that. They're walking leads.

20

Q. Right, so if for example we have a competition, national dog trials, for example, different area, you would say it would be wrong for dogs to be tethered on a fence line at such a trial while they're waiting to be called?

25

A. No, because the owners are right there with them, with a owner, with a dog, not several dogs scattered in several areas tethered by leashes.

Q. So your argument is that the ideal tether, if a tether is used, if a dog is left, is a couple of metres long, is that what you're saying?

30 A. That would give it room to move. Of course it depends on the type of area, but a couple of metres would be room for the dog to move safely and the reason we talk chain as well is because chain has individual links and it cannot twist around legs or anything like that. It's designed not to,

it simply drops, 'cos it's in links as opposed to a leash, which is one single piece which can wrap it.

0955

5 Q. Right, so in other words, the tether at two metres which is a chain is preferable?

A. Yes.

10 Q. Right. Now just looking at the ammonia level, I asked you and just this is probably the final comment I've got to make on this notice, I put it to you various propositions in relation to the ideal cleaning method cleaning substances, substances that could be used to help, for example, like disinfectant. In this notice you actually, you just, you refer more generally to dirty conditions, high ammonia level to be cleaned and ventilated immediately. Now the argument is, I put it to you that there is - these dogs were in this situation say in the double garage by the house?

15 A. Yes.

Q. Yes. And but the defendant would say that these dogs weren't there on a previous occasion that you came, the 28th of July. So this is a new situation which you have identified in relation to this location, this particular location?

20 A. That's the first time we'd seen the location, yes.

Q. Yes, but it's a location you said there were a lot of barking when you came on these visits, you know, and that would be due to the fact that you were outside coming to the farm, and the dogs sensed that you were outsiders, wouldn't that be the case?

25 A. There's 30 dogs on the property Dan, there's barking.

Q. Right.

A. 60 dogs.

30 Q. Right, but they're dispersed throughout the different farm. So just going back to the house, there were only a limited amount of dogs in that vicinity comparatively speaking. If there had been dogs in that double garage when you first came to the property on the 28th of July, surely they would've been barking?

A. Hey, maybe they were.

Q. But you never heard them?

A. I wasn't aware of it, it doesn't mean there was or wasn't or but the faecal matter and the urine in there, and the sense of smell and the fur build-up in there would suggest that it's far longer than a week, we were there a week earlier- the state of the garage would suggest it's been longer term the dogs had been in there, so well before that.

Q. Right. Again, that's a matter of inference by you, you accept that?

A. That's my opinion, yes.

Q. Right. And that garage housed other farm implement, this wasn't just dog crates, there were other things which were related to running a farm or?

10 A. I didn't say any, I didn't notice anything like that, maybe there could've been, it was a pretty filthy state.

Q. Now just, we'll go to the 11th of August. Now the defendant Wallace would say that at the time of this inspection, she, she is speaking just for her, she had in the meantime since the previous two inspections made as many improvements as could be done in the time that it had been allocated before the second, and now the third inspection was about to occur, do you accept that?

A. I'm just referring to my notes Dan, I've just got "Some cleaning in the garage, a bit far from ideal. Two adult dogs in double portable run, water-blasted, much cleaner, has water. Dog caged in car, okay. Single dog cage, cleaned, three dogs tethered by short leash and choke chain. Woolshed was cleaner, but not ideal. Three times adult dogs, six pups in the stables, three pups in side". I'm not sure what my notes say there. "Six pups and the others, so it must be three pups on one side, six pups on the other side and then I can hear barking in the back of their shed".

1000

Q. But this is, in other words, not a case where you have given previous notices and they'd been simply ignored. Efforts had been made to meet the requirements.

30 A. Some cleaning had been done, yes, which we acknowledged, yes.

Q. But you agree that there could well be disagreements – this is a question – based upon the code of conduct in relation to tethering and what the requirement is there, that you could have one view, she could have – the defendant Wallace could have another.

A. No, it's quite clear. It's quite clear within the code of welfare.

Q. Righto.

A. It even refers to choke chains in there.

5 Q. But we have a situation here where the defendant would argue that the situation is different because they're only temporarily there and the inference, assumption has been made that the same dogs are being tethered on a fenceline. Do you accept that, that you're making an assumption of the same dogs, would that be the case?

10 A. I'm assuming they're – the sort of question is, I'm assuming that what – sorry, can you – I don't understand what you're saying.

Q. Well, you're saying here they are, tethering these dogs. You say you've given evidence which indicates that the dogs have been there a while, not temporarily, because the area of ground that they're on is worn. You've said that, haven't you?

15 A. Yep.

Q. And that really – and basically the implication of what you're saying is that we're talking about these very dogs which are tethered there and there –

A. And there, and there, and over there, and at the back over here.

20 Q. So you're saying that periodic – your assumption really is that periodically dogs are tethered but may not be that particular dog which has been tethered at that spot in the past.

A. Regardless of time period on there, you've got tethering of multiple dogs in multiple locations around the property. You cannot – you've walked way from one, even if you're monitoring one, you've walked away from
25 the others, so they're unmonitored, tied by choke chains, unmonitored, on short leash.

Q. But you're – well, that – you've got a particular view on it, the defendant has a particular view on it.

A. That's right.

30 Q. Now, in relation to water vessels and so on, you accept that it's a problem that's inherent in keeping dogs that they do from time to time – or more than from time to time – knock over water vessels? You accept that?

A. Yeah.

Q. And this is particularly so with puppies, do you accept that?

A. Yep, easily remedied, but yes, it can.

Q. But you have to really, just to finalise the point, with water vessels, you have to determine what is the appropriate water vessel for this dog at its particular time of development, wouldn't you agree with that?

5 A. Yes, yes.

Q. Because for example, if you had a large pail, a puppy could drown in it.

A. That's right, absolutely.

Q. So in that situation you're more likely to have the low level water vessels or a concrete one, would that be?

10 A. Yes, well, something heavy and low.

Q. Heavy and low. Now, I just wanted to leave – now, there's a series of photographs in the book which I'm going to come to when I sort of go through and put the defendant's position on the different charges, right? But I just want to go now – well, first of all go to the – there was another visit on the 12th of October to the farm and you issued – and that's the one where you went through the property and you identified what you thought were various problems and those problems have led to the 30-odd – I think it's 29 charges which have been laid in relation to the conditions that you contend that you observed at the farm, at the kennels on the 12th of October, do you accept that?

1005

A. No, it was actually the charges relate to the following day on the 13th, so that's when the full inspection went through and so they relate to the 13th.

Q. But we have, but you had the inspection on the 13th, you had a further inspection on the 13th with the vet, but the photographs, we'll just take page 47 we've got two dogs there which are the subject of charges, they're under the and these dogs were observed on the 12th, so the contention appears to be that what was observed on the 12th, warrants are charged and these photographs support the charges that have been laid, do you accept that?

30

A. Were the charges laid for the individual dog on the top? I think the following day that dog wasn't there, so whether it was in a different location and it had a health issue, I'm not sure. The pup down there was

it tethered the following day on that spot, the charges relating to that pup, I'm not sure.

Q. Right.

MR RADICH ADDRESSES THE COURT – CLARIFY CHARGES (10:06:38)

5 CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. So what I will – we will just go on the 12th. So basically, it's fair to say without just, I don't want to specifically go to these photos at the moment, but I will, they have been covered by my learned friend, but I'm going to come back in terms of the different charges you've laid that have been
10 laid against Ms Wallace, but I'll do it sequentially rather than be jumping around. So we will just make, but as a result of what you saw at your inspection on the 13th, you made a decision and you conveyed it to Ms Wallace and I can't at least that you would have a think about what you had seen, and go away and have a coffee and think about it, would
15 that be a fair – well, more or less?

A. You're referring to the 12th Dan not the 13th?

Q. Yes, the 12th.

A. We were going to go away and have a think what we –

Q. Yes.

20 A. – basically, we were disappointed there was a two months approximately gap and this how we would try and see because there had been some improvements as we'd noted on the, was it the third visit, and so what we do, we'd give it a descent break and which was a couple of months, and leave them to, we've given them all the information, everything they can
25 possibly need and then come back and see how they're getting on. Ideally, we would've turned up and there was no tethering, everything's clean and we would've said "Thank you very much, have a nice day and see you later" and that would've been the end of it and I wouldn't have to be sitting here. Unfortunately, it wasn't the case.

30 Q. Right. So at what stage did Ms Wallace tell you about the intention to build kennels, you know, a new kennel?

A. I think it was potentially on the, was it the third visit or second visit that, oh, sorry on the first visit was the, they said they had planned to do that and that's why we put in even into a notice, I think it was five month, they suggested they can get kennels built because we pointed out the obvious, they don't have facilities.

5

Q. Right and that, and you did actually in that first notice which is dated, it's at page 20, exhibit 1, you actually give a timeframe, you say "five months, 31 December" right and she gave you some progress reports on that kennel?

10 A. Yes, yes.

1010

Q. And you got a further progress report at the interview that was done as well which was in November, I think the 17th of November and that, those new kennels were completed well before December, weren't they?

15 A. I couldn't tell you the completion date, but we were happy with the construction and the process of their block, that was a good quality kennel block that was great, but it still wouldn't house all the dogs that they had.

Q. So on the 12th of October, had the foundation been laid for that kennel?

20 A. I'd seen the foundation started. I can refer to the notes if you like and check?

Q. Yes, certainly.

A. "New kennel block under construction, 20 metres x 6 boxings, steel reinforcing, drainage". So yes, there was the start of the kennel block was underway on the 12th of October.

25 Q. Yes. And you subsequently saw the kennel block in its complete state at a later date?

A. Yes.

Q. Right. And was that before as best as you can recall, was that before the actual interview on the 17th of November or?

30 A. I don't think they were completed at that stage by the interview, no, they weren't.

Q. Right. So you went away and you came back on the 13th of October?

A. Yes.

- Q. And we've got some photos relating to that visit which start at page 64 and go through to page 70, correction, it actually go through to the end of this booklet.
- A. Last page.
- 5 Q. Yes, to the last page, so they start at 64. So it's fair to say you had another inspection one day later -
- A. Yes.
- Q. – which complimented your inspection of the 12th, but on the 13th, we had a situation where you were, it was you, Inspector Davis?
- 10 A. Yes.
- Q. The Dr Beer -
- A. Yes.
- Q. – from SPCA?
- A. Yes.
- 15 Q. Vet and who else?
- A. We had Animal Control and the community constable, and couple of field officers.
- Q. Right. So basically, there were about six or seven vehicles which correct me if I'm wrong, which initially were at the homestead on the 13th?
- 20 A. That's correct.
- Q. And you decided at the end of this to seize 15 dogs?
- A. At the end of the inspection –
- Q. Correct.
- A. – well, the guidance of the veterinarian, that's why we had a – so even
- 25 the extra people, so what was needed was there's no point just writing an extra 130 and walking away from it, it needed the full inspection, vet included, so a hands-on for every dog on the property and a check through on everything, so it was that full inspection and yes, guided by the veterinarian, we did end up seizing 15 dogs on that day.
- 30 Q. And the 15 dogs were taken away in SPCA vehicles?
- A. Yes.
- Q. And the animal control vehicle that arrived initially and then there were a number of other animal control vehicles that arrived?
- A. No.

Q. There weren't?

A. No. There was only two of them.

Q. Two. And what was capacity of the animal control vehicles?

5 A. So that was to do with my role too, I've got to think of the whole – this is a hands-on, so I've also got to think health and safety at the property too, so we're hands-on 60 odd dogs, I've got to make sure of the health and safety of, make sure there's no bites or incidents or anything like that, that's all in my head, so I need to have experienced animal handling people available should that be needed. I just need to make sure we can
10 do everything in that time period safely with people that are skilled in that area to know how to do that.

Q. Right. But ultimately, the person who made the decision, there was a command decision by you that these dogs would be seized and you took it – this is how it went and you took advice from Ms Davis, a
15 recommendation or advice from Ms Davis and also from Dr Beer?

A. We're guided, myself and Inspector Davis are guided by Dr Beer.

Q. And then just looking at photo 64, before I start, photo 64, there's a gentlemen in the bottom photo whose got what appears to be a special electric rod, is that the correct description?

20 A. Sorry, which page are we on?

Q. Page 64, bottom left-hand corner.

A. An electric rod?

Q. Yes, you kneel down -

A. Yes.

25 Q. There's another officer out to the right he looks a bit like you but isn't because we've just got a back –

A. Oh, sorry, that's a catchpole.

Q. Is that a catchpole an electric one?

30 A. No, no, not at all, no, no. So this is we call it a ketch-all pole. It's a pole designed, it's probably the best pole on the market for dogs showing aggression. It has a, yes, it basically it can put a noose over the head. It ends up being a stiff lead and you can roof dogs safely without getting bitten and there's all swivels and everything, and its easy release, so

they're a good quality catchpole should they be needed. I think we did remove some by catchpole, but the majority were led off by lead.

Q. And why was Animal Control involved at this seizure, why were they bought in?

5 A. Because you've got 63 German Shepherd dogs and the experience in the handling of German Shepherds was a high experience in that area, so they had been involved in the property as well, they'd been to the property.

Q. So we've got 63 dogs that were found on the property?

10 A. Yes.

Q. And they, but you only seized, you seized 15 leaving the other dogs with Ms Wallace, you know, with kennels, so you took 15?

A. With instruction, yes.

Q. So you gave them the notice?

15 A. Yes.

Q. At the end of this?

A. Yes.

Q. And what was that notice, what's the number that's inscribed to that notice?

20 A. It's in the booklet we can refer to there.

Q. That one's at page 81. Correction no it's not.

A. So it's on 86.

Q. 86, my apologies, yeah. So basically, 53 German Shepherd dogs. So there was some question about the numbers and there not being, not
25 knowing the exact numbers, but this you found, you were told originally that there was, was in the indication where there was about 60 odd or 63, five dogs were surrendered earlier on. So we have a situation where it's reduced significantly towards that number of 53 and with a very detailed examination of the property you just find 53. So the inference from that
30 is that no dogs had been hidden, that they'd been upfront regarding the number of dogs Ms Wallace has been upfront regarding the number of dogs that were actually there. You haven't believed it. Would that be a fair statement?

1020

A. No, no.

Q. Well, 53 you've ended up with and you take 15. That indicates we're then down to 38 dogs, and those dogs would be a mixture of puppies and adults, wouldn't they?

5 A. You've told me that she was upfront with the numbers. On each occasion, we had to call her back to a location and say: "What about the barking from in here?" On each occasion. That's not upfront.

Q. Yeah, but the – we're just saying, we're upfront in terms of the numbers that you understood –

10 A. I don't know that.

Q. Well, your end point here is 53 and this notes you've meticulously gone through all the buildings and you've come to 53. You take 15 and leave the balance with Ms Wallace, with the kennels. Now, you say that there were dirty conditions, exposed to ammonia, inadequate shelter, no water,
15 ear infections, skin conditions, and underweight, right?

A. Yes.

Q. Now clearly Ms Wallace would take issue with all those contentions and that'll come out when we go to the different charges. Now, you talk about location of some of these dogs and you – there's a requirement for further
20 grooming.

THE COURT:

Is there a question in this?

MR GARDINER:

I'm just going through this notice to show the compatibility –

25 **THE COURT:**

Well, perhaps you need to break it up because it's going to be difficult to answer. You don't need to read it out because we've all got it here.

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. So you then refer to a number of requirements or some requirements
30 which have to be met within 48 hours.

A. Yes.

Q. And you also deal with some – the fresh water issue and crates, et cetera. Now, did you go back to the property after this visit, between this visit and the 28th of – and the further situation that arose with the dogs at the back of the property on the 18th of May 2018? Did you have some further follow-up visits at the property?

A. Yes, yes, I did.

Q. And basically they were – Volkerson was broadly compliant with requirements.

10 A. So for my involvement on the 18th of May, I wasn't involved in the inspection of the dogs in the facilities. I was responding to the barking, distressed dogs on the bush block.

Q. Righto, now there's been a suggestion that – and these dogs were in the bush block. They were dogs included in that 53.

15 A. I couldn't tell you. I don't know.

Q. Right, so when you went through – when the SPCA and animal control went through the property on the 13th of October, did they – was there any microchipping done, checking of microchips in the –

20 A. That type of thing would have been done back at the facilities, not on the property. The – yeah, you'd have to ask the vet that one.

Q. Right, so microchips are chips, computer chips –

A. Yes, I realise.

Q. – in the neck of the dogs, and what do they signify? What does a microchip signify?

25 A. It has numbers on there, so it's identification.

Q. Right, and it shows incontrovertibly what the – correct me if I'm wrong with this question – incontrovertibly what this – that this dog is registered, what its –

A. No.

30 Q. It doesn't show that?

A. No.

Q. What's it show?

1025

A. It's just a microchip, have the recorded owner and the agent details of that– the contact details for the owner so it's not a registration counsel related thing. It's simply microchipping identification.

5 Q. Right, now these dogs that were taken, seized on the 13th of October, were they– the usual practice of the SPCA is to photograph the dog at the time of seizure, isn't it, before you take the dog away?

A. We'll try and photograph animals in situ before they leave of what they are, so yes.

Q. But that wasn't done here, was it?

10 A. There were photographs of dogs, we don't– we'll do identification pictures back at the SPCA, microchipping, SPCA from there.

Q. So we have a situation where after you left the property on the 13th of October, there were dogs in the Animal Control vehicles? Two Animal C– and there were dogs in the SPCA vehicle, vehicles?

15 A. I couldn't actually answer that 100 per cent. We did have the (inaudible 10:26:19) whether the animal control had any in there, I'm not sure.

Q. But you didn't have– you only had, what, how many vehicles, three, three or four?

A. I would have to go– yeah, look back to find that.

20 Q. Can you check your notes?

A. So, let me just see on the 13th so I was with Jess Beer, Animal Control Rhys Heatley - oh I've just put down SPCA transportation staff so I know there would have been about two or three vans there as well my vehicle, Lori's vehicle so it would have been four to five SPCA vehicles.

25 Q. And the capacity of each SPCA vehicle is how many dogs, two?

A. No, the vans can hold– the transportation, the field officers, they can potentially hold four dogs in those. For mine and Lori's, we could hold two to three dogs in the set up that they have. We divide it into four holding areas in the back of the SPCA Utes but often, there will be a cat cage in one so we'd say three. Worst case scenario: two.

30

Q. So, these dogs were taken back to the SPCA?

A. Yes.

Q. Their premises where?

A. Westney Road, Mangere.

Q. And is that where – do those premises include accommodation for the dogs?

A. Yes.

Q. And do they include an area where the SPCA vets examine dogs?

5 A. Yes.

Q. And are dogs, when they arrived at the SPCA, are they photographed and documented?

A. Yes, yes.

10 Q. So the condition of Ritzer, when it came to the SPCA, I'll just take her at random?

A. Yep.

Q. That would be evident in the photographs that are taken at the SPCA, would that be right?

15 A. Whether she was taken straight in because of the injury, that was probably more likely that she would have gotten straight in to deal with the leg injury so you can imagine the identification pictures are out on the an area to be able to photograph them, couples of angles and that sort of thing but something with an injury of that type will be going straight in.

20 Q. But you can have some dogs that were deployed or taken apparently back to Pukekohe to –which is where the Animal Control were based?

A. That's right. Because there was so many dogs coming in, it's, yeah, quite an unexpected squeeze on our capacity so it was a temporary holding arrangement that some went there.

25 Q. And some of those dogs remain there for quite a significant period of time given their alleged condition, do you agree with that?

A. I couldn't answer honestly on that. I don't have that information in front of me but they were held there until we freed up space to have everything back in the SPCA.

30 Q. Now, just with regard to ear infections. Isn't usual for a vet or a member of the SPCA to use an otoscope to actually inspect the ear to see whether or not there is– what the problem is?

1030

A. So I'm not a vet, so you're asking me what's normal veterinary practice?

Q. What is normal for a vet to do –

THE COURT ADDRESSES MR GARDINER – NEED TO ASK VET (10:30:06)**CROSS-EXAMINATION CONTINUES: MR GARDINER**

5 Q. The vet was accompanying you most of the time as you went around, you were sort of like a unit? Did she at any stage – you know what notice cope is?

A. Yes.

Q. Did at any stage did she use an overscope in your presence in relation to any dog to determine the state of the – what might have been construed as an ear infection?

10 A. I believe she did but you'd have to ask the vet and that's five years ago I was with her but yeah I can't, I've been back to the property where those have been used and so I just can't answer that one honestly without, I'm just unsure, she probably did but you need to ask her that.

15 Q. I just asked you just given your considerable experience in this area, when you have a vet that accompanies you on an inspection like this. Is it that the purpose of having a vet is for the vet to inspect the animal and to determine whether it has a health, as a preliminary view whether it has a health condition or not. Do you accept that?

20 A. Yeah, I'm getting guidance, I'm getting expert guidance on decision making. I'm not a vet, I either go yeah it looks good or looks bad. If it looks bad I get a vet to tell me. I could've taken the vet there and through and actually it's not all that bad. I'm okay with stuff and if she'd said that I would've gone by the veterinary's guidance and driven away.

25 Q. Let's go to the final visit, I mean I'll come back and go through the different incidents and charges. The final issue was this inspection on the 18th of – correction, the dogs on the property on the 18th of May. Now we've got the second photo booklet which covers this, now just these that this is just to set the parameters within which we'll assess what occurred. Now this – can I ask you some questions about arrival, what you did on a particular day –

30

A. Sure.

Q. – and then I'll come back and I'll go, I won't deal with the condition of the dogs as they appear and the inference is at this stage, I'll come back and do the whole lot in a sequence, righto?

A. Yeah that's fine, no problem at all. Yeah that's fine.

5 Q. Now you gave evidence in response to questions by my learned friend about getting a call from Mr Heatley of Animal Control?

A. Yes.

Q. He'd received apparently a information or a complaint from someone in the vicinity of the Glover/Wallace property and as a result of that, a
10 decision was made, you and he met with the complainant on the 18th of May 2018 at 11.20 am?

A. Yes.

Q. And that meeting occurred at the complainant's property?

A. Correct.

15 Q. And as a result of that meeting you walked into the area where some sounded dogs have apparently been heard?

A. Yeah.

Q. And you found the dogs which feature in photographs in the second book?

20 A. That's correct, yes.

Q. Now at the same time as you were doing that, as I understood it there was Ms Davis who'd gone to the Glovers', the property, Volkerson Kennels and she had commenced, was she just interacting, well she can speak about what she did obviously.

25 A. Yeah, I don't know what was, yeah.

THE COURT ADDRESSES MR GARDINER – SAME TIME? (10:35:21)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Clearly, would it be fair to say you were liaising on the RT as it were with Ms Davis so that the operation was co-ordinated?

30 A. When we (inaudible 10:35:41) reception's terrible down there, so it was actually very very difficult but yes, so she went to do the inspection so the timing would've been very similar to when I was entering up there and till

when she was going down there and organised things at the same time and went through from there. So she would've been on the property, I did try and communicate with her so the coverage is just terrible up there, so I felt I have to, I couldn't communicate. Well with the dogs I had to go back to an area where I could communicate.

5

Q. And it's a situation where it was just you, Mr Heatley at the initial stage. Did you go into the property, into the Glover property, it was just you two or did the complainant come with you?

A. No, no.

10

Q. No?

A. No.

Q. So you came into the property, you managed to find where the location where these dogs were according to the prosecution case tethered and you made assessments, you couldn't take all the dogs out on your own and you got some backup?

15

A. Yeah, it was just, yeah it was not practical to be able to do that that way.

Q. So you had stop – you were driven in, did you drive in or completely walk in from the point of entry?

A. Once we'd crossed the boundary we had to walk in.

20

Q. Righto.

A. So with a four wheel drive had to –

Q. To the boundary?

A. – boundary fence and then walked from there. It was hilly, bushy terrain.

Q. And the colleagues who were involved in this with you (inaudible 10:37:36), you asked for support to take the dogs. That was Inspector Cody Taylor?

25

A. That's correct.

Q. And a trainee, was a trainee inspector Robert Lloyd?

A. Yes.

30

Q. So in the end there were three SPCA Officers involved. Now after – so the dogs were picked up through the assistance of your colleagues after you found them, and they were taken back to SPCA vehicles that the – point of exit if I could point to you (inaudible 10:38:16) and you couldn't,

you drove around to the Glover property and went to the house, correct?

After picking up the dogs?

A. Yeah, yeah – no, no, so I haven't –

THE COURT:

5 That's not what he said yesterday. I thought you had to go back, get your car, go around to the front, go up to the house, drive up to the back get off and walk. That's what he said yesterday.

MR GARDINER:

10 Thank you your Honour, yeah no he did, he did. I stand corrected.

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. So you went back to the Glover house, you spoke with or tried to speak to the defendant Wallace?

A. Yes.

15 Q. And she shut the door and said she was going to call the police?

A. She walked away and said that and went inside.

Q. Righto. And then you had a conference with your colleagues and you decided that you would try to drive up to the location where the dogs were found?

20 A. Yeah.

Q. And my learned friend asked you some questions about timeframe, how long it took and basically, it was quite a nice day on that particular day, it was dry? The sun were shining?

A. It's May, it's wet so it was not an easy task. It wasn't raining at the time
25 so that was good.

Q. And the sun, there was sunlight, do you accept that? A bit of sun?

A. It wasn't raining at that time.

Q. Right.

A. The ground was very wet.

30 1040

Q. So you've decided to drive up – now there were about three or four gates, all you have, you had to negotiate about three or four gates before you

got to the situation where you could see the location where the dogs were, is that a fair comment?

A. No.

Q. So how many gates did you?

5 A. I couldn't tell you of the number of gates, but we went as far as what we could until it was no longer accessible by four wheel drive and we had to get out from there and walk again until we got to an area and then we could see the dogs. So we had to walk for another whatever it was, 10, 15 minutes or whatever to get to the dogs.

10 Q. And then you did the same thing in reverse after you got the dogs, put them in the vehicles and then returned to the main property, main house?

A. So I had six people with me because I knew there were six dogs and that way, and I knew we were not going to drive our four wheel drives right down to where they were, so we would need some leash walking, so there was, yes, six people to walk six dogs. So to walk them back into the vehicles and then down to the house to leave a 129 and also a surrender notice.

Q. Just going back to when you went onto the property in the first place and had a look where the dogs were, that walk took you, what, about 10 minutes from the back of the property to find that particular place, would that be –

A. Sorry, from the very first point of entry when we went in?

Q. Yes, the first point of entry, yes.

A. 15 or whatever, it's not an easy walk to have that time of year, you slip, you're muddy and so it was not a stroll across a paddock that's for sure.

25 Q. And when you did the exit, you were travelling a quite a short distance weren't you? Would you say about one a half kilometres the place was about 1 ½ kilometres from the main house?

A. I would, I don't know, but it was a substantial distance, you're talking of a 500 acre property, it was towards the back of that property, so it's not a gentle stroll up the road, so no. I would suggest it's probably further than that. I'm not sure if it's on the map whether we had a, whether there was a distance put on there. If I can refer to that, there might be approximately 1.8 kilometres as the crow flies is what we've got on here.

Q. So if Ms Wallace took the dogs up on the day, bearing in mind she starts work at 4 o'clock at 4 to 5 in the morning, well, that would be her evidence, she would either walk them up the 1.8 kilometres or alternatively she would use a buggy, a farm buggy, do you accept that?

5 A. No.

Q. Do you accept, well, there was a farm buggy available on the property, you would perhaps have a situation where you've got a farm buggy and the dogs are going to be placed at that location for argument sake, running alongside?

10 A. So the effort to get there, it's not a little stroll up the farm paddock, it was our four wheel drive vehicles could go no further, it's that wet. It's not a 4 o'clock in the morning is pitch black, it may, six in the morning is pitch black, it's very imaginative but unrealistic.

Q. But we're not talking, we're talking about dogs being – you have your
15 conference before the deployment onto that property from the back, from the adjoining property, that conference which I'll go back, that conference occurred at you met at the meeting commenced at 11.20, how long did it last for?

A. It didn't have to go on for long at all, it's simplistic call, the information was
20 there's been distressed dogs barking night and day through the bush and it's been going on for a week, and they were in a previous to that, they were in a different location again, but it could be heard.

Q. We'll come back and I'll put some propositions on that. Now, we'll just go to the first charge.

25 **THE COURT ADDRESSES MR GARDINER – CHARGE LIST, ADJOURN**
(10:45:01)

MR GARDINER ADDRESSES THE COURT – MOVE CAR (10:45:39)

COURT ADJOURNS: 10.46 AM

COURT RESUMES: 11.00 AM**CROSS-EXAMINATION CONTINUES: MR GARDINER**

Q. Now we're just going to charge 1 in the charge sheet and that alleges Mr Plowright failure to meet physical health and behavioural needs of
 5 Analy and the allegation is that in the particulars, tethered, you got a copy of the charge sheet there?

A. No, I don't.

Q. Perhaps it might help, charge sheet, just go to the first charge and we'll go to the relevant photograph, this is, the charge relates to the dog in the
 10 top photograph page 47. The charge sheet refers to Analy, you gave evidence in relation to the computer chip that – are you aware that Analy is that dog?

A. Yeah okay, yeah, it does look like the dog that's Analy, yes.

Q. Right and you accept – when we talk about a short lead, are we talking
 15 about a standard lead of one metre four centimetres that's the normal length. Do you accept that?

A. Of a normal walking leash.

Q. Yeah of a short lead when we –

A. Something like that, around that.

Q. Right. And I'll put it to you that the defendant contends Analy was in that
 20 utility shed was basically tethered and trained for emergencies and to react to those emergencies and this arises from the incident involving her sister. Do you accept that that could well be the case?

A. Highly unlikely, it's not going to save anyone tethered on a short leash in
 25 a utility shed. So both fully understand the need for a security dog but it's going to – you can see the area that is securing by the area of a faecal matter which is a...

Q. We'll come back, we'll deal with the faecal matter. Do you accept that
 30 this dog is seven years old or was seven years old at the time which is quite old for a dog. Do you accept – well past middle age?

A. It's, yes a little grain in the muscle but yeah so am I. It's, yeah seven is still potentially you could have another seven years left depending on the dog.

Q. But the average life spent for a German Shepherd would be what, 12 years?

A. Around that, so could be 10, 12, 14 depending on the luck of the drawer.

5 Q. Now she – so basically I put it to you that that faecal matter is consistent with a dog devouring a large bone and then excreting. Do you accept that? Would that be the faecal matter that you would expect from a dog?

A. I'm just looking at the faecal matter. If a dog is – so white faecal matter is either aged or very high bone at the setting, an awful lot of bone, it can be but still it just gives an indication of the area the dog can access. That is the dogs' area.

10 Q. Now the dog is at the back of the utility shed and it's in a position to also defend farm implements, he'll be tethered. In other words to bark and give warning and so on, do you accept that?

A. No.

15 Q. You don't?

A. No, it's not going to protect anything tethered on a short leash.

Q. But it could bark and alert people as to someone who might be trying to steal farm implements?

A. I could steal the TV and walk right past the dog in its short leash and it could bark. That is doing – it's completely ineffective as a security dog tethered in that manner.

20 Q. But we're talking about a dog in a utility shed which is a short distance from the house, aren't we?

A. Tethered on a short leash, yeah okay.

25 Q. And if that – now I put it to you just in terms of the barking, that dog was previously loose and roaming around the shed but the – I put it to you that the defendant would say that the fencer was scared of the dog when he used the utility shed and therefore the dog was tethered so that he could have – he could come and go so the –

30 A. Analy's a female I believe.

Q. Yeah.

A. And Analy wasn't on the loose, it was a different dog that was on the loose. Analy is the one in another picture that's tethered to the front of the utility shed with another dog on the loose.

Q. We'll come back to that but just getting to this dog, do you accept that that – so do you accept that the dog could be, and this is the point that actually goes to what the defendant would say “dogs are rotated”. So we've got an older dog at this time in the utility shed acting and say a guard dog, it's
 5 tethered back in the shed where the farm implements are and where access can be obtained to other parts of the shed. So do you accept that that could well be the case?

A. No, I don't accept that.

Q. Do you accept that it could well be the case where it's been tethered to
 10 ensure that a member of the staff can access the shed and do his work?

A. No, I don't accept that.

Q. And do you accept that this dog is an older adult and well able to alert people as to the presence of someone who is not authorised to be there?

A. Yeah it can bark when people are around, yeah absolutely.

15 1110

Q. Now, just going to the faecal matter, the defendant Wallace would say that this is not a faecal build-up because basically it reflects one instance of going to the toilet. Excrete – poo, as it were. Do you accept that that could well be the case?

20 A. No. I don't accept that.

Q. Do you accept that the defendant would say this dog was certainly not tethered for any length of time in this place?

A. I don't accept that. The fur build-up, the faecal matter, there's trodden-on faecal matter, fur, yeah, there's long-term tethering in that manner in that
 25 spot.

Q. Right, but not necessarily of this particular dog.

A. Well, hey, I can't say what dog has been tethered there regularly and on a short tether, and not clean.

Q. Do you accept that this faecal matter which you refer to, the white, it's not because, and I just put this proposition to you because the faeces are old, but from eating beef bones and that these faeces turn white once toileted into the open air within minutes of hitting the ground. Do you accept that?
 30

A. They do, if they're eating a lot of bone they do tend to be white, but I – yeah. Yep, I can accept that.

Q. And do you accept that the dog's posture there shows a dog on alert –

A. It looks like –

Q. – to perhaps the person who's the photographer? I think it was you.

A. It was like barking, yeah.

5 Q. So the defendant would contend that in relation to this photograph, which is subject of the first charge, there is no evidence whatsoever reflected in that photograph of any of the minimum codes being breached. Do you accept that?

A. No, of course not.

10 Q. Why do you disagree?

A. It's pretty self-evident. We've got the code of welfare. It's tethered on a short leash, there's long-term tethering, there's the fur, faecal matter built up in a small area, which indicates long-term tethering in that manner.

Q. But surely in the code of conduct when we talk about long-term tethering,
15 we're talking about a particular dog being long-term tethered, and that's not the case here. There's no evidence that this dog was long-term tethered in this location. You accept that?

A. No.

Q. And why do you not accept it? Because –

20 A. It's – if you'd like to refer to the code of welfare, not the code of conduct, the code of welfare, we can, if you'd like to go to tethering for a fresh –

Q. Yeah, we can do that.

A. We can do if we go down to the recommended best practice –

Q. Excuse me.

25 A. Sorry?

Q. I have quite a few documents here. I'm just going to the, I think, codes in this one. Right, we'll go to...

**THE COURT ADDRESSES THE DEFENDANT WALLACE – SIT DOWN,
PULL UP MASK (11:14:47)**

30 1115

LEGAL DISCUSSION (11:16:17)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. We will just go to – thank you your Honour – we will go to paragraph 4 of the code containment 4.1 and the minimum standard containment of tethering is set out with a black surround. Now what point do you want to make?

5

A. So in that a dog must be contained or tethered in a way that causes them injury or distress, collars must be fitted properly without damaging the skin or restricting breathing, be tethered by choke chains. The recommended best practise if we go down to B “Dogs should not be left unattended and routinely tethered by choke chains or devices which tighten around the neck” and however, they are routinely tethered by choke chains and devices, unattended around the neck.

10

Q. Right. Again, this is a question of fact, well, that’s a matter for - do you accept that the mere fact that choke, that short tethers are used in relation to dogs doesn’t necessarily mean the short tether has been used on this particular occasion in relation to, for argument sake, this particular dog?

15

A. So this particular dog was on a short leash, a choke chain, unattended.

Q. Yes, but the thrust of the requirement, don’t you accept – well, we will just go, the minimum standard is as set out in number 4 and then we have some recommended best practise, right. Recommended best practise is not necessarily the practise that has to be followed. The minimum standard is the one that needs to be adhered to, do you accept that?

20

A. It’s recommended “best practise world class breeding facilities” not wishing to adhere to the recommended best practise.

25

Q. Okay. So what you’re saying is that when you came in to this kennel which has produced and evidence will be produced, you’re not in a position to comment on its achievements from personal knowledge are you?

A. No, apart from seeing ribbons, trophies, so I’m sure there’s many.

30

Q. Right, but your comment then was I would put to you is quite significant because what you’re saying “this is a world class” and you said it ironically or sarcastically, a world class breeder, you know, kennel. Well, then you expect a world class kennel, this is the implication, chorally of what you

just said to be adhering to recommended best practise as opposed to the minimum standard?

A. No, we do the same standard regards for anybody. As an SPCA inspector, it's only the minimum standard we're trying to achieve, whether it's someone in a state house, whether they're regardless, it's all just basic stuff.

Q. Right.

A. It's an ability to display normal patterns of behaviour, a clean area to sit down, so fresh water, just basic stuff, not clever stuff, not world class facilities.

1120

Q. Now just looking at this charge, tether done satisfactorily short lead, no shelter. Well it is under shelter at the time, the time that this photo was taken, isn't it? It's in the substantial building?

A. Oh sorry, the dog –

MR RADICH:

Can I confirm which dog?

THE COURT:

Where does it say "no shelter"?

MR GARDINER ADDRESSES THE COURT – PICKED UP PAPERS

(11:20:33)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. So we're looking, we've commented on the short lead with faecal build-up and then we have the requirement no behavioural enrichment. Now you gave evidence, I just want to go back – now this is a dog, it's a seven year old, you gave evidence yesterday to my learned friend when you were asked about behavioural enrichment and you spoke about a person being in an enclosure or a place for a long period of time, that would not be consistent with behavioural enrichment, you accept that?

A. I'm sorry Dan you lost me. What are you asking me?

Q. One of the particulars of the first charge, if you look, you see the particulars there? It says: "No behavioural enrichment," right?

A. Yeah.

Q. This is in relation to the dog at crate 47?

5 A. Yes, yes got that, yeah.

Q. Right. You say for example that it would be inconsistent with behavioural enrichment you said this in response to my learned friend yesterday, to be in an enclosure for long periods of time. That would be not consistent with and we're speaking broadly here, do you accept that proposition? Is that your point, that's your point of view in relation to – I'll ask you some other question –

A. Yeah I'm not quite sure what you're asking, but yeah behavioural enrichment, there's no behavioural enrichment I can see in this picture. Is that what you're asking me?

15 Q. Right. Well if I can put it this way, behavioural enrichment is a catch I would suggest to you is a term which you come up with or one comes up with as a catchall to cover anything and everything. Do you accept that?

A. It's a catchall to cover –

20 Q. Well if I can use an analogy, in the military you might have a situation where someone's charged with breaching good order in a military discipline. There's a subjected component to the allegation, do you accept that that was the case with the phrase "behavioural enrichment"?

A. So behavioural enrichment is as simple as what can it do during – how is it going to stimulate itself? How is it going to behave in its normal behaviour patterns? What are you allowing it to do? What's clearly nothing in that –

Q. But examples you gave yesterday included things like toys, activities, playing with the ball, would either a dog enjoys, I'm paraphrasing.

A. Yeah that's fine, yeah.

30 Q. But and that's basically how you see behavioural enrichment?

A. It's allowing a dog to be a dog for its natural behaviours that they wish to do. That's yeah allowing a dog to be a dog with interaction. What's going through the brain? What's it going to fill its day?

Q. So but again that's a subjective consideration, isn't it largely?

THE COURT ADDRESSES MR GARDINER – EXPLAIN TO WITNESS

(11:24:20)

CROSS-EXAMINATION CONTINUES: MR GARDINER

5 Q. Subjective, in expressing that point of view you're saying what you consider to be the situation but there's nothing in –

A. That's my opinion.

Q. Right, exactly but you do allow it for the fact that there could be situations where people might have other opinions in relation to –

A. I'm sure there is.

10 Q. So let's, I think we're finished with the first charge there, I'll just go to the second charge and this relates to the dog at the bottom of page 47.

1125

A. Yes.

15 Q. Which is described, looking at the charge, we're at charge 2, again, it's a failure to meet physical health and behavioural needs, section 10 of the Act. Do you accept that that dog, just looking at it, is aged – that is a puppy?

A. Yes.

20 Q. Do you accept that it could be aged five and a half months? Or thereabouts.

A. Yeah, could be thereabouts, might be younger, but yeah. It's a pup.

Q. Now we've dealt with no behavioural enrichment, I don't dwell on that, but this dog is – well, I'll just say that this dog is clearly in the fresh air. It's got a relaxed demeanour. Do you accept that?

25 A. Well, we've got a picture, tongue out, is it hot? I don't know, but yeah, okay, fresh air, yeah, it's open in the air.

Q. And it's staring intently at something to the right of the photographer.

A. Yeah.

Q. Or to the left of the photographer, but to the dog's right.

30 A. Yes.

Q. And there's a bowl there.

A. Yes.

Q. It looks like a concrete bowl.

A. Could – it's either concrete or plastic. I can't be sure. It might be concrete.

Q. Yeah, fair comment, but it hasn't been knocked over at all.

A. No.

5 Q. And there seems to be some moisture at the edge of the – it's hard to obviously be categoric with a photograph but there seems to be a dark rear area in the vicinity of the dog and going over towards the – in the vicinity of the bowl. Could that be just moisture in the soil or could it be – which has been spilt or –

A. Oh sorry, you're looking at the soil?

10 Q. Yeah, you see it –

A. Oh, it could be anything. Could be digging. You can see the concrete blocks under the fence to stop them digging under.

Q. Yeah, so it says: "No access to water" but this dog is on the inside of the picket fence. Would that be –

15 A. No, the outside.

Q. The outside? Righto. Well, it seems to be attached to a gate, a large gate. Would that be –

A. Yeah, I think it is, possibly again I'm not sure. It could be a gate.

20 Q. Now, the defendant would contend that this dog is on a lead of 1.4 metres in length plus the neck collar, and she would also contend that it's there because it's resting after a quote "lead training" unquote session for a short period of time, and she describes it as happy, relaxed and attentive, so we'll just take those three points. Clearly you can't comment on whether it's resting after a lead training session with a lead, you can't, but you can – you do accept that it seems to be happy, relaxed and attentive.

25 A. I can't comment on that. It's – but yeah.

Q. Right. Now, to say it's got no shelter and it's in the fresh air, and it's on a lead, allegedly would be after a walk, doesn't the allegation that it's got no shelter seem a bit rich?

30 A. No. No, there must have been just –taking how many dogs for a walk? Tethered on leashes that were just put there at different locations on the property, no matter what time of the day, or whatever we turned up, there's never any I've ever seen being taken for a walk on a leash. I've only ever seen them tethered by a leash.

Q. But you have seen dogs running around loose?

1130

A. Only ones were— I think one called Nala that used to run around on the loose and the odd ones in the different location but very few of the majority are contained.

5

Q. And what about in the environs of the house within the picket fence, there have been dogs running loose there?

A. On occasion, there'd be one on the loose, in there.

Q. Only one?

10

A. Could be one or two, or whatever.

Q. Or more, could be more?

A. Never a large number but depending on if it's pups, it would be more or not.

Q. Right, do you accept that if the dog's been on a walk and it's resting, it doesn't need shelter, it's recovering from its walk?

15

A. If it's recovering for the walk, to have it on the check chain on a picket lead, you would be there with your dog, resting that you've just walked or you'd be doing stuff with it. You will be there, you will be with that dog not that and other ones tethered at different locations around the area. It's not just the— I'd suggest, yeah, it's quite imaginative, it's just come back from a walk I would, yeah, highly doubt that.

20

Q. Well, and the defendant would contend that this dog, this particular dog at the time used to sleep in the cottage. It's a young dog and it would sleep in the cottage or the main house along with the — is the next step — as for want a better term, a member of the extended family, do you accept that will be the case?

25

A. Yeah, I can't comment on that, I dunno, could be.

Q. No access to water. The defendant would contend that none of the dogs or puppies had a problem with access to water, that none of them were dehydrated, do you accept that? In all your various inspections of the property, you saw no sign of any dog or puppy being dehydrated?

30

A. No dehydration test was done so it's a simple thing. No water, the dog needs access to water so just basic requests were being asked.

Q. Do you accept that if a dog was dehydrated, it would show certain characteristic and I want to put these characteristics to you. Sunken eyes, dry nose. Do you accept that that's a characteristic of a dog which is dehydrated?

5 A. That would be— yeah, very dehydrated but it can have— dehydrated and extremely thirsty but appear healthy, just give it access to water and watch how it behaves. It's going to tell you how it's, whether it's extremely parched or not.

10 Q. But I'll just go through, just another characteristics. Inability to produce tears, if it's dehydrated?

A. I'm not vet.

Q. Projecting, showing clear fatigue and lethargy, light-headedness, impaired mental focus, loss of skin elasticity . Did any of these dogs or puppies or—

15 A. (inaudible 11:33:36)

Q. Show any of those characteristics?

A. So those characteristics at the far end before death is not too far for it to be sunken eyes, dry nose and lethargic and that. You're moments away from death.

20 Q. But the vet did not identify with any dog that she examined on the 13th of October, a dog that was dehydrated, did she?

A. You would have to ask her.

THE COURT ADDRESSES MR GARDINER - ADJOURNMENT (11:34:11)

COURT ADJOURNS: 11.35 AM

25

COURT RESUMES: 11.57 AM

LEGAL DISCUSSION – PROCESS FOR CROSS-EXAMINATION

CHARGES 26 AND 62 DISMISSED

CROSS-EXAMINATION CONTINUES: MR GARDINER

5 Q. Right, just going to the last point in relation to the second charge, your Honour, behavioural enrichment. This is the dog, Mr Plowright, at page 47, bottom of the page, the photo with the pup.

A. Yes, yes.

10 Q. Just in relation to that, Ms Wallace alleges, would contend, in relation to this issue of behavioural enrichment that he enjoyed outdoor adventures, that he had a programme which enabled him to perform natural behaviour, going for walks, lead training, and because he's in a rural setting, digging after rabbits, sniffing after other animals such as ducks, turkeys, rabbits, possums, playing in tunnels et cetera, do you accept that
15 all that would be part of a young German Shepherd pup, would be natural enrichment for such a dog in a rural environment?

A. Yes. Are you saying for this particular dog, or –

Q. This particular dog.

A. This particular dog, for the – yeah, I don't believe that's been happening,
20 the digging in the area around the containment area, it's – yeah, it's confined. All this farm walking and tunnels and chasing turkeys, when I go onto properties, standing in dog faeces is always an issue. There's – on this property there was 63 dogs. That type of numbering of dogs, whenever we moved around any other area, there wasn't dog faeces in
25 the other areas. It was all contained to a cage, the tethering area, so I'm not convinced of that myself.

1205

Q. But there are, but do you accept that there is no sign of dog faeces where this dog is tethered?

30 A. I can't see any within the picture, but there's obviously, the digging and long term containment on leash dogs have spent some time. So to do

that amount of digging there'd been there for some time, they haven't just been there for five minutes while they do something.

Q. But you accept that, you know, I gave you the description which I'm putting to you it's my what the defendant, Wallace is saying, a dog in a rural setting would have those opportunities that I mention, you know, to go after rabbits, to sniff, to explore different situations involving other creatures, such as ducks, rabbits, turkeys, et cetera. These are opportunities which a dog in an urban setting wouldn't have, you accept that?

10 A. So our multiple visits I'd not once saw a dog being taken for a walk on a leash. There was one dog that used to free range and jump the fence and run around, and that dog fantastic behavioural enrichment, that had what you're describing. I hadn't seen that on any of the others or signs of what you're describing.

15 Q. But on your visits they've all got an enforcement or compliance orientation, essentially, you can't, you're in uniform, do you accept this?

A. Yes.

Q. You're in uniform, you've got people who, it's like the police knocking at the door, do you accept that?

20 A. No, we're nothing like police, that's all, so we're animal welfare inspectors acting under the Animal Welfare Act.

Q. Yes, but don't you accept that the normal reaction from a, even if a person hasn't got anything to worry about would be God, what have I done, why are they here. Do you accept that that would, is a reasonable reaction to that situation?

25 A. Some people do, we've got every reaction there is possible from welcoming to angry to not caring to everything, so it's people.

Q. So essentially, you're in one of those occupations would evoke, this is a proposition, a gamut of emotional reactions, would that be true?

30 A. In some people, not in others, just the smorgasbord of everything.

Q. We will just go now to charge 3 and this is photo 48, correction page 48.

A. Yes.

Q. Now, these charges relate to the dogs in crates in the double carriage which is adjacent, basically borders on the property, the grassed areas surrounding the main house?

A. Yes.

5 Q. Now the allegations are as set out in the particulars there. They include: Lack of access to water, lack of behavioural enrichment, and unhygienic conditions. Well, Ms Wallace would first of all make the comment that these dogs were not, the charge itself refers to the offending occurring between 5 October and 12th of October. She would respond to that in saying: "These dogs, pups were not in the garage, in crates for that period of time, a whole week". What's your response to that?

10 A. And it's not suggesting they had been in there not let out for a week. It's the long periods at a time because of faecal matter build-up and the condition, the urinating and defaecating in a crate, so it's long period of containment or too long for the dog to be able to hold on and it needs to defaecate and urinate in its crate, so it's long periods of time, there's no water.

Q. Now these, none of these dogs show any sign of dehydration did they?

15 A. No, I didn't check that, so that's the following day. I think this was on the 20 12th of the following day. We had the vet come through to do a hands-on with everything.

1210

Q. Right, now Ms Wallace would contend that there was a puppy male in one of these crates. He had just been de-sexed and must be confined for a few days. Do you accept that that could well be true?

25 A. Yeah, could well be true, could-yeah.

Q. She has also said that- or would say that the crate, the puppy was being crate trained for its new owner, what would you, that could well be possible?

30 A. No, to crate-train, there's your toileting issue. Yes, there is such as a thing as crate-training so the crate-training is short periods of very comfortable stay. You'd put bedding in there, you'd make it very comfortable for them, short periods of stay within the crate and then out again to- to put them in a crate for longer periods of time where they need

to urinate and defecate within a crate, you're actually doing a (inaudible 12:11:12) you're creating an issue. You're now creating toileting issues. You're not defining where the dog needs the toilet.

Q. Right—

5 A. He's toileting and sleeping in the same area.

Q. Right, she would say that all the measures were temporary measures and they could be regularly checked throughout the day, do you accept that could well be the position?

A. Yeah, she could check it lots of times through the day, I don't know.

10 Q. She says that the— or would say the crates were all fitted out with clean newspaper that morning, that's on the 12th and the puppy in crate at page 49, actually refers— correction. We'll just say one of the puppies, she's — at the top of the page, she says that the— you've got clean newspaper there and that confirms what she's saying, do you accept that?

15 A. That particular crate— that newspaper hasn't been in here for that period of time. It could potentially have been put in in the morning for that particular cage.

Q. And she would contend that that was so?

THE COURT ADDRESSES MR GARDINER – WHICH PHOTOGRAPH?

20 (12:12:52)

LEGAL DISCUSSION – CHARGE RELATING (12:13:08)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Now, do you accept that the opinion at the time of you and your colleagues was that you couldn't cease those dogs because you didn't
25 know how long they'd been in the crates, do you accept that?

A. No.

Q. These dogs weren't seized?

A. I'm not sure on the name, I'll have to go through my notes whether it was seized the following day for something, I don't know, so there's a charge
30 related to this one— was it seized the following day? Did we get it out of

the same— I would have to go through my notes and have a look if you want me to.

Q. Yes, please.

1215

5 A. I can't see in here mention of the garage. In my notes I've just... Does this dog have a particular name?

Q. I have it...

A. I've got cattle yards.

Q. Yeah.

10 A. Casper, adult dog matted, Zita, pups and crates, no water. I've got a comment there but... Utility shed, that says: "New dogs on the 13th we're talking about –

Q. This is in the double garage?

A. Yeah and we're talking about the 13th, aren't we?

15 Q. No, the 12th.

A. Sorry, 12th.

Q. Yeah.

A. Apologies.

20 Q. I'll cut to the chase, no dogs, just spoke to my learned friend. No dogs were seized on the 12th, that seems to take care of the problem but these dogs were not seized on the 13th either, were they? They're not among the 15 seized?

A. I haven't got that down there, I'm presuming there was – I can't see –

25 Q. No that's all right, let's move on. Now she would contend that all these dogs were regularly checked, fed and watered, exercised and closely monitored. Do you accept that that could well have been the case?

A. No, because of the faecal build-up and urine and the state of the caging that would not be the case, I use crates too and I don't have my crates in that state.

30 Q. Right but you, but so we – but we know that you do accept that the dogs and particular puppies, adult dogs, German Shepherds and even puppies do the latter in particular to – it's a matter I covered yesterday, do urinate in poo quite a lot during the day.

A. So this is an older pup.

Q. Yeah.

A. So this is the crucial timing and because it's unable to hold on for longer so its having to defecate and urinate within the crate, so it's been that in itself so it's been held in there so you're not crate training, you're actually
5 creating an issue for a dog. You handing it onto a person that's now a bit of a toileting issue.

Q. Right, but we are talking about three dogs, German Shepherds housed crates. Right, let's move on behavioural enrichment, the defendant would say, Wallace would say that the crates were part of their – it's a training
10 period. It's part of learning with the younger dogs, it's part of their learning and that the – there were two puppies here and that was part of their learning experience. What do you say to that?

A. I think I've, that I, I thought I'd answered that in the –

Q. Yeah, you did, you did, but if you just put in a nutshell –

15 A. No, I don't agree with that it's actually yeah counter productive learning.

Q. And in relation to the adult dog it was adjusting to a situation due to being on heat and being very hormonal and she would – what she would contend is that the situation with an older dog with two pups in close proximity was, facilitated that process. Would you accept that that could
20 well be the case? Having an older dog and two puppies, given her situation, co-located, would help. All the dogs and the puppies, as well as the adult dog.

1220

A. Would help with what?

25 Q. Would help them with the process that they're going through. For example, the puppies, it's a learning experience and this is what she would contend and that she is in a new environment, due to being on heat, very hormonal, and the two pups in close proximity would help develop motherly instincts. What do you say, would that be feasible?

30 A. I doubt it. That's just my opinion. I doubt it, but that's her opinion, so...

Q. Right.

A. I don't agree with that, but yeah.

Q. But you can understand that that could be a particular line of thinking with the three dogs, the adult and the two pups in close proximity. That could be the thinking behind it.

5 A. No, well, in my opinion it makes no sense at all to me. They're all crated and away from each other –

Q. Right.

A. – in unhygienic environments. Nothing positive's going to come out of that.

10 Q. Righto, so just in terms of hygiene, she would contend in relation to the alleged unhygienic conditions that the paper in the crates is changed, that the dogs did have access to water in the sense that, while there wasn't a water container there, they weren't in the cages or the crates for a sufficient period where they needed that access to water, so water would be given, you accept that that could well be a reasonable proposition, given the close proximity of the double garage to the house?

15 A. As I've mentioned earlier, the urine and faecal matter within the crates indicate longer periods of time where they cannot hold onto, so the water bottle in there would have been, yeah, would have been easy to do.

20 Q. We've dealt with that one, we'll just go to charge four. The relevant photo or page is page 40. Correction, 49, my apologies.

A. That's all right.

Q. Now this charge, looking at this charge, it concerns a German Shepherd tethered to a tree. The relevant photo is the bottom of page 49 of exhibit – prosecution exhibit 1.

25 A. Yes.

30 Q. And the argument is, no shelter, no behavioural enrichment. To some extent I dealt with this – there might be a bit of doubling up, when I dealt with some general evidence, the general situation yesterday, providing the context where the defence to – going through the charges. This dog is – and I'll put what I said to you yesterday to you again. This dog is, it's got shade, do you accept that? It's under – it's got foliage.

A. Yes, yeah, but the sun was out, it would have shade.

Q. Right, and it's not exposed to the elements here.

A. Yes, well, it will be. It's the rain. It's adequate shelter. A tree is not going to stop a dog from getting wet.

Q. Right, and it's got a water bowl which is under the foliage which is upright, which it can go to.

5 A. Yeah.

Q. Now you accept, as I recall, you couldn't remember whether there was water in that bowl. Would that be a fair comment?

A. Yeah, totally fair. There could be water in that bowl.

10 Q. And there is, just looking, you've got quite a big area which is sort of dirt, grass is not growing. I suggest to you that really that is clearly due to the foliage above it, so that – you know, where the sun is not getting in there because of the foliage. Do you accept that that's a reasonable statement?

1225

15 A. Of the area clearly out the front of the, right at the back, right under the trees potentially, but the stuff right up front in the circular motion, the circularness [*sic*] of the grass coming up to a sudden and abrupt end, that's because of the dog, so that's the wear and mark, that's your, you can see it's been shortened and it's been obviously chewed through at one stage and it's been re-tied potentially shorter.

20 Q. If there's a rotation of dogs and you've got dogs which can move around, that's quite a big ark even on a short tether they can move around, you know, it's a matter of inference, obviously from the photograph, but that indicates that the dog's got quite a lot of mobility even though it's on a short tether doesn't it?

25 A. It's on a short tether tied to a tree, it's inadequate shelter.

30 Q. Right. Now, the defendant would contend in this that the charge relates to a period of the 5th of October and 12th of October, she would contend that this particular dog which is a, she describes is a female adult dog was not tethered to a tree for the full week, do you accept that could well be the case?

A. No, that dog was constantly tethered at that point.

Q. Why do you say –

A. On other, we had seen it on other visits, on earlier visits.

- Q. Well she rejects that. She would contend that it's placed temporarily there while a kennel was being prepared and the lawn was being mowed, and this particular dog is quite, is a bit bossy and the defendant didn't want disagreements with other dogs if she was loose, running around the house, you know, the grassed area which goes around the house. So what do you say to that?
- 5
- A. I can't say anything.

LEGAL DISCUSSION – WITNESS ANSWERED QUESTION, CHARGES
(12:27:21)

10 **COURT ADJOURNS: 12.54 PM**

COURT RESUMES: 2.03 PM

MR GARDINER ADDRESSES THE COURT – CHARGE 4 (14:04:53)

LEGAL DISCUSSION – WHICH CHARGE?

CROSS-EXAMINATION CONTINUES: MR GARDINER

- 5 Q. I finished that, we're going to... Right, now we dealt with the issue of shelter, you had responded to that in relation to charge 4. This is – then the photo that relates to this animal, that's at page 40. I've just got a new formula which is why I've got slightly out of sequence, so this charge is charge 4, relates to the animal which is at the bottom of page 49. We've
- 10 covered the contention that the dog was temporarily there, that she was a bossy dog – this is from the defendant's point of view – and I dealt with the issue of the tree being a shelter but not – but we don't have a situation where her position should be inferred as a shelter if it's in – during the day and in the fresh air and it's temporarily there, so I think I've covered all
- 15 those just by way of recap. This is a young dog, do you accept that? Relatively young dog?
- A. Which page were we on? Page...
- Q. Page 49, page 49, sorry. We're at charge – finishing off on charge 4.
- A. So we're talking about the dog tethered to the tree still?
- 20 Q. Correct, yeah. We're about to move on from it. So you accept that this dog is relatively young, just for, you know, to –
- A. It's an adult dog.
- Q. Adult dog, right. Does it look alert, engaged with what is happening in its direct environment?
- 25 A. Yes, it doesn't look sick or dying or anything like that.
- Q. And is it – a dog such as an Alsatian or a German Shepherd, that dog always by nature takes a lively interest in its surrounds, would that be a fair comment?
- A. Oh, it's nothing I can answer –
- 30 Q. Righto.
- A. – than it's – ask a behaviourist. I'm just an inspector.

Q. No, fair enough. Right. Now, we'll go to charge 5, which relates to – and the relevant photo is, I believe, 41.

A. Not 50? Forty-one...

1410

5 Q. No, my apologies, 51. And now this particulars of this charge refer to four aspects which are listed there. You say no access to – we've got the same dog at page 51 in the top and in the bottom picture, is that correct?

A. Yes.

10 Q. You say "No access to water" but it seems to have a water bowl next to it in the top photo?

A. If you turn the page to number 50, you've also got the same dog with an upside water bowl.

Q. But the container at the top of page 51 in that photo is actually upright isn't it? We're talking about –

15 A. Yes, it appears to be that time, I think, is it the same bowl or not?

Q. Right, so essentially, in terms of this charge, there seems to be a water container, but it's unclear whether water was in it, this is looking at the page 51, the top picture, can you recall – you say your access to water bit?

20 A. I can refer to the notes and I believe there wasn't any water in on that day.

Q. Right, thank you.

**MR RADICH ADDRESSES THE COURT – BOTTOM PHOTOGRAPH
PAGE 50 (14:11:41)**

25 CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. So we had one picture where my learned friend has referred to the bottom page, the bottom picture on page 50 where the container seems is upside down, but the top of page 51, the container appears to be the right way up?

30 A. Sorry, I'm just skimming through, yes, 1x pup, five months, tethered without shelter or water.

Q. But your conclusion in relation to that water seems to relate to the photo at the bottom of page 50, but it does seem to have water in the photo at the top of page 51?

A. No, I've noted at the time that it's without water.

5 Q. So we could have a situation where this is not a huge container, but it's a small container, perhaps the fitting a puppy, but it may well be it had water in it a short time before you saw it and took the photo?

A. Okay.

Q. You accept that?

10 A. Yes, could do, it's knocked it over.

Q. Yes. No shelter, again, this dog is outside and I suppose your view of whether or not the dog has got shelter revolves around –

A. Shelter.

15 Q. – yes, around shelter, but if I just, I just want to – looking at the minimum standard 5 in the Code of Welfare, when you talk about it lacking shelter, which part of that minimum standard are you relying on?

1415

20 A. That's lacking shelter. I don't need to look at a minimum standard. There is inadequate shelter. It cannot – it's tethered to a wire cage. There is no shelter (inaudible 14:15:32) I mean, there's no shelter. Inadequate shelter.

25 Q. Right, but the requirement is that dogs must be provided with sheltered and dry sleeping quarters. You haven't got any– there was no evidence– you haven't given any evidence as to what the sleeping quarters would be and whether they would be that cage. Do you accept that?

A. No.

Q. You're inferring that the sleeping quarters are that cage when they may not be, do you accept that?

A. No.

30 Q. Why don't you accept that?

A. The cage is just a run only. There's– it's tethered to the outside of it. You can see the wear area. It's been there for– (inaudible 14:16:16) taken, this be the short-period of time, let's just take it as one full day, tethered like that to trample down from lush grass down to mud, it's likely taken a

couple of days to get like that. It's been tethered in that spot there for yeah, long duration and the mud grass tells you that there is not a kennel next to it, there not shelter from anything within that run area. That's not a cupboard run, that's not part of a— it's just a separate cage area.

5 Q. So the defendant would contend in relation to this matter that this is a temporary place for the dog, that no shelter was required in relation to this temporary area and that if it was raining or the weather was otherwise inclement, the dog would be inside, do you accept that that could well be right?

10 A. Well, where did all these dogs go if they're inside, all the dogs?

Q. We'll just worry about this dog?

A. So this is one of a number of dogs tethered without shelter so they all come inside, so.

15 Q. We deal with that dog but this dog's got a long coat, would you say it looks a healthy dog?

A. Yeah, it's a young pup. Looks healthy, that's not the issue.

Q. You would— it doesn't look— when you saw the dog, it didn't look dehydrated, it's—

A. Once again, I don't do dehydration tests on the dogs.

20 Q. But its coat was, it has a great coat and it looked— I put this to you— it has a great, beautiful coat and that reflects its health. Would you accept that?

A. I don't have any issue with the coat or the — no-health notes were taken.

Q. Now, unhygienic conditions, urinary and faeces build up, where do you infer that from?

25 A. Yeah I'm not— the unhygienic conditions, it's — I can't see the faecal matter and I'm not sure why the faecal build-up is in that whether it's a, yeah, I don't think that's — I can't see the faecal build-up from there and my notes they (inaudible 14:19:00) without shelter or water. So I have made note of that and I can't see the faecal build up on that one. There's nowhere
30 to sleep for the dog. It's sleeping on the wet grounds so there's no begging, that's all but that's, yeah, be no bedding so there's no shelter. Your shelter would be your dry sleeping area but there's nothing so it's got to sit on the wet ground.

Q. But the defendant would submit– I submit on behalf of the defendant that this is not the sleeping quarter for the dog. The dog would sleep inside, it's still a puppy, it's got a good coat on it and it would certainly be able to urinate and defecate away from the sleeping area, should that be you know, inside, do you accept that. Could be a reasonable explanation?

5 1420

A. I accept you're telling me that, I've got no idea whether it's true, I don't know, I can't answer. The ground where we'd say it spent long periods of time tethered on short lead, choke chain, no water.

10 Q. But it is quite possible you've got no evidence to the contrary that that area, that cage would be moved around and that other dogs might have occupied that cage as well?

A. Well you could put any possibility forward.

15 Q. Yeah, no I accept that, but you, you're not in a position to contradict an alternative possibility, are you?

A. I'm not suggesting any alternative.

Q. No, no.

20 A. I'm telling you what I'm looking at. There's a dog tethered shortly by a choke chain without water, the wear on the ground is an obvious indicator, it's not just finished exercising chasing wild turkeys in the paddock and playing with rabbits or anything it's been there for some time to where the grass down like that, there's your leash range and it's been there for some time to do that.

25 Q. So if we had a situation for example where the dog was in that cage for argument sake and a tarpaulin was put over it, that would provide sufficient shelter, wouldn't it?

A. No.

Q. Why not?

30 A. No, you're talking about a tarpaulin over the top of a galvanised caged one, as soon as the rain hits the tarpaulin it's all going to cave in on the middle you still need to have rank and drive-in from the side. You need kennelling, shelter, kennel.

Q. But if the – it's not apparent from these pictures whether the run has got a top, did the run have a top?

A. No.

Q. It didn't?

A. No, it was an unused one. It's just a run sitting out on the –

5 Q. So purported to be no more than what it was, a run as opposed to a kennel, correct?

A. There is no flooring on it, there's no roofing on it, it's just a run that will be attached to something if it was used.

10 Q. But it was – now the point that I'm going to put to you is that it doesn't purport to be a shelter that purports to be a dog run in the fresh air and not a permanent, not a permanent structured or a structure which is designed as a shelter, do you accept that?

A. Do I accept that it's a structure that's designed, it's like a, so then what it is is a galvanised run it's not a shelter of any type and it's not an enclosure to keep them in –

15 Q. Yeah.

A. – otherwise the dog would have been in the enclosure 'cos it's not set – it's been tethered, so the outside not inside. You can see the long grass there's nothing that's been inside it.

20 Q. So if it's tethered there and it hasn't been inside in this run, that indicates that it could well have been tethered there but you don't accept this, but just I'll put it to you for a short period of time and that other dogs could well have been tethered there from time to time but not this dog. Do you accept that's a possibility?

25 A. Look any – yeah. This is all fresh, so this has happened in that leash so to untie that dog and to retie another one and exactly the same point, it's no. I don't accept that these other dogs have been tied there, it's that dog, that leash, that length, there is your circumference. It's not swapping of dogs over multiple five minute stays they're tethered there. That one dog has created that by being tied there 'cos it's just tied in knots. There's your marker and the length that's (inaudible 14:24:09) to the end. To tie another dog there, it won't be the exact positioning of that for them to tie exactly at the same centre point, yeah it's not fanciful.

30 Q. Let's go back to charges 7 and page 55. Now this – do I say – I'm sorry charge 6, my apology, page 52.

1425

A. Yes.

Q. Now this charge refers to three German dogs housed in the old runs?

A. Yes.

5 Q. Just looking at the photos, they're not entirely - we just see parts of the dogs, but we don't see, have a full shot of each of the old runs do we?

A. On this occasion, there's not a stand-back picture of the old runs.

Q. No. We just have what appears to be almost a full shot sort of a side-on rear view from the rear of one dog and then out to the right on that top picture we just have the chest of the second dog and a different run, and down the bottom we seem to, we have a picture of a foot which could be in the third run they've equally could be the dog in the run on the left at the top?

15 A. It's the one on the left on the top, the bowl's in the same position on that walling.

Q. Yes, but we have a situation, oh, there are two – are there two dogs in that run, it's a bit unclear?

A. There's one dog in that top run.

Q. Right.

20 A. You can see right the way to the end of the wooden –

Q. But the charge refers notwithstanding that to three adult German Shepherds located in the old runs?

A. Yes.

Q. But we only have, I'll just look over the page –

25 A. And there's a third one standing up on the –

Q. So on page 63, we have a third, we have the third run do we?

A. Whether it's the top one, to me the bottom one appears to be the same as the one on the right-hand side of the very top picture of 52 because there's two bowls next to each other.

30 Q. Right.

A. They seem to be the same so it matches in with that one and whether the – what's over the page, yes, I'm unsure if that's the third one, the one on the top of 53.

Q. And there could be just going to 54, that also relates, seems to relate to –

A. So that's the water bowls in the second if you like.

Q. Yes. So we've got three pages which seem to relate to the three dogs.

5 Now just in terms of the defendant would say these kennels were cleaned on a daily basis, do you accept that that could well be the case?

A. Absolutely not.

Q. Why do you say, why do you disagree?

10 A. That's incredible faecal build-up, that's huge. Their poo skating Dan, it's just a stenching mess and that is not from a morning poo that's, well, it's eaten something, they all have. That's incredible build-up, look at the state of it Dan, that's days' worth of faeces and their poo skating, their standing in it skidding around.

Q. Which photo are you Mr Plowright are you actually looking at?

15 A. So if you look at the top one on page 52, the dogs, because they're on small runs and lack of stimulation, they're going up and down and there's people there, it's, wet faeces is slippery, they're slipping and sliding around, you can see the skid marks on the concrete of them sliding around in their own poo, you can see that, page 53.

20 Q. Right.

A. That's not just "oh, it was cleaned out this morning" oh, no, I do not accept at all that's days' worth of faecal matter.

25 Q. Just going to page 52, just dealing with this issue of unhygienic conditions, the defendant would say in relation to the photos here probably we're just looking at the top one and the bottom with the similar water containers she would say that you can clearly see that the water walls and the front wire mesh and the door were all clean, and she reiterates that these kennels are cleaned daily. Do you accept, you don't accept that?

30 A. Absolutely not.

1430

A. Absolutely not.

Q. She says – I'll just go to the second point, that the concrete is old and discoloured and that the flooring does not have a faeces build-up at all,

but – and that the flooring, just to complete the picture, is damp due to humidity, so do you think that that is a plausible explanation for what one sees in that photograph at page – we’re looking at the main photo at the top showing one dog in full and the photo at the bottom with the similar container.

5

A. Yeah, no, absolutely not. If you have a look on the 13th, the kennels had been cleaned out from there and from there, there must have been a miraculous removal of saving 'cos it was clean, it had been cleaned out, obviously, after our visit, so on the 13th it was not in that state, but that is days that it had not been cleaned out in the day. It is not just staining. You can see the poo scattered and smeared and it's just disgraceful, it really is.

10

Q. These dogs, these German Shepherds in these three runs, you accept that their coats were clean?

15

A. Hell no. They weren't. Sleeping in poo doesn't give you a clean coat.

Q. Right.

A. They cannot escape their poo. They sleep and live in the same poo pens.

Q. Now she – it is contended the kennels were waterblasted in the late afternoon. That's – on this day, when did you visit?

20

A. This is on the 12th, isn't it, that we're looking at?

Q. Yes, yes.

A. Yes. So you're asking us when did we visit next?

Q. Yeah, yeah.

A. The following day on the 13th.

25

Q. Righto, but on the 12th when you visited, these kennels – it was earlier in the day, is that correct?

A. I can give you the time.

Q. Yeah. The point she would make is that these – that the kennels were water blasted in the late afternoon.

30

A. Ah, 11.28, so 11.30 we arrived at the property.

Q. Right.

A. So yeah.

Q. So she would say that these kennels, which you describe, were water blasted in the afternoon and to take a point that has been given, made in

evidence on her behalf, that she is not a boarding kennel and that there is a discretion as to when jobs are done and the order in which they're done, so there's – do you accept that that could well be the case?

5 A. Yes, I suggest she did leave it a bit later. She did decide not to do it, but it hasn't been done for days, Dan, and that's up to her discretion. If she's going to leave it for days, she can, and she obviously has. That's, what, two, three days it hasn't been cleaned? For days, days, I'm being generous with two days.

Q. Righto.

10 A. It was more likely three, four days of this disgustingness.

Q. She contends that the dogs have water, which was fit for them to drink. Do you accept that?

A. Hell no.

Q. Pardon?

15 A. No, not at all, Dan. Fifty-two, the picture in the bottom, that's not fit for anything, but that's the dregs on the bottom of greenness, so that's not drinkable water for an animal to have. It's...

Q. And she would say that these dogs, just looking at page 53, talking about the dogs slipping and sliding away in the faeces and so on, you've got a dog rearing up. That dog's coat looks quite good, doesn't it?

20 A. I should have got you to pat it that day. It's faeces, it's walking, its coat isn't nice. Don't forget when it lies down, it lies down in faeces. You're looking at the – you can't see what's in there from that. That'll be – it was going to have faeces through the coat, it's going to stink. Absolutely hum.

25 Q. Now, these dogs were not – they were photographed in the kennel but they weren't taken out and inspected on this day, were they?

1435

30 A. No, no. There's no immediate physical emergency obviously, the state was jaw dropping and yeah quite frankly disappointing with the work we've done previously trying to guide them into success but obviously that was not going to happen.

Q. And when we talk about the behavioural enrichment, are we talking about just in relation to these charges no behavioural enrichment in the kennel

at the time or are we talking about no behavioural enrichment on this particular date that you observed but which could've applied in any event?

A. So they're living in these pens they're not being let out in the morning to run around and go and do whatever. They're not doing all the other things you suggest the dogs do. These dogs are living in these pens, that's long term confinement. To get that level of filth, that's long term confinements in there. Yeah sorry, my brain's just slipped. What was your additional question?

Q. No, no, I'm happy, leave that answer. We'll just move on now to charge 7 page 55, 56?

A. 56?

Q. Page 55.

A. 55.

Q. We'll start with 55. Now this charge alleges an adult German Shepherd dog teeth tethered in the cattle area.

A. Yes.

Q. And the dog's unnamed but just taking the top picture, I asked you about this I think it was yesterday and you and the length of the tether, and you indicated that the area on the outer side, that the outer part of that semi-circle where the dog is you contended as I recall it that was faeces which the dog had somehow moved out from the cattle shed area?

A. It's quite likely tail sweeping. You can see the perfect, the area of it, so yes that's the – it will be the dog clearing that area as it turns around and 'cos it's got such restricted movement that it's going to be moving around doing whatever on the edge, end of the lead as the front picture is at the end of the lead. The next picture is off to the side end of the lead, so it's moving in that circle, so yeah.

Q. So what is that? Does that indicate that this dog a German Shepherd would use his tail to clear an area which is free so it has no faeces in its immediate vicinity?

A. That's not what I suggested then so it's got –

Q. No, no, I'm just putting that proposition.

A. So you can see that the top picture is got such a low back end, that his hocks are nearly on the ground. So the – it's quite low so he's got a big

long tail so I'm just saying it's likely the tail's involved too. It could be the feet, the movement, the whatever. I'm not saying that German Shepherds know how to sweep the floor with their tail, it's not what I was suggesting.

Q. But are you saying it wouldn't be unusual for a dog to be able to do this?

5 Is that to create an area which was –

A. It's just movement, it's a furry dog in general movement same as just a brush or you're dusting or your broom on the floor.

Q. This is a healthy looking dog, fine looking dog?

10 A. I think there's some horrible back end on it but that's just my opinion but not (inaudible 14:39:22) the back and low to the ground but that's just my inspect it. I'm not a vet so...

Q. And if that was as a show dog that's a fine looking dog. Do you know enough about show –

A. No, no, I don't do any type of show and stuff.

15 Q. You don't? So when you look at a working dog, the German Shepherd being in that category as you explained yesterday, such a dog can be, come to different sub-categories. You mentioned for example the Belgium Shepherd which you had, correct?

1440

20 A. Yes.

Q. But you can have a German Shepherd which is bred for show purposes?

25 A. They are designed, yes, their stance are designed for a look, they've been lowered over the years was a straight back, the show world have now lowered and have a sloping back because they show world like the sporty looking sprinter stance.

Q. And it does, you would agree, that that is a sharp looking dog?

A. No, I don't think, that's just opinion, so there might be a show person that think "Oh, that's absolutely lovely" so they put a ribbon on it, but you've asked me so obviously, no, I think it's horrible.

30 Q. No, fairness. Your knowledge and experience of German Shepherds relate more to: (1) Here's more to wolf-like antecedence, would that be correct? You mentioned it derives from the wolf?

THE COURT ADDRESSES MR GARDINER – MOVE ON, IRRELEVANT

(14:41:06)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Now the dog does, looking at the, it's on a short tether?

5 A. Yes.

Q. And it's got a, does it appear to have a choke chain on it?

A. I can't see in this one. If you want me to refer to the notes, I can try and have a look through and see if I put "choke chain"?

Q. No, no, we'll move on. Just –

10 **THE COURT ADDRESSES MR GARDINER – WITNESS SAID IT WAS A CHOKE CHAIN (14:41:52)**

WITNESS:

Yes, in fact I can see the choke chain in the picture, you can see, yes, it is.

15 **CROSS-EXAMINATION CONTINUES: MR GARDINER**

Q. Thank you. But just going to this, the defendant Wallace contends that the tethering of this dog in this place was temporary. In fact, a similar point that she's made in relation to other dogs which you've identified as being on a short tether. In your view in relation to this one is the similar to, it remains the same as in relation –

20

A. It remains the same for each of the dogs, my answer will be exactly the same.

Q. The unhygienic conditions, there's a contention that as part of the particulars there was a charge there was a faeces build-up, but the defendant would say that the photo clearly shows there was not such a build-up and despite the fact that a German Shepherd and I put this to you could go to the toilet depending upon age, sex, training and food, metabolism up to eight times a day. So she says "given that" do you accept that?

25

30 A. No.

Q. You don't. So she disagrees with the view that you've expressed about a faeces build-up in that area and you don't accept that?

A. No, you can see the urine staining is underneath the dog in that area where it urinates and the faecal matter is being pushed around to the outside of the, this circle.

Q. Right. Now these faeces, are they dog, are they dog faeces or are they –

A. Well, I'm not a poo expert, but it looks like dog poo to me in my opinion.

Q. That's it's not due to any other animals, like which might be put through the cattle yard?

A. No. Cattle don't poo like that.

Q. Just in terms of behaviour enrichment and this charge, she would contend that the dog does have behavioural enrichment because it can look out on fields and other animals, and basically there's an interaction between it and the environment with whom which it's been kept at that time, do you accept that?

A. I accept that's her opinion, but it's yes, there is no behaviour for that dog.

Q. And just go now to charge. I just wanted to show you a photo and get your comments. I commented, I will just show you this before I move onto the next charge.

1445

LEGAL DISCUSSION – SHOWING PHOTOGRAPH TO COUNSEL

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Mr Plowright (**inaudible** 14:46:36) I did ask you about a dog trial, I think, yesterday. Now, that's an example of dogs being tethered on a short lead at a –

THE COURT ADDRESSES MR GARDINER – FOR WHICH CHARGE?

(14:46:47)

MR GARDINER ADDRESSES THE COURT – PAGE 55, CHARGE 7

(14:46:50)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. We're going to move on, this is the last point on charge 7.

WITNESS REFERRED TO PHOTOGRAPH

A. Yes, I've seen it, yep, yep.

5 Q. So there are quite a few dogs, I think about four or five dogs tethered on that, all on short leads. It's a dog trial, all of them had presumably different – it's assumption, may well have different people responsible for them. They may be there for any length of time, depending upon the (**inaudible** 14:47:39) their involvement or participation in a particular trial, for example, on their own. Do you think that's permissible or would that be permissible for –

10 A. Yeah, exactly. Exactly, you can tell that this long, lush grass that the dogs are tethered to, the owners are right there because they're all in the competing national dog trials, they've got competitions going on, each dog's going to have a handler there that have all stepped away for the line-up of the dogs and the lovely farm fencing, great photo, so yeah, that's – they're not tied up there for long periods of time and they're competing. They've got stuff to do, so I don't have any issue with that. That's great stuff.

20 Q. I think we'll just take that back, thank you, and we move to the next charge, which is charge 8.

A. Was that 59?

25 Q. Yeah, this... but say, this concerns, you're quite right, pages 59 and 60. It's alleged there that four adult German Shepherd dogs were housed in the deer shed and there were some failures in relation to their housing and there are four items which are specified. I'll just go through each. Taking page 59, now we have these dogs, four adult German Shepherd dogs, right so we'll just go to page 58 first of all. We've got the deer house, the bottom there?

30 1450

A. Yes, correct.

Q. We just go over to page 59.

A. Yes.

Q. Can you describe where these, where in the deer shed these dogs were housed?

A. So these are the opposite end of the deer shed, so we talked about the stables –

5 Q. Yes.

A. – with the back end, so they were the front end, and so this was an error that we hadn't been made aware of.

Q. So the dogs were just looking at the picture at the bottom of page 58, they were at this end of the building.

10 A. Yes.

Q. You would go in that door and the cubicles where the dogs are to the left, would that be right?

A. Yes, an area straight in there so it's potentially halved, a solid wall completely halving it so the opposite end or the two stables if you like where the puppies were put and then there were different cubicles in an area in there that we found adult dogs.

15

Q. Right. Now just in relation to the photo at 59 and 60, we've got what appear to be, there are three photos of a dog, are we talking about the same dog there?

20 A. Yes, it's the same dog, yes.

Q. Right, but the charge refers to four adult German Shepherds. So they've got no what are the – were any other photographs to identify the three other adult German Shepherds?

A. I can't see the – I believe on the 13th there'll be photographs.

25 Q. Right.

A. This is on the 12th we're looking at.

Q. We'll just flag that, but the one dog, basically the defendant will say in relation to this one dog which features at pages 59 and 60 that it was tethered with a light two metre chain not a lead?

30 A. It's on a chain, yes.

Q. Yes and basically that was to avoid any fights with other dogs?

A. Yes.

Q. And that each cubicle had two full sized doors directly leading out into the open, would that be correct?

A. Sorry, I didn't – can you repeat that one?

Q. Well, she said they were on, she would say that they're on a chain?

A. Yes.

Q. It was a two metre chain, plenty of –

5 A. No, it was a shorter chain than that.

Q. It was a short chain. So short chain and then the short tether?

A. Yes, it's short. You can have a look at the area, the bucket being in the corner and the area where the dogs in there walking, the poo area, you can see, you can get an idea on the area they can cover.

10 Q. And the bucket you were referring to was the one at the back of picture 59?

A. That's right. Yes.

Q. Now she says, she would say that "These conditions where water blasting had occurred, the area had been cleaned out and the dog has reacted to
15 strangers, walked in faeces and spread it" and that essentially, this is not a case where the normal conditions would be as displayed in these photographs. Do you accept that?

1455

A. No, it's not my fault. It's – it's tethered, it's defecated and moves in the
20 same area, it's going to happen, they're going to be tramping through it. You can see the footprints everywhere. It's not – yeah, it's not because of our involvement this has happened. This is just normal stuff that it's gonna be doing.

Q. Now, in relation to the dogs' behavioural enrichment, she contends, would
25 contend that all four dogs in these cubicles were exercised separately and individually and fed and watered. Do you accept that that could well have been the case?

A. Albeit highly unlikely with the numbers of dogs on the property. I own
30 10 dogs and I have a partner and we both worked and I know the hours that we spend on the routines with our dogs, and they're not going to be all exercised and that. It's just not physically possible. It will not happen.

Q. But they did have people coming in and assisting throughout the year 2017 and these were foreign international students, people who had a background with animals.

A. I saw on a couple of occasions some WWOOFers.

Q. Yeah, WWOOFers, is that your term or –

A. Yeah, overseas, whatever. Yeah.

Q. So the claim that there were people assisting, that's true.

5 A. On occasion (inaudible 14:56:56) not a regular sight, no.

Q. Now, at the moment she accepts, she's responded to this on the basis that there were four German Shepherds, but the pictures that we've got here for this date are actually relating to just one. True?

A. On the – yeah, this is dated on the 12th, I think, these ones.

10 Q. Yeah, yeah.

A. Yeah.

Q. Righto. Now, we'll just move to charge 9. It's on page 61.

A. Sixty-one... yes.

15 Q. Now, this, we've moved to the woolshed and this charge concerns five German Shepherd puppies in the woolshed.

A. Yeah.

20 Q. Now, we've got pictures that have been produced in court which complement the prosecution pictures on the layout in the woolshed. Now, the puppies were at the end of the woolshed nearest the door and there was a cubicle there where the puppies were. Do you accept that?

A. Yeah, by the door, yeah.

Q. So these – so we've got –

A. So you've directed me towards 69, so that's...

Q. Oh, righto.

25 A. It's 61, sorry, it's probably 62 –

Q. Sixty-one, 62 –

A. – 63.

30 Q. – and 63, yeah, so those three pages are relevant. Now, these dogs were loose. They weren't tethered in their cubicle in the area that they occupied, do you accept that?

A. Yes.

Q. Now she contends that woolsheds, she would contend they're multipurpose. Do you accept that they could be used for a range of different farm purposes?

A. Yeah, sure.

Q. And also to house dogs?

1500

5 A. No, it's not advisable, in the end just for the draught and that sort of thing, no, I wouldn't have it as a suitable area. You can have a dog sleep on the nice flooring, part with actual flooring overnight or something on a bed or whatever, but the penning them in that manner is not potentially ideal.

Q. Right. Now the wooden rails there's mention of no behavioural enrichment and there was a chewing of some wooden rails -

10 A. Yes.

Q. – which was attributed to dogs and you've given evidence, I think there's evidence earlier that dogs can sometimes chew if they're bored, correct?

A. Yes.

15 Q. But these, this chewing could've occurred with other animals couldn't it, goats, for example which were being stored –

A. Not to that extent, I don't believe goats going to chew to that extent, I haven't owned goats. I've never seen goats do damaging to wooden fencing, but hey, maybe some do, I don't know, but it looked like k9 chewing to me.

20 Q. And this is an older building which has been, I think you put it back just on off a cuff assessment yesterday as being built perhaps in the 1960s?

A. Yes, just an estimation, yes.

25 Q. Now in terms of unhygienic conditions, she would say that every woolshed in New Zealand has an identical area to the one here and solid wooden flooring, do you accept that?

30 A. No, you can see in the photo on the top with the solid wooden flooring you're referring to, yes, that's where the actual shearing tape is placed, where the dogs are it's slat flooring and they store the sheep in there, so when they defaecated and urinated and go through there, so that flooring is not the same as what you see in the top picture of 62.

Q. She would say that there was some solid flooring in this general area where the dogs were kept, but with the puppies it was slat, there were slats?

A. Yes.

Q. Now these slats are quite narrow because, but and the puppies, German Shepherds had big feet even puppies, do you accept that?

A. Some do, yes.

5 Q. Now she would contend that it was cleaned early, 5 am and that the flooring was not a hazard in any way, shape or form to the dogs and no accident or injury of any kind was caused by the flooring, what do you say to that?

10 A. So the flooring with the slats, you've got, so the dogs were sleeping in there, so unless, of course, they're going back to the house as well, but it's continuous up-draught, you've got no, you've got constant up-draught coming through, so they're laying on top of up-draught and it'll be uncomfortable to walk on, in my opinion, but yes, and of course, you've got inability to clean, everything's porous, you can't clean properly, you'd have to put a yard broom on it, something I'm not sure how you, the water
15 blasting potentially because you're talking about dog faeces and something that's designed for sheep faeces which is tiny small round circular things that fall through the cracks.

20 Q. Right, but there was plenty of rooms in these cubicles for dogs to steer clear of faeces and get comfortable, you know, it was a big area, a big area?

A. It was more room, the one metre area on a leash, so there was some area -

Q. Right.

25 A. – for some of them, but yes, it's just lack of behavioural enrichment, not much going on in there.

Q. Now this constant airflow which you've referred to, ventilation, airflow, that would be very useful for removing not only for enabling them to urinate and for, but also more obviously, it would've surely made the area better ventilated and more comfortable for the dogs?

30 A. No, not more comfortable as I mentioned before Dan, the up-draught, so they've got to sleep with an up-draught.

Q. But isn't that a equivalent, each area had she contends had various water containers, fresh water was supplied daily and there was water and power in the deer shed, here as well?

1505

Q. Isn't that equivalent – each area had, she contends had various water containers, fresh water to supply daily and there was water and power in the deer shed here as well?

5 A. Both seven month old pups contained in the sheep pens without water they've all seem stunk of urine and faeces, all rails chewed by the dogs. Water bottle knocked over, banes laying amongst faeces. Dog trying to climb over the rails risk of injury.

10 Q. Was that to escape or just because it was excited they'd seen you or you know other SPCA members or was it frightened?

A. So this is on the 12th, were just observing behaviour why the dog is doing something, I'm not a behaviourist. Jess Beer the veterinary is also a behaviourist and maybe ask her those questions.

15 Q. But these – just looking, like I will, but just looking at the photos at page 62 these dogs don't look upset, they looked curious, inquisitive. What do you say to that?

A. Upset, that was a dog look upset, god, how can I answer that?

Q. They don't look upset, they look inquisitive. They look inquisitive?

A. I can't answer that sorry Dan.

20 Q. So we have – she denies that the conditions were – there was faecy build-up. She – you don't accept that?

A. No, my notes are saying faecal matter banes I've just read my notes.

Q. Yeah, you don't accept that there was water containers there and that the dogs would've had access to water?

25 A. That's what my notes have said.

Q. None of these dogs looked in distress or dehydrated, did they?

A. Like I say I don't take dehydration tests on the dogs.

30 Q. And in terms of behavioural enrichment, they had access to there was lots of natural light, there was good ventilation flow. Come back to your question whether it was too much, and there was a high (inaudible 15:07:26) which meant that the environment was not oppressive in any way shape or form for the dogs. Do you accept all that?

A. No, I don't accept all that.

Q. We'll just move onto charge 10. This charge is, just bear with me a moment.

A. Page 64.

5 Q. Yeah, no, just looking at my notes. Now this was a German Shepherd dog named Monty, it's alleged various deficiencies which is similar to allegations in relation to some other animals. "The tethering unsatisfactorily on a short lead. That's been responded to previously. It's been put forward that in this case the practise is to tether dogs, to teach them from an early age as a puppy how to go on a lead and how to be
10 tethered successfully as part of their normal behavioural needs." What do you say to that?

A. It's absolutely reckless to be tethering puppies by a choke chain on a short lead. It is not training. If you're doing any type of leash work you'll start by at least holding the leash to take her for a walk if you want to
15 teach tethering. You would use a comfortable collar in a comfortable area for the dog to sit in to teach it to be relaxed and comfortable while being tethered. That's not, that is not any type of training practice that is common.

Q. Just looking at this photo top of page 64 of Monty, this dog doesn't look,
20 it looks reasonably relaxed, do you accept that?

1510

A. No, I don't know the state of the dog's mind. I'm not a behaviourist, whether it's – I can – yeah, it's...

Q. She would contend that it was tethered for this particular purpose and it
25 had been tethered temporarily, and this was on a long show lead, so when we talk about the short lead earlier, of 1.4 metres, this one lead is much longer, you accept that?

A. I don't know the measurements of that leash. It looks slightly longer than the red leashes that I've seen previously.

30 Q. Right. Now, it's contended that in response to the argument that it had no shelter, which is clear because at that precise moment it hasn't got shelter, it's in the fresh air, in the open, and reacting to its environment. Do you accept that?

A. Reacting to its environment?

Q. Well, it's sitting there enjoying the fresh air –

A. It's tethered to a fence.

Q. Right, tethered to the fence.

5 A. My answers will be exactly the same as every other tethered dog you've put to me. You can ask it a different way but it's exactly the same answers. I'm not giving you different answers for different situations.

10 Q. No, I appreciate that. It's a fair comment. Just going back, her argument would be, and again, sorry if I'm traversing it specifically, because it is one of the particulars, she would argue that at that temporary point in time it didn't need shelter. It did not – it was not living outside and she would contend that it was living in the cottage. What do you say to that? You can't respond to that because you don't know?

A. I'm not going to respond to that. I don't – she can claim whatever, but it's tethered without water on a short lead by a check chain without shelter.

15 Q. Well, she's saying it's not – you've said the lead is longer than normal, longer than the others.

A. Slightly.

20 Q. That's a matter for her Honour to assess, but – as appropriate – but just looking at the access to water, we've got a water container which is behind it.

A. Yes.

Q. Doesn't that indicate it had access to water?

A. It would if it had water in it.

25 Q. Righto, so it may have drunk the water prior to your arrival but the water hadn't been replenished. Do you accept that?

A. As my notes say, it's my observations. Without water, tethered, no shelter.

30 Q. Ms Wallace would contend, from her knowledge of this particular dog and its record in shows and the like, this dog certainly didn't suffer from the lack of behavioural enrichment. Given that this –

THE COURT ADDRESSES MR GARDINER – WITNESS CANNOT COMMENT (15:13:53)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. But in terms of behavioural enrichment, your comments on what behavioural enrichment consists of are basically what you've said previously.

5 A. Yes, exactly the same.

Q. Righto.

A. My answers won't vary.

Q. And you accept that Ms Wallace may well have a different point of view –

A. Yes –

10 Q. – which is reminiscent of what I've put to you –

A. Yes, I'm sure.

Q. If we just go to charge 11... to perhaps shortcut things your Honour, I can say all this came through in the evidence-in-chief. The no shelter part component for particulars in relation to the dogs in the old runs is not pursued.

15

1515

THE COURT ADDRESSES MR GARDINER – CHARGE 11? (15:15:12)**LEGAL DISCUSSION – CHARGES 11 (15:15:23)****CROSS-EXAMINATION CONTINUES: MR GARDINER**

20 Q. Just go to charge 11 –

A. Just if I may Dan for charge 11, the no behavioural enrichment, inadequate nutrition dog underweight, matted coat, that's a Dr Jess Beer, it's her examination of the dog and that's her dog underweight, that's from her notes and matted coat, so possibly those questions say for her unless you want to ask me something from that?

25

Q. No, well, thank you very much.

MR GARDINER ADDRESSES THE COURT – QUESTION FOR DOCTOR (15:18:15)

30

WITNESS:

Which is also the behaviours as well.

THE COURT ADDRESSES MR GARDINER – THANKS (15:18:23)**CROSS-EXAMINATION CONTINUES: MR GARDINER**

5 Q. We go to charge 12.

A. So that would be the same for that one Dan, that's from the veterinary's examination that these have come from at the time.

Q. Right.

MR GARDINER ADDRESSES THE COURT – QUESTION FOR DOCTOR

10 (15:19:12)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Go to charge 13.

A. That would be the same for untreated ears, I didn't look outside the ears.

Q. Charge 13?

15 A. Yes, charge 13, that was another veterinary examination that indicated the untreated ear infection.

Q. And what you're saying is she can't offer anything of any significant simulation?

A. I couldn't offer anything significant and I think that's best answered by
20 Dr Jess Beer.

1520

Q. Now I accept that (inaudible 15:20:05) Inspector – Mr Plowright –

THE COURT ADDRESSES MR GARDINER – CHARGE 14 (15:20:10)**CROSS-EXAMINATION CONTINUES: MR GARDINER**

25 Q. Yes. I'm just, just bear with me...

MR GARDINER ADDRESSES THE COURT – CONSULT WITH CLIENT

(15:20:36)

LEGAL DISCUSSION – TIMETABLING (15:21:13)

1525

COURT ADJOURNS: 3.33 PM

COURT RESUMES: 3.49 PM

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Right, Mr Plowright, I'm just going to charge 14.

A. So that would be similar to the other dogs?

5 Q. Yes, we're just –

A. Underweight, matted coat, no behavioural enrichment. That's the veterinary...

Q. Yes, this is one of the dogs in the run. Right. Just look at 65... now, this is the bottom of page 64 of the booklet.

10 A. Yes.

Q. Mouth here is one of the three dogs, one of the dogs which feature there in the run.

A. Yeah.

Q. And of course over the page – that's 64, at page 65 we have the ones –

15 A. No.

Q. No, we don't, that's a different one.

A. Utility shed.

Q. Yes, now basically the argument here is that from a prosecution point of view, inadequate nutrition, dog underweight, matted coat, no behavioural enrichment –

20

THE COURT ADDRESSES MR GARDINER – WHAT CHARGE NUMBER

(15:52:10)

MR GARDINER ADDRESSES THE COURT – CHARGE 14 (15:52:13)

LEGAL DISCUSSION – VETERINARY MATTER

25 **CROSS-EXAMINATION CONTINUES: MR GARDINER**

Q. Thank you, your Honour – is this, again, involving Dr Beer?

A. This is as a result of Dr Beer examining the dog and making notes of that in her – notes of the underweight, matted coat, no behavioural enrichment that are her.

Q. Thank you, we'll put that one to one side, and we then go to charge 15.
Is this again a Dr Beer one?

A. Yes, ear infection, untreated ear infections, that's Dr Beer.

THE COURT:

5 So now we're up to charge 16 in the cattle yards and Casper?

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Right, and this is one for you.

A. I'll just – do we have a picture on page 66, thank you.

10 Q. Right, so the charge refers to the dog Casper. Now, Casper is the dog at the top.

A. The young pup, eyes, or younger dog.

Q. And he's tethered to the outside cattle run.

A. That's correct.

15 Q. Right, now the charges – we've got two for this bit. We've got particulars which reflect particulars of other charges which we've covered or addressed, and we'll need to go through the same sort of exercise. The tether is similar to tethers which were used previously.

A. Yes.

1555

20 Q. Do you accept –

A. My answer is the same as I have on all the other dogs.

Q. And this lead looks a bit longer than perhaps a bit longer than the other leads?

A. No, it looks similar to the red leads.

25 Q. Similar. And it's again, the defence is that the dog is tethered there temporarily after a training session and it's resting, it's got a nice outlook, fresh air and the dog is in good condition, do you accept that firstly, that it's in good condition, apparent good condition?

A. Body condition looks okay.

30 Q. Right. And in terms of access to water, it's got an upturned water bowl there?

A. Yes.

- Q. And that dark area in the vicinity, is that, that could be, is that just damage to the concrete, the surface of the concrete?
- A. You're looking at either water and urine staining.
- Q. But it could also be a problem with the surface of the concrete as it gets older it can fragment, was that the situation there?
- 5 A. No, not at all, no. No, it's all just dirt, faecal matter, urine area, water dirty in general.
- Q. Now, this dog you didn't – it looks in good condition, you can't say whether it was, it had had, you accept that one can't say whether it had drunk water shortly before or not, that's -
- 10 A. No, I can't.
- Q. And lack of behaviour enrichment, it's in a position where it's got a good outlook over the fields and of livestock, would you accept that?
- A. Beautiful view from its short tether.
- 15 Q. And there is an extended roof from the cattle yard which provides protection from any sun?
- A. It was just a small hangover over that part so depending on what time of day towards what type of shelter the dog gets from the sun.
- Q. Right. And –
- 20 A. There's no bedding, there's no kennel, similar to my other answers.
- Q. Right. And the answer for the defendant as I've put to you, she would content or does contend that the dog was there for a short period of time?
- A. Of course.
- Q. If we just go to 17, charge 17.
- 25 A. So this would be another one –
- Q. This relates to the dog at the bottom of page 66.
- A. Yes, so the I've got on there "no shelter" that was I think from the cattle yard area.
- Q. So this dog is, where is this dog situated, in the cattle yard?
- 30 A. I'd have to refer to the notes just check the location. Adult, female underweight, matted coat, so that's all I have on this one, yes, adult female, underweight, matted coat, dog six and a flow of Zita.
- Q. Right.

A. So it does actually appear to be in the cattle area, so it's probably inadequate shelter, you haven't got your, but it does have a roofed area over the top, so it will be protection from rain, potentially and a draught, and the kennel would've been more ideal for adequate shelter, but everything else was right, and the weight would be the vet and the matted coat would be the vet as well, but dirty environment.

5

1600

Q. And you're not really in a situation to say whether 'cos at this stage assessing whether it's underway –

10

A. That's the vet, I haven't touched the dogs. That's a veterinary examination to determine that.

Q. So you accept just looking at the particulars that it had shelter, sufficient shelter?

15

A. It had shelter from the rain, so it's not as opposed to Casper that's above that's obviously right on the outside of the cattle yard so it's more exposed. From memory I think this one was actually inside the area and looks like it was actually inside, so it's going to have a better shelter. Ideally would have a candle in there too to if it's a windy day, stop any draught and that coming through but it's better off than Casper above.

20

Q. And in terms of the matter, the coat, can you comment on that?

A. Well look very scruffy and but yeah, you can, it's not particularly a well-kept coat but it's the, to do with the mats, the vets physically examined the dogs to come up with that.

Q. And it's a long haired dog?

25

A. And it's a longer haired dog.

Q. So you can comment on the shelter matted coat, for Dr Beer would be the underweight contention?

A. Yeah and the matted coat.

Q. And the matted coat as well?

30

A. For Dr Beer. So she's done the hands-on so I insisted a physical look that hey looks round about scruffy from that but she's done the hands-on to get the weight and body condition and she will also be feeling matts and whatever else.

- Q. And in terms of behavioural enrichment, the defendant would say that this is a location the cattle yards do – there's a bit of traffic going past. There's a bit of that, quite a bit of activity and the dogs, other dogs nearby. So from a behavioural enrichment point of view she contends that the environment is conducive to behavioural enrichment. This is obviously it's context related, do you accept that?
- 5 A. I accept that's what she thinks but I don't agree with that.
- Q. But it will go to charge 18?
- A. So that will be the vet again too, she's done a hands-on matted coat faecal matter.
- 10 Q. 18, that's page 68 and nine?
- A. Yeah you can see in the picture –
- Q. And the vet.
- A. – on 69 the matted coat.
- 15 Q. So basically the vet would comment on the coat, this is in your view?
- A. She's done a physical check over of this one. So yeah, my side of things it's in a cargo crate, unable to hold on. It's an adult dog, for such a long period of time it's had to defecate in its own crate and it's been sleeping where it's defecating hence the matted coat, faecal matter that the vet has observed needing a torch to have a look at the dog.
- 20 Q. Now the – just on the matted coat, that's something that you can comment on as well?
- A. Well you can physical see it, your bet is see the condition of the coat yourself being...
- 25 Q. What the defendant would say in relation to that is that this dog Debbie was a bit different 'cos she had what is called a wired hair short coat and was moulting. So the old undercoat comes out in tups. So basically we have a situation where it's not matted as such, it's a dog going through this process. So what do you say to that?
- 30 A. You can see that it's matted, yeah well aware of different coats and that type of thing whether it's – it would be that type of coat all over. It's a – yeah I don't accept that. It's just simply matted and it's been in the cage having to lay in faeces. That's also commented on matted coat faecal matter.

1605

Q. So she would contend that short coats don't mat. You don't agree with that?

A. Sorry?

5 Q. She contends that short-coated dogs, their coat doesn't mat or become matted.

A. You can see the matting on it.

Q. Where would you indicate the matting?

A. Down the back leg, you can see obvious matting on the back leg.

10 Q. Which photo are we looking at?

A. The bottom of 69, but I didn't examine all over, but I can say I can see that from here from the picture.

Q. And this dog is a bitch that's pregnant, correct?

15 A. So utility shared cargo crates, adult female, matted coat, oh, ear infection I've got down here, too, dog 7 Debbie.

Q. Right, so the – Debbie, 'cos there's a second charge in relation to Debbie, that's charge 19 and you've got the untreated ear – so that's really a matter for Dr Beer.

A. Yeah, that's right, absolutely.

20 Q. So we go to charge 19.

THE COURT ADDRESSES MR GARDINER – JUST DONE THAT (16:06:37)

THE COURT:

Q. Is charge 20 a vet matter as well?

A. It's a vet matter as well. Underweight, matted coat, it came from the vet.

25 CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. So we dealt with 18... right, this relates to photo...

A. Seventy-three.

30 Q. It's page 70. Right, this is the deer shed and you've referred to this photo, I think, it might have been in examination-in-chief where there was some difficulty identifying where the dog was. I'm looking at the photo which is at the bottom of page 70 where you identified a silhouette, page 70.

A. Oh yeah, yeah, that's right.

Q. And this, that seems to be the dog which features here at charge 20. Now there's – again, we have a situation alleged under inadequate nutrition which has led to the dog being underweight and a matted coat.

5 A. So that would be another veterinary one. That's the vet there that's examined the dog and noted the underweight, matted coat.

Q. So we'll put that to one side and we'll look at 21, and 21 and 22 relate to the same dog which is a dog called Desney. Desney, page – charge 21, there's a contention that, well, the particulars are that it had a matted coat.

10 1610

A. Notes, I have the woolshed, adult female, ear infection, skin problems.

Q. Hold on, there are a number of charges I think in relation to Desney. Yes, so the first charge is charge 21, well, charges 21 and 22 and at the top of 73, we've got the dog Desney, this is in the woolshed, you're quite right.

15 A. Yes.

Q. And it's a puppy, will that be right?

A. No, it's an adult dog.

Q. It's an adult dog. So it's on the slats and your –

A. That's a veterinary comment that, that's after a veterinary examination.

20 Q. So the comment, we'll just go to charge, charge 21 with matted coat, is that Dr Beer as well?

A. Dr Jess Beer has done the hands-on examination there and he's noted that on the page.

25 Q. And she also has, she's come to the conclusion that there was untreated skin and ear infections?

A. Yes.

Q. So Dr Beer for charge 22?

A. Yes.

30 Q. Just going to charge 23. There's contention here the charge alleges that the dog was unsafe to be housed in the woolshed, and page 74 is we've got –

A. Yes.

Q. And so we've got three dogs in this area, is that correct?

A. Yes, so that's unsafely housed, there was another observation of Jess Beer. She noted three pups contained pups trying to climb out, the risk of harm injuring themselves.

Q. We can ask her. So that affects charges 23, 24 and 25?

5 A. Yes. So this will be also a veterinary one for (inaudible 16:13:30) the no behaviour and –

Q. Hold on, just excuse me.

THE COURT:

10 Q. So charge 26 is gone, we are up to 27 which was Dani and that's an untreated ear infection, so I assume that is for Dr Beer as well?

A. Yes, so, my observation – oh, sorry Dan.

CROSS-EXAMINATION CONTINUES: MR GARDINER

15 Q. So Dani's the, so 26 has been withdrawn. Now there's a charge involving Dani which involves an allegation of, that's 27, of an untreated ear infection, that's Dr Beer again?

A. Yes, I've observed it as well, so I've put in my notes that one "1x adult dog, head shaking, ear infection and Dani in the location was to the barn, pen leashed to the barn".

20 Q. Thank you. When a dog shakes its head, you've made the inference that it has an ear infection, but it may just have got something in its head, German Shepherds as we've covered already in the proceeding have large ears, so do you accept that?

1615

25 A. Yes, maybe leave that one for Jess as well, it's a more of a veterinary question and in my experience, you can tell an ear infection, often the head will be on a tilt, it's uncomfortable and the ear will be at a different angle which was the case in this one or a head shake because it's feeling that bit unbalance.

30 Q. So that brings us to charge 28. Now charge 28 concerns the dog, one of the dogs in the hay barn, the other one being Ritzer. So I've just got, we just haven't got the charge sheet, we've got some backing documents.

THE COURT ADDRESSES MR GARDINER – CHARGE 28 (16:16:16)**MR GARDINER ADDRESSES THE COURT – ONE OF TWO (16:16:24)****CROSS-EXAMINATION CONTINUES: MR GARDINER**

5 Q. So that's Parelle. So in relation to this, would Jess be the underweight dog?

A. Underweight will be Jess, no behaviour enrichment Jess, no access to water when it was observed by – I'll just read my notes for that. You have mentioned the clear light above Dan. I was reading my notes from there, but it's, yes, that's what I have for that one, so it'll be Jess for the
10 underweight, the behaviour enrichment. She has potentially made note on the no water and unsatisfactory tether.

Q. And the sort of points that have been covered in relation to other dogs, tethered unsatisfactorily short lead and no access to water. On the short lead points that you've made previously in relation to that apply here, they
15 apply here don't they?

A. Yes, totally.

Q. And I would be putting to you the defendant's view which would be what I'll put to you on another instances. So we will just put that to one side because the access to water, does that mean there were no water bowls
20 at all?

A. I'm just looking, I haven't – I've just made note of the no water, so whether it isn't knocked over bowl, I can't see anything obvious in the picture, but it's no access to water.

Q. Yes, right. And, of course, Parelle is the dog at the top of page 78?

25 A. 78, top and bottom.

Q. And at the bottom, yes. So we'll put that one to one side, that's obviously for another witness and we will go to charge 29. This is the dog Ritzer and she features at page 79. So we've got an interior look at the barn. The area where she was found, is that at sort of cage structure?

30 A. Yes.

Q. And Ritzer was on a short tether, is that correct?

A. Yes.

Q. And that, just going, so 79 and 80, we go to 80, page 80. Is that a water, an overturned water container which she's leaning against in the top picture?

A. Quite likely, that is quite likely uses the water vessels.

5 Q. Right. And just in terms of faeces, we've got faeces which are in the bottom part of the photograph at page, in the second photograph of page 80?

A. Yes.

Q. And the dog is well clear of those faeces?

10 1620

A. Yeah, so the unhygienic conditions, faecal build-up will be a veterinary one. No behavioural enrichment is the veterinary one. Unsatisfactory tethering and obviously my observations are, yes, it was tethered short leash, no water, entangled on the back leg.

15 Q. And were you were – of course, we've got some other photographs showing an injury to that leg?

A. Yes.

Q. And we have the dog being removed which is in page 82?

A. Yes.

20 Q. Now that sort of arrangement which the officer walking beside it is holding, what's the purpose of that?

A. Sorry, what are you talking about? There's plywood.

Q. There seems to be, just looking at the pages– page 82. That's a lead, is it, you know, in his right-left hand, the officer is?

25 A. That's right, yeah, yeah.

Q. (inaudible 16:21:23) lead?

A. Yep, that's...

Q. It was a question of interpreting what that was, that it's a lead and was that officer you?

30 A. No, no so that's the same lead the dog was tethered up to, the leash is the same leash, as you can see from 80 and that's Animal Control Officer Rhys leading (inaudible 16:21:52).

Q. And just on access to water, it could've, there could've been a water container in the– and I'm making an inference here but you don't know,

which is leaning against in the picture at the top of page 80 so there could have been water there?

A. Could have been.

Q. Yes, could have been but it's drunk it or it's overturned it?

5 A. Yep.

Q. Just going to access to water is subject to that possible interpretation: "Unsatisfactory tethering, no different to what you've covered earlier"?

A. Yep.

10 Q. Except, just in relation to the tether, which one sees in page 80 - it's difficult to see how a short tether would get around the dog's leg. The dog— so the tether is not— you're saying that it was a short tether but if it was a short tether, arguably, the dog wouldn't have had a problem with this injury. This injury wouldn't have been caused by that tether?

15 A. It's tethered by rope, so if you're yeah seeing that a shorter tether is safer, I'm not sure what you're quite suggesting but it was the rope – that rope that you can see on the— which was the lead, was used to tether the dog. Rope is something that, as I think I mentioned yesterday, that can get around legs and entangle. If it happens to (inaudible 16:23:41) in a loop, move around, it can be entangled and the more it stresses, the more it'll
20 turn around and can tourniquet entanglements around legs and leashes are common and that's why I mentioned earlier today that chains do not do that because of the individual links. That doesn't happen or far less likely to but it has happened.

25 Q. I put it to you, just looking at this that there is no way that that tether, short tether, could have got caught up in the leg, causing the injury that it allegedly did, what do you say to that? Given the length— the apparent length— of the tether, what do you say to that?

30 A. I don't know where you're coming from with that 'cos it was. It was entangled. You can see it was entangled. There it is entangled. Are you saying it wasn't? Is the picture a lie?

Q. No, I'm just saying that it's—

A. That's it, that's how we

Q. It's not apparent, how it could've been?

A. That did happen and there it is.

Q. Now there was a forced entry into the bar. This dog was one of two dogs in the barn. Do you accept that you could've had the situation and the defendant would argue this, where it's quite conceivable that this dog, this injury was not caused by an entanglement by the rope per se but by the dog's alarmed reaction when the Animal Control officer smashed his way— used an implement to smash his way into the barn, what do you say to that?

A. No, well the barn wasn't smashed into. The only noise was from trying to lease pins I think as I mentioned the other day. They have hanger doors, there's two rings— metal rings— on each of the doors as they're shut. They go over the top of each other. Over the top of those is a metal, almost like a wedge, say pin that goes through. That was stuck, so it was a tap that— I tried a couple of taps that didn't work, with the, there's a bit of a block but it was a bit stuck and then the— yeah, the fuel officer from there got his hand around, popped it up, it was not hitting at the door, prising, breaking, if anything, we fixed the pin that was— that's how you do enter, is by lifting the pin and no I don't accept that the dog was terrified. I had walked off to go and photograph the poo under the woolshed. By the time I'd come back, the first dog, Parelle was being led out and then of course, we were in there to find the dog entangled and that's one.

Q. Thank you, so you're not in a position however to say how the dog— what the state of the dog was when the entry was affected because you were not— you were over at the woolshed, is that what you're saying?

A. You can tell that the swelling of the foot does not happen in the 30 seconds or something like that so in the yeah, tiny minute timeframe, it didn't suddenly tangle itself and become like that.

Q. Now, just looking at the photos of the dog at pages 82 and 83. It seemed, you've pointed out in earlier evidence, it seems to be favouring its rear left leg, correct?

A. Yes, it's not weight-bearing on the leg that was entangled because it was swollen and painful.

Q. Correction, right-leg. Was that dog— that dog was walked back to the vehicles at main house, do you accept that?

A. No, I'm not sure. I think we had vehicles up for that one and I'm not sure, no actually, we had vehicles up close for that, yeah.

Q. But you don't recall—

5 A. I know there were vehicles, there was actually a vehicle right next to the barn so it would've likely gone into that one but yeah, it wasn't walked around any as you'd mentioned earlier the closeness to everything Dan.

Q. But you don't recall how— where the dog was taken to , which vehicle?

10 A. I can't, no I can't tell you. That's five years ago, I'd be only guessing if I—
- I suspect it would've been the field officer's van that was parked next to the barn and I do recall that.

Q. And just looking at the photograph at page 30— correction, page 84, those photographs were taken of the damaged leg 11 days later at the SPCA?

A. Yeah.

Q. Or was it at Pukekohe?

15 A. No, no, no. SPCA.

Q. And who took those photos? Was it you?

A. Possibly— I think I did actually.

20 Q. I've got no further questions on, we've covered the tethering, the unhygienic conditions, the faeces build up. That's just one— the photograph just shows one faeces?

1630

25 A. That's the veterinary comment from there. I'll just check my notes with that: "Hock is swollen, the dog's back leg is forced up by its head and it's likely been there for some time due to the swelling. The dog was unable to wait there on the hind leg. When released, the dog was in obvious pain and distressed. It required urgent veterinary treatment." So I haven't commented on that, so that would be a veterinary comment from that.

Q. Fair enough. Could we just go to the charge 30, that's Tiffany?

A. So it's a different photo booklet, that's one of the six.

30 **THE COURT:**

Right, so we're up to the 2018 dogs now?

MR GARDINER:

Yes, we are your Honour, second booklet.

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Now Tiffany's the dog at page 4 and page 5?

5 A. Yes.

Q. Now Tiffany is one of the dogs that was located from the 25th – 18th of May 2018?

A. Yes.

10 Q. Now the charge in relation to her says: "Unsatisfactory tethering," well you've got the particulars there. "The inadequate nutrition, underweight," that will be Dr Beer would it?

A. That would be the vet that's examined the dog back at the SPCA.

15 Q. So Dr Beer question mark could be someone else. "Access to water," now just looking I'll just deal with the broad point first of all, in relation to Tiffany the photograph, just looking at photograph 4, the photograph doesn't show a water pale?

20 A. So I do remember this one Dan I think, who was holding this one? It might've been in respect of Cody Taylor it may have been. This one was led to the stream and drunk and drunk and drunk and drunk and drunk, it was incredibly thirsty.

Q. So no water is available to this dog, was there any water container near it? I'm just looking at –

25 A. I'll just refer to my notes, 18th May, I've put: "Thin body condition tether to a tree, no water was available, big wound on the (inaudible 16:33:17) inflamed, the ground was worn, (inaudible 16:33:21) on the tree indicating they'd been there for days/weeks. No shelter rest of them tangled (inaudible 16:33:28) from other trees.

30 Q. Just in relation to the wounds, you qualified what you said when you gave evidence, you and I'll just clarify this. You said it wasn't clear, you talked about a :Well it might be a service, it was a service infection it wasn't a wound, it could be an allergy or flea infection and but the skin was inflamed." So essentially your initial reaction you did use "wound" but you corrected yourself and so you accept that just on your initial assessment

it could've been the alleged – this is charge, it's charge 31, there's an untreated skin infection. You made an inference in relation to that that it could be one of those situations but it wasn't a wound as such?

A. Probably best, yeah.

5 Q. Right.

A. It's my – I'm an inspector or wasn't inspector so that was my, it looks like a wound but is it the right terminology for veterinary stuff, probably not but they'll use the correct terms. So yeah, it didn't look normal to me. It's hair loss, you can see a red inflamed, potential infection, so yes.

10 1635

Q. So in terms of the proposition that the defendant might have in relation to that, I should address that Dr Beer?

A. Yes.

Q. Not you?

15 A. No.

Q. Fair enough. Now just, so make a note, now just going back to charge 30, the same dog, we've covered no access to water. Dr Beer is an adequate nutrition, she would address that. No shelter. Unsatisfactory tethering. Now each of the dogs in this case, the one, each of these ones, when one looks at the different photos there are lots of pail, large containers for water. So we will just go, for example, to dog 3 Tiana, bottom of page 7, we've got a big bucket?

20

A. Yes, tied to the tree.

Q. Yes, tied to a tree.

25 A. It's good.

Q. Then page 8, we've got image, there's another bucket tied to a tree?

A. Yes.

Q. We've got, that's page 8, bottom thing. Going to Nellie, on page 9, there's another bucket secured to the tree?

30 A. Yes.

Q. At page 10, there's another bucket, this is Antonio which is not secured obviously, but it could be secured set by the rocks around it, but that's –

A. That's upright, yes.

Q. Yes, it's upright. The rocks seem to be holding a pair, possibly, could be holding it in place if it's upright?

A. Yes.

5 Q. Then we have page 11, we have some photographs which may well duplicate what we've already seen, but we've again got buckets secured to the trees. They've actually seem to have one dog is getting behind one of the buckets, that's at 12. Again, further buckets feature –

A. This image again.

Q. – throughout and at page 15, with reference to the dog Antonio.

10 A. In 14, with an empty bucket in the notes -

Q. Yes.

A. – and my notes have got “4x dogs, no water”. Even though it had a bucket, but like this bucket tied there, there's nothing in it, so four of the dogs had no water, but two of the dogs did have water.

15 Q. Right. So they still had water in their buckets, well, they had water in their buckets?

A. Four dogs had no water and two dogs did have water.

Q. And there were at least five dogs for five, for the six dogs?

A. There were buckets that could've been used, I'm not sure.

20 Q. Right.

A. Not all of them had a bucket tethered to a tree next to them, but yes, some of them did.

Q. Right. But it looks just on a preliminary assessment that there were at least five buckets for five or six dogs, but possibly six. Do you accept that that was quite possible?

25 A. So I know there was no bucket for, I think there was a bucket for the first one -

Q. No, for Tiffany.

30 A. – yes, there were buckets, but as I say, four dogs had water and two dogs didn't have water, so regardless of buckets, yes, there were some buckets around. Good initiative on the stainless steel buckets, tying them with the rope, that's fantastic, but it was just a shame it wasn't out closer to the house and with shelter.

Q. Now just looking at the leads, these leads that we've got there, they're not short tethers, they're chains are two metres?

A. And these are ideal. The frustration is Dan that if they'd only done them down by the house on a flat collar and the dog barking at the bottom of 15's got a collar on there, tethered, ideal, stainless bucket, tying it, we're nearly on a – if there was only shelter and somewhere near civilisation that there could've been – right, I don't know why that – you can see the chain, the chain goes from the dog clip straight down to the ground and straight across. It doesn't sit up like rope will, and so I've never known a 10 dog to have an entanglement in any type of chain but I've seen multiple entanglements in rope, the warehouse to a horrible wire one with a plastic cable over the top of dog clips. It's classic for entangling dogs.

1640

THE COURT ADDRESSES MR GARDINER – NO ALLEGATION FOR
 15 **UNSATISFACTORY TETHERING (16:40:37)**

LEGAL DISCUSSION – ALLEGATION (16:41:08)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. And just looking, it's photos taken by someone else. Now looking at the charges for we dealt with Tiffany, charge 31 and that's you've expressed 20 your view in relation to that and the skin infection but ultimately we have to put – leave that for doctor, those ones for Dr Beer to compliment what you've said. Then we go to charge 32 which relates to the dog Princess?

A. Yeah.

Q. And again: "Inadequate nutrition, no shelter," that's the matter, the answer 25 that you would give would be similar to what you've given previously?

A. They're exactly the same, yeah exactly the same.

Q. And the – so that would be really Dr Beer?

A. Yeah, "inadequate nutrition underweight, no behavioural enrichment, Dr Beer, the no shelter" or there's something like that I've said...

30 Q. Ditto, in relation to charges 33, charge 33 and charge 34 of two of the other dogs?

A. Yes.

Q. Charge 35?

A. Same.

Q. Same as Dr Beer?

5 A. Yes.

Q. And charge 36?

A. The same.

Q. Now just going to the photographs that you took, in particular 4, the dog there, we'll go quickly through the ones you took. The dog at page 4 –

10 A. Yes.

Q. – is undercover but there seems to be some light coming through. Do you accept that?

A. Yeah there's patches (inaudible 16:44:01).

Q. Yeah and the ground seems to be dry?

15 A. At that stage it was the main middle of winter probably high rainfall, so at that stage it's not slushed up to mud and it's on a bank as well.

Q. And a similar situation applies to page 6. We've got a dog Princess?

A. Yeah that moment the sun is coming through in winter.

20 Q. We've got the sun coming through at page 8 and page 10 for different dogs, firstly image –

A. Yeah it's the same day that we were on there so same timing.

Q. So the next three pages, different dogs –

A. Yeah, there's a bit of sun, at the time of the photos there was some sun.

1645

25 Q. Now the, just as a general position in relation to these dogs, the defendant contends that she took these dogs up into the– for exercise. They're in training. She took them, she drove the buggy -the farm buggy and these dogs went with her- can I just confirm this one detail with the defendant. I just want to confirm that she was using the buggy. My instructions are
30 that, Mr Plowright, was that she took the buggy, some of the dogs were running beside her up to the area and there were other dogs which were on leads so we're on leads so we've got six dogs, some on leads, attached to the buggy and some running beside it. She went up to that area, she exercised the dogs, she gave them a swim in the nearby

stream. This is a kauri, as I understand it, it's a kauri wooded area but not huge and she then led them there temporarily, went away and the intention was to come back and she had left them water, she'd fed them, she had treated Tiffany's infection which he would elaborate on so what do you— do you accept that that explanation could well be correct?

5 A. It's absolute fantasy. The dogs will not intermate, you know, you've got these dogs that are all entire and kept separately, males, females, you'll get— you're not going to run them on the loose behind, a couple tethered, all your buckets, I'm just popping up to the, going a kilometre and a half
10 through the— our 4x4s got stuck, that's so weird so...

Q. That's not what I said. I said that, you know, I accept your reaction but I'll just clarify. We've got a situation where they could be things in situ like buckets. She— this is a standard thing that she does. She trains these, has to train these dogs, exercise them, took them to this particular area.
15 It's only 1.8 kilometres. She knows the route. She knows how to get there quickly. It's involves opening —but there is a route which involves opening three or four gates so you might have had problems with heavy SUVs, she didn't because she had a farm buggy and she was on terrain that she knew. What do you say to that?

20 A. Yep, that's pure fantasy. That's incorrect. I don't accept a word of it.

Q. So, you consider it fantasy 'cos you just don't agree with it?

A. It's implausible that— I've actually had to, yeah do this trek and to go in and to see the effort you have to go to. No one's going to that effort to pop the dogs up to— why would you—you've got beautiful paddocks and that sort of thing. Why would you be doing that way up there, you could
25 be doing it right here, right there, there's all farmland, why are you going? I'm going to decide to exercise them right at the opposite end of the farm.

Q. Now the SPCA have not been back to the farm. It had not said: You have too many— this is since the seizure of the 15 dogs. It hadn't said: "You have too many dogs". They had their— their new kennels were in place.
30 They'd been built, constructed. Why would there be any purpose in taking dogs which were older dogs, these are dogs which she's had, they've had for a while, why would there be any point in taking those dogs up to an area and leaving them there, why, what point would be achieved?

A. Because we were in the process of a, what they call a disposal order hearing and they were – they've said they've cut right down the dogs and there's less there and so yeah, it's another attempt to yeah, put the – to allude to, yeah, so that's–

5 Q. Right, well that's conjecture on your part but–
1650

OBJECTION: MR RADICH (16:49:58)

THE COURT ADDRESSES MR GARDINER – QUESTION (16:50:06)

THE COURT:

10 Q. Is that in relation to the –

A. To the Shepherds.

Q. - to the 15 dogs?

A. Yes.

Q. Right. So was that going through the courts?

15 A. That was going through the courts at that time.

Q. And so I didn't quite hear the end of your answer?

A. So I felt it was a to show the, yes, to have less dogs on their site just, yes, showing that they've cut down, but in actual fact they hadn't.

CROSS-EXAMINATION CONTINUES: MR GARDINER

20 Q. But with the dogs that had been taken, the dogs had been substantially, they surrendered five dogs, the start point was say, 60 odd dogs. They had surrendered five dogs. 15 had been seized, so 20. We will just say they had a number, 43, we're just using a start point of 63 dogs, we're down to 43 dogs. How is that not a substantial reduction and along with
25 this, they've got a new beaut state of the art kennel which can accommodate depending on how it's done a significant number of dogs?

A. 17 dogs.

Q. Well, only a few –

A. Adult dogs.

Q. That's right and you can have puppies, and you can have dogs up to 12 months, two to a pen if they're compatible?

A. If they're compatible, yes.

5 Q. Yes. So why, you have no – you don't, you have no reason to believe that, correction, you have no data to indicate that they were holding more dogs have you?

10 A. So on every visit we went to, there was an area that Janine is walking past and we're going "Oh, excuse me, what about the bark?" "Oh, yeah". Every occasion there were, well we've had some surrendered and there was very little movement to the numbers so...

Q. I just want to put, just to finish, some propositions to you. Essentially, the defendant, Janine Wallace believes that the SPCA as the result of complaints or an ill-intentioned complainant, they were targeted deliberately by the SPCA, do you accept that?

15 A. I suppose, yes, because of animal welfare problems going on. In fact, we've bent over backwards to avoid today. We've done everything, we were forced to have to come here. It's such a disappointment that how things couldn't just be improved upon, then it would've just been a "thank you very much, have a nice day" and I wouldn't have to be sitting to three days of your questioning.

20 Q. And I sympathise with you. So just going on, their stock, they were targeted, they had pedigree stock and it was particularly advantageous for the SPCA to seize dogs which they could dispose – well, they could publicise the seizure as a good deed which would assist with SPCA funding, do you accept that?

25 A. No, the costs involved are incredible, absolutely incredible.

Q. But there were –

30 A. There's no profit being made as, a profitable thing, but those, the care and the specialists that the dogs have to go to, ear specialists, skin specialists, they add up to thousands, tens and tens of thousands of dollars, the cost of staff to care for them, it's only money pouring out. It's a huge expense, that's why we went to so much effort to try and avoid this from happening, but your client's inaction that has led us here today.

Q. But the argument is among other things and I'll deal with each of these propositions, a further proposition is that the CEO of SPCA at the time was using it specifically for funding purposes when the disposal proceedings were going through and prior to the charges being laid. It was being specifically used to, it would be the defendant's, the Volkerson Kennels was not described as, the individuals weren't described, but there was specific references to a farm, a set of kennels which was, in their view, clearly related to them. What's your reaction to that? Are you aware of funding, fundraising done by the SPCA in that situation?

10 1655

A. Yes, I never really particularly followed that sort of thing Dan, so I know that they wouldn't have disclosed any information. If there's a court case, they won't be disclosing any information to do with individual anything, but as far as that, while as an inspector is a difficult role, yes, when you're go, you're not following. You certainly don't go online and Google SPCA and put a few likes or anything on there, yes.

15

Q. They would argue further, I'm speaking specifically for Janine Wallace that this is a highly successful kennels in terms of showing dogs and breeding dogs which are good for the purpose of the showroom, these sort of dogs, German Shepherds. That the SPCA when it was very targeted in what it sought in relation to their kennels, that the stock that was taken, I'm not talking about the surrendered stock, the stock that was seized all had, this is the proposition, very good guidelines and that was done for a purpose to cripple them Volkerson Kennels to the future, what do you say to that?

20

25

A. It's absolutely ludicrous. So we take the ones with the problems, that's their top bloodline, the one with the ear – no, please let me finish. They're left with so many breeding bitches, they've probably got 20 breeding bitches all capable of producing 10, 12 puppies in a litter and a couple of litters a year. So yes, affecting their breeding stock, absolute rubbish, absolute rubbish. So just in a if I can continue, in the same week of our first visit, we also had a visit to another pedigree dog breeder. This breeder was a British bulldog breeder in a similar area and there were I think 55 British bulldogs and they were in a similar condition, small caging,

30

5 filthy condition and we've done exactly the same process. So it was a
130 instruction to get things cleaned up. We returned. They had had
commercial cleaners come through and absolutely cleaned everything up
for the second visit, so we left it a couple of months as we did with the
Volkersons and came back and that British bulldog breeder, it was still all
clean and fantastic. We said: "Thank you very much, have a nice day"
and we didn't go back, and haven't had any complaints since. So that's
all it took. That was the recipe. We freely give the recipe to keep us off
properties. Just give us no reason to be there, it's simple.

10 Q. Right.

**LEGAL DISCUSSION – RELEVANCE OF QUESTIONS, WITNESSES, NO
EARLY START (16:58:27)**

**THE COURT ADDRESSES WITNESS – DIRECTED NOT TO DISCUSS
EVIDENCE (17:02:12)**

15 **COURT ADJOURNS: 5.02 PM**

COURT RESUMES ON FRIDAY 21 JANUARY 2022 AT 10.05 AM**LEGAL DISCUSSION – ORDER OF WITNESSES (10:06:32)****MR RADICH CALLS****5 ANDRE JACOB WILLIAMS (SWORN)**

Q. Thank you Mr Williams. First of all, I see you have bought in a number of documents with you today. Just so that I don't get confused with the official court copies, can I ask you to put those to one side and may be put it on the desk over there, anything that isn't your notebook. Thank you. Could you please give the Court your full name?

A. Andre Jacob Williams.

Q. And what's your job Mr Williams?

A. Animal Welfare inspector.

Q. How long have you held that position?

15 A. Approximately 10 years.

Q. Did you have any employment in a similar or related field prior to that position being taken?

A. Yes, I'd been employed by Animal Control Services for roughly four years.

Q. As you know we're here to talk about two matters in which you were involved in October 2017 and March 2018 in relation to the Volkerson Kennels, do you recall that?

A. Yes, I do.

Q. And have you brought with you today your notebook that contain notes you made in relation to both of those visits?

25 A. That is correct.

Q. Okay. Just to confirm, were those notes made on the day or sometime later or when?

A. As soon as practicable offsite.

Q. When you say as soon as practicable, are you talking about the same day or are you talking about later than that?

30 A. No, within 24 hours and it was written in my office.

MS STOIKOFF ADDRESSES THE COURT – NOT RECEIVED NOTEBOOK

(10:19:00)

MR RADICH ADDRESSES THE COURT – ADJOURN 15 MINUTES

(10:19:30)

5 LEGAL DISCUSSION – DISCLOSURE AND OTHER NOTES (10:20:43)

COURT ADJOURNS: 10.21 AM

COURT RESUMES: 10.40 AM

EXAMINATION CONTINUES: MR RADICH

Q. What was your first involvement in this matter with Volkerson?

5 A. I was there to assist my colleagues in terms of conducting an inspection of multiple dogs at the property.

Q. And was this on the 13th of October 2017?

A. That's correct.

10 Q. Referring to your notes if you need to as you go along in relation to this one or by your memory if you can remember, can you tell us who was there with you when you arrived that day?

A. Several SPCA Inspectors as well as Waikato Animal Control Services and...

THE COURT ADDRESSES WITNESS MS GLOVER – KEEP MASK ON
(10:41:27)

15 **EXAMINATION CONTINUES: MR RADICH**

Q. Have you ever been to that property before?

A. I have yes.

Q. And on a number of occasions or I guess I'm asking how familiar are you with the property?

20 A. I've been there on one previous occasion in 2018.

Q. 2000 –

A. 2017 I've been there as well as 2018.

Q. So talking about the time if you went on the 13th of October 2017, was that the first time you'd been there?

25 A. That's correct.

Q. What was the first part of the property that you observed?

A. First part of the property I sighted several German Shepherd type dogs located at the back or at the side of the main house dwelling in run enclosures (inaudible 10:42:34).

30 Q. Can I ask you to go to page 64 of prosecution exhibit 1 which I think should be in front of you. That is the booklet that has on the front cover

“Volkerson Kennels 2017” (inaudible 10:42:42) from inspections, do you have that there?

A. Would this be correct?

Q. No, no, sorry there should be a bound photo booklet?

5 A. No.

Q. No, there’s no bound photo booklet there?

A. Yeah.

Q. I’m wondering if Mr Plowright took them with him when he left yesterday in that case. Can I ask, are those booklets that you have there are they ones you printed out yourself or do they or were they given to you by Mr Plowright?

A. These booklets here?

Q. Yes.

A. They were issued by Inspector Davis.

15

MS STOIKOFF TO MR RADICH:

Is that page 64 Mr Radich?

MR RADICH:

20 Yes.

EXAMINATION CONTINUES: MR RADICH

Q. Page 64 if you would Mr Williams please. Now dogs you refer to in cages, is that the scene that we’re looking there on that page at the bottom?

A. That’s correct.

25 Q. And what were your general observations in relation to that kennelling area in terms of the standard of hygiene cleanliness that sort of thing?

A. From my recollection there was a strong smell, strong odour of ammonia. There was the area where the dogs were housed were littered with faeces including faeces in I guess 10 to 30 centimetres approximately of the ward, food and water bowls. There was urine inside some of the enclosures as well.

30

Q. Did you then go on to visit the cattle yards?

A. Correct.

Q. And what did you observe in the cattle yards?

1045

A. Outside the cattle yards, there was a dog tethered just outside the cattle yards there. The tether had tangled around its leg, restricting movement.

5 The dog was not protected sufficiently, shelter-wise in terms of protection from harmful elements and the water was minimal. We then proceeded inside to the cattle yards and there were two dogs located inside, one tethered– oh, sorry, both tethered, one was tangled restricting movement as well.

10 Q. I might come back to that but just pausing first on that first dog you observed outside the cattle yards, could I ask you turn to page 66?

A. Yes.

Q. Now we've already heard evidence that this was a photo taken on the 13th of October as well at the time of your inspection, does that scene in the
15 top photo look at all familiar to you?

A. That is correct, that is the dog that I'd just recently described.

Q. Now you did talk about the lead being tangled but it doesn't appear to be tangled in that photo, is that correct?

A. That's correct.

20 Q. Do you have any comment to make in relation to that?

A. The dog eventually tangled himself with the commotion.

Q. Did you then also go onto what we've been calling in this trial a woolshed but I think you called a shearing shed, synonymous terms, I suppose?

A. Correct.

25 Q. If you go to page 72?

A. Yes.

Q. And on through the following pages, onto page 73, are we looking at that woolshed or shearing shed there?

A. That's correct.

30 Q. What were your observations in relation to the general conditions in that shed?

A. My observations were that– in reference to these photographs, that the floor was slatted which in my opinion, could cause injury to the animals'

feet, paws, getting their nails stuck in the slatted wood there. It was very humid inside that room, poor ventilation and it was quite dark in there.

Q. Did you then go onto a barn that we've been describing in this trial as a hay barn that is photographed at the top of page 76?

5 A. Correct.

Q. What were your observations in relation to the interior of that barn?

A. Interior of the barn housed steel metal cages, enclosures which housed several dogs. It was very dark inside. We used torches to get a visual inside. The heavy hangar doors were very tightly closed. It took a little
10 bit of time to try and access that point and I did sight one dog tethered and it was tangled around its leg. I sighted obvious swelling in that particular dog.

Q. If we look at the photos on page 79, both top and bottom, do they look broadly familiar to you?

15 A. Yes.

Q. Can you tell us what we're looking at in the bottom photo there on page 79?

A. This is the dog that was tethered and it was tangled around the leg and there was swelling around that leg. It was very restricted in movement
20 and caged in an enclosure.

Q. On page 80, are we looking at the same dog?

A. Correct.

Q. Now was your involvement with this dog hands-on or were you at a distance observing?

25 A. At a distance, observing with a flashlight.

Q. With a what, sorry?

A. With a flashlight.

Q. Was a flashlight necessary?

A. Correct, it was very dark inside.

30 Q. So what was done in relation to that dog we see on page 80?

A. The dog was subsequently freed, untangled and removed from the location.

1050

Q. Now we've had it put to a previous witness yesterday that the injury to that dog's leg was not caused by a rope being tangled around its leg, but by an injury caused by alarm when SPCA people came into the haybarn, do you have any comment to make in relation to that kind of suggestion?

5 A. I have no comment on that.

Q. Thereafter, were you part of a team that seized and took some of the dogs, took a total of 15 dogs back to SPCA custody?

A. Correct.

10 Q. Thank you. Did you then have further involvement into this matter on the 18th of May 2018?

A. That is correct.

WITNESS REFERRED TO PHOTOGRAPH BOOKLET

15 Q. This is not the official Crown exhibit 2 which seems to have gone missing, but it is an identical copy for present purposes. I'll refer to that in due course, but for the moment can you tell us what your involvement was on the 18th of May 2018?

A. Again, I was assisting in an inspection process of multiple dogs at the address.

Q. Who did you attend the property with?

20 A. Fellow colleagues from the SPCA including inspectors, other canine attendants as well as Animal Control Services.

Q. And what did you do, starting at the start?

25 A. So we waited at a neighbouring property whilst my colleagues attended the location where the dogs were. Once we were called to the property where the dogs were to assist, we sighted some dogs free-running on the property in the front yard of the main dwelling and then we slowly moved around to the enclosures around the back.

30 Q. We don't know that, I need to take you through the detail of your observations of the dogs around the house because they're not the subject of this matter right now, but turning to the dogs that were away from the house area, can you tell us what you did in relation to them?

A. Some my main task was to observe and get an eye witness account of the animals' welfare as well as their conditions, living conditions and any obvious injuries that may've been identified.

Q. How did you get to those dogs?

A. We accessed through the first lot of kennel runs, the metal kennel runs we accessed through one of the fences which was already open.

5 Q. Sorry, again, I'm talking about the dogs that were some distance away from the house in what might be described as a bush area, does that ring some bells?

A. Correct.

Q. How did you get to that area?

10 A. We took our vehicles, SPCA vehicles through terrain, through paddocks and farmland to access a spot where we couldn't drive the vehicles any further, and we went on foot from there.

Q. Was it a place that was easy to access?

A. Not at all, no, very tough terrain.

15 Q. Can you expand upon that and perhaps tell us how long it took you to get there from the house?

A. In the vehicle, so the stop point, roughly 15 minutes and then on foot probably another 45 minutes to an hour.

Q. When you arrive where the dogs were what were your observations?

20 A. I observed several dogs in a forest or bush-type canopy, they were tethered to the trees. Some of their tethers were tangled restricting their movement. Some of their water bowls had been, were empty and there was inadequate shelter in my opinion from hazardous weather conditions.

Q. What were the weather conditions like that day?

A. Humid, very hot.

25 **CROSS-EXAMINATION: MR GARDINER**

30 Q. Mr Williams, would you please go, I'd like you to check your notes. You gave evidence that on the visit that you made to the property on the 13th of October, this is at Miranda Road, you went round to the rear of the garage and there was some enclosures. You describe what you saw and you said that the odour of ammonia was, the actual word you used was strong words to that effect, but I just want you to check the notes that you made contemporaneously and tell me what did you record there in that regard?

1055

A. In my notes, I wrote: "Ammonia smell was moderately present."

Q. So having checked your notes which you made at the time, would you correct what you said just now in terms of the – in your evidence-in-chief,
5 in terms of the strength of the ammonia smell?

A. My notebook reads: "Moderate" so I'd stand by moderate.

Q. Just want to go to now, further down, now this is just a final point in this area, we had a situation where you– in a previously statement, you've referred to multiple dogs and items were seized, labelling and tracking
10 completed, what do you mean by tracking? What did you mean by tracking in that subsequent statement based presumably on your notes?

A. That's in reference to our standard procedures when we bring incoming animals to our Māngere-based centre. In terms of tracking, I mean by documentation.

15 Q. And this documentation was completed at the scene or later?

A. Later.

Q. Can you just describe what that documentation involved at SPCA Māngere?

A. Documentation at Māngere is any animal that incomes to the centre is granted an identification number and that's created from the document
20 you provide with all the details including the address, owner of the animals and I assume the– some other finer details in terms of persons in charge as well.

Q. And is that– identification number, that's described as a village ID
25 number?

A. Correct.

Q. And that's a number which is allocated by the SPCA and described in that way?

A. Correct.

30 Q. What is the process for marrying up the identification number, the village number would say the computer chip that a dog might have, you know, in its neck?

A. All those details are all affiliated to that particular animal so if you scan an animal, that all goes into that identification number in the system.

Q. So do you enter the village number on– we'll just say you're in charge– the officer in charge of investigation, as an inspector, you've overseen investigations as an officer in– the officer commanding, would that be true?

5 A. True.

Q. So, as the OC of an investigation, what would you do– did you act, were you– I'll go back a step in fairness. In this particular case, did you actually, were you involved in the process of giving, allocating a village number and going through the usual process of documentation?

10 A. No.

Q. Did you do it?

A. No, no, no I didn't.

Q. I'll just leave it at that. Just going to the 18th of May, you were involved in two phases of the operation. The first one involved going to
15 Miranda Road and that seems to – just correct me if I'm wrong. You were under – the person leading that group of SPCA people was Ms Davis, Inspector Davis?

1100

A. Inspector Davis and –

20 Q. And you were one of her team?

A. Correct.

Q. And the purpose of the visit on that occasion was to check on the animals, would that be a fair comment? This is on the 18th of May 2018?

A. Conduct by an inspection, yes.

25 Q. Yeah and at the same time there was the operation that Inspector Plowright was doing elsewhere. Were you aware at that time when you were doing the inspection of the animals, that that operation was occurring?

A. It was part of the same operation as far as I was aware.

30 Q. So your briefing before you deployed cut at both situations. You were going –

A. Yes, correct.

Q. Now just going to, I'll just ask you some questions about that visit prior to going up to where the six dogs were. You attended the address and it's

fair to say that no obvious health issues were detected with any of the dogs that you inspected at the address as a team, would that be correct?

A. At the Miranda address or –

Q. Yes, at the Miranda address?

5 A. Correct.

Q. We'll come to the six dogs shortly.

A. Okay.

Q. Now you mentioned there were puppies free-ranging around the front yard grass area of the house?

10 A. Yes.

Q. And they had the basic necessities?

A. Yes.

Q. Basic necessities being?

A. Water, shelter.

15 Q. And you also, you referred to – I'm actually going to the statement that you previously made, but there were multiple dogs that you found on that inspection in kennel run enclosures?

A. Yes.

Q. And where were they located?

20 A. Around the back, how do I describe it –

Q. Adjacent to the house?

A. Correct, yes.

Q. And a female occupant, a female was cleaning up facilities when the inspection was undertaken?

25 A. Yes.

Q. And there was sufficient shelter provisions observed in relation to the dogs there?

A. Correct.

30 Q. And there were two German Shepherds located in an open shed, both dogs were vocal, do you remember those?

A. Correct, yes.

Q. And they had basic necessities too?

A. Correct.

Q. Basic necessities being as described in relation to the puppies?

A. Correct.

Q. And no health, obvious health concerns detected in relation to the two dogs?

A. Correct.

5 Q. There were no dogs found in the shearing shed or other barns?

A. correct.

Q. Now I'm going to the second part of the operation which is in the other side of the property. You mentioned that the SPCA and council staff came to the house?

10 A. Correct.

Q. They'd come from where they'd located six dogs? That's the other team –

A. Can you repeat it please?

Q. – the other team under Mr Plowright?

15 A. We came from a neighbouring location.

Q. Yes, yeah. So they came from a neighbouring location, they came to the house, to Miranda Road?

A. Correct.

Q. To where you were with Inspector Davis?

20 A. No, I came as well.

Q. Yeah righto. But you went with them up through the farm from a different, this is the farm where the kennels were to where, to the location where the six dogs were?

A. That's correct.

25 Q. Now you mentioned that you walked for a period, you'd described its terrain as tough and, well correction. You drove for a period, there were the SUVs, SUVs?

A. Four wheel drives.

Q. Yeah, four wheel drives?

30 A. Correct.

1105

Q. And they drove staff, SPCA staff and some, and an animal control officer?

A. Correct.

Q. They drove for a certain distance up over the farm and then it was decided to walk the balance of the distance to where the six dogs were?

A. Correct.

5 Q. Now you mentioned that you walked for about 15 minutes and then the further, once you got out of the vehicles, you estimated that it took 45 minutes to an hour?

10 A. Correct because we had to look, we had to keep our eyes open because we did not know the location whether they were off-track or on the track, so we weren't too sure so we perhaps may've slowed down our time a bit.

15 Q. Right. Because the actual distance and another witness has given evidence that the distance from the house which you left, where you'd done the inspection of the dogs and other animals, to where the dogs were eventually found, that's the six dogs, was one he estimated 1.8 kilometres, would you agree with that?

A. Yes.

MR RADICH ADDRESSES THE COURT – ACCURACY (11:06:16)

MR GARDINER ADDRESSES THE COURT – STAND CORRECTED (11:06:27)

20 CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. So now you arrived at the location where the six dogs were and you've described how the dogs were tethered to trees, some bowls, water bowls were empty and it was a humid day, it was quite hot, humid?

A. Correct.

25 Q. (inaudible 11:06:58) day and basically, you were involved with taking delivery of the dogs. Now, when you took the dogs from that location, were they taken back to the vehicles that you had parked further back and, you know. left to walk to the location?

A. That is correct.

30 Q. And then you turn around and you went back to farm house?

A. Correct.

Q. Where the, Ms Wallace and the other, her mum were, lived, is that right?

A. Correct.

Q. Now, you mentioned that the dogs, the dogs on this occasion, were they taken back to the SPCA Māngere or the six dogs, were they taken directly
5 back or were they taken elsewhere?

A. I'm not aware of the proceedings that happened after that?

Q. Right. But you yourself went back directly to Māngere. Were you in charge with any dogs, of any dogs of these six dogs?

A. No, I was not.

10 Q. You weren't?

A. No.

CROSS-EXAMINATION: MS STOIKOFF

Q. Mr Williams, you've said that your visit to the farm or we've been using the address of the defendants on the 13th of October, that was the first
15 time at the address that you visited that address in October 2017?

A. Correct.

Q. When you got there, were you directed by a senior officer as to where to go, what to do, what your duties might've been?

A. We had a briefing prior and then it was a directive will be given at the
20 property.

Q. So that directive beforehand, is that done at the SPCA?

A. Yes, generally, yes.

Q. Before you move onto wherever you are going?

A. Correct.

25 Q. Okay. Did you take any photos that day in October 2017?

A. No, I did not.

Q. You were directed to - photograph 64, forgive me. If you could go back to that photograph please and I think it's the bottom photograph you were directed to?

30 A. Yes.

Q. Where were you standing in regards to what we see in the photo?

1110

A. I don't recall, sorry.

Q. How close did you get to the cages?

A. Around the same proximity as that photograph was taken.

Q. As the photographer?

A. Correct.

5 Q. Thank you. Now you mentioned that the odour of ammonia was moderate?

A. Yes.

Q. Did you have a meter, a gas meter with you so that you could've recorded the measurement?

10 A. No, I did not.

Q. Okay. Did anyone else to your knowledge have a gas meter?

A. Not to my knowledge.

Q. Did you see a gas meter?

A. Not that I recall, no.

15 Q. Now, you mentioned in your evidence you referred to dogs and dog and more dogs, do I take it that at that stage you didn't know what the dogs' names were?

A. No, I did not, no.

20 Q. Now moving onto the 18th of May 2018 and you've told us that you were, you and other staff took the four-wheel-drives or the vehicles into the terrain. How did you know to do that? Were you directed to do that I should say?

A. Inspector Plowright and Inspector Davis.

25 Q. Right. And you were – why did you leave the vehicles and then continue on foot?

A. One of the vehicles got stuck, the foundation was moist or soft so our vehicles couldn't go any further.

Q. Okay. Did you have any problem in the terrain, with the terrain, was it physically tough for you or was it on foot?

30 A. On foot, it was moderately tough walking with your vest and uniforms as well as I'm trying to search around the forest as well as the track to see where these dogs were because we had no idea where they were.

Q. How did you eventually locate the dogs?

A. One of my colleagues managed to find them because they were further up in our convoy.

Q. Okay and so you were advised by a colleague as to you were alerted as to where the dogs were located, is that right?

5 A. Correct.

RE-EXAMINATION: MR RADICH – NIL

QUESTIONS FROM THE COURT – NIL

WITNESS EXCUSED

MR RADICH CALLS**CODY TAYLOR (AFFIRMED)**

(Lost audio from 11:13:11 – 11:14:36)

Q. And how long have you been in that position?

5 A. Been in that position for a year and three months.

Q. In May 2018, what was your occupation?

A. I was an animal welfare inspector for the SPCA.

1115

Q. How long had you been in that position roughly as of May 2018?

10 A. Probably just over a year.

Q. As you know we're here to discuss your involvement in the matter concerning Volkerson Kennels, you understand that?

A. Yes.

Q. And to be clear, your involvement with her evidence about previous incidents in October 2017 but you're not here to give evidence about anything of that, are you?

A. No.

Q. Your involvement was just in May 2018, correct?

A. Correct.

20 Q. Could you tell us how your involvement began?

A. So I assisted Inspectors Plowright and Davis in an inspection that took place at the location on Miranda Road at which consisted of seizing a number of dogs.

Q. Roughly what time of day did you attend the address?

25 A. Approximately 1 pm.

Q. And did you make a number of observations in relation to dogs and their housing conditions around the general house and shed areas?

A. Yes, I did.

Q. Now we're not directly concerned with those matters for present proceedings, so I just want to ask you in relation to some dogs that were located quite some distance away from the house. Do you know the dogs that I'm talking about?

30 A. Yes, I do.

Q. What can you tell us in relation to those dogs starting with, how did you get to them?

5 A. So it (inaudible 11:16:24) identified or located some dogs that were in a bush area towards the rear of the property. This is only accessible via four wheel drive. So once we could conduct an inspection around the general location at the house, we used four wheel drive vehicles to gain access to this area which took about 30, 40 minutes to get to and then we walked on foot for another 30 to 40 minutes to locate these dogs.

Q. Were these dogs easy to access?

10 A. No, they were not.

Q. What was the terrain like on the way there?

15 A. Well it was farm terrain, so paddocks of unlevel and uneasy ground, mud. There was at one point a four wheel drive that we were driving got stuck because of the terrain so it was quite difficult, and then the walk obviously was 30, 40 minutes of walking downhill and are uneasy and unlevelled terrain as well into the bush.

Q. Now did you – when you and the others eventually arrived at the location of the dogs, did you take some photos?

A. Yes, I did.

20 Q. Could I ask you to look at a booklet I'm hoping it would be in front of you, Crown exhibit, prosecution exhibit 2. The one that has 18 May 2018 on the cover, do you have that in front of you?

A. Yes, I do.

Q. And could you go to page 28?

25 A. Yeah.

Q. And in fact moving, if you flick through those pages to page 36, are you able to tell us whether they are a series of photos or a selection of photos that you took on the day?

A. Yes, they were.

30 Q. Looking first at page 29, can you tell us what we're looking at there?

A. So this is a photo taken from a small track in which we entered into this bush area looking up to a dog that was chained to a tree, I believe the dog is circled.

Q. Onto page 30, can you describe what we're looking at there?

A. So this is another dog that was located close to this mud track that we had gained through that was chained to a tree or they'd tipped over a water bowl.

Q. On page 31, same question what are we viewing?

5 A. So this is the dog that was photographed on page 29. This is the dog that I was responsible for taking into possession. It's a dog chained to a tree, there's a water bucket there and there's no shelter present.

Q. So that was the dog that you were particularly given responsibility for the custody of?

10 A. Yes it was.

Q. Do you know the name of that dog?

A. That dog's name is Princess.

Q. How did you know that name?

A. Later once we were back at the SPCA place was identified as Princess.

15 Q. Do you know how it was identified as Princess?

A. No, I don't.

Q. On page 32, what are we looking at?

A. So this is the ground where the dog was situated and then the bucket. That was located there for the dog to drink from.

20 1120

Q. Again, is this the dog you were given responsibility for that you've called Princess or is this another dog?

A. This is that dog, princess.

Q. And on page 33 is the same dog or a different dog?

25 A. It's the same dog.

Q. Now we're looking in the top photo on that page down into a water bucket, what's that photo showing us?

A. That photo is showing green and stagnant water. It is not suitable for drinking for the dogs.

30 Q. On page 34, what are we viewing?

A. That's a photo of the dog, Princess, that I was responsible for as well as the red chain that was around the tree, coiled around and tangled.

Q. And any observations you'd make in relation to the tree and the bark in the bottom photo on page 34?

A. Yeah, there was lots of wearing around the tree which indicates that the chain had been rubbing on or had been around the tree for some time, caused the bark to break away.

Q. On page 35, again, if you could speak to those photos, I'd be grateful?

5 A. So the top photo is Princess after I had removed the chain from around her neck. She is on an SPCA lead that I had with me and then the bottom photo is the photo of the chain that was around the tree and was connected to the dog.

10 Q. And we can see the base of that tree in the bottom photo on page 35 as we go over the page to page 36, do we see that same tree with the top photo in particular being a close up?

A. That's correct, yep.

Q. Could I ask you in relation to— first of all actually, so you spent your time predominantly with princess, is that correct?

15 A. That's correct, yep.

Q. How far away were the other dogs from you?

A. They were situated- - they were spaced out in the bush area, the dog directly closest to Princess would have been about— and this is just me estimating— maybe 20 metres away. 20, yeah.

20 Q. Right, so did you have anything to do with the other dogs in terms of close observations or just observations from a distance?

A. Just taking a photo of that second—that other dog on one of the pages, that's the only interaction I had.

25 Q. What could you say, if anything, in relation to the general shelter conditions in that area?

A. Well, none of the dogs, to my knowledge, especially Princess, had shelter so none of them had a kennel or Princess didn't have a kennel available and there wasn't a lot of— there was shelter from the bush but not suitable to protect the dogs from the elements.

30 **CROSS-EXAMINATION: MR GARDINER**

Q. Mr Taylor, you've described to my learned friend how you accessed this area where the dogs were located. You'd had a problem with one of the vehicles getting stuck, so you disembark and then walked. You would

agree that the only way to— apart from walking— to access where you ended up would have been by farm quad bike, do you accept that?

A. That's correct, yeah.

Q. And then it would be relatively straightforward?

5 A. I don't understand the question, sorry.

Q. Well, accessing it on quad bike, quad bikes are very manoeuvrable and they are very easy to use in these sort of conditions, in fact, any sort of conditions that you might encounter on a farm?

A. Yes.

10 Q. Correct?

A. Yeah, that's correct.

Q. Just want to go to, now this water that you have described, I'll go back a step. All these dogs were on long chains as far as— Princess was definitely on a longer chain, say a 2 metre chain?

15 A. I don't know the length of her chain, I don't recall her length but she as on a chain.

Q. Was reasonably long?

A. No, I wouldn't consider it reasonably long.

Q. And it was— well she had a collar on or?

20 A. Yes, she did.

Q. It wasn't a choke chain?

A. No, it was not.

1125

25 Q. As far as you— you mentioned that you observed the other five dogs, were they— they had similar chains?

A. I'm not sure.

Q. You're not sure? You weren't placed in— your focus was Princess?

A. Yeah, I wasn't close enough to determine— my focus was this one dog.

30 Q. Now, you, in response to my learned friend, you described the shelter as general shelter provided by the trees but not, it wasn't shelter in the sense of having a kennel or a place which was similar to a kennel?

A. That's correct.

Q. But if these dogs— if we had a situation where these dogs were exercised, brought to this place, exercised and then left there to be uplifted later. In

other words, they were there temporarily, the shelter of the trees– tree cover, would be sufficient, wouldn't it?

A. No, the Code of Welfare requires shelter and determines what that shelter is to look like for a tethered animal and so in this case, there was no evidence to suggest they had been there temporarily so I wouldn't think that that's acceptable.

Q. So, you're assuming the dogs have been there for some time, correct?

A. Yep, that's correct.

Q. And that was so– on what do you base that assumption?

10 A. So, the condition in which we found them so the water–

Q. You, excuse me, you can only comment in relation to Princess, as opposed to the other dogs?

A. Okay, so the condition in which I found Princess: the dirty and stagnant water, the chain, decay around the tree, the tanglement [*sic*] of the chain and also the ground in which she was sitting in.

Q. But it's true that when you have tree cover, the ground underneath can become quite bare because sunlight doesn't get through and generate foliage, wouldn't you agree with that?

A. I'm unable to comment on tree growth and foliage. I'm not qualified to do so.

Q. Now, just going to, looking at the top of page 35, that's a close up of Princess with the SPCA lead on?

A. That's correct

Q. Dog looks in reasonable condition?

25 A. Yep.

Q. Good condition, I should say. Reasonably good condition?

A. From the photo, I can say that she does look in reasonable condition.

CROSS-EXAMINATION: MS STOIKOFF

Q. Mr Taylor, just going back to page 29, is that the same dog in both those photos?

A. Yes.

Q. And you also mentioned that, now page 30, is that Princess or is that another dog?

A. No, that's another dog.

Q. Because you said that there was, on your way up, there was muddy terrain and I think you mentioned mud closer to where the dogs were. If you look at page 30, it might just be me but that doesn't look like muddy ground, would you agree?

A. No, it doesn't look like muddy ground where the dog is situated, it looks dry.

Q. It does or it doesn't, I'm sorry?

A. It looks dry.

10 Q. Thank you and how long were you and the team up there gathering the dogs?

A. I don't recall, sorry.

Q. And just to go backwards, how did you come to be on the team that went into the bush?

15 1130

A. So I was present during the inspection, I was asked to assist by Inspector Plowright and Davis, so that would be their decision that they make.

Q. And then they direct you where to go or did you –

A. And then I was directed to assist, yeah.

20 Q. Lovely. And would you have been directed by one of them to take the photos?

A. Yes.

RE-EXAMINATION: MR RADICH – NIL

QUESTIONS FROM THE COURT:

25 Q. Just to clarify, on page 29 I think it's the same dog in each picture and is that Princess?

A. Yes, that's Princess.

Q. But then the dog in the next picture whose got the upturned bowl in there, that's not Princess?

30 A. No, that's not.

Q. And then over – when we get to page 31, we then had a close-up and is that Princess –

A. Yes.

Q. – and she has the bucket there?

A. That's correct.

QUESTIONS ARISING – NIL

5 WITNESS EXCUSED

LEGAL DISCUSSION – UPDATED ETA FOR MR PLOWRIGHT (11:31:38)

COURT ADJOURNS: 11.34 AM

COURT RESUMES: 12.33 PM

LEGAL DISCUSSION – WITNESSES (12:33:17)

KEVIN RICHARD PLOWRIGHT (RE-CALLED)

5 CROSS-EXAMINATION: MS CRANSTOUN

Q. Welcome back Mr Plowright.

A. Thank you.

Q. I'm Ms Cranstoun, I am the lawyer for Mrs Glover.

A. Yes.

10 Q. So when you, so first of all, I just want to start off by saying that throughout my questioning I'm going to be referring to 1478 Miranda Road as "the farm" just so everyone's completely on the same page, but in qualifying that, I want to say that I'm only referring to the dog-side of the farm and not the rest of the farm, yes. Okay, so in 2017 and 2018, during the time
15 of the inspections at the farm you were a senior animal welfare inspector, correct?

A. That's correct.

Q. And during the inspections would you have been the most senior ranking welfare inspector?

20 A. Yes, I think all of them, yes, I was.

Q. Okay, so my first series of questions are going to be about animal welfare inspecting, generally. Doesn't an animal welfare inspector have any sort of veterinary training?

A. No.

25 Q. Do they have any sort of animal behavioural training?

A. Only basic stuff, so yes, but basic.

Q. Okay. So inspectors are just concerned with the environmental conditions of the animals at a location, would that be correct?

A. No and the behavioural enrichment of the, so the behavioural needs for
30 the dog as well.

Q. Okay. So in your opinion, as a former senior animal welfare inspector, would it be outside the expertise of inspector to make an assessment of muscle wastage?

5 A. That's a visual assessment, so that's something you can visually see, so yes. If I can see muscle wastage on an animal, I will note that because that's a visual thing that I can see and that's what I would describe it as is "muscle wastage".

10 Q. So would you generally agree, would you agree that generally there are two main purposes for an inspection, the first one being that there's an initial complaint?

A. Yes.

Q. And you go out the first time?

A. Yes.

15 Q. And then the second one being that there's some sort of re-inspection from monitoring of the conditions and the improvements?

A. Yes, correct.

Q. So when you are responding to an initial complaint do you plan out how you're going to approach your inspection?

20 A. No, not at all because it's – you're purely responding to information through the phone and that can be hugely exaggerated, absolutely accurate, completely incorrect and everything in between. So you, yes, you take the initial information and just look yourself from there.

25 Q. And so when you're doing a re-inspection monitoring for improvements would it be correct that it's a more structured approach that you do more planning?

A. Planning as in the – you're still going along blind to see, you're not planning as such, you're not pre-determining what you're going to see, you're just simply going along for a second time to do a visual assessment of what you're looking at.

30 Q. Okay, so would you, like assign tasks, like say, if we see something we need to measure you will be in charge of all the measuring, you're going to be in charge of taking notes, would you do that type of thing?

A. You're talking about a large animal investigation for that type of thing, so for your average round of the mill properties, it's not necessarily, no. If

it's something large and needs that level of organisational, yes, it's been done before, but yes, just whatever's needed for each job.

Q. And then once you complete an inspection, do all the people, well, all the staff that were involved, do they get together and have a debrief type situation where you talk about like what's happened and maybe what needs to be followed up?

A. Yes, we'll have a debrief and that sort of thing, and yes, so in this particular case, it was myself and Laurie Davis were the ones that would do that. If there's other people involved, we'd do the chat beforehand. What we're, yeah, what we're trying to achieve and then afterwards, there's always a – if you're talking particular large animal properties, there's always a health and safety element in that as well so a bit of that sort of thing.

1240

15 Q. And we've heard that your first inspection of the farm, sorry, if I could just add another question in relation to your last answer– would a vet be involved in part of the debrief or would it just be the inspectors?

A. No, if it's only just those initial inspections as you have talked about, it's, yeah, we wouldn't have had – we don't take vets along with us for one off, ones and obviously in the second one, we're hoping that things have been rectified or can be shut down from there, so no.

Q. So, for example, on October 13th when the 15 dogs were seized and you did have a vet accompanying you, would the vet then be part of the debrief situation?

25 A. For afterwards, it's a – the SPCA it's a little bit of a mash unit from there, so once it's back it's normally, go, go, go. So for the debrief, I would have a chat afterwards with the vet and we probably did, I can't– you know, we're talking four or five years ago or something. I can't tell you exactly but yeah, it's, we try and have a chat with everyone afterwards and that sort of thing so we would try to.

30 Q. So we've mentioned that– well, you've given evidence that your first inspection was on the 28th of July from initial complaint, that's correct, right?

A. Yes.

Q. And then there were a series of further re-inspections in 2017 to check on improvements?

A. Yeah.

Q. And so those were the 4th of August, 11th of August, 12th of October and then the 13th of October, that's--

A. That's right.

Q. And then there's an 18th of May 2018, there was like a new complaint from the public?

A. That's right, yeah.

Q. So if we talk a bit about that first initial complaint in 2017 when you came to the farm?

A. Okay, sure.

Q. So you arrived at the farm at about 12.15 or so, you can refer to your notes if you – appreciate it's--

A. Yeah, no, that's fine. That is fine, yep.

Q. And you approached the residents and by that, I mean the main, we've been calling it, I think, the main dwelling?

A. Yeah.

Q. And you come across Ann Gardener and so you ask her about--

A. Glover.

Q. Oh sorry, Glover, sorry, Dan. You ask her about the whereabouts of her mother and her sister and that's correct, that's what happened?

A. No, we asked, we just asked for the person in the person in charge and those are the dogs, who was then identified as her mother and sister and we were then told that they were out and due home shortly.

Q. And did anyone, did you find out where Mrs Glover was?

A. I believe she may have said something, I think, she may have been in a hospital appointment, I'm not quite sure. This is a long time back but yeah, maybe that wasn't said but yeah, they were due home shortly.

Q. And so you-- you start the inspection proper, later on in the day, that's about 1.15, that's correct right?

A. Yes, yes.

Q. Did anyone show you around the farm to inspect the locations and the enclosures they were holding the dogs?

A. So, that was Janine Wallace so we spoke with Barbara initially, Mrs Glover and she said she was a bit unwell, and we– and we said no issues at all, just go back inside and Ms Wallace took us around.

5 Q. Did you recall any observations of Mrs Glover's mobility or anything like that or do you just have like, no comment on that?

1245

A. Yes, I don't, my ability of the day, I'm not sure, but she's an older lady so we're mindful of that and we didn't see Mrs Glover until the end of the inspection where we asked to sit down with both of them and have a chat.

10 Q. On any of the inspections, any of the inspection dates that you went to the farm did Mrs Glover accompany you to inspect the enclosures?

A. No. It may've been like a brief one, so it might've been a couple around the house, but not the full.

Q. Okay, so just a portion?

15 A. A portion.

Q. Yes. Sorry, I'm just having a read. Okay, so if you needed to ask a question about the dogs during the inspections who did you ask?

A. It was all Ms Wallace.

20 Q. And would that be the same situation if you had to ask about the day-to-day management of the dogs?

A. Yes.

Q. And from the interactions you had with the residents of the farm, who did appear was running the show kind of things with the dogs?

A. Ms Wallace.

25 Q. Right. Now I want to talk about the 4th of August and that's the date when the five dogs were voluntarily surrendered?

A. Yes.

Q. Yes. So when you had the discussion about surrendering the dogs, was Mrs Glover present?

30 A. No, actually, Janine was, went back to the house to discuss, I can't honestly answer whether Mrs Glover came out after that, but I know initially we were talking to Ms Wallace. I believe she went back into the house to discuss it with her mother from there.

Q. Okay. I just want to now talk about maybe some of the equipment you might be familiar with in your formal role, and I want to talk kind of specifically about microchip scanners and microchips. So in 2017, what age did dog need to be registered by?

5 A. So that's a council question. I happen to know the answer, but that's a council –

Q. Okay.

A. – we don't care if it wasn't our role check for microchips or whether you can imagine we went to all of the public, there's a large majority of
10 unregistered, not microchipped, unvaccinated. So we don't get involved, our role is purely the welfare of the animals.

Q. Okay. So you don't have any idea about when a dog needs to be registered?

A. Yes, I do, it's actually 12 weeks old.

15 Q. All right. And –

A. Three months.

Q. – do you happen to know if they need to be microchipped when they're registered or?

A. Yes, they need to be microchipped as well.

20 Q. Okay, right. So if you - when you're inspecting the farm, if there is a dog older than 12 weeks, would you expect it to have a micro-chip?

A. It depends whether it's microchipped, it could be – that's a varying one, so at one stage it'll be potentially microchipped, so I think we were in the end we had to scan with a microchip scanner the German Shepherds on
25 trips, on visits after I think even the 18th of May.

A. Okay, so none in 2017?

A. No, we were hoping to get a resolution and not have to put everything under the microscope at that stage.

Q. So you had that equipment, you had the scanner available, but –

30 A. We could've done, yes.

Q. Yes, okay. Thank you. So are you aware that Mrs Glover has one many awards for showing her dogs?

A. Yes, I do, yes.

Q. Are you aware that she's won many awards for breeding her dogs?

A. Yes.

Q. Are you aware of a search warrant that was executed on the main dwelling of the residence of the farm?

A. Yes.

5 Q. Were you involved in the execution of that warrant?

A. Yes, I was.

Q. And were body-worn cameras and photos taken – were body-worn cameras worn and photographs taken during the execution of that warrant?

10 1250

Q. Are you aware of a search warrant that was executed on the main dwelling of the residence at the farm?

A. Yes.

Q. Were you involved in the execution of that?

15 A. Yes, I was, yes.

Q. And where body-worn cameras and photos taken? When body worn-cameras are worn and photographs taken during the execution of that warrant?

A. I believe so, yes.

20 Q. I'm just going to hand out a photo book from the defence, well Ms Stoikoff is.

A. I'm not sure the date of that warrant off the top of my head, you may need to refresh my...

Q. I think it may have been the 8th of May?

25 A. 8th of May 2018?

Q. I can't be sure, 2018 or 2017.

A. No, not '17.

Q. 2018?

A. Or also '19.

30 Q. And so if we turn to page 12 and 13 and 14 and then 15?

A. Yeah.

Q. Do those look familiar from the inside of the –

A. Yes, I have seen, yes absolutely.

Q. And those would be awards from dog shows, would you agree?

A. Correct, yeah.

Q. And so if you look, so if we just look at this one on page 12 and that's these black and white ribbons here, would you agree that they're from February in 2018? I know it's a little bit hard to read, but you can either, I guess you can either see it or you can't?

A. Yeah, yeah, February 3rd 2018, Long Coat Intermediate Bitch?

Q. Yes.

A. So that's a individual dog, minor puppy dog, February 2nd 2018 open bitch, February 2018.

10 Q. And if you turn over to 13?

A. Although what's the Australia reference in (inaudible 12:52:17), is that something separate or but anyway, yeah.

Q. I think that's a reference to the judge, who judged the show and what country of origin they're from?

15 A. Okay.

Q. But I'll have to confirm that with somebody whose show officially –

A. That's fine, no problem.

Q. And then if we turn to page 13?

A. Yeah.

20 Q. And we look at I guess the red white and blue ones going downwards. Do you see a date on those ones as well?

A. 3rd of June 2017, rural championship show.

Q. And then there are more, sorry.

A. Just, so it's two individual banners intermediate show.

25 Q. And then there are more wards on 14 but I don't think there is an obvious date.

A. So what's the reference to Germany, it's the judge, Judge Robert Lane Germany. Is this from Germany or?

30 Q. No, I think that's where the judge comes from. So it has the judge's name and then in brackets it has the country that the judge has come from.

A. Okay.

Q. To judge a competition.

A. Yeah, I don't know I'm not (inaudible 12:53:42) so I was asking it as a question.

Q. And then if you turn to page 15, can you use that underneath SIGSL Championship Shows it says that it was in November 2017, would you agree?

A. And the red banner?

5 Q. Yes.

A. I can't actually read that in the picture but I'll take your word for it that's fine. You've got a picture that's obviously clearer, that's fine.

Q. So the top (inaudible 12:54:18) banner?

A. Yeah.

10 Q. That's probably the clearest one and it's – there's a first line and there's a second line and the first word on that second line is November?

A. As I say I can't actually, whether I've got a poor print but that's fine I'll take your word for that if that's – you don't need to...

15 Q. Okay, thank you. Would it be fair to say that these awards are for a time period around the time we are discussing about your inspections?

A. Yeah.

Q. Would you agree that's when a top price at a dog show, that the dog's appearance and why the condition must be fairly good?

A. Yeah, absolutely.

20 1255

Q. So things like the coat not being matted, it being cleaned and the claws being cut, you need that type of thing to win an award?

A. You would need that, yes.

Q. And you're not, you don't attend dog shows do you?

25 A. No.

Q. Yes, okay.

A. So also with that too that it's not necessarily meaning that yes, they could've been Volkerson dogs, but what does breeders do, they get other people holding and showing their dogs which is very common practice.

30 So was it from her farm, the dogs that won these, I don't know.

Q. Yes, we can confirm that with other witnesses because that's not really your area.

A. No, I'm just saying that as a –

Q. So would you agree that after all these inspections except for the one that happened on the 12th of October, you issued one of those 130 notices to Mrs Glover?

A. Correct.

5 Q. And we've heard them being read out in court either by the prosecutor, Mr Radich?

A. Yes.

Q. Or towards then yourself?

A. Yes.

10 Q. Yes. Would you agree after the first inspection that you spoke to Mrs Glover about what you wanted to achieve in terms of the care for the dogs?

A. Yes, we talked about not meeting the code of welfare, how things were below standard which they both agreed with and knew there was need
15 for improvement, so that was a day 1, we're on the same page and hopeful the next inspection, yes, not much improvement and I think, the surrender of the dogs on the next one, but yes, always hopeful for a better outcome. So despite the beautiful ribbons, there were issues.

Q. Okay. Would it be fair to say that it was a preference for Mrs Glover to
20 make some improvements to what was happening at the farm, but the ultimate goal was for her and Ms Wallace to successfully care for all of their dogs?

A. Yes, to yes, to make sure the welfare of their dogs are in a manner that meets the code of welfare within the Animal Welfare Act.

25 Q. Yes, and so to meet that end, you issued what you wanted improved in and you gave that improvement an achievable deadline?

A. That's correct.

Q. Would it also be fair to say that the majority of issues that were arising at the farm could be solved by improving the conditions to the enclosures
30 so they would have purpose decreasing the number of dogs on the farm or getting additional help?

A. Yes, that was the crux of it would've been as you mentioned.

Q. And would you also agree that one of the main purposes of repeated inspections by the SPCA was to monitor the improvements to the

conditions that you requested, the improvements that you've been requesting?

A. Compliance and instruction, yes.

5 Q. Yes. After the 28th of July inspection, did you issue Mrs Glover with an instruction to approve the enclosures within five months?

A. I will just check which – that was one that we put on there that was an agreed. I can go back through the photo book. I'm not sure, is that the second visit.

Q. It's photo booklet 1 and if we go to page 20.

10 A. Thank you. Yes, shelter, enclosures existing to be improved upon within the five months, so the enclosures existing to be improved upon within five months so it's, they've suggested that they're going to do the new block that we've just said that needs to be improved upon, ideally with a new block in which they eventually did do.

15 1300

Q. Right, so when the new kennel block was built, did you come down and inspect it?

A. Yes, we did have a look at it, yes.

Q. So, if we look at that, the defence photo book, and we turn to page–

20 A. The one you've handed me?

Q. Yes, thank you?

WITNESS REFERRED TO DEFENCE PHOTO BOOK

Q. If we turn to page 19, and we, so we go 19, 20, 21, 22 and 23?

A. Yes.

25 Q. Would that be an accurate representation of what you saw when you came to inspect the final, the finished kennel block?

A. Yes, so it's good quality enclosures, no issue at all, the concrete had been sealed, drainage arrangements, adequate shelter, it was a good design, good quality kennels, absolutely no issues whatsoever.

30 Q. Are you aware of what date the kennel block was actually finished, actually completed?

A. No, I'm not. I probably could hunt through and find a date but, no I'm– you can tell me if–

Q. Does late November sound about right?

A. Let's have a look— late November, so there's definitely there, it was definitely completed in May 2018, that it was up and running, November, yeah, it could've been then. November, December or something like that.

Q. So it would be fair to say that it was finished before the deadline?

5 A. Yep, that was complied, they well and truly improved. They were only asked to improve the existing or they rebuild a new block, substantial block, high quality, no issue. They can hold, yeah, it's got 17 runs in each.

Q. But dogs were ceased before the new kennel block was finished, is that correct?

10 A. Yes, correct, yes correct.

Q. Now, I want to talk a bit about improvements in cleaning. So during your inspections, to most of the improvements at the farm, in your evidence, you've noted some improvements in the cleanliness of the enclosures, is that correct?

15 1303

A. That was on the, I think the if I can refer to my notes, I think that's on the 3rd, is it the second or third inspection and then there was a two month, and what we'd do on that type of thing is leave it for a period of time, so it was left for – so there was improvements of the, not perfect, but improvements and then it was left for two months after that, and that was the two months after that was the 12th of October and that's when it was pretty bad.

20

Q. Right. So if we take out the prosecution's photo book, that's photo book 1 and if you turn to page 52, and if you look at, so those are what you would call the "old" enclosures, correct?

25

A. Correct.

Q. And if you look at the floor of those enclosures, it's not that great, it's not ideal is it?

A. No.

30

Q. Right. And then if you hold open that page and then you turn to page 64, and you're at the bottom picture there, that's the day after?

A. Yes, that's correct.

Q. And would you agree that those are the same enclosures?

A. Yes, they are, they're the same enclosures.

Q. And you look at the floor space and would you agree that that's a marked improvement there?

5 A. Yes, so was the shelf through the back, the porous, yes, so there was improvements needed to be done to that initial block and that's what was in the 130 instruction initially, but absolutely, so it wasn't what you're looking at on page 52, wasn't as Mr Gardiner implied that it was actually concrete stains because as you pointed out on the following day, the pens are cleaner. A water blaster has obviously gone through and done that.

Q. On any of the inspections did you see any sales of dogs taking place?

10 A. There was I think on the first time we, oh, sorry, the first night, the second time we turned up there was someone there to buy a pup, so we get to allow the way because we want to encourage that, so –

Q. So that was your second inspection?

A. I believe so, I've been going through my notes and, yes.

15 Q. Do you want to check your notes? Oh, you've checked your notes?

A. No, no, no, I've got my notes here, I can –

Q. Okay, so if I said to you that the second inspection when you turned up there was a potential sale going ahead, would you accept that?

20 A. There was someone on the property to do with a pup I was told by Ms Wallace, so yes.

Q. Okay.

A. So we kept well out of the way and allowed that to carry on.

25 Q. When Mrs Glover and Ms Wallace voluntarily surrendered their dogs did that seem to you – well, sorry, that's – was their demeanour emotional, were they upset about having to surrender their dogs?

A. Yes, yes.

Q. And we've seen that inside the house there's quite a few awards for showing dogs, correct?

A. Yes.

30 Q. And so would you accept that Mrs Glover would be quite emotionally attached to her dogs?

A. Quite possibly, but it's not the, yes, we don't have any issue with the emotive, it's the too many animals in and the lack of care, but I don't question that she loves her German Shepherds. I know Mrs Glover had

a very good reputation many years ago for quality German Shepherds being brought into the country, I'm aware of that. In the dog world that's fairly well-known, so but this is not, it's evolved into something different today since 2017.

5 Q. Would you accept that because Mrs Glover is attached to her dogs and they are award winning that destocking she would want to find what she considered to be the appropriate homes for those dogs, so like what she would consider to be a good home for the dog?

A. I couldn't tell you what she would want, you'd have to ask her.

10 Q. Would you agree that one of the most effective ways to assess improvements taking place would be to document the changes that were taking place in each location?

A. Document the changes that are taking place in each location – so we've taken notes on our observations, so our role is to observe on what we're seeing –

15 Q. Yes. So what I'm referring to would be things that you could measure. So the volume of biological waste, the number of dogs, the weight of a dog, the amount of ammonia present in the air, the volume of water and maybe the length of a chain. Would you agree that those would be important standards and measures?

20 A. It's obviously you've never – that sounds very fantastic here, but that's unrealistic in the field, you're not going to have your weighing equipment and your – we do, we did end up getting ammonia level readings because of the people, the huge number of cats inside the house and the horrendous stench and as we've removed those cats with an eye popping out and everything like that, often the owner of those animals would be crying and wanting their be emotive over those animals as well.

25 Q. So you've noted and you've mentioned in your evidence that some of the enclosures on the farm had high ammonia levels, correct?

30 A. Yes.

Q. Did you ever take one of those ammonia detectors to the farm?

1310

A. No, we're purely, purely going by stinging eyes, difficulty to breathe and how it affects us.

Q. So how did you measure the change from the next visit?

A. So as I've said we haven't got an ammonia level reader, we didn't take a reading so we're not taking comparative with its offence and stinky and difficult to breathe is put down as high ammonia levels. If it's high enough to affect us and make us to feel uncomfortable and it's difficult to breathe in there well then that's high. So that's just, we're not given different micro analysis off that. This is quite simplistic to – we want to have a healthy fresh air for the dogs, so that's what yeah, we're trying to achieve.

Q. Would you agree that different people will have different reactions to ammonia levels?

A. Sadly, people have different reactions to everything but yeah you're talking about myself and Inspector Davis, we're well seasoned inspectors. We've been in the worst of the worst so we've got a very good gauge on that sort of thing. We've been in nasty and everything yeah you know down to beautiful, so yeah we would have a very good realistic ordeal on what's appropriate or not through our experience.

Q. So I want to talk about the photos taken on inspections at the farm. So you agree in your evidence that you took many photos while inspecting the farm, that's correct?

A. Yeah.

Q. And they were taken on all of the inspections?

A. Yeah.

Q. And because there were so many photos, only a small portion made the couple of photo book?

A. Yeah.

Q. Did you have any involvement in making the photo book?

A. I don't believe I did. It's probably been altered 'cos I've resigned, that's yeah carried on so that was two and a half years ago I've resigned so whether it's, I might have initially put something together in a photo booklet but it's bound through of being of the change and whatever from there. So did I put together this photo booklet? Probably the answer would be no. I would be no, no it's not my...

Q. In your evidence you've stated that in various places there's been no signs of exercise for the dogs, is that correct?

A. Yes.

Q. And so one occasion in particular would be the puppies' house in the deer shed, do you recall that as being accurate?

A. Yeah.

5 Q. Would you agree that not all forms of exercise leave a sign?

A. If the – well winter time, if you're exercising out on the grass and you're exercising pups in that area there's going to be a sign. Often as soon as they hit outdoors and grass and that, they wanna defecate and toilet and run around and young pups will play, rumble, tumble, there's going to be
10 a sign of activity from the bigger dogs, yeah defecation tracks. They're running around doing, it's yeah. There will be a sign, it will be a tell-tale sign. I own 10 dogs, in the winter time yes there's signs where they've been.

15 Q. Did you check the paddocks, did you check the grass in the paddocks for signs of defecation or just around the vicinity of the buildings?

A. So if you're asking if there was an examination of walk-over, screen gridding the paddocks for dog faecal matter, no that wasn't done, but the most obvious sign from what we can see around in all the grass no matter where it was, the grass was upright fresh and untouched.

20 1315

Q. So it's still possible the dogs could have been running in the paddock and you just didn't check?

A. Not 63, there's no way you are going to have that number of dogs exercising on a regular basis with zero sign. No, I don't accept that.

25 Q. On any of the inspections, did you ask Mrs Glover the dogs were being exercised?

A. We would've asked that because we queried all of that and– I am not sure if we asked Ms Glover, no, so I've had– sorry, just to (inaudible 13:15:33) the order Ms Wallace, so no, not– Ms Glover, Mrs Glover.

30 Q. Now, there was an– do you agree that there was an interview on the 9th of November 2017 between yourself, Inspector Davis and Mrs Wallace, Ms Wallace and Mr Sheath who was standing in essentially for Mrs Glover?

A. Yes.

Q. And now I accept that you're not a vet – and you can't provide evidence in relation to diagnosing and illness or deficiency that a dog might have but I have a few questions that will be relevant to later witnesses in respect to Mrs Glovers' charges to do with this interview so I just want to ask you a couple of questions to do with the interview. If you could be provided with a copy of the transcript, that would be appreciated?

WITNESS REFERRED TO TRANSCRIPT OF INTERVIEW

A. Interview, yes I have it here.

Q. You've got a copy? Okay, just for her Honour's evidence, these first questions– these questions will relate to the dogs that were seized on 13 October onwards and the first questions will relate to Mrs Glover's charges number 47, 48, 56 and 64 and if you could turn to page 3, thank you and so if you look about a quarter of the way down the page, there is a– there's quite a bulky paragraph after a couple of one word answers and it's where you've said: "Okay and is there anything else we should know about the dogs that we're holding here, for health or behaviour or anything that may assist us in giving full care that's needed", do you accept that that's...

A. Oh sorry, are we on page 1?

Q. Sorry, so page 3?

A. Yep, page 3.

Q. And go down the page at about 10 lines?

A. "Okay, is there anything else", yep.

Q. And do you accept that that's an accurate statement, well, an accurate record of what was said?

A. Yep.

Q. And then it goes onto– it goes on where Inspector Davis says: "And we'll need to know if there are any special dietary requirements or any other medication", can you see that one?

A. Yes, I can, yes.

Q. And can you see that– so it's Janine, I'm assuming 'JW' and it says that: "Well, they're being fed on–Destiny and Debbie are being fed on Royal Canin 4800, Casper and Monty also 4800, (inaudible 13:19:21) 4800, Paris 4800 and Stru 4800", can you see–?

A. Yes.

Q. Is that accurate about what happened?

A. Yes, yes.

THE COURT ADDRESSES WITNESS – MOVE CLOSER TO MICROPHONE

5 (13:19:29)

CROSS-EXAMINATION CONTINUES: MS CRANSTOUN

Q. And just to clear up a few points, would you agree that Destiny is a reference to the dog: “Desney”?

A. Sorry, yes, it will be. It’ll be Desney, yeah.

10 Q. And that ‘Farelle’ is actually a reference to the dog Parelle?

A. Parelle, yes.

Q. And would you also agree that 480 is a reference to a brand of dog food, Royal Canin 480?

A. Yes.

15 1320

Q. 4800 sorry. And Royal Canin 4800 is a special kit food that you can’t just buy at a supermarket, you have to go to a specialist like a bed clinic or an animates pets (inaudible 13:20:21) place?

A. Yeah, yeah but they’re free, yeah Royal Canin’s very common out there.

20 Q. And if we carry on reading when they’re referring to the pet food and there’s a, I guess it’s about two-thirds of the page down and you asked Ms Wallace if there – “And are there any behavioural type things like likes, dislikes anything like that? Can you see that passage?

A. Yeah.

25 Q. Yeah.

A. And any behavioural, dislikes anything like that, yeah.

Q. And he confirmed that Ms Wallace, her reply is that: “They’re not used to contact with men or they’re not used to men?”

A. That’s what she stated.

30 Q. Yeah. And so these are the next questions I’m going to have are in relation to charges 49, 51, 55, 58, 63 and 72. So if we stay on page 3, just off to the conversation about the dogs not being used to men, we

have – and then we move down about four or five lines. Can you see where Inspector Davis says “any of them under medication?”

A. Yes.

Q. And would you accept that “them” as a reference to Mrs Wallace’s dogs?

5 A. Yes.

Q. And he confirmed that Ms Wallace’s reply was: “Yes, Dani for air mites, Debbie for air mites, Mafia had been treated,” and then if we turn over the page to page 4 and we move down about six lines, Inspector Davis says: “There was only three, only three dogs that were receiving medical treatment.” And can you confirm that Ms Wallace’s reply is: “So there was Dolly, Zita had been treated for it and given advocate?”

10

A. Yes so was that.

Q. Who was that sorry, Zita and then there’s a conversation about Zita and have you got down Dani as well and then Inspector Davis’ reply saying: “Dani, Debbie, Mafia, Dolly and Zita,” and Ms Wallace responds: “Zita, Mafia have been treated with the ear, with the Dermotic, Farreli or Parelle have been treated with it as well. So the ones that have been treated with the Dermotic were Dolly, Debbie, Destiny or Desney, Dani, Farelli or Parelle, Ritzer, Mafia and Zita.” Can you confirm that that was her response?

15

20

A. That’s what’s written here, yes.

Q. And then finally, if we turn to page 19 and we go two-thirds of the way down the page where we can see, where you’ve said: “Okay, and how many of the dogs are under treatment currently for any ear issues?”

25

A. Yes.

Q. Whether it be mites and Ms Wallace can you confirm that she responds: “I’ve already answered that?”

A. Yes.

Q. And you ask her: “That’s the ones, are the ones we have in here?” Ms Wallace says: “All right,” and then you ask her about the ones at home: “Are they under current?” And can you confirm that Ms Wallace says: “Yes there is image and hobby?”

30

A. Yes.

Q. That's all I need from the transcript, thanks. So you can put that one aside. Now you would agree that you had provided extensive evidence over the past week on the condition as a standard farm?

A. Yes.

5 1325

Q. And this has included things like shelter, tethering, access to water, behavioural enrichment, choke chains, faecal build-up and other conditions like that?

A. Yes.

10 Q. And can you confirm that– would your opinion of these conditions or your assessment of these conditions and standards change if I was just saying in relation to Mrs Glover? So if I was asking the same kind of questions about the enclosures?

A. Exactly the same. I would be repeating. My answers would be the same.

15 Q. So, what I am going to do is instead of referring kind of specifically to every single charge and going through the particulars in the interests of–

A. Thank you.

Q. Putting the case but moving along, I am just going to talk generally about issues that were happening and then maybe one or two specific dogs?

20 A. Sure, that's fine, thank you.

THE COURT ADDRESSES MS CRANSTOUN – RESPONSIBLE APPROACH

(13:26:23)

CROSS-EXAMINATION CONTINUES: MS CRANSTOUN

25 Q. So, we've already confirmed that you haven't scanned any microchips at any stage of any dog on the farm?

A. At those earlier stages, no.

Q. In 2017 – and you didn't see anyone else doing it, anyone else from the SPCA?

30 A. Maybe on the day with Jess Beer, was scanning for a microchip, you would have to ask that to Jess Beer. It's possible it was done on that veterinary examination, that could've been done.

Q. Are you able to identify any of the dogs on the farm by sight alone?

A. I could've done, yeah. There was different individual ones, so it's not like they all blended into or all the same but you do get to see the different, yeah, looks and that sort of thing. You get to know which ones are— which were not all of them, absolutely not all of them, but certainly not the pups but the adult ones, you will learn which ones are which. Not all of them, though.

Q. Did you check if any of the dogs seized or any of the dogs inspected on the 12th or the 13th of October were registered to Mrs Glover?

A. So, yes, we did. We would've done a council registration check as well as a microchip registration check and got details from there.

Q. So, I just want to talk about behavioural enrichment. So, could you point her Honour to a minimum standard in the Animal Welfare Code that says the dog must be behaviourally enriched? Maybe, well, if Mr Plowright could please be provided with a copy of the code or if you have a copy of the code there?

WITNESS REFERRED TO ANIMAL WELFARE CODE

A. I had a copy of the Code, I believe, go through and Code of Welfare. Obviously in the Animal Welfare Act, there'd be, section 10 will be along those lines so you're looking for behavioural enrichment so to save me scanning through, obviously to speed things up, are you suggesting there's nothing to do with behavioural enrichment?

Q. Yes?

A. Okay, I'll accept—

Q. I don't know whether it will assist you to look at page 4, where there's a key to the minimum standards, that might direct you into a location that I haven't considered?

A. Sorry, you said page, what page sorry?

Q. Sorry, page 4, so if you look at the end of the contents section, there is a key to the minimum standards there and it lists all 21 minimum standards and it lists all the 21 minimum standards that there are in the Code?

1330

A. Okay, and you're saying there's no behavioural enrichment?

Q. Yes.

A. So yes, and abilities to display natural forms of behaviour, so this is in the code of welfare, what have we got, exercise – well, exercise was actually part of that. Training, well that would even be part of that as well. Aides for behavioural modification, transportation, Euthanasia, but it's the Animal Welfare Act –

Q. That does it. So there's no actual, there's no specific, would you agree that there's no specific minimum standard for behavioural enrichment?

A. No, because you're talking about every single animal out there, so not a list of what behavioural enrichment they must receive, but it's just, yes, some basic thought on basic care. There's behavioural enrichment being aware of what type of animal it is and allowing it to be that type of animal and to have a natural life.

Q. Does a dog need to be enriched 24 hours a day every day?

A. No, well obviously not, it's asleep through a part of that. You can put all the toys in the world, they're not going to play with them all day, so it's, yes, availability for that sort of thing, but for, you can, you know, the old zoos, how zoos used to be the stereotypic behaviour and that's because they're a zero behavioural enrichment and they'll get a stereotypic behaviour and pace up and down the bars because there's nothing to do at all.

Q. At a zoo?

A. Yes, which is an animal caged like we've had at the Volkerson or the farm.

Q. Is having, is a dog having contact with other dogs for activities such as playing together would that be behavioural enrichment?

A. Yes, dogs interacting with each other.

Q. Is a dog having contact or I guess mentioning unfamiliar dogs, like dogs from other locations, is that behavioural enrichment?

A. Well, it depends on the dog, it's like people, some are petrified of other dogs, sometimes when they go near them, some hate them, want to kill them so, and some enjoy the more social one to play, the interacting type. So every dog's got a different set of needs as well.

Q. So in general terms would you consider that to be behavioural enrichment?

A. Yes, yes.

Q. Yes. Would a dog going to a new location and exploring that, would that be generally behavioural enrichment?

A. Going to a new location? So how do you mean by that, it's a very open?

5 Q. Sorry, it's very general, I'll make it a little bit specific. If I have a paddock at my location and I go to a paddock in somebody else's farm and let my dog loose, is that behavioural enrichment?

A. Yes, it's all exploring new stuff is, yes, absolutely.

Q. Is having contact with a new, with another species of animal, would that be generally be behavioural enrichment?

10 A. Well that depends.

Q. In general terms, in general terms would that be?

A. Yes, well it's very difficult, that's such a wide one that's, yes, you can answer it any way, you know, I don't think that's answerable, sorry.

15 Q. Okay. So if a puppy was meeting a chicken for the first time would that be behavioural enrichment?

A. Yes, so for young puppies for that, the early – you've got these imprinting stages and if you can have young puppies around farm animals and that type of thing, you start imprinting good behaviours for how to act as an adult around those type of animals, hence your question earlier, you introduce an animal who hasn't had that to the chickens, sorry, chicken, it's not going to go very well as opposed to one that's been exposed to that.

1335

25 Q. Is training a dog to obey the commands from a handler, would that be behavioural enrichment generally?

A. Yeah totally. It's engaging, it's thinking. So behavioural enrichment is thinking, giving it something to do. It can be all sorts of whether it's obstacle stuff you're doing whether it's obedience training, it's just stuff going through the dog's head. It's given a purpose of life and it's got something to do instead of nothing.

30

Q. So things like playing with the ball or having a bone to chew, would those be behavioural enrichment?

A. Now the ball is the chase, so they're a predator, the K9 so chasing is the most basic instinct for them that's why they chase the ball and it's a

hunting instinct and so yeah, they feel absolutely great with the ball or most will.

Q. Would you agree that if any of the dogs on the farm were taking part in activities that we just ran through, would they be receiving behavioural enrichment?

A. Yeah it's each thing that you said, if they were doing that, however with the number of dogs and the personnel on the farm that was not happening for all the dogs. It's an impossibility.

Q. Now I'd like to talk about tethering for a moment. I know this was gone over at length, over the – well sorry, excuse the pun. The last couple of days I just really got one question. So did you measure any of the lengths of the leads or was it just kind of –

A. No, no, it was just – that's too short. So it's a walking leash, so we didn't get the tape measure out and go: "That measures exactly,"... It's just a "Hey that's too short you need to have a longer..." As I say through the process we've been hoping to have resolution avoid being here, to us it was disappointing that we're here.

Q. Now I'd like to talk about no access to water. So you've given evidence that dogs on the inspections had no access to water, whether you didn't – they didn't seem to be a vessel in the vicinity or whether the vessel had been turned over. Would you accept that?

A. So I'm recording my observations, so if my observations are there is no water for the animal, that's what's recorded.

Q. What type of access does a dog has to have to water? Is there something where they must keep water always available?

A. No, well you can take your dog for a car ride, you're not gonna have a bowl of water in the car. So it's not a 24-7 requirement, but yeah particularly being tethered. It needs to be contained, it needs to be accessed to water all the time. Containment yes, but obviously when you're going for a walk-up anyway you're not taking a bowl of water with you so it's just common sense.

Q. If you could just take prosecution photo book 1 the 2017 one, this is one of the questions I have about a specific dog. So if you turn to page 49 and you look at the dog in the photo at the bottom of the page?

A. Yeah.

Q. So this was a dog that you saw on the 12th of October, correct?

A. Yes.

Q. And while you were inspecting this area, were you told that this dog had
5 just won best in show? You may –

A. Well I haven't put that down and even if I was it would've gone one in the
ear and out the other. That's not what I'm there for. It doesn't matter if
it's won the pretties dog competition, it's what I'm looking at are there so...

Q. Now I just want to speak a bit about unhygienic conditions. So you'd
10 agree that you observed unhygienic conditions on some days of your
inspections, correct?

A. Yes.

Q. Now if you could turn to the Code of Welfare to page 16 which has the
minimum code standard 6 the one for sanitation?

15 1340

A. Yes.

Q. So, would you agree that it's the accumulation of the waste that's the
issue?

A. Yeah, that's the– well, it's not just the issue– the dog needs to not be able
20 to– it has to escape its area of faeces so it's, yeah, it's the– it's not just
the build up when you've got a dog sleeping and living in the same area
where it's defecating and sleeping. It's got no dry bedding area to sleep
in and it's got to sleep in that, that's an issue too, so.

Q. But you'd agree that the standard says that it speaks on the accumulation
25 to an extent that poses a threat to the health and the welfare of the dog?

A. Yes, if there's a poo in a dog run, no biggie. It's not– it's that– it is
accumulation as we saw accumulation in the old dog runs on the 12th.
That's days' worth of faeces they were sliding around in. That's
accumulation.

30 Q. So if you take the prosecution photo book 1 again, the 2017, and you turn
to page 55 and so that's, you'd agree that that's the dog that's tethered to
the cattle yards, correct?

WITNESS REFERRED TO PHOTOBOOK 1

A. Yeah.

Q. Would dry faeces pose a threat to health or the welfare of the dog?

A. Well, it all does. Faeces attract flies so, flies bite ears so, yes it does. Any type, whether its dry, wet or anything at all, poses a– faeces not being picked up, what happens with the flies is that they particularly land on the dogs' ears and they bite and bite and bite and they can end up with horrendous ear injuries.

Q. Did you see any evidence of fly bites on this dog when you were inspecting it?

A. No, I didn't see any on this, but you're talking about dry faeces not being an issue, I'm saying yes it is, this is what could happen. It's not what I saw on the farm, with the dogs.

Q. Now, I want to talk about the dogs that were seized on 13th of October 2017. This was, when we were kind of getting to the end of the day, yesterday. I want you to– well, can you confirm that you said: "Matted coats were an issue for the vet"?

A. The comments on there to do with the charges were the results of her examination so it was, yeah.

Q. So she had suspected that?

A. So, yeah, that was not a – it's not an issue, if I'm an inspector and matted coats, yes it is and, but these are the hands on assessment from the vet and they're from her notes so hence– that's why I felt she should speak to that.

Q. I'm, this is , I'm just putting to you what you said in the answers to questions from my friend so he was going through each charge, one by one, particulars one by one, and I just want to confirm that these particulars, these charges on these dogs from the 13th of October are issues that I shouldn't be addressing with you? So, that's where I'm coming from with this line of questioning, I guess, if that gives you a bit of context?

A. So, for the most of the dogs, it was that thorough– the 13th was the thorough level inspection for the dogs so yeah, it's, apart from no water or whatever is, really we're led by the vet on that particular day on the 13th and it's with her doing the hands-on veterinary inspection, we just get a

better, yes, got a professional doing that. I'm an inspector, I'm not a veterinary.

1345

Q. Yes, absolutely.

5 A. And to me as an inspector I go "yeah, that looks good or no, that doesn't look good" and I take it back to a vet and they tell me that yes, hey, I can, I've turned up with vets for a thorough inspection where I thought was a bit not quite right. The vet goes "No, well, actually, that's not too bad, we just need to and it's not, thank you very much, perfect". But I can be
10 guided with a notice or whatever's needed, so it's that hands-on, so that's why I mentioned that to that yesterday.

Q. Okay, thank you. Now lastly, I just want to talk about the 18th of May 2018 inspection. So you came to be back on the farm on that day due to a complaint for the public, correct?

15 A. Yes, yes.

Q. Yes. And the complaint was about dogs for vocalising in bush?

A. Sounding distressed vocalising in bush.

Q. Okay. And just to be clear, vocalising, does that mean barking?

A. Yes, it'll be barking, howling, just noise, yes.

20 Q. Would you agree that you only heard the barking once you got on to the Glover Farm?

A. No.

Q. So you heard it back on the street?

A. Not on the street, I was on the complainant's property directed up to the back and we could hear the barking in the background.
25

Q. So you had to be quiet, quite close to where you eventually located the dogs?

A. No, that's not what I said, I said I heard it from on the complainant's property.

30 Q. How far away from the dogs were you?

A. Oh, very difficult because you're talking hilly bushy, not an easy track in, but, yes.

Q. As the crow flies, what would be your best guess?

- A. As I say and I think I mentioned yesterday it probably took me 15 minutes to walk in there, so yes, whatever length of guestimations you want to put on that.
- 5 Q. And in your evidence, you mention that and as you've kind of alluded to just now, that it was hard to get to the location where the dogs were found?
- A. It was winter time, it had been raining quite a bit through that week, so things are wet and it was up and down, and banks and little creeks and all the rest of it to get there.
- 10 Q. Was there a forged path or did you have to pick your own path?
- A. We had to pick our own path, we're going by air, there was no path.
- Q. So there was vegetation in your way?
- A. Yes, all that sort of thing, banks.
- Q. And so on average how large would a male German Shepherd be?
- 15 A. How large?
- Q. Yes, so like how much –
- A. You want weight?
- Q. – I guess?
- A. Oh, it could be 25 kg, males bigger, you know, 25 kg, 30 kg, depending
- 20 on the breeds and the sizes, there's all sorts of.
- Q. So really a large dog, a large dog?
- A. Yes, they're a large breed, yes.
- Q. And I'm not trying to be rude, but I assume that you're not in your 80s?
- A. No. I may look it after this week, I probably do.
- 25 Q. And you, when you retrieved the dogs you went up with a group, a group of inspectors to retrieve them?
- A. To retrieve the dogs, yes.
- Q. And I'm assuming none of them were in their 80s either?
- A. No.
- 30 Q. Yes. And you're all in good health or reasonably good health?
- A. Reasonably.
- Q. And you're all reasonable fitness?
- A. Yes.
- Q. Yes. And in 2018, were you aware of how old Mrs Glover was?

A. I've not, put on news she was yes, getting on in the years and if you're implying do I think Mrs Glover took them up there, yes, no, no I don't think she took them up there. That was hard yakka for us.

1350

5 Q. So you gave evidence about our muscle wastage, how much muscle wastage would there need to be before you can see muscle wastage?

A. If we can see muscle wastage –

Q. Just by looking at, just by eyeballing the animal?

A. The back legs is something that you can see that sort of thing. So if we're
10 talking in general, you get skeletal muscle wastage on the top of the temple area and they would have quite a pointed skull area because the muscle is dropped away and back legs, you're not going to have that chunky muscle build-up on the back legs. It's going to be a, yeah way less muscle on the back. You can be talking all the wine and spine of the
15 exposed, all sorts.

Q. You'd need a lot, would you agree that you'd need a lot of muscle waste did you in order to see it, recognise it?

A. Yeah, reasonably, yeah. It depends on the type of dog and that type of thing.

20 Q. I guess if you've got a big fluffy dog it's harder to see?

A. Are you talking just a visual on a dog not touching –

Q. Yeah, yeah just a visual?

A. Yeah if it's a fluffy dog and you can't touch it, it could be harder to see but muscle wastage is a visual type thing and as my role as an inspector I've
25 used muscle wastage in my description of what I could see on all sorts of in horses, dogs, because it was visually obvious.

Q. So right back towards the beginning when we're talking about voluntary surrender of the dogs, you said that on that date you went back, Ms Wallace went back for a minute to talk to Ms Glover in the house?

30 A. Yes.

Q. But you can't see what happened or what was said while Ms Wallace was back in that house, can you?

A. I don't know, I let them have a discussion in private I wasn't...

RE-EXAMINATION: MR RADICH

Q. Mr Plowright [*sic*], do you, I just want to refer you to some of the photos about what you've been asked, and so could I ask you please to have in front of you the – I don't think it's been formally produced but I call it the defence, the first defence photo booklet?

A. Is that this one here?

Q. That one there, yes.

A. Yeah.

Q. And also have with you the prosecution exhibit 1 relating to 2017 the bigger of the two prosecution booklets.

A. Yes.

Q. Thank you. As you look at the first page on that defence photo booklet, does the bottom show the cattle yards?

A. Yes.

Q. Well keeping an eye on that photo as well, could you turn to page 66 of the prosecution photo booklet?

THE COURT:

Was that one you were referring him to, was that on page 1?

MR RADICH:

Page 1 of the defence –

THE COURT:

When you can see the cattle beast in the background on the grass there?

MR RADICH:

Sorry no, the first, sorry ma'am my apologies your Honour. Maybe we should give these letter numbers, shall we?

LEGAL DISCUSSION – MR GARDINER'S ONE (13:54:48)

1355

WITNESS:

Could we just produce them as A and B or something like that?

MS CRANSTOUN:

5 Yes, I'm happy for that.

EXHIBIT A PRODUCED – MR GARDINER'S BOOKLET**EXHIBIT B PRODUCED – MS CRANSTOUN'S BOOKLET****LEGAL DISCUSSION – EXHIBITS (13:55:23)**

10

EXHIBIT C PRODUCED – DOCUMENT**RE-EXAMINATION CONTINUES: MR RADICH**

Q. So we're looking then at page 1 of defence exhibit A?

WITNESS REFERRED TO DEFENCE EXHIBIT A

15 A. Yes.

Q. And page 66 of prosecution exhibit 1?

WITNESS REFERRED TO EXHIBIT 1

A. Yes.

20 Q. Now the bottom photo on the defence exhibit shows the cattle yard's exterior, doesn't it?

A. Yes.

Q. And is that the same area, we can see it's quite a distinctive gate there, is that the same area in the top photo on page 66 of prosecution exhibit 1?

25 A. The top picture.

Q. Yes.

A. Sorry, the top picture with the pup labelled "Casper" is, yeah, exactly outside, you can see the distinctive gate on the picture on the other booklet, yes.

30 Q. Now, in relation to that dog, Casper, putting aside any concerns you may or may not have had regarding tethering, behavioural enrichment and shelter and such and thinking just about hygiene and sanitary conditions.

If the area had been in the condition shown in defence exhibit A, rather than the condition shown on page 66, prosecution exhibit 1, would you have had any concerns at all?

A. For the hygiene only, no, that's been water blasted. Beautiful.

5 Q. If you turn to page 3 of defence exhibit A, are we looking there at the interior of the cattle shed?

A. Yes.

Q. Now could you then please turn to page 56 of prosecution exhibit 1?

A. Yes.

10 Q. Are we also looking at the interior of the cattle yards on that page, page 56?

A. Yes.

Q. Now again, putting to one side all the other matters and thinking only about the standard of sanitary conditions and hygiene. If the interior of the cattle yards or cattle shed had been as it appears in that defence exhibit rather than the way it appears in the prosecution exhibit, would you have had any concerns?

15 A. No, it's been water-blasted and looks beautiful in page 3 of that one and it's clearly not been cleaned and it's just huge build-up, huge build up. You can see there's not a day that's not, you can see what it looks like with a clean. That's, yeah. Days and days and days and days without cleaning.

Q. And then—

A. Weeks.

25 Q. Sorry?

A. Sorry, yeah, days if not weeks of no cleaning to achieve that floor that the dogs are contained to.

Q. And then I won't labour the point but if I could just finally ask you to look at page 8 of that defence exhibit A, in the top photo, will be looking there at one of those slat floors to which we've referred in the woolshed?

30 A. Yes.

1400

Q. And again just in terms of hygiene putting any other concerns, such as the ones you've expressed about slat floors and such to one side, would

you have any concerns about hygiene having been in that state when you inspected it in October?

A. It looks cleaner in page 8.

5 Q. Next you have put before you and I don't think it was produced as an exhibit, but I'll ask my learned friend to hand it up again, a magazine cover, do recall that?

A. That's right, yes.

THE COURT ADDRESSES MR RADICH – DOGS ALONG THE FENCE

(14:00:43)

10 RE-EXAMINATION CONTINUES: MR RADICH

Q. It's I think this is a smaller version of the one shown here and it's in colour

-

A. Yes.

Q. - if it's the same image?

15 A. Yes.

Q. Around the area where those dogs are tethered are there any signs of where on the ground?

A. None.

Q. Any signs of faecal build-up?

20 A. None.

Q. Any signs of unsafe tethering?

A. Flat collars, chains with swivels, no.

Q. Just one specific question as we go back to prosecution exhibit 1, the larger of the two photo booklets?

25 A. Yes.

Q. Could I ask you to go to page 47 please?

A. Yes.

Q. In the top photo on page 47, are we looking there at the dog that was tethered in the utility shed on the 12th of October –

30 A. Yes.

Q. – whom we've had referred to as Nellie?

A. That's correct.

Q. Okay. When you were cross-examined about that there was and indeed my evidence-in-chief, there was discussion about these white objects which you've described as dried faecal matter, is that correct?

A. That's correct.

5 Q. I just wanted to ask in relation to the other, the dark area on the ground around those white objects and ask if you're able to tell us what that is. I'm just trying to understand whether the only faecal matter is the white part or whether it's elsewhere as well?

10 A. No, it's the fur and faeces is the brown as well, that's just the whiter stuff, whether it's old or whether it's a high bone meal of the day before and it whitens up fairly quickly, but it's fur and faecal matter that's been trodden on as it gets stoothen *[sic]* on and moved around.

15 Q. Thank you, you can put that booklet to one side. At one point in cross-examination it was put to you as part of a longer question or it was rather mentioned as part of a longer question that you had during your inspections in October 2017 and prior in fact, meticulously gone through the buildings on the property, did you go through all the buildings on the property?

A. No.

20 Q. Did you, for example, go through the home, the dwelling, the people's dwelling?

A. No.

Q. The buildings been referred to as a "cottage" in there?

A. No.

25 **QUESTIONS FROM THE COURT:**

Q. So Mr Radich has just asked you about not going through all the buildings, why not?

30 A. The dwellings would need a search warrant for and the only buildings we went through were the ones that we were led to with dogs, so on the – it wasn't until the 13th we even realised there was an area of a building, there'd been a free-running dog in the utility shed, at one point and we didn't realise there was actually another room off that, so we didn't know that room existed. The same in the deer shed, we didn't think she, yes,

we were just led to where the dogs were without doing a full examination of every building on the property apart from the dwellings, of course.

Q. So as the practise in this sort of inspection, do you ask the person to take you to the animal?

5 A. To the animals.

Q. You don't say "we're going to comb your property over"?

A. No, no, no, we're there to inspect animals, the welfare of animals, so we get asked to see the animals and we're taken to the animals as opposed to yes, there's a – we're going to search, comb through and search everything.

10

Q. And my second and last question is about the visit on the 18th of May 2018, when you found the dogs up in the bush?

A. Yes.

Q. So you had gone to the complainant's property and then come on -

15

A. Yes.

Q. – to the defendant's property and at the main house there was an inspection going on -

A. That's right, Inspector Davis.

Q. – by Inspector Davis, is that right?

20

A. That's correct.

Q. So that inspection that was going on, was that something that was pre-arranged?

A. No, it was because –

Q. Would anyone have known they were coming that day?

25

A. No, no, so that was arranged in the morning, the phone call of concern came through in the morning, so everything was arranged from there, it'll be also to do an inspection at the same time as that and just simply the "bush" dogs as I refer to them.

Q. Right, but you didn't tell M1s Wallace and Ms Glover you were coming that day?

30

A. No, no.

Q. All right.

QUESTIONS ARISING – NIL – MR RADICH

QUESTIONS ARISING – NIL – MR GARDINER

QUESTIONS ARISING: MS CRANSTOUN

Q. So the buildings that you refer to in response to her Honour's question, were they the buildings that you were led to by Ms Wallace?

5 A. Yes.

Q. Thank you, that's all.

WITNESS EXCUSED

LEGAL DISCUSSION – LIST OF WITNESSES, TIMETABLING (14:07:50)

COURT ADJOURNS: 2.46 PM

10

COURT RESUMES ON MONDAY 24 JANUARY 2022 AT 11.11 AM**MR RADICH CALLS****DOUGLAS DREYER (SWORN)**

- 5 Q. Could you please give your full name for the court?
- A. My full name is Dr Dryer.
- Q. And that is spelt D-R-Y-E-R just for the benefit of those doing the transcription?
- A. That's correct.
- 10 Q. Now Dr Dryer, we're here to talk about an examination of some dogs you did in May 2018, do you recall that examination that we're talking about?
- A. I do.
- Q. And have you brought with you some, what we call clinical notes?
- A. I have, yes.
- 15 Q. And to be clearer, these are typed notes aren't they rather than handwritten?
- A. They are typed notes.
- Q. Are they notes that were created at the time of your examination of those dogs?
- 20 A. They were, yes.

MR RADICH ADDRESSES THE COURT – NOTES (11:13:46)**EXAMINATION CONTINUES: MR RADICH**

- Q. Just before I get to that Dr Dryer, without giving your entire CV, can you tell us what your current occupation is and what your general experience
- 25 in that field is?
- A. My current occupation is a one of the senior veterinaries to Auckland SPCA and I've been there for 15 years now. Before that, I was in private practice in Auckland and Northland and before that I had my own practice in South Africa for nine years.
- 30 Q. In South Africa, were you qualified in the early 80s at the University of Pretoria –
- A. I qualified in 1981, yes.

Q. With a Bachelor of Veterinary Science?

A. Correct.

Q. And you've given expert evidence in court previously?

A. I have, yes.

5 Q. And are you familiar with your obligations in terms of the expert witnesses Code of Conduct?

A. I am, yes.

Q. Particularly in relation to although you're employed by the SPCA, there need to be objective and fair in the giving of your evidence?

10 A. Absolutely, yes.

Q. Turning to the dogs in question or the examination question, I might just – you might pull the mic a little bit closer to your mouth if you would. I think that's much better, thank you very much. So tell us, what was your first involvement or rather when was your first involvement with the dogs in question?

A. My first involvement was when they were brought into the Auckland SPCA which was the 18th of May 2018.

Q. And why had they been brought to you?

20 A. I understood that there was no shelter and they needed, some of them needed vet treatment and they were in a poor condition. I hadn't examined them at that stage but that was the reason why I was given.

Q. How many dogs were there?

A. There were six altogether.

Q. And what breed were they?

25 A. They were German Shepherds.

Q. Now we're going to hear a little bit in this trial about something called a village number –

A. Correct.

30 Q. – and is that – or could you explain what a village number is and how it's ascribed?

A. When an animal comes into the SPCA, they are identified and fortunately all these dogs were microchipped and we at the SPCA give them a village number you know where they – that's how we identify that dog for any note you write on that dog to that village number.

Q. So when you examined these dogs, it was by village number rather than the dog's name or microchipped number or something like that, is that your –

A. We identify the dog with village number with the microchip given.

5 Q. So in this case, I just want to go through each of the dogs and I'll refer to them by village number and at a later point in the trial we'll hear evidence as to which dog by name that village number relates, is that okay for you?

A. Yes.

Q. So first in relation to the dog with village number ending 315?

10 A. Yes.

Q. And for the court's benefit, we'll later hear evidence that that village number relates to the Tiffany who is the subject of charges 31 and 67. So that dog ending, village number ending 315 could you tell us about your examination?

15 A. When I examined, first of all it was a clinical examination and it was underweight or thin, it was covered in mud and the skin was – the hair was matted on the base of the tail and underneath that, there was a superficial dermatitis which then she needed treatment. The dermatitis was of a chronic nature brought on in that area usually by a flea allergy dermatitis which caused an itch and the dog self-mutilates and we had to anaesthetise and clip that whole matt off and put it on antibiotics and steroids to clear the skin problem up.

20

Q. In relation to that skin condition you identified to say the dermatitis was chronic, can you explain what you mean by chronic in this context?

25 A. I mean by chronic in that it doesn't take a few days for a mat of hair to form over a skin problem. There was also an infection in the skin and there was also some thickening of the skin due to self-trauma which doesn't happen overnight. That takes a few days at least to get to that stage.

30 Q. Can you explain what you mean by self-trauma and you used the phrase self-mutilate earlier in your evidence as well?

A. If you have an itch and the dog hasn't got the – or an animal hasn't got the wisdom not to scratch it or chew or bite that itch. They keep biting it

or agitating it and it gets itchier and itchier and gets worse and they keep on doing that and that's a self-trauma or self-mutilation.

Q. How obvious was the skin condition? I guess what I mean is it was obviously apparent to you as an expert, but would it also have been apparent to a lay person or not?

1120

A. I believe it would be apparent to a layperson if someone had to do with them as a, on a daily basis, they would see that this was forming on the base of the tail on the back.

10 Q. So are you able to shed any light on how long the condition had been there and if you can't, that's okay, we don't want you to guess, but is that something you know?

A. No, I can't give you an exact time it was, therefore, I can only say it was certainly longer than a few days.

15 Q. Thank you. What did you and you did touch on this briefly, but what did you to treat the dog on that day and then what did you advise going forward?

A. What I did was we tried to remove the mat that had to be done in the sedation, so we removed the hair over this area. We used topical anti-inflammatories and antibiotics on the skin and we also used antibiotic tables and steroid tablets to stop the itching.

20 Q. You said that the skin condition you mentioned that the dog was thin. Can we just flesh that out a little bit by saying, by you explained your methodology in that regard and whether there's any sort of benchmark against which weight is measured?

25 A. There is a purine scale of body condition which is an accepted internationally which runs from a 1 to a 9, 1 being emaciated and the 9 being very obese, 5 being the ideal body condition and you use it by doing a visual scoring of muscle mass and what's palpable and how much fat is there, and when I was talking about a thin or underweight its either a 3 or a 4 on that purine scale.

30 Q. And did you ascribe this dog a number on that scale, 3 or 4 or something else?

A. I believe I haven't got – I scored it a 3.

Q. Okay and just before we move on from this dog, just getting back to that skin condition, is that something – can you tell us what effect that would've been having on the dog in the condition that you saw it in?

A. Sorry, could you just say that again?

5 Q. So I guess what I'm getting at is this something that to a dog would've been caused it any bother?

A. Oh, absolutely it would cause a lot of bother because (a) you have a constant irritation on that and they keep on biting themselves and self-mutilating themselves because of the itch and that could certainly
10 have been prevented had it been noticed earlier.

Q. And did you do anything with that dog still on the dog ending 315, did you do anything with that dog in relation to its ears?

A. We examined the ears. We tried to have a look at it while the dog was awake; it didn't like the idea because it wouldn't let us examine him with
15 no (inaudible 11:23:53). So we sedated the dog and examined the ears and there was a bilateral otitis externa in those ears.

Q. And in layperson's terms what does that mean?

A. That means a superficial infection of the outer ear canal.

Q. Would that have been causing any bother to the dog?

20 A. This was just been a – once his ears were cleared out it was fine, but I should imagine it would be like a human having an ear ache.

Q. Moving onto the next dog with Village number ending 316 and as you find your place there, this is a dog that we will hear evidence in relation to going by the name "Princess" your Honour relating to charges 32 and 68.
25 So Dr Dreyer for this dog Princess did you first of all do one of these assessments of the dog's weight according to the Purine body score chart?

1125

A. I did. I assessed it as a 3.

30 Q. And just to reiterate I won't repeat this as we go through each dog, but 3 out of 9, is that correct?

A. That's out of 9, yes.

Q. And what does that mean?

A. In thin body condition.

Q. And then you moved on to examine the dog and can you tell us what you found in relation to that dog?

A. Again in this one, the coat was covered in mud and very dirty, and it would require a bath and brush out of mud from it, and we also felt an old fracture of the foxmil tail.

Q. Just, I think we needn't go into that, it doesn't form the subject of any charges or anything –

A. Okay, that's fine.

Q. – so for your Honour's benefit, apparently there was an old healing injury about to which we attach no significance?

A. And both ear canals were fill of wax but there wasn't any inflammation, it just needed to be cleaned out.

Q. Okay, so no skin infection, no ear infection in relation to that dog?

A. No, no.

Q. Thank you. Moving on to the dog with Village number ending 317.

A. Yes.

Q. And this is a dog to which we will hear evidence of that Village number relating to Tiana, charges 33 and 69, Tiana, 33 and 69 and Village number ending 317, doctor what did you find in relation to this dog?

A. In this dog we were unable to examine the ears in clinical examination, we had to do it under sedation and they were just like wax build-up and we cleaned that up, there wasn't any inflammation in those ears. The coat and in there was generally matted and covered with mud especially around the pin bones which would require a bath and a brush out to get rid of that.

Q. And in relation to dog on the Purina body score chart what number did you ascribe the dog?

A. I prescribe it at 3.5 which was between thin and under-weight.

Q. The next dog being Village number ending 318, we will hear evidence that that number relates to a dog going by the name of Image relating to charges 36 and 72, charges 36 and 72 for the dog going by the name Image, Village number ending 318, Dr Dreyer, your findings please?

A. I gave this dog a score of 3/9 on the Purina scale. Again, the dog's coat was extremely dirty, was covered in mud and matts on the ventral chest

area. There was a moderate build-up of tartar on the teeth which was not significant and we tried to examine the ears, but we were unable to get to that because there was a severe pustular exudate from both the ears, and it was far too painful to examine them and we had to anaesthetise the dog to be able to examine those ears to see what is wrong with them. Under anaesthetic, there was a brown waxy exudate which we flushed out to try and see it, and then there was a pustular exudate which we tried to flush out and clean so that we could examine the tympanic membranes to make sure that they weren't damaged because that could certainly guide us for what drugs to use on the ears and what not to use on the ears, and the ear canals themselves were very thick in the horizontal canal. Eventually we got able to manage to see the ear canal through a window and there was just a load of muck down there which we managed to try and flush out. We then put it onto antibiotics, a protracted course of antibiotics, 'cos we'd taken a swab of the ears and before we had sent it away to the lab for a culture, we covered it with antibiotics which would cover both the cocci and the rods that we saw of the bacteria on the cytology.

1130

- 20 Q. Okay, did you prescribe any other kind of medication for that dog?
- A. We were using Epi-Otic which is basically an ear ointment – not ointment, it was a flushing solution to get the muck out so that we weren't 100% sure that the ear canals, the tympanic membranes weren't broken, so we didn't want to use a drug that could affect the dog if the tympanic membranes were broken. So we used the systemic antibiotics as opposed to local antibiotics.
- 25 Q. Okay, it might be a silly question but I'll ask it again, similar to an adult, would this condition have been causing that dog any bother?
- A. This would be causing the dog a fair amount of bother, yes.
- 30 Q. Did that manifest in any way in the dog's behaviour that you saw, or not?
- A. If you try to go anywhere near this dog's ears or head area, it would be – it was showing signs of pain. It was backing away from you, wouldn't allow you to go to the head.

Q. And again, is this something that in your view would have been obvious to a lay person or does it take your kind of specialised expertise to identify this problem?

5 A. I'm afraid when you get to this advanced ear problems, it would have been obvious to a lay person.

Q. The next dog – and there are two to go –

MR RADICH ADDRESSES THE COURT – TIME REMAINING (11:31:54)

THE COURT:

10 Q. Can I just interrupt and ask whether you can estimate how long it takes from getting an infection to getting to the stage that you found this dog in?

A. I would say that's anything from a week to two weeks to get to that stage.

EXAMINATION CONTINUES: MR RADICH

Q. Moving on to the dog with the village number ending 319 –

A. Yes.

15 Q. – in relation to which you will later hear evidence that that village number corresponds to the name Nellie, relating to charges 35 and 71, so Nellie, charges 35 and 71, with village number ending 319 which was how you knew the dog, doctor, tell us what you found in relation to that dog.

20 A. Again, I ascribed a body score of three out of nine for this dog and the coat and – the coat was completely dirty, it was mud and matting all over it, which would need a bath and a brush-out. There was a slight pain on hip extension, so one would need to check for hip dysplasia or any other problems going on in that area, and the ear canals, they were just a build-up of mild wax build-up in those ear canals, which just needed a clean-out.

25

Q. And then the final dog we will specifically focus on, being village number ending 320, which we will later hear corresponds to a dog named Antonio, charges 34 and 70, Antonio, charges 34 and 70, village number ending 320, what did you find in relation to that dog under your examination?

30 A. I found that this dog was also a body score of three out of five. I could not examine it without sedation. It was an extremely aggressive dog to

me on the examination and we sedated it on the 21st of May and I did an examination there. The ear canals were fine, just a little bit of wax that would need a clear-out, and we X-rayed the hips and there was no signs of arthritic changes that I could see, so generally this dog was just underweight and full of mud.

5

1135

Q. Thank you. I don't have any questions in relation to that dog and just finally, what – do you have any comments about the condition of the six dogs as a whole overall?

10

A. As a whole I believe that they were either underweight or in a thin body condition. I also believe that the condition of their coat was very poorly looked after 'cos they were full of mud and they hadn't been brushed out and they were in a poor condition body-wise with the matting of the fur. There was one dog with bad ear problems and the rest of them their ear canals were acceptable to be fine, there wasn't any (inaudible 11:35:54) than really.

15

THE COURT ADDRESSES COUNSEL – MORNING ADJOURNMENT
(11:36:04)

COURT ADJOURNS: 11.36 AM

20

COURT RESUMES: 11.52 AM**CROSS-EXAMINATION: MR GARDINER**

Q. Dr Dryer, I'm representing Ms Wallace, my name's Gardiner, Dan Gardiner.

5 A. G'day.

Q. Just take – I'll go through in the sequence that my learned friend did with each dog.

A. Certainly.

10 Q. And it maybe helpful just to put in front of the witness the photographic booklet, the second one dated the 18th of May.

A. I have that, I have it here.

15 Q. I'll come to that shortly. Just, I just want to deal with body weights the German Shepherds. My understanding is that the German Shepherd breed standard for females is 22 to 32 kilograms and for males 30 to 40 kilograms, would you agree with that?

A. I don't know the German Shepherd breed status I'm afraid.

20 Q. And the German Shepherd breed standard is set by the New Zealand Kennel Club, I think it's Dog New Zealand now and secondly by the German Shepherd international standard. So when you assess these dogs and assess whether they were underweight or thin or mainly thin, would that be correct?

A. Correct.

Q. As opposed to being underweight they were thin?

A. Correct.

25 Q. You were applying the Purina standard?

A. Purina body condition standard.

Q. But you recognise that there could well be German breed standards which differ, not hugely, but do differ from that standard?

30 A. There might be but using the Purina scale, you do not take into consideration the breed of the animal. You're using it as a body scoring condition and you use the same scale for a German Shepherd as you would for a Fox Terrier or a Labrador.

Q. So now just pursuing that, do you accept that the weight of a dog apart from its breed would be determined by its age, its sex and its bone structure?

A. And it's muscle mass, yes.

5 Q. And it's muscle mass as well?

A. Correct.

Q. And the German Shepherd dog is described, comes in the category of dogs is described as a working dog, do you accept that?

A. Yes.

10 Q. So generally it's more athletic if I can put it that way the many other breeds of dog?

A. If you say so I don't know.

Q. Now we're just going to the – now just going to Tiffany, you found that this dog was well hydrated?

15 A. Correct.

Q. And that was a feature that applied to each of the six dogs that you examined?

A. Correct.

Q. Now I just want to go with Tiffany to first of all, to the page 5 of that booklet.

20 Q. Now the – my instructions are that this wound or correct this, in the bottom of the picture we've got the loss of skin, loss of – correction loss of fur to which you referred in your evidence?

A. Correct.

25 Q. Now do you accept that just looking at that picture, there seemed to be follicles growing in the area where the skin is exposed?

A. Not in the entire area, no.

Q. But in some of the area?

A. It would be in some of the area yes.

30 Q. And do you accept that the defendant would argue that this is not a flea infection but it's an infection that was due to something coming into contact with the skin and do you think it's something chemical. Do you think that that could've caused what you see there?

A. In my opinion, no.

- Q. Right. Now she would argue that and she will later give evidence to the effect that she was treating this for a period of twice a day for two or three days with a no soothe antibiotic which is an anti-inflammatory –
- A. Could you spell that for me?
- 5 Q. Yes, correction Neosoothe, I said no soothe, Neosoothe.
- A. Okay, yes.
- Q. Any N-E-O and then S –
- A. Correct, I'm familiar with the drug, thank you.
- Q. Do you think that that would've reduced the irritation for the dog and help
- 10 the healing process?
- A. If she had been using it, yes.
- Q. Now she – you mentioned that it was matted and she refers here, I refer you to the top picture showing the left rear, left high (inaudible 11:59:14) quarter of the dog, she would say that short coat, this is a short coat
- 15 notwithstanding the look German Shepherd and she says that what you see there is not matting, and that short coats don't matte. So you had a situation where she has a good coat but she's in the process of – the coat is in the process for want of a better term of re-generating. Would you accept that that could well be the case here?
- 20 A. I'm afraid I cannot accept that, no.
- Q. Why not?
- A. Because there was the definite matt there and that's what I saw.
- 1200
- Q. Yes.
- 25 A. And that's what I saw.
- Q. Right. We will go, go to the second dog which is Princess. That was the one ending Village number ending 316, page 6 of the booklet. This dog has a good coat, no problem with it?
- A. Yes.
- 30 Q. And it was in good, you assess the body score was 3 out of 9 that was thin?
- A. Correct.
- Q. But it was otherwise in good health, it was in good health?
- A. It was, yes.

Q. And good temperament?

A. Yes.

5 Q. Just going to the third dog which is Tiana, that was ending 317, Village number ending 317. She would contend that this is a dog which is in athletic condition, do you accept that that's correct?

A. I was explained or I advised earlier what I thought of them when my first initial examination was. I don't understand what "athletic" condition means?

10 Q. It's in a – it looks fit. You assessed it as having a body score of 3.5 out of 9 –

A. Correct.

Q. – on the scale that you used?

A. Yes.

Q. But the dog was healthy?

15 A. Yes.

Q. But so you would describe the body score of 3.5 out of 9 as being on the thin side?

A. Yes.

Q. Right. And the coat, would you accept that the coat wasn't matted?

20 A. I said the coat was generally matted with mud -

Q. Right.

A. – and caked on it.

Q. Just in terms – these dogs, I will just give you – the defendant will give evidence later and I have indicated this already in proceedings that she exercised the dogs that morning and they were left with water in a small, an area under trees on a farm property where the kennel, it's a private kennel, is located and that these dogs exercised, swum and later the contention is that they were taken back to an SPCA vehicle which had stopped and couldn't proceed because of the terrain and the dogs, a number of the dogs clearly got muddy from her point of view, got muddy at that stage? Do you, so when you describe them as muddy or some of the dogs as muddy, do you accept that it could've been for reasons that were outside the control of the defendant and or the SPCA?

25

30

A. I cannot answer that question, no, I was not on the property and I did not see the property, I only saw the dogs in the condition they came in.

Q. We will just now, thank you, we'll now just go to a further dog which is Dog 4 described as Image. Now this dog had, do you accept that just looking at the photograph the top of page 8, do you accept that that dog looks in good condition?

A. Yes.

Q. You did give a body score of 3 out of 9 on the scale that you used?

A. Yes.

10 Q. And it had a bit of bother with one of its ears, do you accept that?

A. Yes.

Q. Now, that problem would not have been manifest to a layman, do you accept that?

1205

15 A. I disagree with that.

Q. Would you accept, just going back a step, you accept that German Shepherds have large ears?

A. They have upright ears, yes.

Q. Upright ears, that they, as a result, those ears are primed to get foreign substances going into them, for example, grass, dust, and so on?

20 A. Not more than any other dog, no.

Q. Despite the large ears, they'd be more vulnerable.

A. The ears are a German Shepherd's ears. They are not considered large in proportion to the dog.

25 Q. No.

A. They are considered normal-sized in proportion to the dog.

Q. Right.

A. And there are a number of dogs with ears which are upright.

Q. Right, well, perhaps a better way to frame the question is dogs with upright ears would be more vulnerable to getting things going into them than perhaps dogs with smaller ears or ears that flop down.

30 A. I believe that dogs with droopy ears or "flop down" are more vulnerable to ear problems than those that are standing up.

Q. Yeah, but they're different types of ear problem, aren't they?

A. There are a number of different types of ear problems.

Q. So would dogs with ears that flop down be more prone to fungal infections, for example?

5 A. Without knowing what the cause of the ear problem is, we're now speculating or hypothetically making assumptions.

Q. No, that's a fair comment. Just getting back to the ear infection, would you accept that German Shepherds are particularly prone to get ear infections?

10 A. German Shepherds are known to be one of the breeds of dogs that do get ear infections, yes.

Q. Right, we'll just go – and to what would you attribute that proneness or tendency?

A. Really, the ear canals are part of the skin of a dog.

Q. Right.

15 A. German Shepherds are more prone to skin problems, which is also part of the ear.

Q. Right.

A. The ear is part of the skin.

Q. Right.

20 A. So they are more vulnerable to that.

Q. Right, and we'll just go to a further dog, which is Nellie, that's the fifth dog you referred to in your evidence. Now, you described in relation to Nellie a mild build-up in the ears. That was quite readily rectified, in your view. It's a question.

25 A. Yes, 'cos there was only a slight wax build-up.

Q. Right, and just looking at the picture of Nellie at the top of page 9, she looked, would you accept that she looks alert, well, and has a good coat?

A. Yes.

30 Q. Right, and finally we get to another dog, the dog Antonio, and looking at the top picture at page 10, as I recall, you gave evidence that there was the beginning of an ear infection there. Do you accept that?

A. I beg your pardon?

Q. This dog – excuse me for one moment. Yes, there was a mild build-up of wax in one of his ears.

A. There was a waxy dirt bilateral build-up, yes.

Q. Well, correction, in both ears.

A. Both ears.

Q. And you rectified that with flush, you know, with the flush in both ears.

5 A. Correct.

Q. And this dog had a reasonable body weight of 3.5 out of nine –

A. Correct.

Q. – on the scale that you used. And you wouldn't describe it as underweight, but thin.

10 1210

A. A 3.5 I would describe between underweight and thin, so more to the underweight part than thin.

Q. Right, but again, that's given the scale that you applied which was applicable to all breeds.

15 A. Correct.

Q. Right, it wasn't specific to this breed.

A. It wasn't specific to the German Shepherd. It covers all breeds of dogs.

Q. Big, large, small, in-between –

A. All breeds of dogs.

20 **CROSS-EXAMINATION: MS CRANSTOUN**

Q. Good afternoon, Dr Dreyer.

A. Good afternoon.

Q. My name is Alex and I'm the lawyer for Mrs Waller. Have you heard of a veterinary medication called Dermotic? [*sic*]

25 A. Dermotic? [*sic*] I haven't heard of it 'cos I've never used it.

Q. Okay. I've just got one other thing I would like to ask you about, and it's in relation to the dog Antonio, which you've referred to under SPCA village number 297320.

A. Correct.

30 Q. Can you confirm that Antonio had a weight of 30.6 kgs on the 18th of May?

A. Correct, yes.

Q. And then can you confirm that he had a weight of 30.1 kgs on the 12th of June?

A. I cannot confirm 'cos I don't know what these weights were on the 12th of June.

Q. Okay.

A. I only saw him on the 21st of May and after that –

5 Q. So you don't have any records from anyone else –

A. I don't have the records from anyone else's.

RE-EXAMINATION: MR RADICH

Q. Doctor, in relation to the dog Tiffany, who was the dog we spoke about with the skin condition –

10 A. Correct.

Q. – my learned friend Mr Gardiner asked you or rather put it to you that his client will say that condition was caused not by a flea infestation but by some sort of contact, chemical contact, and asked you if you thought that was a possibility and you said no, but can I ask you to explain why you said no?

15

A. Yes, you can. First of all, when I talked about a flea allergy dermatitis, I'm not talking about hundreds of fleas on a dog. It will take three or four or five fleas to be able to start off an allergy on a dog, because they have – they're allergic to the saliva or part of the flea that injects into them.

20

If that was a chemical burn, you would have seen far more extensive damage to that skin than what was seen.

Q. And that product that was mentioned to you, the Neosoothe lotion, that's a product you're familiar with?

A. I am familiar with Neosoothe.

25

Q. Is that a product you would use for the kind of condition that this dog had?

A. When I first saw the dog, before we could clear the mats up, clear, remove the mats and start intensive treatment, I prescribed Neosoothe to be used on that dog until we could do a complete clean-up of it.

30

Q. And just secondly, in relation to the dog Image, village number ending 318, my learned friend Mr Gardiner suggested to you that the ear condition that Image had would not have been apparent to a lay person and you rejected that proposition. Can you explain, possibly again, but explain why you reject that proposition?

1215

A. Because of those thickenings of the ear canal it means that that's been there for quite some time and the dog would've been scratching at its ears or crying from the pain from the ears. The smell of the discharge as well
5 would've been recognised by a layperson unless the dog was not seen or handled for a long time.

Q. Thank you and finally, it was put to you that these dogs had been swum that morning. Do you have any comment in relation to that or from your observations of them later in the day or is that not something with which
10 you can't help us?

A. That's something I cannot give an opinion on because I don't know what dog did that day.

QUESTIONS FROM THE COURT:

Q. There's been talk of dogs being thin, dogs being underweight, it's been
15 slightly interchangeable sometimes, but what's the difference between being a dog being thin and a dog being underweight?

A. Again, it is an assessment that a person will make using the scale and if one had to look at the Purina scale for the different levels of 1 to 9 it gives you the what to look for and what not to look for.

20 Q. Yes.

A. Because their scale goes from, as I said, anorexic or not anorexic's not the word I'm looking for –

Q. Emaciated I think you said.

A. – emaciated to very thin to thin to underweight to ideal weight and then it
25 goes the same down to obesity to 9 and all those different levels have got criteria which need to be fulfilled.

Q. So is underweight thinner than thin or?

A. No, thin is thinner than underweight.

Q. And what's the criteria that gets you to thin and to underweight?

30 A. Unfortunately, I don't have a copy of the Purina scale with me, but it's looking at muscle mass or fat of the availability of fat there –

Q. Like if it was a human like a body mass index, like a BMI, that sort of thing is it?

- 5 A. The amount of muscle or body mass that's there compared to the bones that are there that you can see and cannot see. So if you, for instance, if you can run your hands over the spine of a dog and you can feel the spinal cord over spinal processes at the top and then the muscle mass down the below it, that would be considered as a thin dog bordering on very thin, whereas if you had to run your hands over that mass, the back and you find that your muscles were on the same level as your spine, its processes, that would be an ideal weight. If they went above that, then you'd start looking at a fat dog or an overweight dog. Then you assess their chest conditions as to what you can see their ribs and how their ribs are covered.
- 10 Q. So basically like ribs sticking out or well or too well covered in -
- A. Correct.
- Q. Yes.
- 15 A. And whether they have a tummy tuck or how bad a tummy tuck is. So you're assessing it from above and from the side, both sides.

QUESTIONS ARISING – NIL

WITNESS EXCUSED

LEGAL DISCUSSION – WITNESSES (12:19:52)

COURT ADJOURNS: 12.25 PM

COURT RESUMES: 2.05 PM

LEGAL DISCUSSION – NEXT WITNESS (14:05:17)

MR RADICH CALLS

5 JESSICA BEER (VIA AVL)

Q. Hello doctor, can you see and hear me okay?

A. Yes, I can, thank you.

Q. Thank you. I think her Honour and/or the Registrar are just going to address you first before we get into it, thank you.

10 THE COURT:

Q. Kia ora Dr Beer, I'm Judge Grau, can you see and hear me okay?

A. Yes, I can.

Q. Excellent, thank you. The Registrar will just swear you in now.

15 JESSICA BEER (AFFIRMED) (VIA LINK AUCKLAND)

EXAMINATION: MR RADICH

Q. Doctor, just checking once more that you can see and hear me okay?

A. Yes.

20 Q. Very good, thank you. Could you please begin by giving us your full name?

A. Jessica Beer.

Q. And what's your occupation Dr Beer?

A. I'm a veterinarian.

25 Q. Without wanting to – without me needing to go through your entire CV, it's correct to say you qualified with a Bachelor of Veterinary Science from Massey in 2002, is that correct?

A. Yes, that's correct.

Q. And you've worked in a number of places around the world for various animal related charities, is that correct?

30 A. Yes.

Q. And you've held various positions as a vet including for a period involved directly with the SPCA, is that right?

A. Yes I was.

Q. When did you start there and what was your role with the SPCA?

5 A. I started as a temporary vet with them I believe in 2015 and then took on a full-time job so I was in the role of head veterinarian in 2017.

Q. And did you also, have you also set up your own private consulting business called Kiwi Vet Behaviour?

10 A. Yes, that's true since 2014 I've had that providing private consults in behaviour and I did also bring some of that behaviour work to the SPCA while I was there.

Q. When you say "behaviour" are you talking about all animals or a particular type of animal?

A. I had qualified in majority of animals but I tend to work with dogs and cats.

15 Q. Since you were head veterinarian at the SPCA, you've moved onto purely private practice, is that correct?

A. Yes, I took maternity leave actually but then worked at both private clinical practice and private behaviour practice.

20 Q. And you understand that your role in this hearing today is to give evidence both in relation to your direct observations of a particular property and the dogs on that property?

A. Yes.

Q. But also in relation to your expert opinion in relation to the conditions they were in and dog behaviour generally?

25 A. Yes, it was one of the reasons I was brought in to visit the property so I could observe the dogs' behaviour in that environment and that adds a bigger picture compared to what they're like just in a clinic situation.

30 Q. In preparation for this appearance which I think is the first, you said is the first time you've given evidence of this nature you've familiarised yourself with the expert witnesses' Code of Conduct?

A. Yes I have.

Q. And you agreed to abide by its contents?

A. I do agree.

Q. Dr Beer, getting into it then, we're here to discuss with you an inspection of a property that happened on the 13th of October 2017 at a property known as the Volkerson Kennels Property, do you recall that?

A. Yes, I do remember.

5 Q. What was your first involvement in this? Why were you brought in?

A. I was working obviously in the clinic at the SPCA and understood they are then returning to this property and so I was requested by the inspector of that team to join for both the opportunity to provide medical aid and treat clinical problems of the dogs immediately there but also to assess how
10 they were kept and the emotional or the psychological concerns that we may have with these dogs.

Q. Now we've heard evidence that on this day that you went to the property with other people, there were some 15 dogs seized, did you play a role in deciding which dogs were seized and which dogs weren't seized?

15 A. I did help by determining the severity of the illnesses that many of them were suffering and what we considered dogs that were psychologically distraught as well as the medical problems. So it was in conjunction with the inspectors obviously but I indicated these dogs are suffering they need help now.

20 Q. Did you go there, before you arrived there, did you go there with an idea that you would be seizing dogs or was that something that you only came to a conclusion about once you got there?

A. No, I very much felt I was there to observe. I understand we hoped things
25 had improved but there was no precept plan, it was very much let's look at the state of these dogs and help the ones that need helping was my understanding. I was under no direction to do anything more than that.

Q. Had you been to this property previously?

A. No, never.

Q. I will in due course ask you about some of the specific dogs seized and
30 your veterinary analysis of them, but can I ask you first of all just in relation to the property generally if I could have some general observations from you on a number of subjects. First of all, in relation to the number of dogs that were on the property relative to the capacity for dog housing on the property. Can you say anything in relation to that?

- A. Yeah, well I mean the first thing that struck me is the number of dogs that were simply tethered in locations that are clearly not set up for managing dogs, so a lot of them tethered to poles and fences and that as they are progressed around the property, locations that looked like there were storage were actually homes or houses for these dogs. So there was clearly a significant over population for what the facilities and I would gather I understand only two people looking after them, it's just not possible to give dogs the care that they need at that housing density. I know the SPCA obviously has a limited number of dogs and a large number of people caring for them in suitably created facilities and that was clearly lacking on this property when I turned up. And it was brought to your attention by the expressions of the dogs as well, there was a lot of vocalising, there was a lot of reactivity. That shouldn't really happen when you have healthy stable individuals on a property.
- 10
- 15 Q. Thank you doctor. I will, if I have pauses after your answers it's not that I've gone offline or I'm stuck into finding the next thing to say. It's just that everything's been transcribed so I do like to go relatively slowly to make the transcribers' job easy.
- A. Please do tell me if I'm speaking too fast, I tend to.
- 20 Q. Well I could follow you but I'm not typing so if you were able to slow down a little bit I'm sure that might be appreciated.

THE COURT ADDRESSES WITNESS – MAKING NOTES, PRETTY FAST
(14:13:39)

EXAMINATION CONTINUES: MR RADICH

- 25 Q. So you spoke in relation to over population, you describe over population and also the number of people that would need to care for this number of dogs. For the number of dogs on that property, what sort of – can you give us an idea of what sort of level of staffing or care in terms of the number of people in full-time or part-time work you think would've been
- 30 required to properly look after these dogs?
- A. Well certainly I would be looking at one person for 10 animals and a higher number of people given number of people given the dogs needed

extra care where you have pregnant dogs and dogs with illnesses and all of those requirements will increase the time and labour that you would need. So I'm not sure I could put an exact number on it but certainly more people with fewer dogs in that situation.

- 5 Q. When dogs were in the SPCA care when you were working there in a full-time or closed to full-time capacity, was there a particular ratio that you worked on or is it not something that's as specific as that?

1415

- 10 A. Certainly, staff members could comment to exact ratios but I believe easily 10 full-time staff plus many volunteers, and canine aides as well, for far less animals, so 50 or so, and it was important that when we didn't have the staff, that we didn't overstock animals because you can't bring in animals that you can't care for, but nonetheless, I think that's about the closest I can get for requirements, but definitely closer to that, one person
15 for 10 animals at the max, but potentially even more people, depending on the requirements of those animals.

- Q. In terms of adequate housing for dogs, what would something that is satisfactory in your eyes have?

- 20 A. Well, most certainly welfare requires shelter, food, water. I come in more as an intelligent animal that is domesticated to be our pet also requires emotional and mental enrichment, so the ability to express normal behaviours, the ability to play. I mean, there's ultimate – ideally a breeding situation would have dogs growing up in a home. They shouldn't be in any sort of outdoor facility in that respect because I feel they miss
25 out on that important one-on-one socialising towards living in a home, so facilities should be far more like the environment we want those pets to go to, and that was quite clearly lacking when I arrived at the property.

- Q. When you talk about emotional and mental enrichment, can you give examples of the sort of thing that can provide that?

- 30 A. Certainly, toys, as a simple thing, physical areas in which they can run, play, tumble, interact socially with other dogs without causing injury to themselves. Mental stimulation such as brain stimulation, cognitive games, training... I see a large number of dogs in my industry that have lacked these things as a young animal and therefore have huge social

5 issues as they get older which can be expressed as fear or aggression, even, and it is very important that breeders are providing that appropriate stimulation for puppies' brains to develop and to prevent some of the boredom behaviours or frustration behaviours that we see in dogs that are kept in inappropriate conditions. I hope that answers what you were asking.

Q. No, that's great, thank you. Speaking of frustration behaviours, can I ask you to go to page 75 of the photo booklet that you have?

WITNESS REFERRED TO PHOTOGRAPH BOOKLET

10 A. Yes.

THE COURT ADDRESSES MR RADICH – CHECKS EXHIBIT NUMBER
(14:18:00)

EXAMINATION CONTINUES: MR RADICH

15 Q. Yes, the first booklet, sorry, all references will be to the first booklet, you honour.

A. Which page, sorry, did you say – 75?

Q. Seventy-five, correct, yes.

A. Ah yes, the woolshed.

Q. The top – yes, could I ask you to look at the top photo on that page –

20 A. Yes.

Q. – and see, and can you tell us if that relates to anything you've just been telling us about?

A. Oh, absolutely, I mean, it's not a safe environment. I believe those were the adolescent puppies or the young through adolescent puppies that
25 need safe places to run around, but we've got slatted wood there. I recall the smell of urine and faeces which is really quite invasive and assaulting to the senses of dogs, so that's a negative environmental factor, and then on the edges I believe you can see the chew marks all the way down the bottom, so puppies need things, all dogs need things to interact with, to
30 chew on, so that could be quite easily, that degree of chewing could be an expression of boredom, frustration, anxiety because they don't have other outlets for normal dog behaviour, and even escape attempts

because they wish to remove themselves from an environment that is inappropriate, so we had slats, very easily, regularly seen dogs with ripped nails off, broken digits from those sorts of surfaces, and then you've got the contamination of – I believe there were bones and other such around there, so food, faeces, urine, and then those enclosed areas where they've clearly been chewing at the board, all of which indicates to me that these animals are not being provided with what they need to be emotionally fulfilled or even stable.

5

Q. On the previous page, page 74, can you go to that?

10

A. Yes.

Q. Now, I think we possibly even see you in the bottom picture there, is that right?

A. Possibly, yes.

1420

15

Q. Yes. In the top picture though, we get a better look at the slat flooring that you've been speaking of?

A. Yes.

Q. Can you just elaborate more on why you say that's not satisfactory for these puppies?

20

A. So you've got the risk of trauma with nails being stuck in between the slats that are there. I mean there's also other possibilities that it's an unstable floor as well and dogs need to feel secure if they're slipping and sliding or you've got slats moving or pinching that's going to give them a sense of unease. I think we can see more evidence of them chewing on the wood there and clear either supposed water or food bowls have been spilled over as well, so they're going to lose any access they have to even basic sustenance which would be considered environmental enrichment having food or water, but it's very similar to the previous photo, I think pretty much the entire floor was this and it was concerning to see that.

25

30

I'm actually surprised we didn't see any more ripped nails or broken digits from the dogs that were housed in there.

Q. What about the actual material as well, could you speak to that, the fact that these are made of wood?

- A. You'll find that wood being porous obviously, we're going to track a lot of potential diseases. I understand a lot of these dogs had diarrhoea when they returned to the SPCA with us. So you've got an area that cannot be cleaned effectively and removed diseases that are infectious, and soaks up that urine as well, so we're adding to the assault on their senses. They would probably be my main concerns with that, the risk of trauma and the inappropriate porous dirty flooring.
- 5
- Q. Okay. Could I ask you now as I move to a slightly different subject, namely the tethering to go to page 64 of that photo booklet.
- 10 A. Yes, just scrolling. Yes, Monty.
- Q. Yes. Can you tell us anything about the way that dog is tethered, the leash itself?
- A. Well, it's too short for starters and we've got it clearly attached to the leash to a choke chain which is incredibly risky in itself to cause significant damage to their neck. What's interesting is I don't know if this is asking to the question, but that tethering and the evidence around where that dog is being tethered indicates he's probably been there for a while, there's evidence of digging, there's track marks of him going back and forth. That restriction as I mentioned before of performing natural behaviours can again cause frustration and anxiety for a dog that's confined in that short sort of, the risk of that rope becoming a problem and causing injury.
- 15
- 20
- Q. Thank you. You said the leash is, in your view, too short, how short is too short, is there an exact answer to that?
- A. I believe there is. I don't know the exact parameters, but in regards to the animal cannot bend down, lie down without choking themselves, that's clear even without a measurement you know that that is not long enough.
- 25
- Q. And you referred to the, you use the phrase "choke" chain which is a phrase we've heard elsewhere in his trial already, can you give us a brief description of what a choke chain is and why it's inappropriate in your view in this situation?
- 30
- A. So a choke chain is a chain collar that would go around, but it's designed to slip till it chokes basically. So it works in two ways, both the noise of the chain slipping right behind the dog's ear, it's designed to punish a dog. The point of this slip chain or a choke chain is to stop behaviours, so it's

there used as a punishment, but normally only used as a leash attached to a human who would direct that choke or slip chain and when you have a dog wearing it without a human there, to modify the degree of punishment or to modify the degree of a version from the noise, then you've got a permanent punitive device that could continue to punish both physically by choking the dog and causing fear and concern with that compression of the larynx but it can happen at all times and to any stimulus as well, so highly inappropriate and very risky to cause damage. We're now seeing evidence of the damage of using choke chains and slip leads with dogs later on where we've got laryngeal damage and pressure around those important vocal chords, so I'm not a fan of them at all and the risk of someone being tethered by it without someone to release that pressure is incredibly dangerous.

1425

15 Q. Okay, I'll get to some of the individual dogs that were seized in a moment but first of all, could I just ask you generally, of the 15 dogs seized, what would you say about their condition generally?

A. It was poor, without a doubt, and not just in one level. We had emotional issues, there were dermal, skin issues, ear issues, body conformation issues, diarrhoea – these were not happy, healthy dogs in my opinion.

20 Q. Well, let's turn to your examination of some of these dogs in particular, and just before I do, can I confirm you've got with you a printout in three parts of the clinical notes that were entered into the system at the time you did these examinations?

25 A. Yes, I do. I have them on my computer to scroll through so – there are a lot of pages. It may take me a while to find the specific dogs if you request.

Q. Hopefully I can help you with that a little bit. The first dog I wanted to ask you about was a dog called Desney. If we actually go first of all to page 30 73 of the photo booklet, if you wouldn't mind...

A. Yes – oh, yes, 73. Yes, Desney in the woolshed.

Q. Yes, so we can see a photo of Desney in the bottom photo there, is that correct?

A. Sorry, I just lost it when we were looking... there we go, yes.

Q. Okay, and did you then examine Desney the next day, 14 October 2017?

A. Yes, I did. I personally examined all dogs at the property, obviously, and then a more in-depth examination once we were back at the village.

5 Q. Okay, well, starting with Desney, then, and referring to your clinical notes if you need to, could you tell us what your findings were? And if it's any help, you might find Desney in that second tranche of clinical notes, about two thirds of the way through.

A. Okay, I... I don't suppose you know what page on those clinical records it would be.

10 Q. They're not page numbered, unfortunately. Maybe we can get that changed in the future. Control-F might help.

A. Apparently not.

Q. Okay.

A. Hold on, I may – it may be, I mean a second records, I was in the wrong
15 lot of records sorry.

MR RADICH ADDRESSES THE COURT – CLINICAL NOTES, STATEMENTS
(14:28:12)

**LEAVE GRANTED TO REFER TO FORMAL WRITTEN STATEMENTS IN
ADDITION TO CLINICAL NOTES**

20 **EXAMINATION CONTINUES: MR RADICH**

Q. Could I ask you, then, to tell us what you found, particularly in relation to Desney's ears?

1430

A. Yes, so both ears were significantly infected. Obviously, I've referred to
25 otitis externa which is infection in the external ear canal. The ear pinna themselves, I recall them actually in regards to just that crusty, scaly, what we were also seeing was a lot of extra pigment and that indicates chronic, this has been going on for a while. You can actually see, I think in the photo as well, her ears are positioned forward slightly now it's only a still,
30 but I recall noting that at the time because the ears are uncomfortable, so they're holding them down intention because there's discomfort in those

ears, and I do believe parts of the skin was significantly untreated as well, so commonly that's a combined problem, ears and skin actually stinky and evidence that it had been going on for a while.

5 Q. Are you able to be any more precise about the time when you say "a while". If you can't, that's okay, but even anything you can guide us with?

A. I would say weeks, yes. This is not something that had just come up overnight, weeks to possibly months. It's difficult to tell if there was perhaps previous short periods of treatment, but not enough to resolve the problem, but definitely a longer period of time than is acceptable I feel.

10 Q. Would this have been apparent to a layperson in your view or did it take your specialised expertise to notice these problems with the skin and ears?

A. No, if you were to touch this dog on her head you would've noticed it.

15 Q. If a condition, such as, you've described with the ears is identified and treated properly, how long should it take to resolve?

A. If identified at an appropriate time and treated within one to two weeks and not sooner.

Q. Okay. And did you also find that Desney was pregnant at the time?

20 A. I believe so, let me just check. I think we were suspicious of it and then it proved to be the case over the following weeks in the Village.

Q. Are you just checking that now, sorry?

25 A. Yes, sorry, so I'm just looking. It doesn't look that we noted at the time, but I recall there was another, I believe it was Debbie, one other dog that we did, I was very suspicious at the time of first exam and both of them proved to continue developing.

Q. Thank you for that. I'll move on to another dog called Dani.

A. Yes, is that in the same?

Q. Dani is in the same. Dani's actually fortunate enough on the front page, the first page of that second tranche.

30 A. Your Alt F has got me finding everything straight away, so that's in front of me now.

Q. Very good. And just to refresh your memory about where Danny was found, sorry to get you flicking between tabs on your computer -

A. That's okay.

Q. – but if you go to page 76 of the photo booklet.

A. Yes, yes, I remember him.

Q. Okay, so -

A. Running round the back of the shed, yes.

5 Q. Right. So what was it about that dog that prompted you to say that that dog was one of the 15 who should be seized?

A. His ear, again, I believe it was the incredible red and painful and if I recall although it didn't look like it had been as inflamed or damaged as Desney's, it was more painful, it was a lot redder to the point I don't
10 believe we could touch it appropriately.

Q. Okay, so what did you have to do in relation to that then?

A. He was uplifted and treated with topical medication and because it was so painful, we actually added in oral anti-inflammatory as well because it was so sore getting topical medication in was uncomfortable for him.
15 Again that's something that can be prevented if detected earlier.

Q. Are you able to speak about how early a layperson might've been able to detect this condition, how much earlier than you saw the dog, for example?

A. His particular one, I'm not sure. Certainly it had been present for days and so as soon as you handle a dog, the level of pain would've indicated he was uncomfortable in that area and that would've implied that vet
20 treatment was required.

Q. And reviewing those clinical notes in relation to Danny, can you tell us anything about the treatment that was ongoing, was there any treatment
25 beyond your involvement on the 14th of October?

A. I believe we obviously had to continue treating those ears, but if I recall he flared up again with future ear problems, so this was not just a one-off infection it was ongoing and it looks to me if I recall rightly, we had to end up doing further tests to confirm.

30 1435

Q. Tell me generally, are some dogs more prone than others to these type of infections?

A. Yes, certainly, so these sorts of infections in the skin and ears can have a genetic predisposition, so if your parents are allergic to things, you may

well be allergic as well, and certainly the environment that animals are kept in can contribute to these particular flare-ups and a lack of maintenance, so if I had a client in general practice with a dog that had an ear infection, it didn't go away or it kept coming back, then we would talk about more appropriate prevention, such as regular ear cleaning and grooming.

Q. And are you able to say anything about the likelihood of such treatment of that nature having been given to this dog Dani prior to you seeing him?

A. It certainly doesn't look that that would be the case, and I would have extrapolated from the state of the other dogs as well that they were not cared, so it's highly likely this dog was not appropriately treated and cared for in respect to the ear infection.

Q. Okay, thank you, moving on to the next dog which, again, I'll just take you to the page in the photo booklet to show where the dog was found, so the next dog I'm asking about is a dog called Mafia who you might see at page 64 of the photo booklet, if you go there. If we don't see Mafia we'll at least see the situation.

A. Sorry, could you just repeat what page that was?

Q. Sorry, doctor, page 64 of the photo booklet.

A. Thank you. Sixty-four, ah, yeah, Mafia so he was in the woolshed as well.

Q. Page 64 of the photo booklet.

A. It says that I'm on that...

Q. We were on – it's the same page we were looking at before when we saw a dog called Monty attached to a fence.

A. Yeah, just – that's 65 in my booklet, I think.

Q. Oh, really?

A. Okay.

Q. I'm surprised, that's all.

A. That's what it says on my computer but I can see it, so those are the back runs. That makes more sense to me, I thought Mafia was there. He was a big boy.

Q. Okay, so those – what you've called the back runs and what are described above that photo as the old runs –

A. Yes.

Q. – could you tell us about those conditions as you recall them?

A. Right, so I recall it smelled, so again, faeces, urine, and just a lot of noise, very, very reactive dogs in there. Also, I believe, lots of particularly disgusting-looking bones as well in there, and it looked like they'd been recently cleaned, I think they'd been hosed down at some point, but that didn't take away from the smell coming from the wooden kennels at the back as well, but I do remember just the dogs, incredibly reactive, so from a psychological point of view, that was intimidating and could indicate a level of stress in those dogs.

10 Q. In fairness, could it be said that that's partly in relation to the fact that you and some of the other people there were not familiar with those dogs?

A. Absolutely, and as a breed German Shepherds are prone to being more territorial, without a doubt, and I'm not going to deny that that wasn't a contributing factor, that we were invading people onto their property and there was a lot of protection. We also find dogs are more likely to guard behind a barrier, so we had a level of barrier and territorial aggression as well, which is within the realm of normal for dogs, yes.

Q. All right, thank you. Can I ask you then to go to your clinical notes in relation to Mafia?

20 A. Yes.

Q. Which to assist you, I think should be in that third tranche. You've got those?

A. Yes.

Q. Okay, could you tell us what you found in relation to Mafia, perhaps with a focus on the ears, if that's relevant?

25 A. Again, another dog with an ear infection. I've got no more elaboration, I must admit, on my clinical notes there, but evidence of an ear infection which then required treatment.

Q. Okay, and was the dog in fact given treatment?

30 A. Yes, given (**inaudible** 14:39:36) to resolve that and it sounds like that went well, although he did require future cleans.

1440

Q. Future cleans, is that something that's a normal process of upkeep for a dog or is that something you only have to do close to a dog having a problem like this?

5 A. It can be routine but it's usually only recommended routine for dogs with a history of ear infections.

Q. Then if we can go moving onto the next dog and there are only three more that I'll specifically ask you in relation to, so if we could go to the photo booklet again just to ground ourselves?

A. Yes.

10 Q. And could you please go to pages 68 and 69?

A. I found the right numbers now at the bottom of the – here we go 68, yes.

Q. Yes, the bottom of the page, yes.

A. I've got there so Debbie in the crates.

15 Q. Yes. So we've heard evidence that Debbie was in that crate that we can see somebody looking into with a torch in the top photo?

A. Yes.

Q. And so at a locked utility shed?

A. Yes.

20 Q. Can you speak to those conditions generally and the appropriateness of those conditions for a dog who was as Debbie turned out to be pregnant?

1441

25 A. Pregnant, yes. That was a really sad one, actually, because we didn't even know dogs were in there. In fact, I think we were told they weren't, but we wanted to check and we found her sort of hidden away. There was no light, it was very much closed up and dark in there, and she was in a crate that is too small for a dog of her size, and just hidden amongst all this other junk, so quite a depressing place for a dog to be in, actually, and she was just sort of – just not quite shut down but I recall her just kind of sitting there, yeah, not a very happy place for a dog to be in and
30 certainly not one that you're planning on breeding and producing lovely pups from, if I may elaborate in that respect.

Q. Sure, sorry, that was page 68 and on page 69 can you then see Debbie once she's been brought out of the crate?

A. Yes.

Q. And can you say anything about her condition when you came across her?

5 A. Her coat was pretty hideous. I'd have to check my notes again but if I recall she had ear infections as well, but you can see from the photo that there's a lack of gloss to the hair, that the fur is matted, and that would all be consistent with being kept in cramped quarters. Yeah, unhappy-looking dog.

Q. So with reference to your clinical notes and any conditions you identified, could you find Debbie amongst those in the third tranche of clinical notes?

10 A. Got her...

Q. About one third of the way through.

15 A. Yes, so she had severe – that's right, hers was a very green discharge, so actually quite pussey, and that is without a doubt something that would be obvious to anyone, and she was the one that on palpation I was concerned she may be pregnant and thus we followed up with that in the future. I didn't like her confirmation but there would be – there was a combination of really bad skin, matted, dirt, faeces, dust, really sore, pussey ear, and then obviously that pregnancy as well, which adds further burden to her body.

20 Q. Okay, can you tell us anything more about her ears and any problems associated with them specifically?

A. I believe it took some time to resolve because of the amount of purulence in there, and –

Q. Sorry, can I just pause you there? Because of what, sorry?

25 A. Pus, purulence.

Q. Can you spell that for the transcribers, please?

A. P-U-R-U-L-E-N-C-E.

Q. Thank you.

30 A. Um, so I'm going back again – so yes, I believe for her we required systemic medication as well eventually topical medication to resolve that infection.

Q. And again, not to labour the point, but is this something that would have been, in your view, apparent to a lay person?

A. Yes, those ones in particular, you can smell that from afar.

Q. Do you think this dog – are you able to say whether this dog had been treated in relation to this condition?

A. There was no indication that that ear had had treatment for days to weeks prior.

5 Q. All right, thank you –

A. Or inappropriate treatment, I would probably have to add. Inappropriate medication or treatment may have resulted in that as well.

Q. Okay, so it might – just to clarify, you're saying no treatment or a treatment that didn't work, is that what you're saying?

10 A. Yes, yes, exactly.

1445

Q. Then just two more dogs to which I want to refer you please, firstly Dolly?

A. Yes. Dolly, I remember Dolly.

Q. And you should find Dolly, you've got Dolly?

15 A. Yes, yes.

Q. Can you tell us what you found in relation to Dolly?

A. Again ear infection, both ears in this particular condition. Yeah, so I believe the ears were the majority of the problem. I recall she was friendly than some of the other ones that's for sure and the usual poor coat, matted, dirt faeces and the ears required treatment and if I recall she continued to have ongoing treatment and care for those ears for quite a long time.

20

Q. Now just before we move to the final dog, in terms of the weight of these dogs, do you have any comment to make? Do you understand what I mean that when I'm saying –

25

A. Yes, yes.

Q. I'm trying to ask the question –

A. No, I felt all the dogs were slightly underweight, a combination of low body weight and condition and some of them poor muscle configuration which contributed to a lot of the dogs with a very sloped back it's a concern with Shepherds and I felt that a lot of these dogs were displaying that low carriage and lack of muscle definition. So I wasn't happy with I think 90% of the dogs. I felt they were underweight and should've had a better body condition score and my clinical notes I believe reflect that for all of them.

30

Q. Now the final dog I want to ask you about we will find from – sorry, bear with me a moment, here back in the photo booklet please from page 79 in the hay barn. Do you recall going into the hay barn?

A. Yes, I do.

5 Q. And so if you're on page 79, can you see the inside of the hay barn at the top there?

A. Yes.

Q. And underneath –

A. With the two pages.

10 Q. Yes –

A. Yes.

Q. – and underneath we can see one of those dogs?

A. Yes.

Q. If you go over the page to page 80?

15 A. Yes.

Q. We have a couple of images of that dog as well?

A. Yes.

Q. A dog known as Ritzer?

A. Yes.

20 Q. First of all, can you tell us about the conditions in which Ritzer was housed and whether they were satisfactory in your view?

A. So again an enclosed hay barn I believe, it wasn't as densely packed as the other areas but she was chained to the metal of the kennel that was within that hay barn area and there was another dog in that room who was greeting us and vocal and we heard absolutely nothing from Ritzer and I'm not sure we knew she was there so we went down and the reason being as you can see in those pictures, the leash containment had tourniquet and tracked that hind leg so she was unable to move, couldn't move to even express. She was uncomfortable with strangers approaching her. You can tell by the expression on her face, body language. We've got ears back, tense down eyes, all indicating they're in anxiety and most likely pain and if I recall from my notes there was faeces very close around there which would indicate she'd been unable to get up to relieve herself and so lying in some not very nice smelly hay

25

30

and I can't recall what else was there in regards to bags and such likes. So she was trapped and could not move from that location she was in.

Q. Can you speak to the particular type of tether?

5 A. I believe, let me look at the photo again. I believe she was on a choke chain as well with two other short leashes.

Q. What about the material of that leash, is that of any significance or no significance?

A. I believe there were two different types of material and it was a rope type leash if I recall.

10 Q. And is there any significance to the fact that it was rope or no significance?

A. In my mind I'm not sure I could comment to that other than it can be more abrasive to skin.

Q. So having found Ritzer in that condition, what did you do?

15 A. We actually had to cut through the rope to allow us to release that leg so that she could come out and then we couldn't untie it was too (inaudible 14:49:51) it was imbedded into that leg, so I think we had to use a pocket knife cut higher to release it to allow us to then slowly unwrap it once she was removed from that kennel.

20 1450

Q. If you go over the page onto page 81 what are looking at there?

A. So this is the leg at the same property after we removed the tethering you can see the intend and I'm not sure if it's obvious but where I pushed a finger into the flesh it did not resolve to rebound again, so that's what we
25 call pitting oedema which indicates the significant amount of time where the (inaudible 14:50:34) was included and so we had fluid filling up distal or to below the level of that stricture, and the entire toe you can't see the definition of her toes because the entire foot is swollen. I believe it was warm to touch and certainly uncomfortable for the dog, yes.

30 Q. On the next page at page 82 and for that matter page 83 can you see images of Ritzer after leash has been released from her leg?

A. Yes.

Q. And what can you tell us about those photos anything of significance in your mind in those?

A. Yes, she was completely unable to weight there. There was also I think some general stiffness to all of her other limbs for being able to move around but she couldn't put that foot down at all.

5 Q. Are you able to speak to how long you consider that rope had been around her leg, or is that not something within your field?

A. I did do some research at the time I believe and came up with a duration of in excess of four hours, four to five hours and even at the time I knew that it had taken hours for that to develop and I understand as the injury progressed it indicated to us the true duration of that being tied up, but
10 that wasn't just a few minutes that was a long period of time that that dog had been trapped.

Q. Speaking to the injury progressing as you put it can I ask you to refer now aside from the photo booklet refer to your clinical notes in relation to Ritzer.

15 **WITNESS REFERRED TO CLINICAL NOTES**

A. Yes, let me just find her.

Q. In the second tranche about one-third of the way through.

A. Here we go yes, I have her notes.

Q. So take your time to find the right place if you need to because there's
20 quite a bit in relation to Ritzer.

A. Yes.

Q. And then tell us what happened subsequent to her being found there and examined on site, what happened to her over the next few days and weeks?

25 A. Okay, so with that injury, we knew it was swollen and she was started on pain relief and antibiotics immediately, we didn't know exactly what would happen because when you've had a limb deprived of blood supply and damage for a period of time you often don't know the damage until days have past. And what happened with Ritzer as time passed is the initial
30 indent actually turned into a large lesion of dead skin which we continued to treat both topically by cleaning away the dead flesh and continuing her on significant pain relief and antibiotics. But over time it appeared that that damage had been deeper that we could treat superficially and given the location of that injury it was expressly over an incredibly important

tendon that would actually allow her to weight there and the death of those tissues ruptured through the tendon and throughout this process obviously it was a painful condition for her to manage, we had to I believe sedate her eventually to be doing the wound dressings and repairs. The damage was done during the restriction of blood flow, and there was very little we could do after that once the tissue had died, and so the decision was made due to the severity of her injuries and the poor prognosis of options such as amputation or surgical repair, there was a poor prognosis for that and human euthanasia was elected I believe days to weeks after the initial injury. I'd have to again review those notes to determine exactly how many days that took but it was all progress from that initial injury.

Q. Sorry to get you jumping around between the photo booklet and the clinical notes.

A. It's okay.

Q. But if you go back to the photo booklet on pages 84 and 85.'

1455

A. Yes.

Q. We can see some photos there dated 24 October 2017, so that will be what, 11 days after?

A. 11 days after.

Q. Can you and obviously the leg looks very very different to how it did on the day?

A. Yes.

Q. Can you just explain to us how that's happened, why that is?

A. So I do believe that a pathologist could answer in to more detail of this, but what we've got is pressure, lack of blood supply, without that blood supply the tissue, so tissues being the skin, the subcutaneous tissue, the white of the tendons have died off and once tissue is dead it doesn't come back to life again and so that's what you can see there with the crusting, the black at the top and the bottom is all the superficial skin dead and then underneath you've got the slime of further subcutaneous tissues which have died off as well. So that was really unpleasant for us to see and as you can assume, quite an uncomfortable position for the dog to

be in despite being on pain relief and whatever we could to alleviate that suffering.

Q. You talked about the possibility of amputation being investigated but it not being viable, can you expand upon that?

5 1456

A. For a dog of her size high limb amputation is not consider wise by a lot of vets because it puts a large body weight on three other limbs, we had to add that into an awareness of her hind limb confirmation and some concerns over the ability for the left hip, the other hip to maintain without that and so it was considered not a viable option for her because her quality of life would not be appropriate.

10

Q. And do you recall discussing that prognosis and decision with any other vet?

A. Yes, I do believe with both the vets and other members of their team and the village, it's certainly not a decision I would make on my own when it comes to those sorts of prognoses so there were other vets that we discussed that with.

15

CROSS-EXAMINATION: MR GARDINER

Q. Dr Beer my name is Dan Gardiner and I'm appearing for Ms Wallace.

20

A. Okay.

Q. Just going back with I'll start with Ritzer.

A. Yes.

Q. I'll just take you to page 55.

A. 55, yes.

25

Q. Yes, the dog at the top do you recognise that as Ritzer this is a photograph taken on the 12 October 2017?

A. Bear with me I'm just looking.

Q. Yes.

A. 55.

30

Q. Page 55.

A. I do not.

Q. You don't?

A. It's too far away I'm afraid I couldn't positively or negatively identify that dog I'm afraid.

Q. My instructions are that that is Ritzer and the day later, of course, it's found – if we just go to photographs 50, we'll focus on photograph 80 following.

A. Yes.

Q. Now were you there when the SPCA and Animal Control burst into the hay barn?

A. On the 13th of October.

Q. Yes.

A. When Ritzer was found?

Q. That's right.

A. Yes, I was there.

Q. So we have a situation where an animal control officer this is from the evidence of a previous prosecution witness used – effectively broke into the barn.

MR RADICH ADDRESSES THE COURT – NOT WHAT WITNESS SAID
(14:59:37)

THE COURT ADDRESSES MR GARDINER – PUT QUESTION
ACCURATELY (14:59:40)
1500

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Well, I'll just put it more generally and less, perhaps, pejoratively. We had a situation where there was a problem getting into the barn. The animal control officer used an implement to open the lock to the door. There was some noise involved and then he and some others entered the barn. Do you accept that?

A. I can't comment. I recall aspects specifically to the dog and I'm afraid I couldn't positively confirm that that's what happened.

Q. Were you standing there at the time?

A. I don't recall.

Q. Right, so we have a situation where there was a bit of noise, entry into the barn, people who weren't – the dog wasn't familiar with.

A. Yes, that would make sense.

5 Q. Now, we have the – Ms Wallace contends that this dog was a dog of very good temperament and we have a situation where it was responding to strangers coming into the barn and that this dog, which was a perfectly okay dog the day before, and I've taken you to the photograph of that dog the day before, or as identified by her, that dog got that tether tangled up in its – one of its legs, for want of a better term, with the dire consequence
10 which is covered at page 81 and to a lesser degree – oh, and in different ways in the subsequent pages. Now, just going to the injury that the dog –

THE COURT ADDRESSES MR GARDINER – A LONG PROPOSITION
(15:02:04)

15 **CROSS-EXAMINATION CONTINUES: MR GARDINER**

Q. Now just going to page 82, we've got a situation where –

THE COURT ADDRESSES MR GARDINER – FOCUS OF QUESTION
(15:02:21)

CROSS-EXAMINATION CONTINUES: MR GARDINER

20 Q. So we have a – we'll just go back to the dog that's tangled at page 80.

A. Yes.

Q. Ms Wallace contends that the way in which the SPCA and animal control entered that barn, the large number of people involved, was highly unsettling for the dog and that as a result of it, that unusual situation, it
25 got tangled in that lead. What do you say to that?

A. To comment, I would not believe that at all. It's not possible that that injury occurred within that timeframe. As mentioned prior, that took hours to occur so the entry of people would not have created that injury. I also feel it would be impossible for, in a flurry of arrival, a dog could create that
30 level of torsion. In my opinion, that dog spent time turning restlessly and

wrapping that round to get tighter and tighter over time, so that is not an injury that could have occurred during the entry into the barn.

Q. Right, yet when one looks at the picture at the bottom of page 80, there's a large faece –

5 A. Yes.

Q. – and it looks quite fresh –

A. Yes.

Q. – which indicates that the dog was sufficiently mobile to move from doing that to the position where it ended up. Do you accept that?

10 A. It is possible.

Q. Yes.

A. But that “fresh” could still be hours old and if you notice the way she's lying, it is possible to defecate in a lying position and kick that faeces away from you, so we have no way of knowing how that happened, but it also indicates, if she had the ability to get up and move, she probably would not have defecated in that location. I would have thought she would have moved further away, based on that photo.

15

Q. But she was tethered to the cage, wasn't she? So her movements –

A. Yes.

20 Q. – her movement was constrained.

A. Yes.

Q. And just looking at behind her, there's what appears to be a container. Is that a water container?

1505

25 A. I don't know. Some steel utensil of some kind, but it appears to be upside down.

Q. Right. Now just going, I'd like to take you to photograph – page 81.

A. Yes.

Q. Now you mentioned that you put your finger into the area where the rope had – well, correction, the lead had entangled the dog.

30

A. Actually, no. To assess the pitting edema you press below, so here's the injury and you press below to see if there's any build-up of fluid, and there was.

- Q. So that's you, that photograph at the top, that's your – you exploring the wound, well, correction –
- A. That finger is pointing out the indentation that was caused by the rope. That's not the time that I was pointing out pitting edema.
- 5 Q. Right. Now just going to the bottom of the page, what is that showing?
- A. It's a further picture of the entire swelling.
- Q. Right.
- A. So you can see, instead of clear digits it's quite puffy. It's probably less obvious on a photo to an untrained eye, but it certainly looks very puffy to
- 10 me and I would assume any other vet looking at that. You can clearly see it and if you were there in person you would be able to feel and see it.
- Q. Now just going over to the next page, page 82.
- A. Yes.
- Q. We've got an officer, or maybe someone –
- 15 A. Yes.
- Q. – seeking to assist the dog and walk the dog out.
- A. Yes.
- Q. The person appears to be using a similar lead to the one that secured the dog in the cage, correct?
- 20 A. I'm not sure, sorry.
- Q. Right. You weren't there when the dog was taken out of the hay barn?
- A. I believe I was. I walked with her. I was with her observing her ability to walk as she left the cage.
- Q. Right and she was careful, the dog was careful in how she walked and
- 25 where she put the weight?
- A. Yes. I don't believe she could put the weight, no weight at all on that injured leg.
- Q. Right and she walked with the officer from the hay barn to the wool shed where the cars, vehicles were parked?
- 30 A. That sounds right.
- Q. Right and that would have been a distance of around about 400 metres?
- A. Possibly, if that.
- Q. So despite the injury that she had –
- A. Yes.

Q. – no one thought to pick her up and carry her there.

A. I don't recall. In many respects I think her restriction, she needed the ability to stretch those other legs before going into another crate, but the exact reasons as to why I'm not sure. There's also the concern that lifting a dog that is painful and unknown to us could have provoked more fear and aggression from her, so we choose the pathway that would be appropriate for the dog, and a short period of time on three legs did seem acceptable. I would have objected if I had further concerns at the time.

Q. Right, but this particular dog hadn't shown any particular aggression as such to anyone?

A. No, she was lovely.

Q. So in other words – and your subsequent experience with her back at the village, as you called it, underlying the fact that she had a – it was a dog with a very good temperament. Would that be a fair comment?

A. I would be inclined to agree. It was shadowed by the fact that she was in pain and obviously we were doing procedures that continued to be to a certain degree painful for her, but I recall her as being a lovely dog.

Q. Now just there's been an issue, one of the issues in this proceeding relates to access to water. Now when one looks at the various clinical notes, and I'll just ask, my learned friend has asked you to comment on a number of things from a general point of view, all these dogs when they've been looked at by a vet have been hydrated. They haven't been dehydrated. Do you accept that?

A. What we would find when you're detecting dehydration, they must be more than 5% dehydrated to detect that on clinical exam, and so given that we provided them with water prior to doing further blood tests or any requested urinalysis, subclinical dehydration would not have necessarily been detected in a clinical exam. So, yes, I agree they were not clinically dehydrated, but that does not prove that they were adequately hydrated.

1510

Q. But it doesn't disprove it either, does it? It could be interpreted either way. You're either hydrated or you might have been at a pre-dispositioned or you'd be pre-dispositioned, 5% pre-dispositioned to dehydration but you weren't dehydrated?

A. I think that's a confusing statement. I would say we had no evidence to back up a claim either way and so it's difficult to determine.

Q. Now there's been some discussion in these proceedings about, well various charges include relate to the claim which dogs were tethered and
5 on short leads you know for example to the picket fence around the house or to the gate or entrance to the cattle yard.

A. Yes.

Q. I'll just give you some examples and there was some discussion in response to my learned friend on the use of a choke chain. Now a choke
10 chain is known variously as choke chain, slip chain, check chain, they're all terms that are used for the same thing?

A. Yes.

Q. And a chain whether it, whatever description is used of that nature is not illegal, correct?

15 A. No.

Q. No.

A. As far as I know that is true.

Q. So there's nothing to prevent someone and you could – someone using such a chain although they might be in your view the risk that you referred
20 to in your evidence about damaging a larynx or whatever?

A. Yes.

Q. But the – just as a choke chain, check chain, slip chain can tighten, it can also ease when the dog reaches the limits allowed by the chain and the lead, correct?

25 A. Sometimes, not always. There is a risk if it's inappropriately applied or the angle of the leash that's attached to, it can lock not permanently for – but for a period of time to cause distress.

Q. Now the defence, the defendant Ms Wallace would argue that there was – these dogs were tethered, it's consistent with the minimum code, dog
30 code, minimum procedure provided in the dog code, you have alluded to the fact that they were tethered because of the worn areas?

A. That's what it looked like and picked as when I was there, yes.

Q. But an alternative – she would argue in response to that, that the dogs were rotated through different positions. That they might have gone to

the same place beside a picket fence for example, but they weren't necessarily, they weren't the same dogs that were going and tethered there. That she tethered other dogs and a lot of them were younger dogs. What do you say to that?

5 A. Well yes that's possible I couldn't deny that that was the case, although I'd be cautious if you say I rotated them around tethering, it's still tethering in a different place from the sounds of it, yeah but I can't say it didn't happen.

Q. Yeah. And in terms of water implement, water containers?

10 A. Yes.

Q. They come in different shapes and sizes?

A. They do?

Q. Different weights, is it quite common for dogs to knock over their water containers?

15 A. It's very common.

Q. Yeah and it's even more common if they're puppies?

A. Yes.

Q. And there are ways around that but the mere fact that a container is knocked over, water container, and it doesn't have water at a particular time when a check is made doesn't mean that the dog doesn't have access to water because the owner or the person in charge of them is nearby?

20

A. I would challenge that if they were kept regularly enough the water should be refilled and in the areas that I saw these dogs, if water had been spilled over I would expect to see evidence of that on the ground and I don't recall seeing that.

25

Q. Right, but of course water can be absorbed into soil, into grass and so on?

A. Yes.

30 Q. And one wouldn't pick that up?

A. The duration that it would take for that absorption I would say would be in excess of the time when you should've been checking on the dog tethered in such situations.

1515

Q. But again it depends very much on weather conditions, the surface that it's –

A. It does.

Q. – the surface that it's spilt on and so on?

5 A. It does.

Q. Yes. Now occupational, just trying to remember what, enhancing –

A. Enrichment.

Q. Enrichment that's the word.

A. Yes.

10 Q. Thank you. Now that's a term which could mean, you know, it's a subjective term because that could be construed, you know, in a particular, a different way by different people for example –

A. Yes, it's defined it is actually defined as a way to facilitate your animal's environment to allow them to perform natural behaviour to enhance their environment. So there isn't a specific answer to it there are many, many ways of doing it in fact I love that as part of my job and what can be emphasised is there was no evidence of it on this property.

15 Q. Well Ms Wallace would disagree with that, she would say these dogs are German Shepherds, they have been used to shepherd stock, they come within a working – you accept that?

A. Mmm, working breed, yes.

Q. They're a working breed they're a particular category of dog?

A. Yes.

Q. They may be dogs which have bred in a particular way to show, you know, the breed but the reality is that they are still German Shepherd dogs by nature?

25 A. Yes, yes.

Q. And she would say, I suggest this to you that they're in a rural setting, they've got a farm within which they can exercise, fresh air, peace, quietness, aren't these all desirable qualities which enhance, enrich the –

30 A. I don't believe so, in respect to those attributes being in that environment a lot of the dogs that I saw were actually closed off from that they were unable to see the fresh air, they were unable to see or smell the stock,

and things such as peace was completely invaded by the vocalisation from the dogs, so there was a noise pollution as such, dogs being far more sensitive than us. That is a negative environment for them to be in, and then their smell, so yes you've got the smell of stock I actually use that as enrichment for some dogs, yes some horse poo isn't that exciting, but when you're trapped in a room that smells of your own urine and faeces and lots of other dogs are barking you do not have access to that supposed enrichment. So I would deny that that is sufficient for the dogs on that property.

10 Q. But you could have a situation where we might as human beings react in a particular way to the smell of faeces, the smell of urine and so on?

A. Yes.

Q. But that doesn't necessarily mean a dog does react in the same way does it?

15 A. I believe they do and that naturally dogs will prefer to move away from the area that elimination has occurred in. It's in fact how we train our puppies to be toilet trained in any respects, moving away from a location or a smell or a scent would indicate aversion towards that. So I think we have enough evidence to say that dogs do not like that. We also have
20 enough evidence that their ability to smell far outweighs us so what we consider noxious is probably 50 to 100 times worse for a dog, and yes they may appreciate it in small doses, they like to go and sniff where another dog peed, but to be embellished by that not an enjoyable experience.

25 Q. But a dog uses urine for example to mark out its territory doesn't it?

A. In some respects yes they do.

Q. Yes, so urinating and so on is a natural state, well it's a natural state anyway but it serves the purposes?

A. Yes, in the location outside of the home or core territory, so when you're
30 doing in the home it's not normal and that would require behavioural input.

Q. Now you mentioned, you asked the question of the – in this area you expressed a view on socialisation?

A. Yes.

Q. With other dogs and so on.

A. Yes.

Q. And being in the home?

A. Yes.

5 Q. Now the defendant Ms Wallace would say that look, they kept dogs would stay in the home and particularly when a dog was giving birth it would have its puppies and the puppies would be for the first, for a period of time, I'm not holding, I can't remember the exact period, we'll just say four weeks for argument's sake.

1520

10 A. Okay.

Q. The puppies might be left, might be supervised and monitored and cared for in a very (inaudible 15:20:29) by Ms Wallace, for example.

A. Okay.

15 Q. So wouldn't that be a way of creating a bond between the carer and the puppies?

A. Yes, that is without a doubt something that should be provided for, to puppies and bitches and it should be continued beyond that age as well, because there are so many essential experiences that dogs need to be exposed to between the age of two weeks and 16 weeks. So, yes, the first four weeks that would have helped significantly. If they're then put outside and no longer exposed to that, that would not be appropriate.

20

Q. No, no it's – she would say that there's a graduated approach that is used.

A. Okay.

25 Q. And she's more qualified to speak on that than I am, but I'm just dealing with the concept here.

A. Yes.

Q. So the other situation, if we had a situation where dogs were not only tethered around the house, but also running free around the house – I mean, the area outside the house to be precise.

30 A. Yes.

Q. That would involve socialisation between dogs.

A. Yes, it would.

Q. And it could be dogs of different generations?

A. Yes.

Q. Older dogs, the puppies at various stages of their development up to one year.

A. Yes.

5 Q. So this enrichment would then occur in that sort of environment, wouldn't it?

A. Yes, I would agree with that. If that's what is occurring, that was one component to what the dogs would have needed. Yes.

Q. Now in all the dogs that you treated, would you say that they all invariably had good temperaments?

10 A. Not all. No, I would not say that. There were more than one, I believe the males in particular, that showed reactive behaviour in excess of what would be deemed appropriate in society. A lot of barrier guarding frustration, multiple dogs did require muzzles at time for veterinary examinations, which would indicate a lack of habituation to that sort of
15 contact, that sort of experience, and I also recall there were some dogs with some compulsive type behaviours as well, which I did see in shepherds, and this involved some dogs that would be obsessed with water, for example, and so that would be considered abnormal psychological behaviour in a dog.

20 Q. Right. Would it be merely that they're not used to that?

A. No, not merely that. Not for the duration that they displayed these behaviours and in multiple locations, both in the village and in foster homes.

Q. Right, so we have a situation where they're not attuned to be – they're
25 attuned to each other's company and being cared for on the farm –

A. Sorry, you just froze for a moment. Do you mind repeating, please?

Q. They're attuned to interacting with one another and also the environment, the kennel environment slash farm environment and they're perfectly okay with that. Do you agree with that?

30 A. I wouldn't say they were perfectly okay, because I'd identified that they, there were signs of distress when they were at the farm and then we saw ongoing issues with that. In particular, the young adolescent puppies that didn't seem to have any idea of how to behave in public, and it took them time to learn to trust and to learn to interact appropriately with handlers.

Q. Right.

A. So there were abnormalities detected that – some resolved with time, others took longer.

5 Q. Right now there has been, there has been some issue with the weights of some of these dogs. It's contended that they were underweight.

A. Yes.

10 Q. The defendant would say that that's not true. What we have is a situation where they're being assessed on the Purina scale, which, one to nine, and that's been explained to us by one of your colleagues earlier, but we're talking about a scale here which is the German breed scale or the Kennel Club scale that they have for in relation to dogs which show, which are used for shows.

1525

A. Okay.

15 Q. And that involves various things that are taken into account but the ideal weight is somewhat slightly less than the ordinary Shepherd. Now you mentioned that these dogs by your assessment were a bit light?

A. Yes.

20 Q. But the argument in response to that is that these dogs were in a perfect – are perfectly okay having regard to the standard that is set down for the German Shepherd breed. What do you say to that?

25 A. Well I would argue that unfortunately breed standards are not the ideal health of many of our pets. Shepherds are one particular breed where that has been raised and I would not, I'm not familiar with the breed standard of body condition scores but I would rather apply veterinary bodily scores because that's the health of the animal. That is irrelevant of a breed standard in the (inaudible 15:26:06).

Q. So we have a situation with one of the dogs I think it might have been Dolly from memory?

30 A. Yes.

Q. And she was said to be light and then within a short period of time, I maybe using the wrong example but one of the dogs –

A. Okay.

Q. – she too were treated and within a short period of time it put on say two and a half kilos or three kilos and it was then for its frame, for its frame and its height –

A. Yes.

5 Q. – it was then obese. What would you say to that sort of situation?

A. Without knowing the specifics of the case I couldn't comment but I find that difficult to believe, yeah. I don't recall any of the dogs being graded as obese, no.

10 Q. Right. Obese being one of the ratings on the Purina scale. I think it might be one of the higher ratings?

A. About six, yeah.

Q. Six.

THE COURT ADDRESSES MR GARDINER – FIND REFERENCE THAN BEING HYPOTHETICAL (15:27:09)

15 CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Do you – would you – would it be helpful if I actually get the example or –

A. If you feel you would like to I'm...

Q. I think we've covered the point sufficiently.

A. Apologies, I'm just plugging my laptop and the battery is slowing.

20 Q. Certainly.

A. I'm ready.

Q. Now we had – two of the dogs that were seized went onto have puppies. They were Desney?

A. Yes.

25 Q. For example we'll deal with her first. She conceived nine puppies. Now if a dog has a large litter, would that be indicative of a healthy dog?

A. No, not necessarily.

30 Q. Why do you say not – well let's put it this way. An unhealthy dog is unlikely to – well bitch is unlikely to have a large litter you know nine pups, would you accept that?

A. No, not necessarily. They may have health concerns and they maybe less likely to carry a large litter but as mentioned in my original credentials

I worked in many rescues abroad and I've seen many very unhealthy deprived compromised street dogs that will still have large litters. So there's no guarantee that that's (inaudible 15:29:29). I would also say that those dogs' physical concerns that we had were not ones that would be directly related to successful pregnancy, you can still have poor confirmation, poor body score, poor skin, poor ears and still a perfectly productive uterus.

1530

Q. Now you were taken by my learned friend to the wool?

10 A. Yes, the woolshed.

Q. The woolshed. Now the defendant would say that the design of that woolshed is no different from many woolsheds around New Zealand?

A. Yes.

Q. That it's, it might be a bit old, but it's no different?

15 A. Yes. I've been in many a woolsheds.

Q. Now we have a situation where that woolshed's had slatted, some slatted wood flooring which enabled sheep, for example, if they were in the shed to urinate and go to the toilet, the other way?

A. Yes.

20 Q. And the droppings and the urine would go down through the slats?

A. Yes.

Q. We also have had, she would give evidence to the effect that there are other animals that went through, such as goats?

A. Yes.

25 Q. And that you accept that?

A. Yes, highly possible.

Q. So in other words, woolsheds are multi-purposed buildings?

A. Yes, with flooring design for clothing hoof animals.

30 Q. And the German Shepherd has quite a big paw doesn't it even as a puppy?

A. They can do, yes.

Q. And there's no evidence here that any of the puppies that were in the woolshed had a damaged feet or damaged nails?

A. No and I was surprised at that, yes.

Q. Or had damaged nails as a result?

A. That's right.

Q. In fact they seem to adjust, seemed to have adjusted very well to that environment, would you accept that?

5 A. I wouldn't agree with that statement, but I would say yes, there were no injuries to their digits or feet, but that doesn't deny the risk that there would be an injury.

Q. But it's a very remote risk?

10 A. I wouldn't know how to calculate it, I would just say that there is a risk because I've seen the injuries from those particular floors, not directly a woolshed, but anything with those slats and dogs running around, so I think they were lucky not to injure themselves.

Q. And these dogs seemed quite happy and curious, there are a number of photographs here of puppies getting up and looking out?

15 A. I believe I described that as "over aroused" puppies, so in actual fact not normal. A lot of people and I respected a lot of the public don't recognise normal body language, but that excessive exuberance and excessive type behaviour where they were so desperate for contact and affection was actually an indication of underlying stress and I wouldn't – and I
20 remember being Emma, in particular, was just all over me and trying to rip my claws down and some might consider that typical puppy behaviour, but I concluded that to be another contributing factor that they were under a level of stress.

25 Q. But also could be a reflection of the German Shepherds' intelligence. In other words, you accepted it's a –

A. Not necessarily.

Q. Not necessarily?

A. No and the behaviour that they were expressing that was not an expression of intelligence, it was an expression of frustration?

30 Q. Right, but it could also fondly of playing around adjectives?

A. Yes.

Q. It could be an expression of their curiosity which -

A. If we wanted a positive it would be an expression of their high drive which is a true characteristic of German Shepherds, but that would emphasise

the fact that they had no appropriate outlet for that drive intelligence and exuberance which if they did, they would have been less enthusiastic at our arrival.

5 Q. Right. Now just looking at the top of page 75, you mentioned in response to my learned friend that there was, they may well have, the dogs kept in the shed may well have gnawed through boredom at timber?

A. Yes, that was a possibility, a hypothesis.

Q. So but it's equally a hypothesis that could apply to goats that were in the shed?

10 A. Yes.

Q. In particular, goats and possibly sheep?

A. Yes. I would claim though if they were there for a duration long enough to do that much damage that that would've been inappropriate housing for those animals as well.

15 Q. Now just look at - you commented in response to my learned friend on dogs with ear infections?

A. Yes.

20 Q. And in fact you dealt with one situation where you said you didn't think the dog had been treated or if it had been treated that it had been treated inappropriately?

A. Yes.

Q. But you could have a situation where just where a person treats a dog and even a doctor, for example, and they get it wrong?

A. Yes.

25 Q. Right, so if an attempt has been made to deal with an ear infection –

A. Yes.

Q. – rather than just leave it, that doesn't necessarily, that doesn't indicate necessarily that a person has failed to take appropriate care, they've tried something, they believe –

30 A. And that's specific example I would say there was a clear problem that wasn't resolved and the problem itself should've been under the care of a veterinarian and when under the care of a veterinarian, if the inappropriate medication was used, for example, then that clinical

treatment would've been assessed and altered and therefore, improves radically.

Q. But sometimes you can have a situation where a person treats a dog in that situation and there's a process where they reach a stage where they say, "well, this is inappropriate, off to the vet"?

5

A. Well, I would say that that problem should've been treated by a veterinary from the beginning, that level of infection and injury that we saw in those ears is not to be treated by a layperson, it's a clear indication that veterinary treatment is required.

10 Q. Right.

A. Thank you.

THE COURT ADDRESSES MR GARDINER – TAKE ADJOURNMENT
(15:36:44)

COURT ADJOURNS: 3.36 PM

15

COURT RESUMES: 3.51 PM**CROSS-EXAMINATION CONTINUES: MR GARDINER**

- Q. Dr Beer, I just want to resume going to each dog and some of the medical conditions that they had or didn't have when they came to the SPCA and other medical conditions that surfaced after they were with the SPCA.
- 5 A. Okay.
- Q. So I'll just go through these.
- A. Do you wish me to find the same clinical records?
- Q. That would be helpful.
- 10 A. Okay.
- Q. We'll deal with, first off, Monty.
- A. Yes, let me see if I can find Monty. Sorry, I'm still just trying to find –
- Q. No, no, that's okay.
- A. Feel free to start, 'cos I do recall Monty.
- 15 Q. Right, he was a puppy.
- A. Yes, very handsome boy. Found him.
- Q. Good.
- A. Yes, how can I help?
- Q. Now, he was checked – they were uplifted, these dogs were uplifted on the 13th of October 2017.
- 20 A. Yes.
- Q. The first medical check recorded in relation to Monty was by yourself –
- A. Yes.
- Q. – on the 16th of October.
- 25 A. Yes.
- Q. He's described as being eight months old, so he's still a puppy.
- A. Yes, yes.
- Q. And there's a description, he weighs 22.2 kilograms.
- A. Yes.
- 30 Q. Body score, three – this is using the Purina scale, three over nine.
- A. Yes.
- Q. And temperament, friendly.
- A. Yes.

Q. He's not in any discomfort. His pain, based on the Colorado pain scale, is zero out of four.

A. Yes.

5 Q. But there is reference to behavioural distress and symptoms. It's just a general note and a note: "Improved since being at the SPCA." What do you mean by that?

1555

10 A. A lot of the puppies were obviously distressed with both the excitement of the visit and that over time, they were all calmer, more attentive to handlers. I think that's an indication that they were comfortable in the SPCA that when you work shelter some animals actually deteriorate in a shelter environment. In this case, we were seeing improvements in the behaviour of these dogs. I believe that's what I meant with that comment.

15 Q. Right. Now if one looks at the entry to the 17th of October, one of your colleagues Katie Wright describes this coat as being in good condition, no grooming needed?

A. Yes.

Q. and then there's a reference, you have a look at the dog again on the 17th of October?

20 A. Yes.

Q. And there's a – you identify this is two weeks, 10 days after he was marched in or admitted to the centre, he's got an alopecia?

A. Yes, I recall his foster parent alerting me to it and I said "We would have a look at it".

25 Q. Right. But there's no evidence that he was admitted to the SPCA with that problem is there?

A. No, it wasn't noted at the time.

Q. Now there is mention of inspector Mr Plowright giving permission for the animal to go under an anaesthetic –

30 A. Yes.

Q. – for a hip displacer test an ear examination et cetera and you have an entry "Deemed necessary to mitigate possible suffering while the animal that was in our care"?

A. Yes.

Q. That seems, on the face of it, a bit of a there seems to be an non-secret of between the, what comes at the start of the statement and what you conclude with, ie to prevent animal suffering. So could you explain what you meant by that entry?

5 A. I did not make that entry. I can comment on my interpretation of it though if you would like?

Q. Well, you're down as the treating doctor?

A. The note was made by another team member at the SPCA though and it's considered a "general note" which is purely that permission was given for further examination to be undertaken and treatment if deemed necessary. So there was no indication that treatment was required, it was merely a note telling the vets that we had permission to perform further examination on this animal.

10 Q. Now just going back, thank you, just going back to the entry to the 16th of October, there's mention of the weight of the dog being 22.2 kilograms?

A. Yes.

Q. And then we go down to the 27th of October which is roughly 11 days later and it's jumped to 24.1 kilograms?

A. I see, yes.

20 Q. That would on the face of it, that would appear to be quite a high increase?

A. It could, it's within the realm of "acceptable" for a dog that had eaten well and perhaps the weight taken initially was up defaecation before food and being slightly dehydrated as you raised earlier in the discussion, he could've been somewhat dehydrated and then by hydration having a full meal not defaecating could quite easily have increased that over a 10 day time period, so it is a jump but it's certainly acceptable.

25 Q. And there's reference to a lead foster parent, this is at the entry – it doesn't involve you, it's on the 22nd of January Dr Dreyer. It talks about the dog limping on a left hind leg and then coming back to leave SPCA for treatment.

30

OBJECTION: MR RADICH – QUESTION (15:59:07)

MR GARDINER ADDRESSES THE COURT – TREATMENT (15:59:20)**CROSS-EXAMINATION CONTINUES: MR GARDINER**

- Q. I'm just asking about, is this, when you talked about the – a dog being fostered and then coming back, is this the situation that you're referring to?
- 5 A. No, sorry, I'm not sure what you mean.
- Q. Right. So basically, the dog is limping.
- A. Obviously, by that time period I don't believe I was working with the dogs, I had left the SPCA.
- 10 Q. Right, fair enough. We'll just go to, I'll just go to the second dog.
- A. Okay.
- Q. This one is called Mafia.
- A. Oh, yes.
- 1600
- 15 Q. Yes, my learned friend – you commented on this to be this dog to my learned friend.
- A. Yes, I have his notes in front of me.
- Q. My client has referred to the fact that this dog was in one of the kennels the old kennel which is the old set-up which was near the house.
- 20 A. Yes, yes.
- Q. And the point that she would make, she contends that the concrete was old it was permanently stained through the decades but it was re-concreted and there had been some wear and tear, and that might well have infected what you identified which was a strong smell of – I believe
- 25 you have referred to a strong smell of urine and faeces?
- A. Yes, yes from that environment yes.
- Q. Yes, you did note that it had been cleaned?
- A. Yes, I recall.
- Q. Yes, but there was still a lingering smell?
- 30 A. Yeah my opinion was I believe there were wooden kennels at the back of the runs which would be where that came from and would fit with the coat concerns that we had with those dogs and those runs with matting and such like, yes.

Q. Now this dog Mafia was not marched directly into the SPCA at Mangere it was sent out to Animal Control, Pukekohe do you accept that?

A. Yes.

5 Q. And then it was treated was subjected – you were involved with a medical examination on 27 October which is two weeks after the dogs were seized?

A. Yes, yes.

Q. Now the dog is described in the assessment as underweight, skin and coat dirty, ear infection?

10 A. Yes.

Q. Now the inference from this is that no medical treatment had been given to the dog for anything at Pukekohe, would you accept that?

A. I couldn't comment I'm sorry.

15 Q. His coat was described, this is by someone else it was matted, bad condition and this was late as 30th of October?

A. Yes.

Q. You weren't involved with that?

A. I can see the knots, yeah.

20 Q. Yes, and you did, you were involved again on 14 November when the dog was shaking his head and appeared sore?

A. Yes.

Q. Now this is on 14 November –

A. Yes.

Q. – which is a month after he was seized from the kennels?

25 A. Yeah, are you concerned about the ear treatment required?

Q. No, but my client is concerned that the condition of the dog should have been assessed as at the time or thereabouts that it was picked up from the kennels.

30 A. The one memory I do have from that day is that Mafia was not co-operative for any form of physical examine. I don't recall the reasons as for why he was sent to the pound other than no obvious external issues on distance examine. So a dog that is aggressive we wouldn't necessarily touch, and so that's the only answer I would have for that. I understand

we were limited in space and we had clear priorities and some of the other dogs that we had elevated medical concerns were.

Q. Yes, were you aware of what was taken into account in sending a dog off to Pukekohe as opposed to bringing a dog directly on the 13th to SPCA Mangere?

A. I believe I recall the animals that I had assessed as having medical concerns were all priorities to go to the village and receive veterinary care.

Q. Right.

A. The reasons for Mafia's uplift and then why he went to the pound you would have to query somebody else.

1605

Q. Yes, now just going to ear infections generally.

A. Yes.

Q. When you did the inspection with fellow colleagues from the SPCA on the 13th of October did you use a otoscope you know to check their –

A. No, I did not.

Q. Was there any particular reason for that?

A. That it was deemed not necessary, we knew they would have full examines on return to the village, external ear disease was evident in all of the dogs that I noted it in. Anything that would require an otoscope to diagnose could wait a period of time to be assessed at the clinic.

Q. Yes and a note –

A. The other reason for using an otoscope is if you have clear infection inflammation and paralinks I'll use that word again, you're not able to see anything with an otoscope, so it wasn't deemed a necessary tool. I did have a stethoscope with me though in case it was required during that visit.

Q. And what would you have achieved had you had the otoscope with you, what would you have done more than you did on the 3rd of –

A. I don't believe anything different could've been done.

Q. Yes, what's the principle benefit of using an otoscope?

A. Being able to access lower down the ear canal.

Q. I just want to have at another dog called Zita.

A. Yes, let me look her up.

Q. It's also spelt Cieta excuse my pronunciation C-I-E-T-A.

A. Oh, okay.

Q. Now this dog was found in the cattle yard, the roofed cattle yard.

A. Okay.

5 Q. You may well have expressed the view, correct me if I'm wrong at a particular stage that that cattle yard was not a suitable shelter, it didn't protect the dog fully would you –

A. I'm unsure what you mean by that is this the enclose that looked like the deer yards, fully enclosed no windows?

10 Q. You walk from the utility, past the house past the utility shed past what's described as the garden shed or puppy shed then you walk the next building on your right, one's right as one walks along the path is the cattle yard.

A. Okay, I think I do recall that now there were three tethered dogs there.

15 Q. Yes.

A. Yes.

Q. That's correct. Now would you be of the view that that particular structure provided suitable shelter to those animals who were within it from weather elements?

20 A. I'm not sure I can be convinced to make a statement according to that, yes there was over shelter and side shelter. If I recall the younger dog was at the end of that so that would not have been appropriate shelter, yes potentially the dogs internally would have been exposed, would have been sheltered from some of the elements but certainly not wind or diagonal rain for example, but it was multifaceted environment.

25 Q. Yes, and it was quite a big structure to wasn't it?

A. It was yes. I believe the concerns there were particular with the tethering rather than the actual shelter itself.

Q. Actually this dog I think is the one that I had in mind when I referred to putting on weight.

30

A. Ah, okay.

Q. Yes. You did a medical check on 27th of October, the implication is that this dog was kept at Pukekohe and brought to Mangere SPCA?

A. Yes.

Q. Later.

A. Yes.

Q. Would that be true?

A. That makes sense yes.

5 Q. There are some comments with the weight when it was admitted, came to the SPCA was 47.4 kilograms?

A. 27.4 kilograms.

1610

10 Q. Correction, 27.4. The age is described as three years, but the dog was actually six years of age.

A. Okay.

Q. So would you have made a, just a visual assessment of the dog in determining its age, or is there some other way?

15 A. No, I'm unsure how we entered those dogs in with their age. I believe we had some records given to us to name the dogs and tell us their age, but by the time they're an adult between sort of three and six years of age it's difficult to confirm an age on examination. I don't recall committing to a particular age, so I suspect that age was entered based on information we were given.

20 Q. Now its – among other things its coat is described as, “bad condition, heavily matted on its limbs and underside, dog smell”.

A. That's the bathing note, yes.

25 Q. Yes, that's right. That's from Katie Wright on the 30th of October. Now later on there is reference to, if you'll just go to the weight, it's 27.4 at the start but on the 29th, that's on the 23rd of October, but when we reach 29 December –

A. Yes.

Q. – the weight has jumped to 32 kilograms.

30 A. I've just been scrolling down myself and you can see that she had a body condition score of two out of nine at 27.4 kilograms in October. We get to December. On the 17th of November she has a weight of 29 kilograms, which is a good body condition score that incrementally increased to three and then that gradual progression through to a 32.2 and a body condition score of four out of nine, which makes reasonable sense to me.

Q. Right.

A. I think if this is the one you were referring to with the body condition score, we have a difference of 4.9 by myself and then a different vet has chosen to use a different score of 6.9 or potentially that was mis-entered and should have been closer to five. I'm unsure, it wasn't my comment for that final body condition score that was entered.

Q. And there's a statement by that different vet that the dog needs to lose weight.

A. There we go, okay. So what you can also find, I'm unsure if this dog was desexed during her time with us – no, it wasn't, but yeah, a change in diet and exercise et cetera those things can happen, that weight differential.

Q. Right we just go quickly to another dog called Elite.

A. Yes.

Q. Now just going to the 17th of – you make an assessment on the 16th of October?

A. Yes.

Q. It wasn't no source of no – on the Colorado Pain Scale it was zero out of four.

A. Mhm.

Q. Now when we go down to – that's the 16th of October. On the 19th of October another vet, there's an entry saying: "Giardia tested negative," so it hasn't got it.

A. Yes.

Q. And then it's – just go down a bit further: "On the 11th of November the dog was found to be listless. It vomited and had diarrhoea," et cetera et cetera and there was a snap test for giardia on the 11th of November and that appears to have been positive.

A. Negative.

Q. Was that negative, was it?

A. That's negative.

1615

Q. So this dog had a good coat, would that be correct?

A. Ah... it –

Q. Just going – I’m sorry, just going to the 17th of October, Katie Wright. She describes the dog as having a coat in good condition, no grooming needed.

A. Yes, but –

5 Q. However, did –

A. – washing was required because of the urine and faeces, yes.

Q. That’s correct. So we go now for another dog, just to have a quick look at the – this is Dani, D-A-N-I.

A. Yes, Dani.

10 Q. Yeah, now –

A. Adult male, yes.

Q. This – it was contended this dog had a matted coat, but the complainant, the defendant would argue, this is Wallace, that it had a very dense, short, wire-haired type of coat and it had just come – been stripped of his winter coat. Would you accept that that’s a reasonable proposition?

15

A. I really couldn’t comment because that could be differentiated on examination but I don’t have a memory of that – the difference between a matted coat and a short, wiry coat should be obvious, but my exact memory of that dog, I’m afraid I couldn’t comment.

20

Q. Right, now she would contend that there was an issue about – I haven’t got the clinical notes immediately to hand for this dog, but there was an issue about its ear infection. It had an ear infection –

A. Yes.

25

Q. – and she would contend that she was treating it with ear drops, Dermotic, and massage, flushing the ears gently with warm soapy water and some related actions. Wouldn’t that have been effective? Was that effective or...?

A. Clearly it wasn’t. I recall, so Dani was the dog from out the back, and his ear was so painful that it couldn’t be examined appropriately, and I would be inclined to say that if treatment was being given it was not only not working, but potentially making it worse for this dog.

30

Q. Right. Now, were you involved, just while I’m on this dog, there was another dog that – Desney gave birth to a whole lot of puppies, nine puppies at the SPCA Māngere.

A. Yes.

Q. There was another dog which gave birth, I think it was Dolly.

A. Debbie, I believe.

5 Q. Pardon? Debbie. Debbie gave birth to a similar number of dogs at the SPCA.

A. Yes.

Q. Was it all plain sailing with the treatment of those puppies?

A. No, I don't believe so.

10 Q. Did they contract various diseases which might be attributed to the environment within which they were at the SPCA?

A. I don't believe so. I would have to look at the exact clinical notes to be able to comment on that.

Q. Righto. Now, I just want to look at Astro.

A. Yes?

15 Q. Clinical notes...

A. Twenty-seventh of October.

Q. Correct. He was, yeah, marched in a couple of weeks later. He had a problem with his ears.

A. Yes.

20 Q. They were – you described this as one of the dogs you said was nervous, needed muzzling for examination.

A. Yes.

Q. And it seems that he was one of the dogs that – now, this dog is described as five years old or four years old, but my instructions are that he was
25 20 months old.

A. Okay, again, as my previous response, I'm unsure of how we entered those ages in, other than previous advice given to us as to which dog was which.

1620

30 Q. Right, now I'll just go to Debbie that's another...

A. Yes.

Q. Now this dog was found in the deadlocked utility shed, room of the utility shed.

A. Okay, I'm unsure exactly which one that was again but...

Q. She was in a travelling crate.

A. Okay, yes.

Q. Now this dog you checked on the 16th of October?

A. Yes.

5 Q. There was a problem with an ear infection?

A. Yes.

Q. You refer to the treatment for that, you assess the pain as chronic?

A. Yes.

Q. That's one out of four?

10 A. Yes.

Q. And some other – and the ear was checked 24th of October, the right ear looked good the left ear continued to need treatment. On 7th of November about three weeks later there was still some inflammation?

A. Yes.

15 Q. Now the defendant would say that this dog was under veterinary care for its medical problem?

A. For the ear infection?

Q. That's right.

A. Do you mean?

20 Q. And so essentially she was addressing it, she was treating it and it was also under veterinary treatment for the ears. So do you accept that that may well have been true given the speed with which the infection healed?

A. I think it's worth debating that it did not heal quickly that it was not until the end of November that we considered the ear infection to be resolved so that was well over a month, and I would also have concerns that yes it may have been under some form of veterinary care but I'm surprised that the skin disease was not dealt with at the same time.

25

Q. Yes.

A. But yes it could be said that it was under veterinary care but it wasn't resolving it appropriately.

30

Q. I've got about five more of these.

A. Okay.

Q. Perhaps slightly more, Paris this is a two year old dog?

A. Okay, okay.

Q. A bitch. This is a dog that was located in the deer shed.

A. Yes.

Q. It's also a dog that came to you it would appear via Pukekohe because the medical check doesn't occur until the 27th of October that's after two weeks. This dog seems to have had some problems with its coat, coat in bad condition et cetera, ear canals both clean and not inflamed or infected but generally appears to have been –

A. There was some indication just to clarify the ear examination does indicate erythematous which indicates some redness and that there was resentment to the otoscope, so although there was no massive concern there as enough indication that we wanted to follow up on that...

1625

Q. Right. But it's important, as you pointed out to my learned – my learned friend asked you some questions about this and that, was the susceptibility of dogs to, German Shepherd dogs, to ear infections. That's true?

A. Yes, there is a connection.

Q. Right now just going to – this is a – relates to a puppy that was found with two other similar aged puppies in the woolshed.

20 A. Yes.

Q. I think I've dealt with this sufficiently in terms of the conditions so I won't persevere with that one.

A. Okay.

Q. We'll just go to another dog called Parelle.

25 A. Parelle, yeah.

Q. It's spelt, two ways of spelling this, P-A-R-E-L-L-I. I'll say that again, P-A-R-E-L-L-E and Pirelli, P-I-R-E-L-L-I. Now this dog came in, it had waxy – it's a four- to five-year-old male. It had some wax in its ears?

A. Yes.

30 Q. But otherwise had some problems with its coat being not clean?

A. Yes.

Q. And like one of the other dogs it was – it went under an anaesthetic for a hip dysplasia test and ear examination, which you've commented in

relation to one, the other dog, so I won't explore this one. It's the same point.

A. Okay.

5 Q. Same point and this dog was fostered out? That was by – on the 12th of January. Do you accept that on the medical record?

A. Based on those records, yes.

Q. But otherwise the dog was in quite good health?

A. Reasonable, yes, I believe.

Q. Reasonable. Now we'll just go to the dog, Dolly.

10 A. Okay, I have it. I just need to blow my nose. Sorry, carry on.

Q. This, you checked this dog on the 16th of October.

A. Yes.

Q. It had a build-up in its ears, but presumably –

A. Yes.

15 Q. – that was not a – you cleaned the ears but that was not an ear infection?

A. "It looks like it was bordering on pruritis," implies that it was irritated and itchy and there was a creamy discharge, so this could have been an early infection, a resolving infection or just an allergic ear issue with waxy build-up.

20 Q. Right.

A. And it looks like we recommended treating that for an infection because of that pruritis.

Q. Right, but generally a layperson wouldn't have noticed any problem with the dog?

25 A. It would depend on the severity of the itch. A lot of people will bring their pets for veterinary care because they've noticed that the dog is itching and irritated with the year and that's where the use of an otoscope would determine whether there was a concern down there or not.

Q. Right.

30 A. But it may have been subtle if you weren't actually handling the dog.

Q. Right and it's fair to say that the condition that this had, this ear problem, because you continued to be involved on and off, that resolved in relation to this dog?

1630

A. I believe so, yes. I think it did – just going through it there myself, it did look like it waxed and waned a little there, make sure I'm in the right, um...

Q. But that wouldn't be – that's not unusual with German Shepherds because they, as you've said to my learned friend, they may –

5 A. Yeah.

Q. – have a susceptibility to it.

A. Yes.

Q. It may be hereditary, there are about four or five reasons which could mean that this particular dog has –

10 A. There are contributing factors, yes.

Q. So you could have a situation where the owner is quite careful in relation to the dog but the problem still arises, notwithstanding the best efforts.

A. I tend to find that with appropriate care and prevention, it can be managed very well without flare-ups and I feel a lot of the dogs, with the continued
15 problems that we dealt with at the SPCA, were due to a lack of ongoing care prior to their arrival in the village.

Q. But you have a situation here where the people who were running this kennel, I'm talking about Ms Wallace in particular, specifically, they had a lot of experience, she had a lot of experience with German Shepherd
20 dogs, with that breed.

A. Apparently so, yes.

Q. Yeah, both in New Zealand and overseas. Now, just looking at the dog Casper...

A. Yes?

25 Q. Now, this was a, you described this dog as six months, so that's accepted. He was about that, roughly about that at the time. \

A. Oh, yes.

Q. Now, just in terms of the coat, there is – Katie Wright, one of your colleagues, describes it as on the 17th of October, coat in good condition,
30 no grooming needed, however did smell of urine and faeces and –

A. Yes.

Q. But there's no indication that this dog had any problems, medical problems at all, is there?

A. There is – referred to as significant carpal hyperextension, which would have been a concern and notable at distance, but otherwise he does appear to be in good health.

5 Q. Right, now we go to Emma, which was one of the puppies in the woolshed.

A. Yes.

10 Q. Again, that – this dog was first assessed by yourself on the 16th of October. It doesn't seem to have – it was rated zero out of four on the Colorado pain scale, so it appears to be in good health. Do you accept that?

15 A. I agree she was in general good health. I think we had commented that although she had some faecal and urine staining, it wasn't as bad as the others, and there was slight concern on her hips, but given her temperament being nervous, which I recall from when we met in the woolshed, that discomfort could well have been due to an emotional disposition rather than pain.

20 Q. But we have a situation here, one problem which the defendant raises, is the way in which the dog's weight increased dramatically from the 6th of November, when it's 18.4 kilograms, to the 16th of January, where it's – well, correction, 19th of December where it's jumped to 24.1 kilograms and then we're at 26.6 kilograms on the 16th of January. This is a dog which is a female which is described as being six months old, it's still a puppy, is that, it's a huge – those are huge weight increases aren't they?

1635

25 A. I think it's worth noting that on presentation she had a body condition score of 2, so my notes which would find she was underweight and therefore, she needed to gain a certain amount to reach an appropriate weight and then over the course of two to three months she grew as puppies do at that age. So I would be inclined not to be too concerned about that weight gain.

30

Q. Right.

A. We tend to pay more attention to our body condition scores I feel rather than a natural weight, but it looks to me a relatively normal progression from an underweight puppy to a well-grown adolescent puppy.

Q. Right. Now just, I just want to finish with Ritzer.

A. Yes.

Q. It's just one final point, we're at the end of the trail of these clinical notes, but just looking at her, she's admitted and seen by you, the incident –
5 she's picked up on the 13th of October, you see her on the 16th of October.

A. Actually, we obviously examined at the time on the 13th and I recall I was working the weekend shift and I actually did checking on all the dogs I was concerned about on the 14th as well which is a Saturday.

Q. Right.

10 A. – it's under Doug but I do believe it was me and we've given more medication or I'd given an indication that the dogs needed to be checked and then I did a full examination on the 16th, so I probably just want to expressly we were concerned about her from the very beginning. I then ensured that we had close veterinary care from that very first day.

15 Q. Right, because she, so she was seen by yourself, Dr Dreyer, you see her prior to doctor, you think that the reference to Dr Dreyer on the 18th of October is a reference to you?

A. I believe I told him to check her, but I do recall being around at that time, yes. I just know that she was assessed on that Saturday which I believe
20 was the 14th. Veterinary checks Saturday morning please which was my indication, yes. So no, I apologise it wouldn't have been me seeing her, but it was definitely my recommendation that she be evaluated.

Q. Yes, it's quite a deterioration, there's quite a deterioration between the 18th of October, you know, how she was presenting then?

25 A. Yes.

Q. And when she comes back to be considered by you –

A. Yes.

Q. On the 24th of October -

A. Yes.

30 Q. – she's deteriorated, but in the meantime on the 24th, Inspector Plowright gives permission, this is a general note not by you –

A. Yes.

Q. – for her to be put under an anaesthetic for the purpose of what a test which in an ear examination which appeared to be quite extraneous to the main problem that she's facing which is the infection in her leg?

5 A. What we would tend to do if an animal's undergoing anaesthesia is to do as much as possible under that rather than anaesthesia or sedation for one events and then immediately to follow-up with further tests at a later time, so it would make sense that given that we felt that wound needed addressing under anaesthesia that we would've proceeded with all the other examinations as well, so I can hear myself talking too fast.

10 Q. No, that's all right, it's good to be a fast talker. But just getting back to the 25th, that's when she was put under the anaesthetic is it, 25th of October?

A. Yes, I believe so.

Q. Right. And then on the 26th of October, we have a – there is a reference to further medical problems?

15 A. Yes.

Q. Do you, in retrospect, looking at – this is a matter of concern for the defendant, Wallace, she is of the view that a dog got insufficient prompt medical attention at the SPCA given how it presented at the outset, what's your response to that?

20 A. I think there's a lack of understanding as to how this injury occurred and that she did receive prompt medical treatment from the moment she was collected, I'm sure that she was given pain relief and appropriate antibiotics the very day she arrived. I emphasised that she needed follow-up care from the veterinarian on the weekends and then we progressed with everything that could be possibly done from the Monday.

25 1640

30 The injury itself was something, as I elaborated earlier I believe, the injury caused the damage but it takes days for the effects of that damage to come to light, but once the process has started when it comes to death of tissue, there is very little we can do medically or surgically but I would understand a pathologist can probably go into more detail regarding that type of injury and I have faith that we did absolutely everything we possibly could for her but once that cascade of damage had started

before we took her into our care, there was nothing we could have done to have stopped that.

Q. Okay, thank you.

A. Unfortunately.

5 Q. Thank you very much.

CROSS-EXAMINATION: MS STOIKOFF

Q. Doctor – actually, I’ve stood up out of habit, can you see and hear me?

A. I can, now I can. Thank you.

THE COURT ADDRESSES MS STOIKOFF – WELCOME TO SIT (16:41:14)

10 **CROSS-EXAMINATION CONTINUES: MS STOIKOFF**

Q. Doctor, do you know of a treatment called Dermotic Ear and Skin suspension?

A. Dermotech? Dermotic?

Q. Dermotic.

15 A. Yes. Sorry, there’s different ways – yes, yes I have heard of it.

Q. Do you know what that’s used for, please?

A. Skin and ear infections and inflammatory conditions.

Q. Thank you. On a number of your clinical notes we see an entry called “overall appearance and attitude”, and then we see the letters “BAR”.

20 A. Yes.

Q. Can you explain to us what BAR looks like in a dog?

A. So bright, alert and responsive. So it would indicate an attentive mental state. They’re not subdued, depressed by pain or psychological issues and responsive if we provoke a response by offering treats or saying their name, we’d have an appropriate response. So that would be a general term that covers a broad range of issues. An animal can still be unwell and yet still be referred to as BAR, but it is to be interpreted in conjunction with other clinical examination findings.

25

Q. Can a thin dog be bright, alert and responsive?

30 A. Yes.

Q. Can an overweight dog be bright, alert and responsive?

A. Yes.

Q. No on the 13th your visit to, I'm sorry, I'll call it the farm, the property.

A. Okay.

Q. On the 13th of October, that was your first visit to the property?

5 A. It was, yes.

Q. Can you remember how long you were there for?

A. I believe a few hours. It was the bulk of the day for our journey there and then back again.

10 Q. And now just while I'm on your first visit, I think it was called an otoscope, is that right?

A. Yes.

Q. Okay and you said that it was deemed not necessary. How did you know before you got there that an otoscope wouldn't be necessary?

15 A. Because I felt confident that I could interpret "gross" as a large or macro ear disease without an otoscope and that to perform an otoscope examination you would usually want them to be in a clinical position with someone who can handle them, and we weren't going there to perform a full clinical exam on all of these animals. I understand that I was there to provide first-aid or to provide a first interpretation of health issues and if
20 an otoscope was deemed necessary that would be performed back at the village, which it was.

Q. How much information were you given about the dogs' conditions or otherwise before you got the farm?

25 A. I believe I was given a run down of about 20 minutes that we knew there were many dogs in inappropriate housing conditions and that I should be prepared for whatever we found there, but I wasn't, I don't believe, told exactly what to find or what I should be doing or looking for. It was bring me along for my medical and psychological or behavioural interpretation of the environment.

30 Q. So is it fair to say that you didn't know anything about any particular dog before you got there?

1645

A. That is true.

Q. Talking about behavioural enrichment, would you consider that socialisation with other types of animals is behavioural enrichment?

A. Absolutely, yes.

5 Q. Would you consider that playing with each other and rough and tumble, like with the puppies, is that behavioural enrichment?

A. Yes.

Q. Okay.

A. Yes, it is.

10 Q. I just want to refer you to your evidence about the woolshed and the type of flooring, the slats.

A. The slats, yes.

Q. I think you said that there's a danger that slats could slip or move?

15 A. Yes, yes, I think the concerns were – I mean, I remember walking on it and things were a bit rocky, just purely from the state of individual slats. If one becomes loose it would be considered unstable. I will not claim that I found an unstable slat or that I found an area that was breaking, but that it could be considered unnerving for a puppy.

Q. Thank you.

A. Yeah.

20 Q. Now, you also mentioned that with ear infections, one in particular, that it can clear up but it can re-occur.

A. Yes, that's correct.

25 Q. Is it possible that some of the ear infections that you saw, that you assessed, were infections that had gone, possibly gone away and come back?

A. That is true. Some, yes, I think there was clear evidence that had continued grumbling along, so the clinical notes that refer to hyperpigmentation and scurfiness, where there is more prominent change to the skin layers, would indicate that it had never truly resolved.

30 Q. Thank you. Would you consider that a change of location for a dog would be behavioural enrichment?

A. Yes, I would concede that.

Q. Now, when you were on the property and you'd assessed the dogs, was it part of your role to advise where they were to be taken?

A. Not where. I gave my opinion on the ones that I considered were in pain or discomfort from ear infections or damaged legs that they would need to go back to the village, but I gather other dogs were uplifted due to the environment and not medical reasons, and so therefore I believe the decision was made if we had no room at the village, someone else decided they would go somewhere else. My only input was: "These animals require medical treatment. They should come to the SPCA village."

Q. Thank you. So you didn't make a recommendation as to where they should be placed, just that they should –

A. No, no, I had no say or involvement in that.

RE-EXAMINATION: MR RADICH

Q. Just one matter of brief re-examination, doctor, you might be able to help us with. If you can't, that's okay too. In the clinical notes, generally, do they represent every single time somebody has attended to the dog? What is the practice there? I guess what I'm getting at is your attention's been drawn to some gaps between dates in the clinical notes.

A. Okay.

Q. What are we to make of those gaps?

A. Well, the way the process works, and I have great faith in the attendants at the SPCA, they monitor these dogs closely, they become familiar with them, they recognise when there are any concerns, in which case if a concern is raised, a vet is brought in as soon as possible, so it would indicate that in those gaps there were no clinical necessities for a vet to be involved or to make a note, and that would indicate that things were progressing as we would expect them to progress. If there is a gap, that would be my explanation.

QUESTIONS FROM THE COURT:

Q. Just one, just a matter of clarification. You talked about, I think it was body conformation.

A. Yes.

Q. Can you just explain that to me? I might have missed something.

A. So conformation is pretty much the way the limbs of the animal holds themselves together, and the reference we're making in this case is that the German Shepherds, if you picture a more normal-shaped dog, they have a relatively flat back, and nice weight bearing on all four limbs.

5 Q. Right.

A. When we refer to poor body conformation with these Shepherds, the back is sloping down.

Q. Right.

A. The back legs are tucked in, and you may occasionally see in the notes a term called "cow-hocked," which is –

10 Q. Cow, sorry, what's that?

A. Cow-hocked – so if you picture a cow with their legs like that –

Q. Yeah.

A. – sorry with the camera there –

15 Q. That's all right.

A. – it just explains if – what I call poor body conformation, the weight balance is not equal and the body and the bones are sloping in a manner that is not ideal. I will add that this is a problem in the German Shepherd breed throughout the world at the moment, and it has been exacerbated by a lot of the lineaged breeding over time, but it points to us that we should potentially do hip X-rays or hind limb X-rays to assess if there is dysplasia or anything predisposing to pain or arthritis.

QUESTIONS ARISING: MR RADICH – NIL

QUESTIONS ARISING: MR GARDINER – NIL

25 QUESTIONS ARISING: MS STOIKOFF

Q. Is it fair comment that German Shepherds that are bred to show –

A. Yes.

Q. – usually have that lower back –

A. They do.

30 Q. – that slanting back?

A. They do. It's unfortunate, but yes, it is true.

Q. So that –

A. I would like to emphasise that although it is within the realm of normal for showing, and it may not be a place for this trial, I feel it is poor breeding for the breed in general because we see so many dogs with significant health issues due to that promoted ideal body type.

5

Q. But it is – this is what's done to show dogs, this is how they're bred.

A. Unfortunately, yes, that is true.

WITNESS EXCUSED

COURT ADJOURNS: 4.53 PM

10

COURT RESUMES ON TUESDAY 25 JANUARY 2022 AT 10.03 AM**MR RADICH CALLS****ELSA LOUISE FLINT (AFFIRMED) (VIA LINK AUCKLAND)**

- 5 Q. Can you see and hear me okay?
- A. I can, thanks.
- Q. Please do let me know if that changes as we go along. Could I ask you first please to give your full name for the court?
- A. Elsa Louise Flint.
- 10 Q. And what is your field at work doctor?
- A. I'm a veterinarian and I have several qualifications in behavioural medicine.
- Q. And without taking you through your entire CV, you qualified as a vet essentially in 1991, is that correct?
- 15 A. That's correct.
- Q. You also have a Master of Science in Behavioural Zoology from Auckland University?
- A. Yes.
- Q. Had a PhD in Veterinarian Science?
- 20 A. That's correct and I'm a member of the Australian College of Veterinary Scientists and Behavioural Medicine.
- Q. Thank you indeed and you've published a number of academic papers on animal behaviour, that's correct?
- A. That's right.
- 25 Q. And authored I think, well six when you did your formal statement six books on animal care and behaviour if it's still six?
- A. Yes but that's a while ago now.
- Q. Now those books that you published related to animal generally or any specific type of animal?
- 30 A. Dogs and cats, yeah.
- Q. And in preparation for this evidence today, you've, it's not the first time you've given evidence of this nature but you're familiar with and refreshed your memory in relation to the expert witnesses Code of Conduct?
- A. Yes I have.

Q. Thank you. Now as you know doctor you're here to give evidence about your impressions formed in relation to a property called Volkerson Kennels, correct?

A. Yes.

5 Q. Now have you actually been to the property at Volkerson Kennels?

A. No, I have not.

Q. So what were you provided with to assist you and draw in conclusions?

A. I was provided with some photo booklets and also some video clips.

10 Q. And were those video clips from various visits where body-worn cameras were made?

A. That's correct.

15 Q. I want to ask you some questions about your impression of the conditions of the dogs and the conditions in which the dogs were housed. First of all, can you comment on in an overall sense on the sanitary nature of the premises in which dogs were kept to your observation?

A. Yes, it was sadly lacking in hygiene standards, very – well they're difficult to describe it really but certainly well below an acceptable level of hygiene.

20 Q. In terms of housing for particular dogs, can you tell us to ensure a dog's good health and to encourage good behavioural practices, what sort of kennelling would you expect to see for a dog?

25 A. Right, also you want to have a reasonable amount of space. You need to have a clean, an area that is able to be cleaned and kept cleaned for the dogs and you need comfortable resting areas. You need to have a situation where they have some sort of stimulation as well, not keeping them isolated and away from everything. They need to have some visual stimulation and activities that they can do within those confined areas.

30 Q. For dogs that are kept in kennels at least for, if not for the complete day but for large parts of it, what would you expect there to be by way of methods to allow the dog to defecate in a normal manner?

A. Well there should be let out of their confined areas so that they can defecate and because they don't like to be anywhere near faeces usually. So keeping a dog in a situation where it has to walk through its own faeces like it can't get away from its nest there is causing a huge amount of stress

to most animals and it's very unhygienic. So ideally if they're going to be kennelled or confined, they need to be out into an exercise area which will allow them to freely defecate and urinate. In between time, in case they need to do that within their kennelled area, then you should have enough space so that they can do that well away from their nesting area or their bed area.

Q. What did you observe in that regard from the photos and videos that you were shown in relation to this matter?

A. Well in that particular establishment the dogs appeared to be kept in very extremely soiled conditions. The outside areas even seemed to be so contaminated with faeces it would appear it had never been cleaned and was muddy as well. So all of that would've been mixed in together and I guess the indoor kennels, many of those were soiled. There was what appeared to be a contaminated (inaudible 10:09:22) on the ground, on top of faecal material and the dogs are just standing in that and really didn't have anywhere to go to get away from it. And the other thing I would say about the kennelling situation is there appeared to be a lack of water availability in most of these situations.

Q. When we talk about dogs living in soiled conditions like that, what sort of risks is that giving rise to if any? And what I mean is risks in terms of physical and mental health?

1010

A. Well, as I said before dogs instinct is to defaecate away from their nesting area and that develops very early as puppies, so even two to three weeks of age they start to crawl away from the nest area to defaecate and urinate, they're still being helped by their mothers to do this and cleaned up after, that's the instinct to leave their nest area to be able to do that. Dogs, if they're kept in a kennel situation and we see this even in vet clinics when they're in a cage for a while, if they need to go to the toilet they become extremely distressed if they can't get out away from that confined space to do it, they don't want to be standing in faeces or urine, so that's one side to it. And from a health point of view, well, if you've got contamination with faeces then you do run the risk of disease, so there could be a virus or bacteria spread in that way with the dogs.

Q. You spoke also moving to a slightly different topic but you did touch on it, for the dog to have behavioural stimulation, can you explain what that means and what sort of things can provide that?

5 A. So dogs need to have some activities to be doing from a point of view of physical exercise, but also to keep them mentally stimulated. So dogs are social animals so they enjoy interacting with each other. They also enjoy playing with things with objects and chewing, and so forth and interacting with the environment, so that's something that if they are in an environment where they're devoid of other company of the other dogs and the ability to play socially and also anything else that they can interact with, and explore or chew, then it's very difficult for them to have a normal frame of mind, if you like. So this is something that's going to be causing them quite a lot of distress.

10 Q. Beyond immediate distress as you put it, are there any potential long term effect?

15 A. With puppies in particular, that was one of my concerns and that establishment is that there were pens of quite young puppies in very confined spaces with nothing in the way of stimulation or activities to do. So not only were they being forced together in a situation where if they wanted to play they didn't have the space to do it, effectively and it's very important for puppies to learn from play, so by playing with each other they learn about bite inhibition, they learn how to read different behavioural postures and so they basically speak dog language if you like. They can't learn that if they're just crammed up together with no where to go and no where to behave normally, and equally if they are able to play they need somewhere where they can go to actually get away from each other if one puppy gets a bit overly stimulated if you like or the other dogs are getting a bit too full-on with the play, when they'd need somewhere to go to have some "time out" if you like. So in those situations those puppies had none of that. They also had nothing that they could interact with that was environmental either, so nothing to play with or explore as in the way of toys or anything they could have an activity available to them.

Q. Could I ask you now please about the tethering of dogs and specifically, the use of what are often known as “choke chains” or “choker chains”. Can you speak generally to the use of such chains and their appropriateness for tethering dogs?

5 A. Well, choker chains are quite dangerous in that situation. They’re not something that’s in play before, yes, on dogs generally even in training, something that is old school and has been shown to be detrimental in many ways for dogs, but to tie them up, you risk strangulation if the dog panics, gets a fright, happens to get itself tied up around the lead that’s
10 attached to the choker chain, so certainly a dog could be strangled by that occurring. In fact, I’ve seen a dog pass out being tied with a choker chain to a lamp post. In my primary practice I was called to that situation exactly where the owner had gone into a café leaving the dog tied to a post with a choker chain briefly just to go and get a coffee, and as emergency
15 service vehicles had gone past on the road, the dog panicked, got itself around the post, cut off its air supply and fainted, passed out on the pavement. It survived all right, but that’s just of any graphic example I think of first hand experience of what can happen if you tie a dog up with a choker chain.

20 1015

Q. And how quickly can something like that happen?

A. Very quickly. That was just a matter of minutes, she had gone in to get her coffee. The emergency vehicles came past, the dog panicked, and then I got a call, you know: “My dog’s passed out and he’s dead,” so you
25 know, it’s not something that’s going to take a while. The other thing with choker chains, if the dog was trying to escape from it and pulling constantly you can end up with neck injuries as well, so cervical vertebral injuries from chokers.

Q. So what is a more appropriate way to tether a dog?

30 A. Well, it’s preferable not to tether a dog. If you have to tether a dog it should be on a flat collar and a dog shouldn’t be left unsupervised if it’s tethered.

Q. What are the risks of leaving a dog unsupervised and tethered? Not specifically with regard to choker chains that you've spoken about, but more generally.

5 A. Well, even on an ordinary lead, whether it be a rope or breathing lead, they can get tied up in it, they can get limbs caught in it, you know, they can end up in a situation that is difficult for them to extricate themselves from and I think we did see in that particular situation where a dog had been tied up and had a lead around its leg which had caused the blood supply to be cut off and a really severe injury, so that's certainly a real risk in those situations.

10 Q. Yes, that's a dog about which we've heard evidence in this trial. Did you see photos and body camera footage of that dog in the –

A. Yes I did.

Q. Okay.

15 A. Yeah.

Q. Could you talk specifically about that dog and the condition and what you observed, from the photos and videos?

20 A. Well, that dog had been tied, left alone and had the rope wound around its leg, and the rope from memory had cut right through – I'm not sure I can see the wound, obviously, in reality, I just saw it on a photo, but it was a very deep wound. It had obviously got infected and I believe the dog had to be euthanised because the injury was so severe that it was untreatable.

25 Q. Now that dog, you've spoken of course that it's preferable for dogs not to be tethered generally and not good for them to be tethered and unattended. Was there anything else about the manner in which that dog was tethered that gave you concern?

A. It – I'd need to look back at the photo but I think that dog was also caged as well as tethered. Am I –

30 Q. Yes, yes. Would it help, if you've got the photo booklet there with you, would it help to take a look at that?

WITNESS REFERRED TO PHOTOGRAPH BOOKLET

A. Okay.

Q. Yes, the first of the two photo booklets we can see the photos at – we've got a number of photos but particularly at pages 79 and 80.

A. Yes. So you can see that again, that dog is in a very soiled enclosure. It's tied up really quite tightly and I mean, that's partly because it's wrapped the rope around its leg as well, I guess. There's no water, the water container's overturned, and the dog is just helpless in that situation with – it's immobilised by the rope being wound around its leg also, so that would be very distressing for the animal and very painful. It's difficult to know why they would be wanting to tie the dog up within the caged area, too, which makes me wonder if the dog had been very distressed about being caged and trying to escape the cage.

Q. Is there any reason other than that that you could think of for why a dog would need to be tethered within a cage where it is by itself?

1020

A. Well none unless it was particularly aggressive and they couldn't get near it when they needed to without having it tied up so they could untie it and then work with it on the tether. That would be the only other reason I could think they might be thinking they needed to do it, but even that is unacceptable. If that was the case they should be working on its behaviour and not having to put it in that position.

Q. So the first possible reason you hypothesised mainly that the dog might have been trying to escape, for dogs trying to escape from it's confined in confinement, would you view tethering it as being an appropriate response to that?

A. No, no I think that should be investigated to find out if it had been separation distress and what was causing the dog to be uncomfortable and want to get out of the situation.

Q. While you've got that photo booklet there, could I ask you to look at pages 68 and 69 please?

A. Yes.

Q. And the top photo on page 68 we can see a torch being shone into the front of a crate?

A. Yes.

Q. And then in the next photo going onto the next page we can see the dog taken out of that crate and we can see the dog in the bottom photo on page 69, do you see that?

A. Yes.

5 Q. I asked you to comment on the appropriateness of the way that dog was being housed from your impression in addition with the knowledge that the dog was pregnant at the time if that affects your view at all?

A. Right, well it was entirely small an area, that's no reason to keep an adult dog like that shut in a small crate. I don't see why they have done that.
10 Any dog needs exercise, pregnant dog needs exercise just as much as any other adult dog and it's just, you can see that she's dishevelled, the photo's not terribly clear. On the bottom you can see that the coat's really soiled and dishevelled so it looks as though she's probably been sitting in faeces and urine in that crate.

15 Q. Now you've spoken about some of the things – you can put that to one side again for now.

A. Yes.

Q. You've spoken in general terms about the sort of things that can give dogs behavioural problems if they're not given proper conditions, proper
20 stimulation that sort of thing.

A. Yes.

Q. From your observation of the video footage you watched and the photos, did you observe any behaviours in these dogs that gave you concern?

A. Well I think generally from the still photos, you can see that the dogs are
25 looking quite if you like dejected in many cases. They just seemed to be, have almost given up. They're not looking happy, dogs are looking to interact with whoever's around and that sometimes can happen where dogs are kept in isolation and bad conditions. They just will try to render the advise (inaudible 10:23:27) initially and when they come they just give
30 up and go into a state of almost depression if you like.

Q. Sorry I'll just pause for a moment, just bear with me for one moment doctor, thank you.

A. There was I remember on the videos one of the video clips that I saw a dog that had, was in one of the shed confinements and had no water and

when the staff put water on the other side it was desperate it was trying to get through the wire to get to the water to get a drink. So it shows here that they were quite desperate for even just their basic needs that were not being attended to.

5 Q. Thank you doctor. Just finally, I took you to that one photo of the dog that was being housed in a crate?

A. Yes.

Q. Did you see other dogs housed similarly, and if so –

A. Yes.

10 Q. – could you comment on that please?

A. Yes, there are many dogs that were housed in small cages and crates and most of them appear to be in a filthy condition. So it's unacceptable to keep dogs like that for any reason.

15 Q. Do you also recall seeing any photos or footage of dogs being kept in a woolshed with a slat floor?

A. Yes, yes I do remember seeing that and again that was, I think there were dogs below other dogs on there was faecal contamination as a result of that.

1025

20 Q. A floor itself that is wooden and slatted, is that of any interest or concern to you at all?

A. The width of the slats could be a problem, where they could perhaps catch nails and so on, and hurt themselves in that way. I didn't actually see that situation in reality so it's a bit hard to comment on that particular aspect.

25 **CROSS-EXAMINATION: MR GARDINER**

Q. Doctor, you mentioned that you were given some videos and still photos to look at. When was that?

A. Oh, when I first got the – I can't remember exactly when I first got it. It was a while ago. This has been delayed and delayed coming to trial.

30 Q. And have you been able to refresh your memory regarding the videos and still photos that you were given?

A. The photos, yes, I have copies of those and have been able to look at that.

Q. And you mentioned you watched some body camera footage.

A. Yes.

Q. Right. The videos, well, correction, the body camera footage, that consists of the videos, is that correct?

5 A. I believe so, yes.

Q. Right. How many visits did the body camera footage cover?

A. I'm not really sure. I don't know how many visits it covered. I think there were several visits to the property, from memory.

10 Q. Well, in relation to this particular episode, there were five visits of varying length.

A. Right.

Q. This is in relation to these charges. You didn't watch all the videos?

A. No, I wasn't given all of them.

15 Q. No, so basically what you're assessing, we'll just talk about the body camera footage, relates to visits on, you say, a number of occasions – two occasions? What you're giving evidence on relates, is based upon some body camera footage which relates to two visits, is that right?

A. I don't know how many visits were involved with that.

20 Q. And a range of photographs which – you haven't got the body camera footage now.

A. I don't, no.

Q. No. But you do have some photographs that you were given five years ago.

A. No, it wasn't five years ago.

25 Q. Right, so how long ago did you get them?

A. I don't know, but it wasn't five years ago. Let me think – I really can't remember when they first approached me with them. So the data I've got covers 2017 and 2018, right?

Q. Right.

30 A. Yes, I don't have the actual date as to when I was given the material originally.

1030

Q. And you're also making assessments based upon the representations of what occurred on these visits, that's body camera footage and the photographs but you haven't actually been to the property itself?

A. No, I haven't been to the property.

5 Q. No. Do you accept that if you are making an assessment on material, we'll just say body camera footage which relates to a limited period of time, then you're restricted in the conclusions that you can or inferences that you can draw from what occurred or what is portrayed, do you accept that, for example, the body, I'll be more specific, the body camera footage
10 covers a visit say of an hour and body camera footage might've been running for say 30 minutes for argument sake, do you accept that you would be constrained in your assessment and the conclusions and or inferences that you can draw from that situation?

A. To some extent.

15 Q. Right. And with the photographs you're reliant upon what someone else has concluded in taking or they've taken the photographs for a particular purpose and you're assessing it perhaps against that purpose for which the photographs were taken, ie to portray a less than ideal what appears to that person to be a less than ideal situation?

20 A. Well, you've given photographs to assess to portray a situation at the time those photos were taken and you can tell from that sort of portrayal if you like from the photos that you've given that that's not just a temporary situation. I mean many of those photographs of the confinement area and the dogs within them and the effect soiling and so on, contamination
25 in the environment, it's fairly obvious that that's been going on for a long time, not just a momentary lapse, so I think I can be quite confident in drawing those conclusions.

Q. And we also have a - but the photographs are presented from the perspective of the prosecuting agency which is the SPCA aren't they?

30 A. Well, they're photographs they took when they visited the property, so.

Q. But you haven't had the benefit, for example, of hearing the defendant's explanation in relation to say what those photographs might portray?

A. No, I haven't heard that.

Q. So basically, would it be fair to say that your just by virtue of that, your assessment must be subject to the qualification that I've just put forward, you're commenting on photographs that have been presented to you by a prosecuting agency to assess and evaluate?

5 A. I am.

Q. Yes. Now, just going forward you mentioned that some of the situations in which the dogs were held, for example, some of the crates, for example. You draw the inference that that particular dog had been there, we'll take one dog which you mentioned, we'll just deal with I think the six – we'll just take the dog at pages 68 to 69 -

10

A. Yes.

Q. – of the photo booklet.

A. Right.

Q. Now, you're drawing an inference based upon, in this case, the ultimately on the condition of the dog at the bottom of page 69 aren't you?

15

A. Yes, that's right.

Q. And that particular photograph is of not very good quality, would you accept that?

1035

20 A. Not particularly, but you can see that the animal is soiled and the coat looks matted.

Q. Now we've heard, or there will be evidence or we've heard evidence about short-haired, probably as a result of questions I might have asked, in relation to these dogs, short-haired dogs, long-haired dogs whether – and evidence will be given by the defendant along these lines, whether certain coats mat, layers of coating, coats on particular dogs depending upon their breed, so – well, not their breed, depending upon the nature of the coat. You're not in a position to assess, are you, from that photograph whether that dog is a short-haired German Shepherd dog or a long one, a long-haired one, are you?

25

30

A. It looks as if it has a coat that's medium.

Q. Right, now you mentioned that you've got extensive qualifications and you've written six books. Do you – and some of those books, my learned

friend when he took you to them, you said you specialised in cats and dogs.

A. Mhm.

Q. Right?

5 A. That's correct.

Q. What about specific breeds such as German Shepherd dogs?

A. No, I don't specialise in any particular breed.

Q. Right. Now the other issue just in relation to dogs, some people would – there are small dogs, middle-sized dogs, large dogs. There are domestic, what might be described as dogs which are more likely to be found in a domestic – in an urban setting, for example. What sort of dogs would you, apart from a particular breed like the German Shepherds, what size dogs do you normally specialise in?

A. Anything from a chihuahua to a mastiff.

15 Q. Right, fair enough. Now would you accept, you made a comment on kennelling generally and you mentioned that dogs, when you were pushed to explain what was desirable by my learned friend, they need to have a reasonable space, a comfortable resting area, some visual stimulation and activities that they can do.

20 A. Yes.

Q. Do that relate – is that, was that more to – that's not only to the – relates not only to the kennelling but also environmental. I've got a slip of paper just to jog my memory on this, behavioural enrichment, so the dog is more likely in a kennel to have behavioural enrichment if those four criteria exist. Would that be a fair comment?

25 A. Sorry, could you just repeat that?

Q. The criteria being, I'll just repeat it, the need to have a reasonable space, a comfortable resting area, some visual stimulation and some activities that the dog can do.

30 A. Right.

Q. Would those, would you say that they in themselves are not only desirable qualities for a kennel, but also for behavioural enrichment?

A. Yes, to an extent. And then you need to have, as I say, things that the dog can do to keep them occupied. For instance, it might be something

that they can chew. We have all sorts of toys that dogs can have to keep them occupied if they have to remain alone for a period of time. So we've got things called a Kong Wobbler, for example, which you put biscuits in. There's a weighted base and they can push around and get the biscuits out that way. There are all sorts of toys that they can interact with. So, if people are keeping dogs at home for a period of time, they can have things to do, they're not just left sitting idle.

Q. Right, but these things are more likely to be – interest, the toys that you mentioned, younger dogs, puppies, as opposed to older dogs?

10 A. Puppies are probably more playful in general but adult dogs need the stimulation too. They need things to think about or do.

Q. Right.

A. They don't do well just sitting in an environment that's totally barren and devoid of stimulation.

15 Q. Now when you, fair enough, when you assess the circumstances in which a dog...

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...in an environment that's totally barren and devoid of stimulation.

20 Q. Fair enough. When you assess the circumstances in which a dog appears to be, for example, kept and you've made some comments on conditions that you saw –

A. Yes.

25 Q. – you're commenting on the situation at a particular point of time, as opposed to a situation which might have antedated that point of time that you are engaged in, or come afterwards. That's true, isn't it?

A. Yes, that's true.

30 Q. And that point of time doesn't necessarily reflect what came before or came after the period when you were taken in to look at and comment on what the situation portrayed that you're looking at.

A. Well, it's a snapshot in time, but yes, but as I said before, you also have to think that if you're looking at an enclosure and you see a large amount of faecal contamination built up and you know that didn't happen within a few hours, it's happened over a much longer period of time.

Q. Righto.

A. So you can assess from that point of view, you can sort of say, well, this has been like that for some time. I couldn't tell you exactly how long from a photo.

5 Q. Righto, and you could have had a situation, just taking that analogy, where – well, just say puppies, puppies defecate and urinate quite often during a period, say, of a day, don't they?

A. Yes, they do.

Q. And that's part of the growth process, if one can put it that way.

10 A. Yeah, they do.

Q. They do, so one can't be out with a pan and a container to – I'm looking at it from a pragmatic, a realistic point of view – and cleaning up after a dog continuously during – without – at every minute of the day. That's just physically impossible for anyone, do you accept that?

15 A. I accept that.

Q. So it's a matter really of judgement and proportion when assessing a particular situation. Overall, overall.

A. Well, overall, yes. I mean, you would see a certain level of contamination in a puppy pen, for example, that you would expect to be normal, and a level that you would expect, you know, is really not normal and has gone on too long, and with most puppy-rearing situations you would be out there cleaning them three times a day to make sure things kept healthy.

20 Q. Now, one of the issues in this case relates to the absorption of faeces and urination into, say, wood or concrete, so if we have a wooden kennel, evidence has been given for the prosecution that you can have – wood tends to be porous so it in some way, I'm not a scientist, it can retain the smell of urine, for example. Do you accept that on your – is that true?

25 A. I'm sure it does, yes.

30 Q. And similarly, if you don't have a sealant on concrete, you can have a situation where the concrete absorbs smells and whatever and you get a smell notwithstanding cleaning, waterblasting, you still get a smell. Without doing anything else, you still get a smell which reflects urination and so on, and it can affect an ammonia level. Do you accept that that is quite possible?

A. To some extent, but if you're regularly cleaning you shouldn't have a high level of ammonia in the environment, so particularly with concrete, and then if you're hosing and waterblasting that, you get a fairly high standard of cleanliness but it has to be done regularly.

5 Q. And we also have evidence already in this case that a waterblaster was regularly used but it was out of service for a period of two or three – it might have been up to a week when it had to be taken away to repair. So, you would say in terms of a, keeping a kennel clean, water blasting is a prerequisite as opposed to – in your experience?

10 1045

A. No, you could get in there with a – if you have a concrete floor you could get in there with a good stiff broom and a hose and some safe detergent to clean it all out, so there's no excuse for not keeping clean because your water blaster isn't working.

15 Q. There will be evidence given that detergents were used and actually on the recommendation of the SPCA, but they were unsatisfactory because the dogs – I might be getting this – they were unsatisfactory for whatever reason. It might just be that they – I'll just put it at that, the defendant will address that issue later.

20 A. Mhm.

Q. But so detergents, we'll just assume the reason that is given is a reasonable one, detergents might be unsatisfactory and something else might be required to remove the urination smell, for example?

A. If you're cleaning regularly and properly it shouldn't be an issue.

25 Q. Right. Now you mention the contamination, if there is, that's from not cleaning properly, may carry a risk of disease, you know, bac – you mentioned viruses/bacterias. Now I put it in this situation the Defendant Wallace whom I represent would claim that the dogs were healthy and they used vets regularly. They used up to seven vet companies for different things which were related to breeding.

30

A. All right.

Q. So we don't have a situation – so if we have a situation where – so presumably the risk of disease would be relatively, is relatively low in this case because the argument would be that these dogs were not diseased?

A. Yes, well –

Q. Some of them might have had. There has been evidence giving ear infections –

A. Right.

5 Q. – which are apparently quite common with the breed, German Shepherd breed, but apart from that generally speaking the dogs were overall quite healthy, they were not suffering by disease when they were seized by the SPCA.

10 A. Well some of the photographs would dispute that really. There are photos of dogs with really severe skin problems, pyoderma, so I would probably dispute that. I think there's probably quite a lot of poor health within that population from what I've seen in the photo booklets.

Q. Right. Now you mentioned in relation to behavioural stimulation that dogs enjoy chewing?

15 A. Yes.

Q. Now a view has been expressed in relation to some wood that was chewed, and there were other animals at this location, goats, sheep and the dogs, but just in relation to dogs it was put that that really is a sign of boredom on the part of dogs, if they were chewing in that way? Now
20 you've described, you recognise that dogs enjoy chewing?

A. Yes.

Q. How do you reconcile the two points of view? That chewing reflects boredom, chewing is enjoyable for a dog.

A. Right so it depends on, again, why the chewing is occurring and where
25 it's occurring. So, if it's occurring on areas like, say for example door frames or the bottom of an enclosure, the side of it, a fence that might be part of the enclosure, then you could interpret that as a need to escape and a reflection of being anxious and trying to vacate that area. So when dogs are suffering from separation distress, for example, they'll chew
30 doorframes in an attempt to get out and they'll do it so much that they can damage their teeth and damage their gums.

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A. So that's a whole different reason for chewing and that's, you know, something that we don't want them to be having to do because it means

they're highly distressed and that's an expression of that distress. The chewing I'm talking about is chewing something like as I said before a KONG, a **(inaudible 10:50:17)** toy, a bone, an lasting bone that they can chew on because that is a natural behaviour for dogs, rawhide is the other thing which keeps them occupied and then, you know, helps to keep them relaxed as well. There's two different situations there.

Q. Now just in terms of a dog having an interesting environment, the defendant will say ultimately when she gives evidence that the dogs had a varied environment, they weren't stuck in the same place all the time, they were moved, they were exercised. These dogs, for example, the adults were show dogs. So going back to the 27th of July 2017, I'll just confirm that date, 28th of July 2017, that was the time of the first visit by the SPCA. Now -

A. Right.

Q. – broadly speaking, the numbers of the dogs appear to have been 50/50 in terms of adults and puppies.

A. Right.

Q. So the argument in relation to, a lot of the adult dogs were still show dogs, you know, in terms of the German Shepherd breed, so they'd compete in competitions and in order to do that, the argument is, they would have to exercise, they would need this outside stimulation, they would have to be able to socialise with other dogs.

A. Right.

Q. So the argument from the defence point of view is that these dogs, some of which had competed recently or we assumed to compete in these shows, had to meet pretty stringent criteria in order to perform satisfactorily and that involved being fit and obviously, going, performing to the competition standards, the standard of competition that they were competing in. So do you accept that in such a situation, the – well, I'll go back a step. In such a situation doesn't it make sense for the owner or the person who, my client, for example, she's not the owner, but she was in charge, accepts that she was in charge of these dogs, doesn't it make sense that the owner is going to do everything possible to enable that dog

to be positioned in the best possible way to perform well in such competition?

A. Well, you would imagine they would do that with competition dogs.

5 Q. Yes, and that involves, for example, in terms of exercise, putting the dog in a position, for example, where it is well exercised. So for example, the defendant will give evidence in relation to dogs which were located by the SPCA on the 18th of May 2018 on another part of the property to the effect that she took those dogs up to that part of the property and she exercised them, and watered them and they swum afterwards, and they were taken
10 up there with her on a quad bike with some of these dogs running freely beside her and others on long leads which were secured, over which she controlled their, what they were doing. So isn't that, that's quite a tenable proposition in terms of exercising these dogs isn't it?

15 A. The dogs were taken out every day and run in the forest area right at the back of the property if they were, yes.

1055

20 Q. Well that's a matter for her evidence but the point is, it's an example. I'm just giving this as an example of these dogs, six of them, six adults, older and younger dogs but been exercised in a way which would provide stimulation, put it that way to them. Do you accept that? Over a 1.8 kilometre run at least?

A. Mhm, it sounds like that would be a useful thing for them to do.

25 Q. Now just in relation to the puppies, the defendant will give evidence eventually on the way in which puppies were reared, and for example, there was a room in the house which was like a, for want of a better term, a maternity room where the puppies were born. Were reared from shortly after birth and she'll give evidence about the circumstances that obtain to that and there was quite a regulated regime whereby the dogs graduated from being in the house, puppies graduated from being in the house to
30 going outside and playing in a grassed area outside the house which was surrounded by a picket fence and then put in enclosures and so on. But they were subject to regular oversight by her in terms of water and other matters. Well that doesn't – that sound in principle sound an appropriate

response to the rearing of young puppies and overseeing them as they got older?

A. Well in principle it does but I can only comment on the photos I've seen of young puppies and small pens with no shelter and water overturned and conditions that appeared to be crowded and contaminated.

5

Q. So those puppies are in a small enclosure say – I'll just go back to the example you gave. In the situation that you gave, these puppies were interacting well and well socialised with each other. They were sitting presumably looking out of what surrounded them. Was that the situation in photo that you saw?

10

A. Yeah it was just a photo of puppies all together in a pen, I mean they weren't – I couldn't see what they were doing other than that they were very closely confined if you like together.

Q. But you've got no way of knowing how long they were in that situation when the photo had been in that situation when the photograph was taken, have you?

15

A. No other than the fact that the ground was quite contaminated, yeah by the looks of it.

Q. Puppies do urinate and defecate but regularly during the course of the day?

20

A. Yes they do, but they shouldn't be left on an environment like that where they're going to get or can't get away from the urine and faeces. So you know a small pen like that with that number of puppies in it is not acceptable.

25

Q. Now you mentioned an example of a – my learned friend asked you some questions about he called the choker chain or a choke chain but it's also known as a slip chain –

A. Yes.

Q. – or a check chain, isn't it?

30

A. That's right.

Q. And such a chain is not illegal in New Zealand, is it?

A. It's not illegal, no.

Q. So we have – and you gave an example of a dog which was the owner went into a shop to get a coffee, it was secured on a lamp post, it had a

choker chain and then an emergency vehicle went by, there was a commotion. The dog panicked and you said it was basically passed out?

A. Yes.

1100

5 Q. Until help came. Now that situation from a defence point of view is similar to that which affected the dog Ritzer which was picked up by the SPCA and Animal Control, assisted by Animal Control on the 13th of October because basically this is a dog that had the sore leg which led to it being euthanised about two weeks later at the SPCA. Now, putting that dog, 10 well, the defendant will say, the SPCA obtained entry to the hay barn, they used force to make that entry to secure, to get into the barn, there were a range of people involved and she says that that dog was or will say that that dogs was perfectly healthy the dog before. She will produce a - there is a photograph in the booklet which is consistent with that and 15 on this day, the dog panicked and that contributed, this is an possible explanation for how that dog got the lead around its leg, it panicked at the situation it was confronted with. That situation if it did occur, I'm not saying it did, but it's an possible explanation for what occurred, it's not similar to the example that you gave in relation to the choker chain 20 involving the dog outside the café which panicked when an emergency vehicle went past is it, it's similar, do you accept that?

A. Well, I don't think so because the dog that you're talking about was tied up I think with a rope within a cage and the rope was wound around its leg which means it had been moving around in that area to get that 25 happening, and the wound, looking at the photographs had been, was there for quite a while before the dog was removed by the SPCA, it wasn't a fresh wound.

Q. The wound, well, that's a matter for argument later, but there may be a difference in point of view by the defendant in relation to that where she 30 is saying that dog was perfectly well the day before and I've identified in the photo booklet that dog, you know, it's in the prosecution photo booklet the day before, those are my instructions. So we'll just move on, I've nearly finished.

THE COURT ADDRESSES MR GARDINER – PUTTING PROPOSITION TO WITNESS? (11:02:48)

MR GARDINER ADDRESSES THE COURT – WITNESS RESPONDED (11:02:58)

5 CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Just to recap, your answer in relation to the dog Ritzer when I drew the possible analogy between the situation the dog outside the café and Ritzer was?

10 A. That it's not the same, that dog wasn't tied up with a choker to a lamp post, it was tied up within a cage with a rope I think and the rope was wound around the leg, so I would've thought the dog had spent some time trying to do move around the cage and got the rope tangled around the leg in that way and that's how you would normally get a rope around a leg being sort of trying desperately to run away from something when you're
15 tied on a choker and passing out through lack of oxygen, it's a whole different scenario.

Q. And that's, of course, your opinion, but another person might draw, someone else might draw a different conclusion from that, those two similar, arguable similar situations, wouldn't they?

20 A. Maybe they will, I don't know.
1105

CROSS-EXAMINATION: MS CRANSTOUN

Q. Good morning, Dr Flint. Can you see me if I sit down here or would it be better if I stand?

25 A. I can't – I can only see the person I was just talking to before. No, now I can see you.

Q. That's okay, I'll stand.

A. Okay.

Q. So you've stated that you received materials from the SPCA in the form
30 of photographs and video clips, is that correct?

A. Yes, that's right.

Q. Did you receive any medical records or just the video clips and the photos?

A. Just the photos.

5 Q. Did you examine any of the dogs that you saw in the photographs in person?

A. No.

Q. Did you view any photographs of the dogs outside of the environment of the kennels at the farm? So once they were removed from the farm, did you receive any photographs of those –

10 A. Oh, at the SPCA? Yes.

Q. Okay.

A. Yes, there were some from there.

Q. Do all dogs that are held in the same environmental conditions, do they develop the same behaviours, just generally?

15 A. I'm not quite sure what you mean by that.

Q. Okay, I'll just let that one go, then. Is showing protective behaviour, is that one of the personality – well, the behavioural traits of the German Shepherd breed, what they show generally? So is protective behaviour, is that known to be a behavioural trait of a German Shepherd?

20 A. Yes, they are, as a breed they are protective and quite territorial.

Q. Does a dog respond to the behaviour of its primary carer? So if the dog sees that the primary carer is distressed or upset, does the dog then react to that behaviour?

A. In many cases, yes.

25 Q. And would that behaviour mirror the behaviour of the primary carer or would it depend?

A. You'd have to be more specific. I don't know really what you're getting at there. If an owner is shouting at somebody and getting upset, then a dog is likely to become agitated and bark at that person too, if that's what you're meaning.

30

Q. Yes, thank you. Would a dog be stressed if it was exposed to a number of unfamiliar people at once? So a dog that's been held in relative isolation.

A. Yes, it could be.

Q. Would a dog that was suddenly separated from a number of dogs that it was normally housed with, would that also cause dogs stress?

A. Yes.

5 Q. How can you – can you differentiate between saying what would be a personality trait of a specific dog and what would be, I guess, a general behaviour? So if I could give an example, you've provided a brief of evidence and you referred to an older dog that might be just shy or it may not know how to react to other people, so how do you differentiate between, say, shyness as a personality trait and not being able to know
10 how to behave?

A. Well, as I said, that's difficult to say from that particular situation. So the dog was showing avoidance behaviours, so it wasn't immediately comfortable with interacting, and whether it was just the dog is naturally timid or whether it was just it hadn't had any exposure to people generally,
15 you know, other than the owners and that environment, you can't really evaluate at that point.

MR RADICH ADDRESSES THE COURT (11:09:47)

RE-EXAMINATION: MR RADICH – NIL

MR RADICH ADDRESSES THE COURT – PREGNANT DOG DEBBIE
20 (11:09:54)

QUESTIONS FROM THE COURT – NIL

WITNESS EXCUSED

MR RADICH ADDRESSES THE COURT – TIMING OF WITNESSES

(11:11:32)

COURT ADJOURNS: 11.13 AM

COURT RESUMES: 11.33 AM

MS ARNERICH CALLS

ROBERT WILLIAM LLOYD (VIA VMR)

Q. Could you please state your full name for the Court?

5 A. Robert William Lloyd.

Q. And in May 2018, what was your occupation?

A. I was a trainee inspector with the SPCA, animal welfare inspector.

Q. And how long had you been in that position, roughly, as of May 2018?

A. Probably six months or more, round about that.

10 Q. As you know, we're here to talk about a matter in which you're involved in relation to Volkerson Kennels. Do you recall that?

A. Yes, I do.

Q. And I understand you first visited this property with the team in October 2017, is that correct?

15 A. Yes.

Q. We've already heard a lot of evidence in the trial so far about that visit, so I'm not going to be asking you any questions about that, but you may need to answer some questions from my learned friends behind me. Does that sound okay?

20 A. Yes, yeah.

Q. Okay, so following October 2017, your next visit to the property was in May of 2018, is that correct?

A. That's correct.

25 Q. And have you brought with you today your notebook that contains notes you made in relation to this visit?

A. Yes, I have.

Q. And just to confirm, were those notes made on the day or some time later, or when were they made?

A. They were made on the day.

30 **LEAVE GRANTED TO REFER TO NOTES**

Q. Referring to your notes if you need to as you go along, or by your memory if you can remember, can you tell us who was there with you when you arrived that day?

A. Yes, there was Inspector Davis, Inspector Taylor and Inspector Williams.

Q. Okay, and what was your involvement, starting from the start?

A. I was there to assist in the inspection of the property, of all the dogs on the property.

5 Q. Okay, and can you describe your involvement from arriving at the property?

A. We arrived and then we just started inspecting the dogs to make sure that their living conditions were clean and they were in good health and to take notes as we walked around.

10 Q. Okay, and could you describe your observations when you first arrived at the property?

A. There were a few dogs around the property. They seemed to be in good condition, good health, et cetera.

15 Q. Thank you, I don't need you to take us through those dogs in great detail, as they're not the subject of the charges before the Court, but turning to any other dogs you observed on the property, could you talk about those?

A. The six dogs were tied to trees with no shelter. Some of them had no water and one in particular was in poor condition.

20 Q. Okay, so these six dogs you refer to, could you describe where they were in relation to the property?

25 A. They were about a four to five kilometre trip away from the house, being kept near the bush. We drove part of the way and then it was too wet and boggy so then we had to walk approximately 30 to 40 minutes into the bush to find the dogs, and yeah, they were tied to trees and wrapped around the trees and water containers tipped over, no shelter, it's – yeah.

Q. Okay, when you say you drove part of the way, could you estimate how long you were driving for?

30 A. Yeah, I'd say approximately half an hour, I'd say. It was slow going 'cos it was quite wet and we were going up hills and we had to have four wheel drives.

Q. Okay, and you've partially touched on this, but what were the weather conditions like that day?

A. It was overcast. It wasn't actually raining but it was quite – it had been raining and it was quite wet. The ground was all boggy, so yeah.

Q. When you and the rest of the group arrived at the location of the dogs, did you take some photos?

A. Yes, I did.

Q. Now, I understand you have the prosecution exhibit 2 booklet in front of
5 you, that's labelled: "May 2018 Volkerson Kennels."

WITNESS REFERRED TO EXHIBIT 2

A. Yes, I do, yep.

Q. And could I ask you to turn to page 38 of that photo booklet?

A. Yes.

10 Q. And just looking through from page 38 to page 48, are you able to tell us whether these are a selection of photographs you took on that day?

A. Yes, they are from my memory.

Q. Okay, and looking first at page 38, could you give us your observations on these photographs?

15 A. This dog was tangled around the trees. It appeared to be there quite some time, judging by the way the dirt has all been, you know, ruffled up. There's no grass left around where the dog's actually standing. In the first photograph the water container is tipped up, so it's been without water for – we just don't know how long, yeah.

20 Q. And do you have any observations to make about the chain?

A. Yes, it's tangled around in the first photograph, quite a few trees there, and not allowing the dog to have free movement.

Q. Okay, and do you have any observations about the general shelter of this area?

25 1140

A. Yes. There's no protection from wind, very little protection from rain or sunshine.

Q. Okay and turning now to page 39, your observations about these photos, please?

30 A. Yes. Excuse me. This is a sore on the back of that dog where there's quite a bit of fur loss and at, on first inspection it was quite, it looked infected and red and sore.

Q. Thank you, and turning to page 40, any observation, any additional observations to add?

A. No. Pretty much the same as what I've said before, it's just, yeah, there's no protection at all for the dogs.

Q. And turning to page 41, the bottom photo, can you give us your observations about that photo?

5 A. This was when the dog was untangled from the trees and found the nearest puddle and drunk it, and just about drunk the puddle dry.

Q. Okay and after you untangled this dog from the tree, what happened?

A. So it drunk that puddle dry there and then on the walk back, when we're walking back to the vehicle when all the other dogs had been collected
10 by the other inspectors, I found a stream on the way back and the dog just stood there and drank from the stream for about a full minute before it stopped. It was very, very thirsty, which indicates to me that it had been without water for quite some time.

Q. Okay and what happened with the dog when you took it back?

15 A. It was put into an SPCA vehicle and then it was transported back to the SPCA where a full inspection of the dog's health was made.

Q. Thank you, your Honour. I have no further questions for this witness.

CROSS-EXAMINATION: MR GARDINER

Q. Mr Lloyd, my name is Dan Gardiner and I'm representing the Defendant
20 Wallace.

A. Okay.

Q. I didn't quite hear the start of your evidence, it was probably my hearing, but are you still serving in the SPCA as an inspector?

A. No, I'm not.

25 Q. Right. So at the time you were an acting inspector, this is back on the 18th of May 2018, you were an acting inspector. Is that correct?

A. Yes, I was in training. Yes.

Q. Right so you were in training, but did you have a – but you hadn't qualified yet as an inspector?

30 A. That's correct.

Q. And did you later obtain the rank of inspector with the SPCA?

A. Yes, I did. I was a fully warranted inspector.

Q. All right and how long – so you're no longer and ins – you're no longer serving with the SPCA now?

A. That's correct.

5 Q. Thank you. Now just going to your notes made at the time, my understanding from your evidence is that you were with inspectors Davis and Taylor, that's Cody Taylor, at the property where the Volkerson Kennels were. You went there first, is that correct?

A. Yes, where the kennels were. Yes.

10 Q. But the notes that have been provided indicate that you – they're not very clear on the photocopy. They indicate you might have gone to another property earlier in the same Miranda Road. Is that correct?

A. That is correct.

Q. So in other words you went to the property, correct me if I'm wrong, where Inspector Plowright was talking to the owner of the property –

15 A. Yes.

Q. – about a complaint? Correct?

A. Yes.

Q. And Inspector Plowright was with the – an animal control officer?

1145

20 A. Yes.

Q. Did you travel to that property with Inspector Plowright?

A. No, I did not.

Q. So did you have your own SPCA vehicle?

A. No, I did not.

25 Q. How did you get there?

A. I was with Inspector Taylor.

Q. Right. So Inspector Taylor had, he went to that property with you before going to Volkerson Kennels?

A. Yes.

30 Q. Did you accompany Inspector Plowright and the animal control officer to the area, wooded area on the defendant's property where the six dogs were?

A. No.

- Q. You didn't. So they went over – they went onto that property, this is Inspector Plowright and the animal control officer and you, and Cody Taylor went from there around to Volkerson Kennels -
- A. As far as –
- 5 Q. – around the road?
- A. – yes, that's where Cody and I went.
- Q. Right. And was Inspector Davis already there or did you meet up outside the kennel, the farm, outside that farm so you all went in together?
- A. As far as I can remember we met outside, we all went in together.
- 10 Q. Now, you mention in your notes that there were three pups, three roaming, it's a bit hard to read your – are you talking about pups free roaming in a paddock which was fenced near the cottage at the front of the property as you drive in of Miranda Road?
- A. No.
- 15 Q. Right. So the pups you're talking about free roaming, they're the, they were free roaming around in the area around the main house?
- A. Yes, yes.
- Q. That's the - and main house is surrounded by a picket fence?
- A. Yes.
- 20 Q. Right. Did you take any photos of as part of that exercise of the interior of the house of the dog which was inside the house?
- A. I'm unsure, I can't remember back then.
- Q. You can't remember going onto the veranda and sort of photographing inside the house?
- 25 A. I might have, I cannot remember because it was so long ago.
- Q. Now, your inspection, just go to page – now you remember Inspector Davis asking Janine Wallace were the dogs that you inspected at Volkerson Kennels were all the dogs on the property, do you remember that?
- 30 A. Yes, I do.
- Q. And Janine said "What are you trying to do?" and then stormed off into the house, correct?
- A. Yes.

Q. And, of course, the six dogs that were found on the property, these are the ones that were found by Mr Plowright, they were on the property itself weren't they, on the farm?

A. Yes.

5 Q. Now Inspector Plowright came down to the Volkerson Kennels at some stage with on his own or with anyone else, oh, with the animal control officer, correct.

A. Yes, yes.

10 Q. And a decision was made to go from where you guys were from Volkerson Kennels to the wooded area where there were six child which you later found, you later saw for the first time, correct?

A. Yes.

1150

Q. And you mentioned that you travelled up to that area in the SPCA SUVs?

15 A. Yes.

Q. And you were forced to stop and disembark because they couldn't handle, one of the vehicles got bogged, got stuck and the decision was made that the terrain, that they weren't equipped to actually travel any further. Do you accept that?

20 A. Yeah that's correct.

Q. And so all of you guys started to walk from there to where you believed the dogs to be?

A. Yes.

25 Q. And we're talking about the people who travelled there, we're talking about you, Inspector Plowright, Inspector Cody Taylor, anyone else?

A. Inspector Davis.

Q. Right. So there were – and the animal control officer?

A. Yes, there were six.

30 Q. We'd covered five, you can't remember the – so just to recap, Plowright, I'll just the surnames. Plowright, the animal control officer I believe Heatley, his name, surname Heatley, you, Cody Taylor –

A. Yes, yes.

Q. – Laurie Davis?

A. Yes.

Q. And there was another person?

A. Inspector Williams.

5 Q. Thank you. Now Inspector Plowright said in evidence that we're talking about the total distance direct from Volkerson Kennels to where the dogs were found is 1.8 kilometres. You don't – no problem with that calculation?

A. Yeah that has (inaudible 11:52:17).

Q. That's (inaudible 11:52:18).

A. Yes.

10 Q. And we had a situation where there was a little bit of time lost, this was from the evidence of another witness because you didn't know where the – you had to work out where the dogs were, correct?

A. Yes.

15 Q. Yeah the actual – now this area, wooded area where the dogs are is actually in a valley, isn't it?

A. From what I recall.

Q. Yeah. So do you know what prevailing wind in that area is?

A. No idea, no.

20 Q. But it's reasonable to assume that if it's in a valley there's a degree of protection against prevailing winds, do you accept that or any wind?

A. To a certain extent, yeah.

Q. You accept that?

A. To a certain extent, yes.

25 Q. Right. Now one of the – the photographs you're taking which are at page 38 the following, I'd just deal with a statement you made. You mentioned that the ground was muddy when you were trying to get up, drive the SUVs up and one car, one vehicle got bogged down. But when we look at page 38 the top photo and the bottom photo, the area is quite dry, isn't it?

30 A. Yeah that's 'cos it's up on the side of a bank.

Q. Right. And when we go to paragraph 40, page 40 rather, there's quite a bit of – the dog is illuminated which seems to be caught by sunlight to a degree in the top photo and the bottom photo. You accept that?

A. Yes.

Q. And the darkness which one sees there appears to be afforded by the shelter of the tree canopy, do you accept that?

A. Yes.

5 Q. And the same applies at page 41, do you accept that? Similar situations we've just covered –
1155

A. Yes.

10 Q. And particularly in the top photo. Now, just going to – now this dog, this dog that you covered, has in the bottom of page 38 – it's tethered to a tree, isn't it?

A. Yes, it is.

Q. And the tether is quite long, the chain.

A. Yes, yeah.

15 Q. And it's – the chain is anchored, appears to be anchored, by the larger tree which is in the foreground. Was that the case?

A. Yes.

20 Q. And then it looks as though the dog has moved around and the chain has snagged, not on the tree but on an object behind a sapling. It's snagged on something on the ground. It's unclear whether it's a tree or a rock. Do you accept that?

A. Do I accept that it's tangled around the tree?

25 Q. Well, it's around the first tree and then it tracks over in the direction of the second tree, but the photo doesn't clearly show that it's snagged around the second tree, which I'd describe as a sapling, given its size. It looks as though it's snagged on something behind that sapling, for want of a better term. Do you accept that?

A. Yes, but that was the second photograph I took. If you refer to the top one –

Q. Yeah?

30 A. – it's tangled around the trees there.

Q. Okay, yep.

A. Yeah, and –

Q. No, I accept that.

A. (**inaudible** 11:57:09)

Q. I accept that.

A. – with us being there, yeah.

Q. But the reality is, even though you quite correctly point out, just going to the top photo, that it's snagged around what seems a young tree, for want of a better term, sapling, it's still got, as the photo at the bottom shows, page 38, it's still pretty mobile. It's got quite a big area that it can range around. Do you accept that?

A. Yeah, that was after I untangled the dog –

Q. Right.

10 A. – before unchaining it.

Q. Right, but you haven't taken a photograph of it which clearly shows that it's totally entangled, have you?

A. Well, in my opinion the top photograph displays that.

Q. Well, it doesn't show, I suggest it doesn't show where that, how that entanglement has occurred. It's just got the dog sitting there and, on the face of it, about – before moving down, perhaps under its – you say it wasn't under its own steam – down in that second photo. The one at the bottom.

A. Yeah.

20 Q. Righto, just – now you mentioned it had no water, but there's a water container there, isn't it?

A. Yes.

Q. And you've got no way of knowing whether that container was upright at one stage and full of water, have you?

25 A. No.

Q. And you mentioned – now, when you went up in the SUVs to this wooded area, you followed in quad track, there were quad bike tracks which you followed around, correct?

A. Yes.

30 Q. But the reality was, even though you were well equipped in terms of vehicles, you weren't equipped for this sort of terrain, correct?

A. Well, not when it was so wet, yes.

Q. But a quad bike is equipped to traverse these situations on a farm, isn't it?

A. Yeah, it's a four-wheel drive vehicle.

1200

5 Q. But the – you couldn't go where the quad bike track appeared to – which – was going. Where it – you couldn't follow the track because you weren't able to handle the terrain where the track was. It reached a stage where you couldn't handle the terrain where the track, quad track, quad bike track was, could you?

A. No. It was just too wet.

10 Q. Yes. Now you mention you thought that the dogs had been there some time because of the ground, correct?

A. Yes.

Q. Now there were six officers that went there. Each officer, going on what a previous witness said, was assigned a particular dog to take care of. Correct?

15 A. Yes.

Q. And your dog was this one which was called Tiffany. Do you remember the name that it was given?

A. I do, yes.

Q. But at the time you wouldn't have know the name of that dog, would you?

20 A. No.

Q. Now this stream that you mentioned, you mentioned there was a stream which was – you found nearby. How far away was it? How many yards? How many metres?

25 A. I have – don't recall how many metres, but we'd probably been walking for about 10 minutes before it found the stream.

Q. Right.

A. Yes.

Q. A freshwater stream?

A. Yes.

30 Q. Now the lead that your dog, that this dog had at page 38, was that – did you see the leads on other dogs? Were they similar in length to this?

A. I can't recall that.

Q. Right. Now you mentioned the – were indicated that the ground where these dogs were found was worn down, indicating they'd been there a long time. Correct?

A. Yes.

5 Q. Now I suggest to you or put to you the reason why the ground was of that nature was because dogs had been brought to this area in the past, and this is an example of what had happened, for exercise nearby for watering in the stream which you've just described afterwards, for swimming, and then they would be tethered here while they recovered from their exertions. Now I'm not asking you to – evidence will be given on that, but
10 if this situation applied and you've got dogs coming in at different times for this purpose, wouldn't – and they're tethered in the same places, wouldn't the ground get worn by –

A. Yes.

15 Q. – over a period of time?

A. Yes but where – I never saw a stream that dogs could go swimming in.

Q. Right, excuse me.

A. The stream that I saw was a little bit of water running out of the ground.

Q. Right. Well, apparently that issue will be explored later in the case, but if
20 there were dogs which came on successive periods and were exercised in this part of the property, you would accept that, if they were te – they were put over a period of time there could be a worn area created by these dogs being tethered in similar positions? Do you accept that?

A. Yeah, not as fresh as what that is though.

25 Q. Pardon?

A. Not as fresh as what that is worn down.

Q. Okay, right. So these dogs, well, that's a matter for later. Now you've mentioned that this particular dog drank out of the puddle, right?

A. Yes.

30 Q. As you were walking it back to the vehicles that you came in, correct?

A. Yes.

Q. And it did this a couple of times. Isn't it normal for dogs, isn't it quite natural for dogs to drink out of puddles?

1205

A. Not all the time unless they're thirsty.

Q. Yes. And in that regard they're not much different to human beings are they?

A. No -

5 Q. But they were –

A. – if you're thirsty you drink, you drink.

THE COURT ADDRESSES MR GARDINER – SUGGESTION (12:05:26)

CROSS-EXAMINATION CONTINUES: MR GARDINER

10 Q. But just getting back to, that's a valid point, now just getting back to this, did you notice other dogs drinking out of puddles or was it just this dog?

A. Just that dog.

CROSS-EXAMINATION: MS STOIKOFF – NIL

RE-EXAMINATION: MS ANERICH – NIL

QUESTIONS FROM THE COURT:

15 Q. I just wanted to check Mr Lloyd, page – you were referred to page 41 and you said that was the dog drinking from the puddle?

A. Yes.

Q. When you go over to page 42, is that just a close-up of the same thing?

A. Yes, it is, yes.

20 Q. All right, thanks I just wanted to check that.

QUESTIONS ARISING – MS ANERICH – NIL

QUESTIONS ARISING – MS STOIKOFF – NIL

QUESTIONS ARISING – MR GARDINER – NIL

WITNESS EXCUSED

25

**MR RADICH ADDRESSES THE COURT – NEXT WITNESS EVIDENCE
ABBREVIATED (12:07:23)**

MS RADICH CALLS

LAURIE JANE DAVIS (AFFIRMED)

- 5 Q. Thank you Ms Davis, could you please give your full name for the Court?
- A. My name is Laurie Janes Davis.
- Q. Thank you. And just for the benefit of the Transcription Services, do you prefer your first name to be spelt L-O-R-I or L-A-U-R-I-E?
- A. L-A-U-R-I-E, thank you.
- 10 Q. Thank you. But pronounced Lori?
- A. Lori.
- 1210
- Q. Very good, thank you indeed. What's your current employment position Ms Davis?
- 15 A. I'm currently an inspector and team leader, Animal Welfare inspector.
- Q. With what body?
- A. With Royal New Zealand SPCA.
- Q. How long have you been in that position?
- A. 12 years.
- 20 Q. So that would go back to 2009, is that correct?
- A. January 2009.
- Q. And are you in broad terms what we sometimes call the "officer-in-charge" of this prosecution?
- A. That's correct.
- 25 Q. Now, there has been some discussion about that role throughout the trial. Can you clarify for us, is that a position you've held throughout the life of this matter?
- A. No, since Kevin Plowright left SPCA I took over the officer-in-charge.
- Q. Okay. So we're going to hear and we have already heard that you and
- 30 Mr Plowright went on a number of visits to this property together in that when you were doing that in an acted capacity in terms of the hierarchy, was he more senior than you at that time?
- A. Yes, he was, yes, that's correct.

Q. Okay, thank you. And in your, there've also been some questions in relation to the photo booklets that we've had produced in this trial, and how they were arrived at. Are you able to speak to decisions as to why photos went into the booklet or didn't go into the booklet, whose job was that?

A. That was as officer-in-charge, me led by our prosecution.

Q. And can you confirm that all photos even though it's not in the booklet, have they been disclosed?

A. All photos taken at those properties on all those occasions were disclosed.

Q. Now your first visit to the property – sorry, before I say that, you've brought with you quite a descent sized bundle of notes?

A. That's correct.

Q. Notebook entries. Were they contemporaneously created meaning at the time or shortly afterwards?

A. That's correct.

Q. Okay, thank you. So please with your Honour's leave refer to those as we go along as needed.

A. Thank you.

Q. Thank you. Can you tell us when your first visit to the Volkerson property was?

A. I'll just refer to my notebook now. My glasses do start to –

Q. Fog up.

A. – fog up with the mask, so I'll do the best I can here.

25 THE COURT ADDRESSES WITNESS AND COUNSEL – ALLOWS MASK TO BE REMOVED (12:12:34)

EXAMINATION CONTINUES: MR RADICH

A. Okay, so the first visit to the Volkerson property was on the 28th of July 2017

Q. And in relation to that visit, do you have the first photo booklet with you, the one titled "Images from Inspections"?

A. Yes, the one that I bought.

Q. Correct, that's Prosecution Exhibit 1?

A. Yes.

5 Q. And I just want you to confirm or look through rather the pages 1 to 19 and I ask you if those were photos were taken from that visit on that occasion?

A. That's correct.

10 Q. Now Mr Plowright has taken us through those photos and his interpretation in relation to them in some great detail, so I'm not going to do that, but my learned friends may wish to ask you some specific questions in relation to that, is that okay?

A. That's fine, thank you.

Q. Okay. What I will say is as a result of that visit of yours with Mr Plowright was a notice issued that we can see on page 20?

A. That's correct.

15 Q. And is this a notice – we can see both of your names on it if we're about two-thirds of the way down we can see it says: "Inquiries may be made to Laurie or Kevin"?

A. That's right.

Q. Okay. Who actually filled that out and wrote it?

20 A. I wrote that notice.

Q. Okay, is that your handwriting?

A. That is my writing.

Q. Okay and who's signature is it at the bottom?

A. That is my signature.

25 Q. Okay. And I'm not going to take you through the detail of that, but you're familiar with that document?

A. Yes, I am, it's an instruction to prevent or mitigate suffering.

Q. And do you, even with the benefit of hindsight some years later, do you consider that notice to have been properly issued?

30 A. Yes, I do.

Q. Was your next visit to the – sorry, when was your next visit to the property, I'll phrase it that way?

A. Next visit to the property was on the 4th of August 2017.

Q. And are they the photos we see at pages 21 to 30?

A. Yes, that's correct.

1215

Q. And did that visit result in a further notice being issued which we can see on page 31?

5 A. That's correct.

Q. And again, is that your handwriting or Mr Plowright's?

A. That's my writing.

Q. Tell me, when that notice and the one before it, and others we'll look at, were compiled, who influenced the content, if you know what I mean?

10 Who was deciding what to write in there? Was that you –

A. It was both.

Q. – or Mr Plowright or both of you?

A. Both Mr Plowright and myself.

Q. And then the next visit was on what date?

15 A. Next visit was the 11th of August 2017.

Q. And do we see photos in relation to that visit at pages 38 to 45 of the booklet?

A. That's correct.

Q. Do we then see another AWS 130 notice on page 146?

20 A. Yes, we do.

Q. Thank you. Now, at that stage, following those three visits to the property, in broad terms, did you have concerns and what were they?

A. Yes, we had a number of concerns. The front of mind was the amount of dogs at the property and the lack of facilities to hold them, the cleanliness, the ventilation, the smell inside some of the confinements, lack of water, short tethering, no shelter.

25

Q. Now, you mentioned one of your primary concerns there being the number of dogs. Do you know how many dogs there were?

A. On the first visit to the property I recorded in my notebook – sorry, I'm just referring to it... 63 dogs, including puppies and adults.

30

Q. Now, do you know if that represents the full number of dogs on the property?

A. I don't believe it did, no.

Q. Why do you say that?

A. Because the numbers changed from visit to visit. Yeah.

Q. How did you go about identifying where dogs were on the property? Was that a process with which anybody assisted you?

5 A. Yes, Janine Wallace walked through each inspection with us and we walked through the property and I labelled in my notebook, as best I could, I described the situations.

Q. And did you have confidence that you were being shown all the dogs on the property?

10 A. No. On the very first visit, I mean, you wouldn't know, but as we moved through the inspections it became quite apparent that there potentially were dogs that we weren't shown.

Q. After those first three visits that we've spoken about in July and August 2017, at that stage had any decision to prosecute been made?

A. No, not at all.

15 Q. What was your drive at that point? What were you trying to achieve at that point?

A. We were effectively trying to change their behaviour by instruction, by assisting, by giving advice and guiding, really, guiding and educating to drop the numbers. The main issue for us was the amount of dogs on the property, again, the lack of facilities, the lack of people that we saw at the property, so our intention was to try and support Barbara Glover and Janine Wallace to drop their numbers, pretty much.

Q. And when was your next visit then?

A. After the 11th of August?

25 Q. Yes.

A. We gave a bit of delay, so it was about eight weeks after, and the next visit, that was on the 12th of October.

1220

30 Q. Now can you speak to that time difference there, is there any reason for that because we have seen with those first three visits they were basically separated by a week and then we see a couple of months until the next visit. Any particular explanation or reason for that?

A. Yeah we wanted to give them an opportunity to get stuff done. There was a large amount of dogs, there was a lot of work to do. We've given them

three notices of instruction. Kevin offered a lot of verbal advice on ways in how to do it, so we wanted to sort of step back and give them a bit of a chance to get some stuff done.

Q. Were you also giving advice or was that predominantly Kevin?

5 A. Just predominantly Kevin.

Q. But were you present when that advice was given?

A. Yes, I was.

Q. And to whom was that advice given?

10 A. Initially in the first few visits Barbara Glover was present but then as we moved through the inspections it was mainly Janine Wallace.

Q. And did they appear receptive to the advice that was given to them?

A. Initially, yes, yes they did.

Q. You say initially, what about after initially?

15 A. Well it became quite apparent in the October visits that things just, it wasn't happening. Numbers went dropping and we were finding dogs continuously in the same welfare compromised positions.

Q. So turning then to October as you spoke about, when was your next visit specifically?

A. 12th of October 2017.

20 Q. And are they the photos at pages 47 to 63?

A. Yes that's correct.

Q. Now we can see in contrast to the earlier visits, we don't see there being another notice at the end of that visit, is that correct?

A. That's correct.

25 Q. Why is that?

A. Because when we went back on the 12th of October it became very obvious to us that you know, volunteered compliance was not being achieved. So there was no real point in writing yet another notice. We felt it was going to be in the best interests to bring some assistance with us to do a thorough investigation and a – sorry, inspection and go from there.

30

Q. And did that subsequent step, did that resolve in a visit the next day on the 13th of October?

A. That's correct, yes.

Q. Before you went to the property that day, was there any meeting and briefing beforehand?

A. Yes it was brief, just, I mean it was a high, high amount of dogs. You know there was a lot of health and safety elements to consider. We
5 bought canine attendants in case we needed to remove any dogs. We bought a veterinarian Jess Beer because she's, I mean they're our experts we rely on them for their opinions and things needed to start happening. So we just, yeah, we did brief.

Q. Had a decision been made – now we're going to hear of course and we
10 know that dogs were seized on that visit to the property on the 13th of October?

A. Yes.

Q. When was that decision made, was it on the 13th or it would've been made, had it been made the day before on the 12th?

15 A. No, no decision was made to take any dogs into possession on the 12th. It was the purpose of the visit on the 13th. So if there were any welfare compromised animals, we would be considering taking them into possession on that day.

Q. Who ultimately made that decision about whether a dog needed to be
20 seized or not?

A. We relied on Jess Beer for her opinion, but predominantly Kevin Plowright and myself.

Q. Now on that visit on the 13th, had you seen anything by way of improvements from your previous visits in July and August or indeed from
25 the day before on the 12th?

A. There were slight improvements on the 13th from the day before the 12th of October was quite disappointing. So when I say slight improvements, there was a couple of kennel ones that had been cleaned on the 13th, they were quite disgusting the day before.

30 Q. When you say disappointing, can you elaborate on that?

A. Just that the level of education and advise and instruction that we had provided. It was disappointing that we weren't seeing any significant changes at the property. It was quite frustrating. We had a similar job running at the same time which was another breeder. Her had

approximately 50 odd dogs and we were doing the same kind of system with them, both jobs, and that job we could see improvements each time. The owner seemed really receptive to our instructions and we could see significant changes but unfortunately at the Volkerson property it just, nothing was happening.

5

1225

Q. We actually heard Mr Plowright in his evidence speak about work happening at the same time with another breeder. Was that in relation to bulldogs? Are we –

10

A. Yes, that's correct.

Q. – talking about the same situation there?

A. Yes, that's right.

Q. Okay. Did any charges result from that matter?

A. Not at all.

15

Q. So on the 13th some 15 dogs were seized. We've heard evidence to that effect. Is that correct by your notes?

A. That's correct, yes.

Q. Okay. Can you speak us through, or talk us through rather, the process of what happens to, or what happened to each of those dogs from the time a decision was made for it to be seized?

20

A. So my role on that day was keeping number of any dogs that were go – that were taken into possession. So, I labelled them one consecutively through to however many was going to be; in this case it was 15. So, I noted them down, I – chain of custody, pretty much, just made sure that each dog was identified and photographed and placed in vehicles and then once we got back to the Auckland SPCA each dog was then given an animal identification number at the time that they were being examined by the veterinarian. They were scanned for microchips and it was entered into the system.

25

30

Q. Now let's just go through, if I can unpack a little bit of that?

A. Sure.

Q. The microchip process, does that, does a dog having a microchip mean necessarily that it is registered?

A. No.

Q. Okay. Can you explain that process to us as best you can then, the microchipping of a dog as opposed to registration?

5 A. So microchipping of a dog is its identification. It's very difficult to interfere with a microchip once it's been placed in a dog. So, scanning a microchip it generally should be recorded throughout visits at vets or visits at Council, it's identification without a name.

Q. Sorry?

A. Without a name.

10 Q. Okay. So in this case those 15 dogs that were seized, were they all microchipped?

A. Yes, that's correct.

Q. Do you know if they were all registered?

A. Yes they, um, yes, these dogs were.

15 Q. And did you do any checks of registration records to see to whom they were registered?

A. Yes, we did.

Q. And in relation to these 15 dogs seized at that time, who was the registered owner?

A. All 15 dogs were registered to Barbara Glover.

20 Q. Now that process you spoke of about creating a, what we call a village number, to – just to be completely clear, that is separate to the microchip number which is a much longer number. Is that right?

25 A. That's correct, and the microchip number is not an SPCA number, the village number is. It's an identification number that is assigned to the dog at the time it enters our care and it stays with the dog for the whole duration of its time with us and anything that's done with that dog is recorded under that number. If we do know what the names are, we do enter the names in to match.

30 Q. And is that what is part – is part of what you're talking about there some of the clinical notes that we've had referred to in this trial on a computer system, a shared computer system basically?

A. That's correct, yes.

Q. Once those dogs were back at the SPCA and you've gone through that process of checking microchips, ascribing village numbers, what happened to the dogs next?

5 A. So the dogs were then examined by the veterinarians and then placed into the care of the canine team.

Q. And when you say, "in the care of the canine team" what does that mean?

10 A. We have a specialised canine team within the SPCA that are based at the Māngere Centre and they're responsible of the daily care of the dogs, the feeding, the cleaning, the water and the exercise. They were also photographed by me and Kevin and with the numbers that I recorded in my notebook, one through to 15, as identification.

1230

Q. Are you able to speak at all to the maximum holding capacity of that canine team?

15 A. Not really.

Q. That's okay. Now, after that visit on the 13th, or I should cover it off as well, a further notice was issued on the 13th of October, is that correct? At page 86.

A. Sorry... that is correct.

20 Q. So what was the reason for issuing that further notice, given that you had seized 15 dogs and therefore lightened the load to some extent?

25 A. Because there was still dogs left at the property and quite a large number of dogs at the property in welfare-compromised situations, so we did need to ensure that they were being cared for and therefore an AWS 130 notice was required to be issued. We couldn't take every dog that was welfare compromised, we just don't have that much space ourselves at the SPCA. We had to take the most severe and that was the reason we took Jess Beer with us.

30 Q. Now, could I then turn to the other day on which we've focused for the purposes of this trial, the 18th of May 2018? But as I do so, can I just ask you to confirm or tell us whether there were any visits by you to and/or with or without somebody else from the SPCA, in between those two visits?

A. Yes. Sorry, yes, there were visits between then and the 18th of May.

Q. Can you tell us how many and when?

A. Yes, I can, so the next visit was on the 24th of October 2017. It was a reinspection after the 130 notice issued on the 13th.

Q. And after that?

5 A. Sorry, bear with me while I go through my notebook. Ah, 22nd of November 2017.

Q. And after that?

A. Eighth of February 2018.

10 Q. Okay, and any more between that day we're going to come to in May, or was that the last one?

A. There was one on the 27th of March 2018.

Q. All right, so we've got four visits between the dogs being seized on the 13th of October and the incident to which we'll come in May 2018, correct?

A. That's correct.

15 Q. Okay, in broad terms, without me taking you through the detailed findings in relation to each of those visits, were there improvements?

20 A. I'll just refer to my notebooks. Significant improvements from the first few inspections. There were, I recorded, 33 adults at the end of the inspection on the 24th of October, relatively clean. Some dogs had bedding. The next visit after that I had... sorry, bear with me, it was some years ago.

Q. Sure.

A. The visit on the 15th of December, numbers consisted around 25 dogs... yes, I'd be comfortable saying that things were somewhat better.

Q. Were there still any areas of concern?

25 A. There were areas of concern in that we weren't completely sure if we were being shown all the dogs on the property or whether dogs had been hidden from us at times. We were never completely sure about the numbers.

Q. Can you tell us why you say you weren't sure?

30 A. We did find a number of dogs at a property, a friend of Janine Wallace's, in December. There were a number of adult dogs and puppies being kept in a garage of one of her friend's places.

1235

Q. Turning then to the May visit to the property on the 18th of May 2018, we have heard from Mr Plowright about his first involvement on that day. What was your first involvement?

5 A. My first involvement was I performed an inspection at 1478 Miranda Road of the Volkerson Kennels.

Q. And why was that?

A. To do a re-inspection, check that the dogs were okay, to check numbers.

Q. And was that the area around the house and—

A. The farm.

10 Q. – where all the buildings are?

A. That's correct, yes.

Q. Now we've heard, of course, about some dogs being located quite some distance away on the property, was your inspection that day in anyway related to that or is it just a coincidence?

15 A. Yes, it was. No, it was related.

Q. Okay, can you speak to that, speak to why you did the inspection that day?

A. Well, we received information that there were dogs being heard barking from a bush block near the Volkerson property, so the purpose of our visit that day was to do an inspection.

20 Q. And I don't intend to take you through the full details of your findings and notes in relation to the dogs around the property and the various buildings close to the house, but in general terms, what sort of conditions were the dogs in at that time, was there again some sort of thing, was there any improvements previously, any concerns?

25 A. That was a bit of a mixed bag because the dogs around the property were cleaner, there was no – I didn't see any dogs tethered without shelter or water as I have done previously, there were no dogs in the woolshed, there were no dogs in the deer shed, however, I was being led around by Barbara's daughter, Anne and she – it almost felt like she was steering me away.

30 Q. Okay, all right, she's not a defendant or a witness in this trial, so we will steer away from that.

A. Sure. Apologies. I made my way to the kennel block and when I was out there Janine Wallace was cleaning.

Q. What did you do and what was your role in relation to these dogs we've heard about that were away in the bush?

5 A. So at completion of my inspection Kevin Plowright turned up and once we tried to speak to Janine we were trying to ask if there were any other dogs on the property. She didn't really want to engage with us and so then we proceeded to leave the house, the dwelling and all the buildings and went up into the bush.

10 Q. How did you get that?

A. We drove up in two vehicles, two four wheel drive vehicles.

Q. Now, we've heard various estimates of, in terms of the time it took to get you there, what's your best guess?

15 A. My best guess is that we left the property, the dwelling around 20 past 1, headed up into the bush, got to the dogs at about 10 past 2, we located them and then back to the house by around 3, 3 o'clock.

Q. How did you get there, by what means of transport, if any?

20 A. We took two four wheel drives up into – followed the tracks as far as we could up into the paddocks as far as we could go. One of our vehicles did get stuck, so we stopped and then we went by foot and just listened to the sound of dogs barking to guide us.

Q. And what was your role once you'd got to the area where the dogs were?

25 A. My role was just writing the notes pretty much, just describing what I could see and we took the dogs into position, so I took a description of the dog where it was located, if it had water or not and the colour of its collar and labelled it again 1 through to 6.

Q. And did you then use those notes in any capacity when you got back to the office with the dogs later?

A. Yes, I did.

30 Q. What was the purpose of that?

A. So once the dogs got back to the SPCA again, they were examined by Doug Dreyer. My description and my numbering accompanied them into the database that they were given an animal ID number again.

Q. So could I ask you to turn to second booklet, the one that specifically relates to that mark, that May 2018 inspection, go to page 4. Do you have that in front of you Ms Davis?

WITNESS REFERRED TO SECOND BOOKLET

5 A. I do, thank you.

Q. And on top of the first photo, we can see Dog 1 “Tiffany SPCA VN”. What does VN stand for again?

A. Village number.

Q. And then a number ending 315?

10 A. Yes.

1240

Q. Is that the – not to put words in your mouth, but is that the number, did you allocate the dog that number?

A. The system allocates the dog’s number.

15 Q. Who tells the system to allocate a number?

A. Our hospital reception staff type the actual information into the database of a form.

Q. And who provided the information for the basis for this?

A. I did.

20 Q. And I just need to jump through these hoops again so forgive me if this gets repetitive for a couple of minutes, but on page 6, can we see a dog, a dog by the name of Princess?

A. That’s correct.

Q. And is the Village Number that relates to that 297317?

25 A. That’s correct.

Q. On the next page, do we see a dog named Tiana?

A. Yes.

Q. And do we actual see in the booklet there the same number as we’ve seen on the previous page for the Village Number?

30 A. Yes.

Q. So is that perhaps an error?

A. That is an error, yes it is.

Q. Are you able to refer to your notes and confirm what the correct position is?

- A. Yes I can. So Princess Dog 2 should've been 297316.
- Q. Okay, thank you. And so the correct –
- A. Apologies.
- Q. – the correct number for Tiana is what?
- 5 A. The correct number for Tiana is 297317.
- Q. As it appears in the booklet?
- A. That's correct.
- Q. On page 8, we see a dog named Image with a Village Number 297318. Can you just check if that's correct as well?
- 10 A. That is correct.
- Q. On page 9, the same process in relation to a dog called Nally, Village Number 297319, is that correct?
- A. That's correct.
- Q. And then on page 10 a dog named Antonio, Village Number 297320, is that correct?
- 15 A. That is.
- Q. How many people were involved in the process of transporting those dogs out of where they found in the bush?
- A. There were six of us.
- 20 Q. And how were the dogs allocated as between people?
- A. We literally took one dog each.
- Q. And how were they transported out of there?
- A. We walked them out back to the vehicles.
- Q. And then once at the vehicles?
- 25 A. They were placed inside the vehicles and back down in – we drove back down to the dwelling.
- Q. After you'd been to the dwelling, did you go any – where did you go after that?
- A. When we went back to the dwelling and we attempted to speak to
- 30 Janine Wallace just to talk through the process and that, advised her that we were taking into possession six dogs that we found in the bush but Janine didn't want to engage. She walked inside, so I wrote a 129 notice up which is a notice of entry that we normally give people when they're not at home, but it just had the details of the dogs.

Q. What happened to the dogs next?

A. Then we transported the dogs to the SPCA.

Q. And were you involved in that part of the process as well?

A. Yes I was.

5 Q. And whilst at the SPCA, what did you do with the dogs?

A. Once we got to the SPCA we took photographs of the dogs numbered with my numbering system one to six and the details. They were examined by Doug and they were scanned for microchip and entered into the system.

10 Q. Now were these dogs, did they have microchips?

A. Yes they did.

Q. And did you also do a registered check in relation to these dogs?

A. Yes I did.

15 Q. And what did you find in that regard in terms of the registered owner if there was one?

A. Five out of six dogs were registered to the Barbara Glover.

Q. What about the other one?

20 A. The other dog, we couldn't confirm. She had a microchip but the council didn't have any record of that microchip number and because we didn't know the name we couldn't check the name either.

Q. Are you able to tell us which of the six dogs in the booklet that we've sent there, which dog was that that you weren't able to ascertain the registration details of?

A. It was Dog 2 Princess.

25 Q. Did you do anymore general check of registration records to see if either of these defendants owned dogs other than those that had been seized?

1245

A. We had done a number of checks of the council for the address and run some names through the system, yes.

30 Q. What did you find in relation to the name Barbara Glover?

A. Barbara Glover was the registered owner of most dogs at the property.

Q. What about in relation to the name Janine Wallace in terms of registered ownership?

A. There was never any dogs, never any dogs registered to Janine.

THE COURT ADDRESSES MR GARDINER – GOING TO BE LONG
(12:45:47)

LEGAL DISCUSSION – INTERPOSED WITNESS, START 2PM (12:46:04)

5 WITNESS STOOD DOWN

COURT ADJOURNS: 12.47 PM

COURT RESUMES: 2.00 PM

MR RADICH ADDRESSES THE COURT – INTERPOSED WITNESS
(14:01:19)

5 WITNESS INTERPOSED

**MR RADICH CALLS
MICHAEL ROBERT HARDCASTLE**

THE COURT:

- 10 Q. Mr Hardcastle, can you see and hear me okay?
A. Yes, I can, thank you.
Q. All right, thank you. Sorry, are you Mister or Doctor?
A. Mister is fine.

EXAMINATION: MR RADICH

- 15 Q. Mr Hardcastle, can you see and hear me okay? Mr Hardcastle, hello. I think he's frozen.

THE COURT:

I think he has.

EXAMINATION CONTINUES: MR RADICH

- 20 A. Hello.
Q. Oh, sorry, I think we lost you there for a moment Mr Hardcastle. Can you see and hear me okay?
Q. Yes.
Q. Okay. I'm not sure to the extent of what you can hear me, but at our end
25 you're coming through freezing, no, I've got the thumbs up, that's good. Now you don't seem to be frozen now, so we might try again. Could you confirm you can see and hear me okay? No, okay. We're obviously having some problems here with the link. Do you have good internet connection at your end?

A. As I know I'm using a friend's Wi-Fi at her house, yes.

Q. Okay, well look that briefly seemed better, we did hear you there, but I can see visually you're frozen again.

A. I can try moving it, moving to see if the reception's better.

5 Q. Look, if that's not too much trouble, I'd be much grateful. Thank you.

A. Sure, okay. Right, just bear with me for a second.

THE COURT ADDRESSES MR RADICH – TECHNICAL ISSUE (14:03:24)

EXAMINATION CONTINUES: MR RADICH

10 Q. Okay, now, we can see you and we could see you walking along there very well, so I'm hoping the connection is better. Let's just try with the audio. Can you say something for us now? No, we can't hear a thing, unfortunately. You're definitely not muted or anything there? Are the headphones still plugged in? No. Okay, we're not getting any audio.

1405

15 **TECHNICAL ISSUES – NO AUDIO (RESOLVED)**

MICHAEL ROBERT HARDCASTLE (SWORN) (VIA VMR)

EXAMINATION CONTINUES: MR RADICH

20 Q. Thank you, Mr Hardcastle. Could you please give the Court your full name?

A. Michael Robert Hardcastle.

Q. What's your occupation, Mr Hardcastle?

A. I'm a veterinary pathologist.

Q. Fully qualified, I take it?

25 A. Yes, I had a three year residency to sit the American College of Veterinary Pathologists board examination in 2012 after I completed my Bachelor of Veterinary Science at Massey and I also had a Master of Veterinary Studies with honours completed during that time.

30 Q. Thank you, and you've previously given evidence in court of an expert nature.

A. Yes, I have.

Q. And you're therefore familiar with and agree to abide by the expert witnesses' code of conduct, is that right?

A. Yes, I do.

5 Q. Very good, thank you indeed. As I think you know, we're here to talk about your findings in relation to a dog called Ritzer whom you examined in October of 2017. Do you recall that?

A. Yes, I do.

Q. What was your – first of all, who were you engaged by in relation to that?

10 A. The Auckland SPCA presented the body.

Q. Okay, and what was the process that you went through in relation to this examination?

A. So I undertook a full dissection, starting out with taking photographs of the dog before proceeding to reflect two of the legs with the dog lying on its side, which allowed access to the internal organs in the chest and abdominal cavity, and I removed all of those and examined each one in turn, opened them up to have a look at the contents and then also removed the brain and examined that as well.

Q. Okay, can you recall the date of this or do you need some help with that?

20 A. I think it was on the 31st of December – October – sorry, yeah, I might just have a look at my statement.

Q. Thank you, yes, please go ahead.

A. Yeah, the 30th of October 2017.

Q. Thank you. Now, you spoke about a dissection and examination of various organs. We don't need to take you through each of those organs that you examined, but in broad terms, before we get to what we want to hear about, which is one of the legs, in broad terms was there anything abnormal?

A. Not in particular, no. There was some skin issues on the thorax, as I recall, and some congestion of organs which is probably related to the manner in which the dog had been euthanised, and some colouration of some internal lymph nodes. I think the dog was in generally fair body condition in terms of its overall amount of muscle and fat and so on, and wasn't particularly skinny or overweight.

1410

Q. Thank you. Can I ask you to tell us your findings in relation to injury, if we call it that, to the right rear leg of the dog?

5 A. Yes. There was a wound around part of the circumference of the – just above the hock joint, the sort of ankle joint of the dog, which involved a laceration to the caudal part, the back part of the limb and the achilles tendon, which we call the common calcaneal tendon, was ruptured or bro – cut, had been cut or damaged and there were two ends visible. The area was surrounded by granulation tissue, which is the sort of healing stage of when the body's trying to form a scar, and the skin around the area was variably discoloured, which indicated that it was probably dying or partially necrotic, which is the technical word for dead tissue.

10 Q. Were you provided with any information as to what had happened in relation to that leg?

15 A. Yes, I was. The SPCA inspector emailed be some images of the dog as it had been found in the kennel, with the leg held up by a chain and a rope and some images of the dog standing afterwards, holding the leg up as if to, as if it wasn't able to put their weight on it. Some images of the leg, the hock area with visible loss of fur around the area where the chain had been attached to the leg as well.

20 Q. Are you able to provide us with any guidance as to your view of the level of pain or suffering that such an injury might have caused?

A. I think it would have been very painful, you know, it's essentially a strangulation of the area and, yes, I think it would have caused a significant amount of pain.

25 Q. Are you able to provide any guidance as to how long the lead might have been around the dog's leg for it to have been in that condition?

A. It's not particularly easy because the – at the time at which the dog was presented for post-mortem it was, I think it was something like 14 days after it, well, yeah, about 14 days after it had been seized and so it had a period of treatment at SPCA which would have influenced the appearance of the wound. However, just based on first principles as to how, you know, the sort of degree of injury that you might expect from this type of binding insult to the leg, I think it could have only taken a few

hours typically to produce – essentially becomes a pressure sore and I think it's possible that what happened here is that the pressure from the chain being tightened around the leg was enough to cause the tendon to die. The tendons don't have a very good blood supply and sustained pressure at the area would have cut off the blood supply to that tendon for a long period of – potentially induced necrosis in the tendon at that time. There may have been – there was obviously injury to the soft tissues, the skin and muscle and other soft tissues around the leg as well and so that introduces some variability in my ability to say how long it took for this type of injury to be sustained and there may have been other factors involved in the rupture of the tendon, such as infection after the chain was removed, for example, which could have contributed to the rupture of the tendon, so it's not easy but I would think a few hours of ligation by the – in binding, would have been enough to eventually lead to the tendon becoming necrotic and rupturing.

Q. Okay. Thank you for that. Could it have been a few minutes at one end of the spectrum rather than a few hours, or could it have been a few days at the other end of the spectrum? I'm just trying to get an idea about what the range of possibilities is here in terms of the time.

1415
A. I think minutes would be unlikely. I think it's less likely because it does take – you would require a period of time of sustained loss of blood flow to cause the cells to die. They can – because you know I think the cells and the tendon because it is a poorly infused organ that cells and the tendon are yes to having a low amount of blood supply (inaudible 14:15:07) so I think they'd be able to tolerate a few minutes of strangulation. And you'll probably need other changes to occur in the tendon to cause sustained necrosis like blood clotting in vessels around the area caused the blood flow then cut off. So I think a few minutes is unlikely. I think a few days is unlikely too. I mean I think I, you know, if you had a very loose kind of a binding that was present for a long period of time you might eventually get the same effect, but I think days is unlikely too.

CROSS-EXAMINATION: MR GARDINER

Q. Mr Hardcastle, my name is Dan Gardiner and I'm appearing for defendant Wallace. That's the lady with the coloured jacket at the back of the court. Essentially there has – this dog was in a barn, you've been briefed on this by the SPCA. Entry was made to the barn, it was in a cage in a barn, it was tethered in a cage. There were some noise associated with the entry into the barn. An implement was used to break open or release the lock which is on the door to the barn and then there were a number of people that's come into the barn at the same time, and this dog, evidence will be given that this dog was in good condition the previous day. There was a visit to the SPCA. Correction, a visit by the SPCA to the property and my client has identified a dog in one of the photos that the SPCA took the day before alive and well, but tethered on a particular location in the property. The following day, 13th of October 2017, the incident that I started off describing occurred and the dog was found after the people, SPCA people entered the hay barn was found with the tether around the injured leg. So they are broadly the circumstances. Now one possibility would appear to be that the dog may have gotten tangled, was entangled before the entry to the barn, but it caused it – the defendant will express this view, caused the dog so much, the entry of the people, the mode of entry caused the dog some distress which led to the situation either led to the entanglement or exacerbation of the situation for the dog with this entanglement causing it the injury, you know the original injury. Was this – were either of those situations quite possible given what you saw as – when you did your bisections and examination?

A. Sorry, I mean you're talking about that timeframe with a few minutes of entanglement potentially.

Q. Well that – yes and no. The entanglement could've been for a longer period and then become exacerbated by the dogs concerned or alarm when people are out in the barn –

A. Yeah.

Q. – alternatively, it could've become entangled and suffered an injury in a few minutes. This is the second possibility which you just referred to?

A. Yeah, right. I think it's difficult for me to speculate on that really. I mean yeah, the time factor is one issue. The severity, the tightness of the binding is another factor that would influence how much damage would be caused in that given timeframe. There are probably too many variables for me to really speculate on that.

5 1420

Q. There has been evidence that the dog or there will be evidence that the dog was walked by the SPCA to an SPCA vehicle after the injury occurred, you know, rather carefully walked?

10 A. Yes.

Q. Would that have exacerbated the injury or?

A. I doubt it. You know, it would probably have just walked on three legs. If it might've tried to – if it did try to weight bear it, but yes, it probably wouldn't have made too much difference.

15 Q. Right. Now, you did when you were answering my learned friend, you did refer to the injury, original injury perhaps being exacerbated during the period of treatment at the SPCA, there was two weeks that elapsed roughly between the 13th of October 2017 and when it was put down, euthanised. Can you elaborate on how the treatment of this type of injury might've been exacerbated during that period? Correction, the injury might've been exacerbated by the treatment during that period?

20 A. There's a number of different things that could go wrong with a wound like this, it could get infected. If there isn't sufficient immobilisation of the area tendons are more likely to – they're best likely to heal if they're not inadequately mobilised sometimes with a – if a tendon's being cut in an accident the joint will – veterinary surgeons will place pins in the bones around the joint and then stabilise it with an external fix to stop the joint from moving if a tendon doesn't have any strain placed on it. Yes, you know, yes, there's a number of different things that could go wrong with a general sort of wound to care, making sure the dog doesn't self-traumatise itself and prevention of infection and maintenance of the healing environment are all factors that could've influenced this, I don't know, I don't know exactly – I was given some clinical notes, but I don't

25

30

know the level of treatment that would or would not have been necessary to avoid any of those things.

CROSS-EXAMINATION: MS CRANSTOUN – NIL

RE-EXAMINATION: MR RADICH – NIL

5 QUESTIONS FROM THE COURT – NIL

WITNESS EXCUSED

1425

LAURIE DAVIS (RE-CALLED)**CROSS-EXAMINATION: MR GARDINER**

5 Q. Inspector Davis, my name is Dan Gardiner and I'm appearing for the
defendant Janine Wallace. Just at the outset, you're currently the officer
in charge of the investigation.

A. That's correct, yes.

Q. And you took over from Inspector Kevin Plowright.

A. That's right.

10 Q. And when did Inspector Plowright leave the SPCA?

A. From memory, sorry, roughly 2019, end of 2019.

Q. Righto. I'll just go through a series of questions arising from my learned
friend.

A. Sure.

15 Q. Now, just going to the first visit, and we'll go to photo booklet number 1,
which my learned friend referred to, and in particular page 20, which is
the first section 130 notice, instruction to prevent or mitigate suffering.
Just bear with me...

WITNESS REFERRED TO PHOTOGRAPH BOOKLET

20 Now, in this notice, you mention a number of things which relate to the
cleaning of the kennels and make some suggestions. This notice is
signed by you, both you and Kevin. Enquiries are to be made to either
you or Kevin. Now, you identify some areas which need to be addressed,
daily cleaning, all enclosed areas containing the pups and dogs; that's
25 firstly, secondly adequate ventilation immediately and daily, and shelter
to provide adequate shelter to protect from all weathers, elements.
Mindful of cleaning and the opportunity for dogs to display normal patterns
of behaviour...

THE COURT ADDRESSES MR GARDINER – IS THERE A QUESTION?

30 (14:27:42)

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Now, one of the key points relates to the construction of – there's reference to enclosures existing to be improved upon within five months and a date of the 31st of December is given. Now, that date related to
5 some kennels – well, which the defendant informed you would be constructed during that, by that time.

A. That's correct.

Q. Correct?

A. Yes.

10 Q. Now, those, from your later visits, the defendant kept both you and Inspector Plowright informed and – is that correct? Regarding the construction of the kennels.

A. Not, if I recall, until after our visits in October.

Q. Right. And the construction was over a period from early October through
15 to completion on the 15th of November. Is that about right, as you recall?

A. Sounds about right.

Q. So if we take the 15th of November as a date by which the kennels would be completed, that's 2017, and we look at the date of the 31st of December 2017, the kennels were completed some time before the
20 nominated date. Do you accept that?

A. If I can refer to my notebooks?

Q. Certainly.

1430

A. Thank you. Sorry, I'm just trying to find the visit –

25 Q. That's okay.

A. – that Greg Reid and myself attended. That was the 22nd of November 2017. We were invited to inspect the kennel runs.

Q. Right and just looking at the kennel runs, have you got – it sort of shows the defendant, correction, witness, the defence booklet, photo booklet
30 one. Have you got it there?

WITNESS REFERRED TO PHOTO BOOKLET ONE

A. I do.

Q. Good. Just go to page 19, following, these are different perspectives of the kennels. Well, do you recognise the photo – the kennels which are displayed at pages 19 through to 23?

A. Sorry, are we in the first booklet?

5 Q. No, we're in the defence booklet not the prosecution booklets which you may have there.

LEGAL DISCUSSION – WITNESS NOT SEEN BOOKLET (14:32:57)

CROSS-EXAMINATION CONTINUES: MR GARDINER

10 Q. We'll start at page 19. We've got a close up with a dog in it, one of the areas occupied by a dog. That's at the bottom of – top of page 19. Then we've got a perspective looking down the length of the kennels. These photographs were apparently taken on the 18th of May 2018.

MS STOIKOFF:

No, they weren't. The first pages, not the second.

15 **MR GARDINER:**

Excuse me, your Honour.

1435

CROSS-EXAMINATION CONTINUES: MR GARDINER

20 Q. Righto, we'll go to the – just looking at the bottom of page 19, that's a perspective of the kennels –

A. Yes.

Q. – as you recall it.

A. Mmm.

25 Q. Going to page 20, we have another perspective on these new kennels, at the top of the page there's more of a close-up, half shot, in the bottom of page 20. Again, different perspectives of the same kennels, page 21, and further perspectives of the kennels at page 22, and that shot seems to include you walking down between the fence and the kennel.

A. I'm not entirely sure if that is me or not.

Q. And we've got Inspector – that's Inspector Williams out to the right, would that be true?

A. That's correct, yes.

Q. And we've got a shot of the dog in one of those kennels at page 23.

5 A. Yes.

Q. Now, would it be fair to say that you would be – a kennels like that would be hard to beat anywhere, would you agree with that?

A. I wouldn't go as far as saying "hard to beat." What I would say is a very vast improvement on the kennel blocks that we saw previously.

10 Q. Would it be fair to say this is A-1 accommodation for dogs?

A. I don't think I'm really qualified to answer that, to be fair.

Q. Righto.

A. Significant improvement, I would say.

15 Q. Righto. Now, this significant improvement occurred well within the timeframe that the SPCA gave these people, the defendants to get the accommodation sorted. Do you accept that?

20 A. To be fair, we didn't give them instruction to construct kennel blocks. That was – they voluntarily informed us that they would do that and we were guided by them with the timeframe that they felt that they could achieve it by.

Q. And they were true to their word, weren't they?

A. Yes, it appears so.

25 Q. Now, just in between times we've had three visits while my learned friend took you to. The first one was on the 28th of May – correction, 28th of July, and then we went through three further visits which occurred, he alluded to, on the 4th of August 2017 and the – there was a subsequent one on the 11th of August 2017.

A. That's correct.

30 Q. Right, now after each of these visits there was a notice issued. We've just referred to the one in the booklet at page 20 which relates to the visit on the 28th of July.

A. Yes.

Q. Now, when the second notice was issued, which is at page 31 of the booklet, we did have a situation where there was significant improvement in relation to the situation on the first visit. Do you accept that?

A. Not entirely, no.

5 Q. When you say: "Not entirely," you're accepting it to some extent but not fully. How did they fall short in relation to what was required of them, in your view, on the second, at the time of the second visit?

A. So that would be the 4th of August.

Q. Yeah.

10 A. We still observed dogs tethered on short leads. There were puppies in sheds, the ventilation was a massive concern, lack of water or no water, dirty conditions, crates in garages, we still had significant welfare concerns on that second visit.

1440

15 Q. Now and then of course we had the third notice which was given, which is at page 46 which my learned friend talked to you. Do you accept that there was improvement between the second and – between the fourth and the 11th?

A. Slight, I would say.

20 Q. Slight.

A. We were talking about a large volume of dogs still on the 11th of August in 2017 over 60 and no proper facilities so we did still have concerns on that day.

25 Q. But we had a situation, we'll just go back to the first visit when you estimated that there were 63 dogs?

A. I wouldn't say estimated –

Q. You counted?

A. Yeah we took notes sorry and we were guided by Janine.

30 Q. We'll come back to the guidance. You counted 63 dogs, how many of those were adults and how many were puppies?

A. I think I actually wrote that on the notice. So let me just have a look. So on the actual notice itself it says: "31 adult German Shepherd dogs and 32 German Shepherd puppies."

Q. Now when you did the second visit on the 4th of August, what were the number of dogs?

A. On the 4th of August I recorded: "31 adults and 32 puppies."

Q. Right, so it's much the same?

5 A. That's correct.

Q. Now at some stage the defendants surrendered five dogs?

A. That's correct.

Q. What date was that?

A. That was on the 4th of August.

10 Q. So they surrendered five dogs, that was as a result of an invitation by Mr Plowright, Inspector Plowright and yourself?

A. That's correct.

Q. And those dogs have subsequently been re-homed, five dogs?

15 A. I don't, I would have to refer, I'm not in control. Once a dog is surrendered to the SPCA an inspector's authorisation to do whatever is not asked.

Q. So in effect on the second visit we have a number which is comparable to the number of dogs on the first?

A. That's correct.

20 Q. It's reduced by five dogs you say surrendered? They surrendered them, they were five adults or weren't they?

A. They were five adults, yes.

Q. Five adults?

A. Yes.

Q. So that reduced the number of adults to 27?

25 A. If I said 31 minus five.

Q. That sounds...

A. 26.

30 Q. 26 righto, 26. And then we move to the 3rd notice that's for the 11th which is at page 46 and how many dogs were – you referred to top of the notice to 61 German Shepherd Dogs and you talk about an adequate living conditions. How many of those dogs and this is slightly more than one might expect, but how many of those dogs were puppies and how many were adults?

A. I couldn't confirm. I noted down 61 dogs in total.

Q. Right. But again broadly speaking, it's in the same ballpark as on the two previous visits, isn't it? Even allowing for you know a reduction by five. We're not looking at a huge difference in the total number –

A. Not a huge difference, no.

5 Q. And again on this third visit which its covered in this section 130 notice, again they made some efforts and I'm speaking for my client. Some efforts have been made to improve the conditions, do you accept that?

1445

A. It was very minimal.

10 Q. At the same time, you were aware at this stage that they were looking at getting new kennels, replacing the old.

A. We were very hopeful, yes.

Q. Yes, so this is not a case of someone getting no visits in short order – this is, they've had three visits from the 27th of July through to the 11th of August, which is roughly two weeks –

15

A. One per week.

Q. Pardon?

A. One visit per week.

Q. Yes, but they had improved. The situation –

20 A. Very slightly, I would accept very slightly.

Q. But that's given the optimum situation that you were aiming for, isn't it?

A. To be honest, they failed to comply completely with our 130 notices of instruction.

Q. But there will be some, there is some difference of opinion, which will be covered in due course when the defendant Wallace gives evidence, as to rules governing tethering, shelter, the view that was taken on the access to water and so on. You accept that?

25

A. I guess. I'm not sure what I'm being asked, sorry.

Q. But there is a difference of view which might exist in relation to each of those requirements.

30

A. I'm sorry, I'm not too sure how you want me to answer the question. On the 11th of August we still found significant welfare concerns to the point where we needed to issue yet another 130 notice.

- Q. So basically, in response to my learned friend, the concerns really came down to the number of dogs, the facilities that were then in place, the ventilation to some of those facilities, the short tethering and what you construed as the lack of shelter for the dogs that were outside.
- 5 A. There were a number of dogs tethered with no shelter, yes.
- Q. A number of dogs tethered with no obvious shelter – no shelter at the time of the SPCA visit.
- A. That's correct.
- Q. But for all you knew they could have had shelter when you weren't there.
- 10 For example, none of these visits were made during the night, were they?
- A. No, they weren't, because under the Animal Welfare Act that is not a reasonable time for us to do an inspection at a property.
- Q. Righto, so what's the period, reasonable time during which you are able to do a visit?
- 15 A. Well, I would suggest within daylight hours.
- Q. Yeah, which –
- A. That would be reasonable.
- Q. So if we had daylight saving, for argument's sake, would that extend the scope of your visits?
- 20 A. Potentially. It depends, of course, case by case and the severity of the job we're attending. We take people's personal circumstances into consideration when we're entering their properties.
- Q. But in none of these three visits, despite those concerns, did you issue an infringement notice.
- 25 A. Infringements weren't in place in 2017. They didn't come into effect until the 1st of October 2018.
- Q. Right, but did you have the ability to prosecute at that time in relation to failure to comply with a notice?
- A. Yes, we did.
- 30 Q. But at no time did you consider, during this period covered by the three notices, did you consider initiating a prosecution to make the point in relation to the apparent non-compliance.
- A. No, there is far bigger issues at play.
- Q. Right, the bigger issues being?

A. Kennelling, housing, ventilation, number of dogs, personnel, the way in which the animals were being held.

Q. Righto.

5 A. And just going back to your question about where the dogs would be at night, a number of times we went to the property and the lack of places that dogs could be appropriately housed, I don't know where you would or where anyone would think they would put these dogs at night.

10 Q. Righto, that's a good point. The defendant, if I'm going to, I'll address the point later in greater detail but the – after we deal with the visits of the 12th and the 13th –

A. Sure.

1450

15 Q. Now basically it would be fair to say that the conversations that you've had with the defendant in relation to the shortcomings identified in these notices were from your point – prosecution point of view – from the SPCA point of view they were more consultations, if I can put it that way?

A. Education, I would suggest. Yes.

Q. Educational, yes. There was a – you attempted to enter into a dialogue, from your perspective, with the defendants.

20 A. We always attempt to get voluntary compliance.

Q. Right.

25 A. We have a compliance framework that we work through. We don't ever necessarily jump from zero to prosecution. We take into consideration a number of factors and so we gradually went through stages you might say.

Q. When you say "number of factors", what would they be?

A. In reference to?

Q. Whether to go through this process or initiate a prosecution straight off.

30 A. It depends on the owners and the person in charge. If they are complying with our instruction and moving forward then we gain involuntary compliance. If not, again, we move through stages to the point where we'd have to then take things into our own hands.

Q. Okay. Now just going on, we again, we had another visit, the next visit after these three was on the 12th of October. That's 2017?

A. That's correct.

Q. That was approximately, as my learned friend referred, or yourself in response to the question from him, that was about eight weeks after the visit on the 11th of October?

5 A. That's correct.

Q. 11th of August. Now at that stage as a result of that visit you came to the conclusion that the dogs were – there was some welfare compromise in relation to the dogs. Do you accept that?

A. Yes, I would.

10 Q. And you basically were of the view that the – they weren't achieving enough despite the three notices that you had previously issued. Would that be a fair statement?

A. That's correct. We were still finding dogs in welfare-compromised situations even after an eight-week break.

15 Q. Right. Now you came – on this visit there was you, Kevin – this is the 12th of October. Who was with you on that visit?

A. Just myself and Kevin Plowright.

Q. Just Kevin? Right and as a result of that you decided not to do anything on the day. You informed the Defendant Wallace that you were going off to think about and discuss certain things?

20 A. That's correct.

Q. Was that because at that stage you were already thinking of a visit shortly afterwards involving some support?

A. That would be fair to say. There's was 56 dogs on the 12th and like I said previously, we were quite disappointed on that day so rather than, I mean, there was only two of us, still a large number of dogs with the same concerns that we'd had since July so to be fair to everybody concerned we felt that we would like to take an assistant.

25 Q. Right so you went away, you – would it be fair to say that you underwent some consultations back at SPCA Māngere on your return about what you were, what the next step would be?

30 A. Kevin and I absolutely –

Q. Yeah.

A. – discussed.

Q. And when you came back on the 13th, what was the SPCA team on the 13th of October?

1455

5 A. On the 13th there was Kevin and myself. We had Andre Williams who was another animal welfare inspector. We had a couple of animal control officers and we had a couple of canine attendants from SPCA Jess Beer and one police officer and a field officer.

Q. And there were a large number of vehicles which accompanied, which transported all these people to the kennels?

10 A. That's correct.

Q. How many of them, five or six?

A. I don't recall, sorry.

15 Q. On the 13th of October 15 dogs were seized, now you were at a total of 57 dogs bearing in mind that it started this process we had 63 on the first visit, we had five dogs surrendered along the way and when this visit on the 13th – correction on the 12th of October occurred, there were 57 dogs counted. So the numbers have remained remarkably consistent give or take the odd dog throughout that period?

A. That's correct.

20 Q. Now on the 13th of October 15 dogs were seized, what were the criteria used for the – I know that you, we'll just make it. I don't want to traverse ground unnecessarily that my learned friend has done, but essentially it was you, Kevin, you as his 2IC, second in charge?

A. That's correct.

25 Q. And Jess Beer, you are the three who were involved in the decisions?

A. That's correct.

Q. So you said to my learned friend that basically Jess Beer, Dr Jess, Jess Beer was thereby offered veterinary advise but the ultimate decision clearly remained with Kevin and you?

30 A. Myself, yes.

Q. As his right-hand person?

A. Mhm.

- Q. So now the 15 were seized, what were the criteria that were used to seize these dogs? I'll just give a bit of – well we'll answer that question then I'll – we'll get –
- A. What do you mean criteria?
- 5 Q. What were the factors that you and Kevin took into account in making the decision to seize each of these 15 dogs?
- A. The most severe welfare compromised.
- Q. Now just going back a step, not all these dogs had medical problems?
- A. Some did, some didn't.
- 10 Q. A significant number of those 15 dogs didn't have ear infections, didn't have eye infections, didn't have a very bad, badly damaged leg. So we're down to, you know the majority of the dogs did not have I suggest to you any evident medical problem which led to you, would've led to you having concerns about their health and welfare?
- 15 A. It was, under the Animal Welfare Act it is not just animals that require vet treatment, it's their physical health and behavioural needs that we take into consideration also.
- Q. Now what, firstly what health needs did you take into account in relation to the dogs which didn't have obvious medical problems, like you know a
- 20 dog shaking its head which indicated an ear infection?
- A. So dogs that were living in dirty conditions, dogs that were underweight deemed by Dr Jess Beer, no water, ventilation, general housing.
- Q. When you – so when we have no water, we have water bottles in many cases but there'd be the – got little water in or they haven't, they're
- 25 overturned. Would that be the case?
- A. That would be correct, yes.
- Q. And some of these dogs were taken from locations such as, can you say exactly where each of the 15 dogs were taken from?
- A. Yes I can do that. So the first dog Monty was tied to the fence on a short
- 30 lead with no shelter.
- Q. Now he was, excuse me, was he in front, you said a fence. Was that the front of the –
- A. Dwelling.
- Q. – cattle yard?

A. Picket, white picket fence. No.

Q. It wasn't?

A. White picket fence that surrounded the dwelling, yes.

Q. Yeah.

5 A. Dogs 2, 3 and 4 which were Astro, Dolly and Mafia, they were taken from or removed sorry from the old kennel blocks.

1500

Q. Right and why were they removed?

10 A. They were moved because Dr Jess Beer deemed Astro to be thin and matted, Dolly to be matted and head shaking and Mafia head shaking.

Q. Right.

A. The next dog that was taken was a dog called Casper who was a young dog, and that dog was the dog tied to the cattle yard.

Q. Right.

15 A. No shelter and no water. Dog six was Zeta. She was deemed to be underweight. She was long hair, long-haired dog. She was matted and had faecal staining on her coat. She also was tangled, what is that, leave that one out. The next dog was – that was number six. Number seven was Debbie. So, Debbie was behind a deadlock door in a utility shed that
20 was locked. She was in a crate, it was dark. The fumes or ammonia levels inside that room were quite strong. She had no water. She was brought out of the crate and Dr Jess Beer believed that she was also underweight, had a matted coat and an ear infection. Dog number eight was in a deer shed. It was extremely odorous, there was no bedding.
25 She was also deemed to be matted and thing. Dog number nine was Desney who was confined in a wool shed. She was deemed by Dr Beer to have bad skin and an ear infection. Dogs 10, 11 and 12 were young. They were Elite, Puppy and Emma. Dr Jess Beer was concerned about the flooring and the behavioural enrichment and housing for those dogs.
30 Dog number 13 was Dani. Dr Jess Beer believed that he was suffering from an ear infection. Number 14 was a dog called Parelle, who was tied by a lead to a cage inside a dark barn; no light, no water and dog number 15 was neighbouring him, who we found tied by a short lead to a cage with her leg tied up around her –

Q. Right. Now 15 dogs were seized. There was 57 dogs present on the property at this time.

A. That's correct.

Q. So they were left with 42, correct?

5 A. Approximately.

Q. Right. In other words they – it was considered by the SPCA that they were still responsible owners, but in relation to a reduced number, namely 42 dogs.

10 A. We were trying to be fair and reasonable. We didn't want to have the zero tolerance approach. We're still working with these people, trying to get the best outcome for the dogs. The SPCA itself has capacity issues. We don't want to take any dog that we don't need to take unnecessarily, so we were guided by Dr Jess Beer and took only the dogs that we felt that we absolutely needed to on the day.

15 Q. Right and by analogy you used an example to illustrate that point, the breeder of the bulldog, I think it was bulldogs?

A. That's correct. Yes.

Q. Now did that breeder undergo seizures of dogs?

20 A. That wasn't necessarily – sorry, that wasn't necessary as they complied with our notices of instruction.

Q. Right. Was he – did the owner of that breeding establishment surrender dogs at any stage?

A. No, they did not.

Q. Right, okay.

25 1505

MS STOIKOFF ADDRESSES THE COURT – QUESTIONS RELEVANCE

(15:05:03)

LEGAL DISCUSSION

CROSS-EXAMINATION CONTINUES: MR GARDINER

30 Q. Now in terms of microchip, you've explained the microchipping of dogs. When they went back to Māngere, right?

A. That's correct.

Q. So we had – did you personally attend to the process by which each of these dogs came into Māngere, ie in terms of checking the microchips, making enquiries regarding registration, or was it one of your colleagues who did all that?

A. I was directly involved in that part of the process, yes.

Q. Does “directly involved” mean that you did it, or you –

A. I was present when dogs were scanned –

Q. Right.

A. – and their microchips were recorded and entered.

Q. Righto. And –

A. We also photographed each dog for numbering.

Q. Righto. Now, my learned friend raised the question of a shared computer system. I'm not sure what the – what did he mean by, what did you understand “shared computer system” to mean at the SPCA?

A. Internally with the SPCA, so our data system that SPCA staff can access.

Q. Oh, righto. And that could be any part of the SPCA organisation or...?

A. No, generally just the centre and the departments that are directly involved with the animals' care, so that would be hospital, canine, inspectors.

Q. Right. Now, after the 18th of – well, the next main event I'll go to was the interview at the SPCA with the defendant Janine Wallace which occurred on the 9th of November 2017. Do you accept that?

A. I would.

Q. Now, that interview is quite a long interview, running to 44 typed pages. Presumably, well, before that interview commenced you had a meeting with you and Inspector Plowright, discussed the approach that would be pursued at that interview?

A. We had an interview plan, yes.

Q. And what was were your main objectives on that interview?

A. To hear Janine and Barbara's side of the story.

Q. Right.

A. Put some questions to them, ask, yeah. It's an opportunity for the people that we're dealing with to be heard.

1510

Q. And at that stage there was no decision made regarding the outcome of the investigation in terms of prosecution?

A. That's correct.

5 Q. But it was still considered necessary at that stage given what had occurred to give the Bill of Rights?

A. Absolutely, that's people's rights and that's their process.

Q. Now you do cover a number of different topic areas in that interview such as the defendant's daily routine, the history of the kennels, her role, her mother's role and so on, correct?

10

A. That's correct, yes.

Q. The foods, there were some inquiries about the foods that the dogs might have or any medical problems that they might have which perhaps the SPCA could – should be informed about?

15

A. That's correct.

Q. Now one of the themes that comes through and this is my focus here, is surrender of dogs. Do you accept that that was one of the objectives of the plan to address that topic?

A. Certainly, certainly not an objective. We always offer owners of animals

20

Q. Right.

A. Which can also be negotiated.

Q. Right. That's a bill, and that the bill is of accommodation and so on for the different animals that was a matter which –

25

A. Generally vet treatment basically.

Q. Yeah and that was a matter Inspector Plowright addresses during the interview?

A. From memory, yes.

30

Q. But you do come back with this issue, on this issue at different places I think on the surrender of dogs and how that might assist you know relieving the burden that they have and looking after so many dogs. Would that be fair?

A. That would be fair. I mean it certainly assist with (inaudible 15:12:05) which was a significant issue that the property had. It also benefit the dogs. So it just means that we are able to process them faster and they can potentially go out into three other homes rather than being held on them while this process takes place.

5

Q. Now the SPCA must have been aware that a lot of these dogs had a hot – because of their breeding in the industry did have a high value. Would that be true?

A. We don't really take that into consideration for ourselves. They're animals just like any other. We don't treat a German Shepherd better than we treat a Pitbull for example.

10

Q. No, but what I was talking about, what I was driving at is there was a – these dogs were pedigree dogs therefore they had a value –

A. Not considered as far as I'm concerned.

15

Q. Well we had the previous witness was referred to the fact that puppies were being advertised for sale at \$5,000 each?

A. Yes, we were aware of that.

Q. Right.

A. But it wasn't a consideration for proceedings or anything like that.

20

Q. Right.

A. We were certainly aware that the puppies were being sold for \$5,000 each on TradeMe.

Q. So when dogs were – when a decision is made to dispose the dogs whether it's by way of re-homing, fostering or otherwise, that otherwise might include the sale of the animal?

25

A. No, it's more in regards to adoption fees. The SPCA would never sell so to speak a dog. It's an adoption fee.

Q. So is an adoption fee, what does that entail?

A. Desexing, microchipping, part of registration. It's quite minimal, I can't I'm sorry, I don't deal in that department so you can't quote me but it's between 200 and \$250 per dog my understandings.

30

Q. You were also concerned, one of the objectives at this interview were being to ascertain the potential for the problem to get bigger not by in large numbers such as bitches having puppies, would that be true?

A. Sorry, can you repeat?

Q. One of the objectives would be and if you're into controlling numbers would be to monitor the birth rate of the bitches at Volkerson Kennels, would that be true?

5 A. No, that's incorrect. We had no power to – there's no regulations around breeding.

1515

Q. But –

10 A. But it would be certainly a concern for us, but no, we weren't interested in monitoring.

Q. I see at page 10, the bottom of page 10.

A. In the interview?

Q. It should be an exhibit, prosecution exhibit –

A. I have it.

15 Q. – of the transcript. Just looking at the bottom of page 10, and it's a question really not by you but by Kevin Plowright. He asks about the: "How many bitches would you currently have that are pregnant?" From halfway down the page to the bottom.

A. Yep, I can see that question.

20 Q. So there is – what I – the only reason why I bring it, raise it, is that the issue of birth rate seems to be one of the items that you addressed and logically it would be.

A. It's more of the number for us, yeah.

Q. Yes.

25 A. We were trying to get the property de-stocked voluntarily so that it was more manageable for them so that, in my understanding, is to do with numbers rather than breeding.

30 Q. Right, that's fair enough. And you ask about her routine, that's Ms Wallace's daily routine with the dogs at page – again, it's Kevin at this stage, about a third of the way down at page 16.

A. What question were you referring to there?

Q. This covers Ms Wallace's routine for looking after and cleaning and exercising dogs. It's Kevin Plowright: "So your daily routine, with your daily routine with dogs, how would each day start off with you, Janine?"

Do you see that? It's a very small, relatively small extract, but it actually addresses how the kennels were run, operated on a day-to-day basis.

A. I'm sorry, I'm not sure what you're asking.

5 Q. Well what I'm asking is that clearly one of the concerns, and that question wouldn't have been asked, was how are the kennels run? It's not just numbers, but what is the organisation that applies in relation to these kennels and their operation? So would that – that would have been one of the things you were trying to ascertain in this interview?

A. From memory we were trying to ascertain more of the person in charge.

10 Q. Right.

A. Who is the main person in charge for the daily care of the dogs?

Q. Right, because you do deal with relationship – not you, necessarily, but the team, the interview team for want of a better term, because you participate in the interview as well.

15 A. That's right.

Q. You do deal with the relationship between the defendants and what their areas of responsibility might be and Janine is quite upfront, I would suggest, with what she does in relation to looking after the dogs. Do you accept that she was quite open and upfront in that regard?

20 A. No, I wouldn't say she –

Q. In that regard.

A. She was quite open, to be fair. There was a lot of no comments, which is quite within her rights.

Q. But arguably – right. So, we –

25 A. A questioning is to try and determine situations and get a better understanding of why we are where we are at that moment.

Q. Right and we have, at page 17, we have reference by Janine Wallace of the new kennels and the desire to work with you. That's halfway down the page, centre of – plum in the middle of the page. There's quite a long passage there. Middle of page 17.

30

1520

A. Is there a question for me then?

Q. The question, point that I'm making is from that – that indicates, she puts before the SPCA the fact that they've tried and they're in the process of

meeting the requirement to provide for new accommodation for all the dogs, so what she's saying is not a resolved problem. We've got this new – she's given you an update on the new accommodation and what it consists of and what they're trying to achieve with it. Do you accept all that?

5

A. I would accept that, yes.

Q. So basically what she's doing is putting the SPCA through this interview on notice that the accommodation requirement is being addressed in a serious way.

10

A. But the fact of the matter is that it hadn't at that point and we still had 50 dogs at the property. I'm sorry, I'm just not sure what the relevance of this –

Q. They had 40 – well, we had 42 dogs because it had been reduced from 57 by the seizure of 15, so it went down to 42.

15

A. It's still a significant number without any kennel facilities at that stage.

Q. Right.

A. And my understanding, Dan, is once they were completed there were 16 runs and still 40-odd dogs.

20

Q. There has been evidence given by Inspector Plowright, Mr Plowright as he now is, in relation to that when he gave evidence, so I won't pursue that. Now, we had – and of course you went through different things in relation to inspections and so on as well in this interview, so – and what transpired from the different visits, so you do traverse those areas. Now, at the end of the interview the gentleman Mr Sheath, who is standing in as representative for Barbara, the defendant Barbara Glover, he raises the issue of swaps. Now, what did you understand by – it's a strange sort of term for a lay person. What did you understand that to mean?

25

A. Well, this happened in 2017, so can you reference me to...?

Q. Right, yeah. We'll just go to the bottom of page 41.

30

A. "Is there an opportunity to have them placed in boarding kennels themselves?"

Q. The specific reference – well, actually it's been raised by Mr Sheath earlier on and then Mr Plowright refers to it right at the bottom of the page: "However, if you want to put in something, well, swapping dogs over and

surrendering, I don't know, I can put that forward," so he understands what their proposal was for Mr Sheath was substituting, giving, surrendering a dog for one which has been seized which is seen as being a pedigree dog. Did anything come of that proposal?

5 A. No, and I'm sorry, but you would probably need to be asking Kevin those questions, given it was his conversation.

Q. Yes, but –

A. It's not standard practice for us to swap dogs out, no.

10 Q. Right, well, you are involved in the conversation because she says at the bottom: "Is there an opportunity to have them placed in boarding kennels themselves?" Obviously, the broader context probably needs to be considered, but the seized dogs we have in here, that's you, you answered: "No –

A. I say: "No, because we are responsible for them."

15 Q. Right. Right, so it's fair to say that at the end of this interview there was – would it be fair to say that there was a positive conclusion to the interview? No decision made, consider surrendering some more dogs, issues need to be still addressed, we recognise that accommodation has been greatly improved. Would that be the conclusion that came out of

20 that interview?

1525

A. The conclusion being, sorry can you...

25 Q. We – this is from your SPCA point of view. We've had – see even the interview ends by – with the defendant referring to the new accommodation, the last page. Well, correction she talks about – she's talking about the deer shed then and people are talking across each other at that stage. But what would your conclusion be in relation to this interview, positive? Was it a positive interview?

30 A. No, no, I wouldn't label it as a positive interview. We established some facts, it was incredibly challenging with the support person trying to act on behalf of a defendant which is not good practise. Yeah we established some facts and I can't really comment whether I believed it was positive or not.

Q. Right, fair enough.

A. Sorry.

Q. Now subsequently, we had the visit on the 28th of May 2018 to Volkerson Kennels –

THE COURT ADDRESSES MR GARDINER – AFTERNOON
5 **ADJOURNMENT (15:26:40)**

COURT ADJOURNS: 3.27 PM

COURT RESUMES: 3.47 PM

CROSS-EXAMINATION CONTINUES: MR GARDINER

- Q. Inspector, I was about to go to the 28th of May but before I do I'll just briefly refer to the visits that my learned friend took you to that occurred between
5 the 13th of October and that date, the 28th of May 2018 at the kennels. Now I understood initially that there were four visits, but one of the answers indicated that there may have been five. The first one was on the 24th of October '17?
- A. That's correct.
- 10 Q. The second one was on the 22nd of October '17, correct? Oh, see that's out of sequence. Was there a second one on the 22nd? Was there a first one on the 22nd and a second one on the 24th of October '17? What was the position?
- A. No, there was the visit on the 13th of October 2017.
- 15 Q. Yes.
- A. Then the next visit, 6.47, was the 24th of October 2017.
- Q. All right and then the following one is on the 15th of December '17?
- A. 22nd of November 2017.
- Q. Oh, 22nd? Right, thank you. Nothing on the 15th of December?
- 20 A. Yes, there was a visit on the 15th of December.
- Q. '17 and then there was another one on the 8th of February '18 and the 27th of March '18. Is that correct?
- A. 8th of February '18, yes, and sorry what was the other?
- Q. 27th of March 2018.
- 25 A. Yes, sorry. That's correct, 27th of March.
- Q. So in other words there were five visits by the SPCA to Volkerson Kennels before the 28th of May?
- A. 18th of May.
- Q. 18th?
- 30 A. Yes.
- Q. Correction 18th of May.
- A. That was my mistake previously, sorry.

Q. My apologies. So you mentioned to my learned friend that on the 24th of October there had been – that it was relatively clean. There had been some new – some dogs had bedding and you mentioned 33 adult dogs being present.

5 A. Correct.

Q. Now were there any puppies at that stage?

A. I can't recall. I would have to – yes, there were puppies.

Q. Right so how many puppies were there on that?

A. I didn't separate the numbers, I'm sorry.

10 Q. Right so would it be fair to say that between the 24th there were – the visits that occurred on the 22nd of November and so on, up to the 27th of March, were the defendants, the kennels was in order and running? Did it meet the requirements of the SPCA?

15 A. I'll just have to take a moment just to go through my notes. So the 24th of October things looked better. There were still some minor concerns so I wouldn't say that it was completely satisfactory. Then we go to the 15th of December?

Q. You mentioned the 22nd of November.

20 A. Oh, sorry. My apologies, yes, 22nd. Let me just have a look through. That was the date that me and Greg Reid were invited to look at the new kennels.

Q. And Greg Reid was the boss of both yourself and then Inspector Plowright?

A. That's correct. He was the Chief Inspector at Auckland Centre.

25 Q. Right, yes. And on the 15th of December, was that a – what was the purpose of that visit?

30 A. That was for the purpose of inspection. So we had, I have quite detailed notes, 25 dogs by the look of it. We did, however, write an AWS 130 notice for five dogs that had no adequate shelter, two dogs that were locked in separate rooms next to each other inside the house, in the first room we could hear a dog barking. Sorry, you don't need to – I'll refrain from that but a 130 notice was written for five dogs with no adequate shelter on that day.

Q. Right and the – going to the 8th of February, what was the position there?

A. So the 8th of February was a further inspection.

Q. Yes and was that an all clear?

A. I'll just have to read through my notes. No, I wouldn't say it was an all clear completely. No.

5 Q. But pretty close to it?

A. Better, significantly better than the previous inspections. At that stage we had no further dogs located in the deer shed or the woolshed or the hay shed. There were a couple of dogs that we sighted with tilting heads. We were told they were under vet treatment. Some – a little bit of dirty conditions, but yeah.

10

Q. Right. So we go to the last one, 27th of March, what was the picture there?
1555

A. 27th of March, we executed a search warrant.

Q. Right. And that didn't involve an inspection as such or –

15

A. It did.

Q. It did?

A. Yes.

Q. And was the inspection okay?

20

A. A lot of notes to read through, apologies. Ended with 38 dogs on the property that day. There was a couple of concerns about pups inside the house, yes.

Q. Does the – right so on the 18th of May 2018, there was that further inspection that you were conducting at the – going on the evidence you gave to my learned, when questioned by my learned friend you were at Volkerson Kennels doing an inspection with a number of colleagues, would that be –

25

A. That's correct, yes.

Q. And that inspection came down to who were the colleagues again?

A. Inspector Andre Williams, Cody Taylor, Robert Lloyd and two animal control officers.

30

Q. Right.

A. The two animal control officers were there to do a registration check, they weren't, they did not – they were there for a separate reason just at the same time.

Q. Right. Now that – the premises on this occasion, this is at 28th of May.

A. 18th of May.

5 Q. Oh, 18th of May. They were I think you gave evidence that in response to my learned friend “mixed bag, dogs, no dogs tethered, had water, no dogs in the deer shed, woolshed” and the dogs were cleaner”. So essentially it was quite a good outcome, do you accept that?

10 A. Up to the point where we got to the kennel runs and that’s where Janine was partially cleaning, so she had cleaned a number of runs, but I did photograph and observe a lot of runs that were in dirty conditions because they were yet to be cleaned.

Q. Right. So it was a work in progress as it were?

A. Pardon, sorry?

Q. It was a work in progress, the work of the day had not finished?

A. I’ve noted that the kennels were incredibly dirty.

15 Q. Right. And there was no advance warning given along with all the other visits apart from perhaps you and Greg Reid going there, there was no advance warning given at the SPCA arrival was there?

A. That’s correct, we don’t call people ahead and give them the heads-up “we’re coming to do an inspection”. It defeats the purpose.

20 Q. Right. Now there were dogs discovered further back on the property on the farm?

A. That’s correct.

25 Q. We’ve had evidence regarding those given by a number of people. The evidence indications that Kevin Plowright and some others, two of whom had already been up here with Kevin Plowright, that’s Mr Lloyd, Acting Inspector Lloyd and Cody Taylor as I recall, well, Mr Lloyd anyway. they – Kevin Plowright came back to the kennel, came to the kennels joined you and then you deployed with five of your colleagues up through the farm in SPCA SUVs, correct?

30 A. To carry on an inspection, yes.

Q. Yes. To inspect the area where these six dogs had been located?

A. That’s correct.

Q. Now you've given – you did a timeframe in response to questions by my learned friend. Now these six and you found the dogs by the sound of their barking?

A. That's correct.

5 1600

Q. Now, you did a timeframe in response to questions by my learned friend. Now, these six – and you found the dogs by the sound of their barking.

A. That's correct.

10 Q. And when you – I've just got a number of questions to ask about what you observed when you got there. Now, were you of the view that the dogs had been there for a short time? The six dogs?

A. No, it kind of indicated to me due to the amount of wearing on the ground, the circular wearing, that dogs had been tethered to that location for longer than 24 hours.

15 Q. Or other dogs had been tethered there in the past.

A. Dogs, dogs, I wouldn't know. Just dogs.

Q. Righto, fair enough, but you didn't see any signs of a faeces build-up showing that these dogs had been there a long time.

20 A. Not that I recall, other than a crate that I recall was full with – the flooring was covered with faeces, but that was empty.

Q. Right, and these dogs, there were six dogs tethered in the area but none of them near the crate.

A. In close proximity, but not providing access to the crate, no.

Q. And would you agree that the dogs all had long tethers?

25 A. Longer than what we were used to seeing, but some of them were tangled, so their movement or length of tether was restricted.

Q. The defendant would say that they were all on a two metre light chain and soft collar, all six dogs. Does that accord with what you recall, did you make a note of it?

30 A. Potentially, yeah.

Q. And it's fair to say that it was quite a nice day and the dogs were in the shade under the trees.

A. That's correct.

Q. Now, my advice is that in January-February 2019, there were five dogs that were seized from the defendants. Would that be correct?

A. That's correct.

Q. And that those dogs were later returned at the end of the year –

5 A. That's correct.

Q. – by the executive director of the SPCA.

A. General manager of the SPCA.

Q. General manager.

A. That's correct.

10 Q. First of all, why were they seized?

A. They were taken into possession for a number of reasons. I don't have my notebooks for that period of time to be accurate, because it wasn't subject to this trial. The dogs were returned predominantly because the SPCA already had a number of charges before the Courts and we didn't
15 want to overcomplicate anything, so when we take an animal into possession only three things can happen: they get returned to the owner, we prosecute or they get surrendered.

Q. Right, and is it fair to say that it's unusual for the general manager of the SPCA to come out and return dogs personally?

20 A. No, I wouldn't say it's unusual.

Q. Right.

A. She was accompanied with our chief inspector.

Q. Right. Now, I just want to refer briefly to the death of the dog Ritzer. My instructions are that there was some contact between the SPCA and
25 Janine Wallace prior to Ritzer being euthanised.

1605

A. That's correct.

Q. Are you aware, were you aware from your own personal knowledge of that contact?

30 A. Yes, I am.

Q. Were you – that occurred mainly between Kevin, Mr Plowright, you're aware of that?

A. Yes, I am.

Q. Right. Were you present when Mr Plowright spoke to Janine Wallace by phone?

A. Yes, I was.

Q. Right. Can you say, did he explain that the dog would be euthanised?

5 A. I – yeah, you would need to get specifics from Kevin. I was in close proximity to him as he placed the phone call, knowing that that is protocol and good practice.

Q. Right.

A. What the conversation entailed I couldn't comment, I'm sorry.

10 Q. You weren't privy, it wasn't on speaker or –

A. No, I didn't stand there with him –

Q. No, that's all right.

A. – in his conversation.

15 Q. What's the protocol for allowing visits by an owner's vets to the SPCA to see their dogs which have been seized and prior to a final disposal order being made in relation to those dogs?

A. We would open a visit if an owner or person in charge or the vet wanted to see the dogs. Then we would arrange, have a meeting, discuss, and if we could accommodate we would.

20 Q. Right so that's the protocol?

A. (no audible answer 16:06:34)

Q. Right.

CROSS-EXAMINATION: MS STOIKOFF

Q. Ms Davis, did you accompany Kevin Plowright on all his visits to the farm?

25 A. Yes, I did.

Q. Did you ever go to the farm alone?

A. Never.

Q. Now I –

30 A. Oh, I recall. Sorry, once, to take back seized items, seized electronic items. I did go by myself.

Q. Did you ever do an inspection on your own?

A. No, I did not.

- Q. Now I stand to be corrected if I'm wrong, but in looking through your notes the earliest that I can see that you attended the farm was 10.17 am. Would you agree that that's probably correct?
- A. For the very first visit?
- 5 Q. For any visit. Looking through your notes the earliest I found that you attended was 10.17 am.
- A. That would probably be correct, yes.
- Q. Okay.
- A. It's a long way to travel from Māngere.
- 10 Q. Thank you. Now you've said in, that in regards to tethering that the, and I haven't recorded it here, have you mentioned – did – have you mentioned a length?
- A. I did in one of the notices, I'm pretty sure.
- Q. This is one of the three notices –
- 15 A. That's correct.
- Q. – we've been looking at, yes?
- A. So page 46 the AWS 130 notice written on the 11th of August.
- Q. Excuse me. Okay, it says in that notice that any dog tether must have a minimum of a two metre tether, yes?
- 20 A. That's correct.
- 1610
- Q. In looking at the Animal Welfare Code, my understanding of that document is that it's a tether that can't cause the animal any distress or an discomfort. If I can read it to you "Dogs must not be contained or
- 25 tethered in a way that causes them injury or distress and collars must fit comfortably without damaging their skin or restricting breathing".
- A. That's correct.
- Q. So can I ask where does two metres come from? Does it come from a document or is that your recommendation?
- 30 A. It's our recommendation in regards to trying to give animals an opportunity to display normal or close to normal patterns of behaviour while they're tethered. It's also because what we were generally seeing at the property was dogs tied up by a one metre lead and they certainly could hardly even sit down, lie down.

Q. Okay, but as I understand it a one metre lead isn't mentioned in the code either?

A. No, no, that's correct.

Q. That's something that's come from-

5 A. From us, yes.

Q. From you?

A. Yes, that's correct.

10 Q. During an inspection on any property anytime for any animal, are you generally allowed to look where you want to look or are you limited to places that you are taken to?

A. We have the power to enter to inspect. We do not have the power to enter a house, a dwelling.

Q. Do you have the power to look anywhere you deem necessary where animals are being housed?

15 A. Yes, we are.

Q. Okay.

A. We have the power to inspect for the purpose, oh, sorry, the power to enter and inspect for the purpose of inspecting animals.

20 Q. Right. Now in the various statements you've made you talk about odours, you talk about ammonia. Now you've had, we've heard evidence ranging from a very strong smell, a smell that was better today or not as harsh, today as it was yesterday and watering eyes, that sort of thing. So did you have a gas meter with you when you were doing these inspections?

A. No, we didn't.

25 Q. So the measurement that her Honour has for the ammonia smell is your reaction?

A. It's my observation and my reaction to how it impacted me, yes.

Q. On various –

A. On various states, yes.

30 Q. Okay. I just want to ask you about the visits in between the 13th of October 2017 and May 2018 and you've mentioned that there was, I think, five or six subsequent visits in between then. Did you see any of these animals on any of those, on any of the days that you inspected?

A. No, we did not.

Q. And it's a minor point, but I think your evidence was "in the new enclosures there was room for 16" -

A. There were 16 runs not room for 16 dogs.

5 Q. Mr Plowright gave evidence that in the "new" run, in the newly built one, there was room for 16 adult dogs or more dogs if you had two puppies in one of those enclosures, would you agree with that?

A. Potentially.

Q. Okay. Now just, now I want to ask about the microchips.

A. Sure.

10 Q. When a dog is microchipped does it get its own number?

A. Yes, it does.

Q. Okay.

A. Unless it has two microchips put in it for some reason which is not generally, but it can happen.

15 **MS STOIKOFF ADDRESSES THE COURT – PUT DOCUMENT TO WITNESS**
(16:14:55)

WITNESS REFERRED TO DOCUMENT

1615

20 **CROSS-EXAMINATION CONTINUES: MS STOIKOFF**

Q. Now look at that Ms Davis, this is for a dog called Image or one that we know is Image, and on, those are the clinical records that I've given you and on page 2, there's an entry there dated the 19th of May from you, can you see that?

25 A. I can, yes.

Q. And it says if I'm right "Received microchip cert from AC Waikato. Dog's name is Image. Animal Control have a dog registers as Pat with the same microchip number"?

A. That's correct.

30 Q. Can you explain that?

A. Yes, so Animal Control rely on owners and persons in charge providing information, the microchip number never changes, so they could – the

dog could be known as Image or Pat or Bob, but the council rely on what the owner or person in charge tells them the dog's name is.

Q. Thank you. So how can we be sure what the dog's name is?

A. You can't, you rely on the owners to tell.

5 Q. How can we be sure that dog is Image? From what you were told?

A. From what we were told, yes, yes.

Q. Now I want to just – I want to take you through just to now to the certificates. Now, the first – I'll take you to the certificate that is dated, sorry, the s 130 notice dated Friday, the 4th of August. It's on page 31 of booklet no.1, Prosecution Booklet No.1. It's a photograph booklet and it's on page 31?

10

A. Yes, I have it.

Q. Is that your handwriting?

A. It is my handwriting.

15 Q. Is that your signature?

A. That is my signature.

Q. Now can you confirm that the only reference to the woolshed in this notice is that it's one of the living areas that have to be cleaned on a regular basis?

20 A. That's correct.

Q. Thank you. And going through to some of the dogs that were in there, one of the dogs in there was called Emma, do you remember that?

A. On the 4th of August?

Q. One of the dogs that was seized, I'm sorry?

25 A. Yes, on the 13th.

Q. On the 13th?

A. Mhm.

Q. So on the 13th, you have stated if you look at page 86 –

A. Of the book?

30 Q. Of the booklet, yes, thank you?

A. Yes.

Q. And there's a little star you can see about two-thirds of the way down the page and it states "Woolshed Flooring"?

A. That's correct.

Q. “Woolshed Flooring is not suitable for housing dogs due to risk of injury”?

A. That's correct.

Q. Can you explain why in this notice it was not suitable, but in a previous notices there was no mention this was no unsuitable?

5 A. Sure, because I'm an animal welfare inspector, I am not a subject matter expert with behavioural enrichment for dogs and that comment came from Dr Jess Beer, it was her recommendation.

Q. Okay. On your visit on the 12th of October, just in general terms, is it true to say that you could see at that stage that the new run was – the new
10 kennels were being built?

1620

A. On the 12th of October?

Q. You've noted in some of your notes that kennel runs remain, others were dismantled, due to the new complex being built.

15 A. If I recall, I do remember some of the old kennel blocks coming down gradually and I do remember on our visits seeing a concrete slab that – I did not see the new kennel facilities until that visit in December.

Q. Okay, thank you. Can you look at defence exhibit C? That's the one you had some trouble finding before. It says, it has the name of the case, the
20 RNZSPCA v Barbara Glover.

A. Is it a book or...?

Q. May I approach, your Honour?

THE COURT:

Sure.

25 WITNESS REFERRED TO EXHIBIT C

CROSS-EXAMINATION CONTINUES: MS STOIKOFF

Q. We go to the first photograph in that booklet. These are photos that were taken in the July inspection by the SPCA and would it be fair to say we see a dog, a shepherd, German Shepherd, outside and there are what
30 looks like cows in the background?

A. That's correct.

- Q. Okay. Next page, we can see some again some cows in the background and some dogs tethered to a fence but the first one is lying down.
- A. It doesn't appear to be lying down, the very first one. It's standing.
- Q. Oh, I'm sorry, but can we see whether or not that is a choke chain?
- 5 Because it doesn't look like one to me, but I stand to be corrected if –
- A. You can't – I can't see whether it's a choke chain or not through the fur.
- Q. Okay.
- A. I can see it's a lead, I just can't see the actual collar.
- Q. Does it help in the next, if we look at the next photograph, page 3... the
- 10 dog in the foreground appears to be sitting down. There appears to be a water container there and a ball. Would you agree?
- A. Yes, that's correct, yes.
- Q. Okay.
- A. I'm not sure if they could either one of them reach the ball, but yes, there
- 15 is a ball.
- Q. Okay. Well, would you think that dogs who are tethered would be playing with a ball, or they'd play with the ball when they're not tethered?
- A. I would suggest they'd be playing with it when they're not tethered, unless it was placed there for them to chew, but just looking at the ground
- 20 wearing where the dogs actually are in situ, I don't – it doesn't look like they could reach that, regardless.
- Q. On page 4, the top photograph shows a dog tethered and then behind the dog we can see a little silver tray.
- A. That's correct.
- 25 Q. And if we look at the next photo, it's of that silver tray and are you able to comment on whether or not, with that tether, the dog is able to reach that – the dog in the top photograph is able to reach that container?
- A. I would say it potentially could. It's hard to tell.
- Q. And we can see water in the container?
- 30 A. I can, yes, I can.
- Q. If we turn to page 5, now the top photograph was included in the prosecution booklet 1.
- A. Mhm.

Q. But if we look at the second photograph, which appears to be taken from a slightly different angle, do you agree that we can see a water container in that photograph?

A. Yes, you can.

5 1625

Q. And there appears to be water in there?

A. There does so, yes.

Q. So it would be fair to say that with some of the photographs it depends on the angle the photograph was taken, whether or not you can see something in the photograph or not?

10

A. For sure, yes.

Q. Okay and in photograph – on page 6 can we see puppies in a contained area with Mum sitting out – well, I presume it's Mum sitting outside?

A. I wouldn't know if it's Mum, but yes, I can see the plots with the dog sitting outside.

15

Q. And an enclosure with clean newspaper?

A. At the bottom picture?

Q. Yes, yes.

A. Yes, I can see that.

20

Q. Can we look at page 10, please?

A. Yes.

Q. Now looking at the top photograph we can see, I think, two puppies, but there's an – looks like an overturned container of some sort?

A. That's correct.

25

Q. But if we looked at the second photo, same photograph, same container, but obviously from a different angle and we can see a water bowl?

A. Can't see, you can't see that there's three puppies in the top photo either. So, yes, I can only see two.

Q. There's three tails. We can see –

30

A. Oh, yes.

Q. – if you count the tails.

A. I can, apologies. Yes.

Q. But so when the dogs moved we can see the water bowl?

A. Yes, that's correct. Yes.

Q. And on page 11 can we see some dogs rough and tumbling about?

A. Yes, I can see those.

Q. And on page 16, dogs appear to be outside running around?

A. Yes, I can see those.

5 Q. Now can I take you to page 19, please? You've previously been taken to this by Mr Gardiner.

A. Sure.

Q. So these are the new kennels or runs?

A. That's right, yes.

10 Q. And if we look at page 20 we see a length-wise view. We can even see – are they – what look like hanging baskets with flowers?

A. Yes, I can see those.

Q. Okay and on page 20 we can see the run to the end and there's a dark circle at the end which is, which has a close up on page 21. The top
15 photograph on page 21.

A. Yes.

Q. And that's – can you – do you agree that that's a drain?

A. Yes, it appears to be a drain.

Q. Okay and just to the end, photographs 25 and 26, are they a fair
20 representation of the kind of terrain you're trekking along when you found, when you located the dogs in the bush block?

A. Part of it, yes.

Q. Thank you. Excuse me one moment. Oh, yes. The last photograph in that booklet on page 27.

25 A. Mhm.

Q. Can you tell her Honour what that is, please?

A. That's a photograph taken, I can't recall by who, I'm sorry, but you can see one of our vehicles in the very distance, so we had just walked.

Q. Oh, no, I'm sorry. Page 27, have you got page 27?

30 A. Oh, yes. Sorry.

THE COURT:

It looks like some sort of metre.

CROSS-EXAMINATION CONTINUES: MR STOIKOFF

Q. Can you tell her Honour what that is?

A. I'm not 100% sure.

Q. If I said it was a gas metre would you agree?

5 A. I couldn't comment, no. We had – we have now an ammonia reader, but it doesn't look like that so I don't know what that is.

Q. Okay, but – all right, then.

A. It looks different to what we have.

Q. Thank you.

10 **RE-EXAMINATION: MR RADICH – NIL**

QUESTIONS FROM THE COURT – NIL

WITNESS EXCUSED

MR RADICH ADDRESSES THE COURT – PROSECUTION CASE (16:29:57)

WITNESS EXCUSED

MR RADICH ADDRESSES THE COURT – SECTION 9 AGREEMENT

(16:30:02)

LEGAL DISCUSSION – DEFENCE CASE (16:30:18)

COURT ADJOURNS: 4.48 PM

5

COURT RESUMES ON WEDNESDAY 26 JANUARY 2022 AT 11.40 AM

LEGAL DISCUSSION – WITNESSES (11:43:05)

PROSECUTION CASE CLOSED

5

DEFENCE:

MR GARDINER CALLS

JANINE ANNE WALLACE (SWORN)

- 10 **MR GARDINER ADDRESSES THE COURT – SOMETHING IN WITNESS’
HAND (11:43:11)**

EXAMINATION: MR GARDINER

Q. Ms Wallace, could you take a seat please? You could see me clearly.
Ms Wallace can remove the face mask your Honour?

- 15 **THE COURT ADDRESSES WITNESS – SIT CLOSER TO MICROPHONE
(11:44:02)**

EXAMINATION CONTINUES: MR GARDINER

- Q. Now just with regard to your glasses, is there any reason why you need
to wear those or –
- 20 A. I can’t read without them if I have to look at anything. If I’m not reading I
don’t have to.
- Q. If you take them off –
- A. Sure.
- Q. – and if you have to look at something you can put them on.
- 25 A. Okay.
- Q. Thank you. Ms Wallace, what is your full name?
- A. My full name is Janine Anne Wallace.
- Q. And where do you reside?
- A. I reside in 1478 Miranda Road in Mangatangi.

Q. Now I'll just deal with some background issues. Firstly, you are involved with the, or have been involved around the time of the operation of Volkerson Kennels?

A. That is correct.

5 Q. And you're still involved?

A. That is correct.

Q. And Volkerson Kennels is located at that particular address?

A. That is correct.

Q. And in addition, there's a farm which operates from that address?

10 A. That is also correct.

Q. But you're not involved with the day-to-day running of that farm?

A. No I'm not.

Q. That comes under a different management or oversight?

A. Yes, totally

15 Q. And what sort of farm is it?

A. It's a what we call a drystock farm. It has cattle or beef cattle, deer, sheep, goats, horses, we do have turkeys and ducks.

Q. Now while you operate separately from the farm?

A. Yes.

20 Q. That doesn't preclude when you, you, when you're dealing with Volkerson matters taking your dogs onto a farm and around the farm?

A. No, it is a great combination to have all that space to be able to use the farm for the dogs in conjunction with the other animals.

25 Q. Now sometimes when one refers to a kennel there are different types of kennel, what sort of kennel is Volkerson Kennels? Is it opened to the public for example?

A. Volkerson Kennels is a private kennel, it is not opened to the public and it has been established since 1962.

Q. We'll come to the establishment of the kennel shortly.

30 A. Yes.

Q. But where do you live on this property?

A. There's two houses on the property, I live in the – which you have called the "main dwelling" the main house which is surrounded by a white picket fence. We have gardens, flower gardens and flower beds around the

house and trees all around the house. The trees are, young trees to 70 year old trees all various ages. We have an outlook from the house 360 degrees because the house is located away from the road to the paddocks to the left ahead up to the back, we can see right up to the boundary of the property and to the open paddocks out to the side to the garage, we can see all that from the house.

Q. Now you mentioned another – there is another house on the property?

A. Yes, when you first drive into the property there is a cottage on the left-hand side and this cottage also has a white picket fence and is surrounded with gardens and lawns and garage, double garage and next to it is a free running puppy pens or exercise pens and also next to them is hens. They have their own little –

THE COURT:

Q. Hens?

A. Hens, chickens. They have their own area and little house.

CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Now when you come in from the road, the driveway sweeps, can you describe the driveway?

A. Yes, certainly. When you come in the driveway it's a double driveway, it sweeps in and the cottage is approximately 500 metres from the road and you continue on and that will be approximately, and it sweeps around to the right. That will approximately be 700 metres.

Q. Now there is a photograph booklet which has been produced by consent –

A. Yes.

Q. – for the defence. I think this is, I'm not sure what this one is called, is it –

THE COURT:

Just hold it up? I think that was A.

MR GARDINER:

A?

THE COURT:

Yeah.

5 CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Can you just take photograph booklet A? Now just looking at page 1?

A. Yes.

Q. In the top photograph, what does the top photograph depict?

1150

10 A. The top photograph depicts in the middle is a double garage next to the picket fence and beside the main dwelling. On the left-hand side behind the car is one entrance to the kennels, then we have to the left, that is what you have called the “utility” shed and to the left of that is the main entrance to the kennels, and you can see part of the cattle yards on the left.

15 Q. Right. Now just going back to, just looking at the top photograph in 1.

A. Yes.

Q. There’s a second vehicle parked there, what is that?

A. That is our four wheel drive quad bike.

20 Q. Right. And are there any vehicles, other vehicles that you have on the property -

A. Yes –

Q. – for use by yourself?

A. Yes, in 2017, we had a John Deer two-seater buggy.

25 Q. And can you state specifically what that is?

A. It is also a four wheel drive like the quad bike, but a little bit more comfortable with a roof.

Q. Right. Now just – now who lives in the house on the property, the main house?

30 A. In the main house, my mother and my sister, Anne and myself.

Q. Now, just going to the double garage, can you describe that particular what the –

A. Building.

Q. – interior of the garage and what it consists of?

5 A. Certainly, the garage has on the left-hand side at the back of the garage and on the right-hand side a total of 12 windows. It has a glass door to go in. it is a double garage for vehicles but we don't use it for that. Inside the garage are two deep freezers, other utensils and also a working bench, empty crates and a motor mower and a running machine which is used for training dogs, and we have occasionally in there crates if we have – which we occasionally use if a bitch is on heat which means she comes in season, it happens every six months or if we have puppies that have had - at that time we had some puppies that were de-sexed and they weren't allowed to move round, they had to be kept contained so they didn't hurt themselves to get over the operation.

Q. Now, just in terms of that utility shed –

15 A. Yes.

Q. – well, I'll go back a step. The photographs in this booklet, who took them?

A. I took them.

Q. When did you take them?

20 A. I took them two weeks ago.

Q. Right.

A. Could be two and a half.

Q. Now, when we refer to in your evidence so far you've described certain things?

25 A. Yes.

Q. Those, the approach to the property, the main house, the cottage and now the utility shed. Back in 2017, when you had the various SPCA inspections and going in to May up to May 2018, all this was similar?

A. Nothing has changed.

30 Q. Nothing has changed?

A. No.

Q. Except in one respect. Just looking at the utility shed –

A. Yes.

Q. – there was a puppy house that was previously located there?

A. Thank you, yes, that's correct. Right next to the, the right-hand side of the utility shed we had a Canadian cedar purpose-built by Master builders, a puppy shed which had a window, a lot of air could flow through the shingles because it's made out of Canadian cedar shingles and that was right next to the utility shed. That had dimensions of two metres times two metres and two metres five high.

Q. Now that puppy house –

A. Yes.

Q. – Inspector Plowright and I think also Inspector Davis referred to that particularly, Plowright as garden shed, is that correct?

A. That is correct, they referred it to a garden shed.

Q. So the garden house and the puppy house and the garden shed are one in the same?

A. Yes, it is.

Q. Now, when was that, can you remember when the puppy shed was removed?

1155

A. I – exact dates, I cannot say, but I would say, um, in that time period because we put the puppy shed behind the garage for the – for Leo, which is an adult German Shepherd, for the five acre paddock that's in front of the house, to use. It is still –

Q. It's still in use?

A. It's still on the property, it's still in use. It's just open, it just stands there, but it's not used for puppies.

Q. Now, at the start of Mr Plowright's evidence I took him through a procedure to identify the buildings which were to be referred to in his evidence. I'll just go through this book very quickly.

A. Yes.

Q. Mainly for the same purpose, but from your perspective, right? Now we've got at the bottom of this page 1, we've got a lot of cattle sheds, correct?

A. Yes, that – what you're seeing there is what we call the cattle crush.

Q. Right.

- A. Where you see those steel bars, in the left-hand side of the photo. In the right-hand side of the photo, that's a gate and to the – which separates the cattle enclosed area from the rest. You can also see the skylights in that photo, um, over the cattle holding area. To the right is a loading race for when cattle trucks come and we're loading stock up into (inaudible 11:56:58)
- 5 Q. When you talk about a loading race, that's inside the gate –
- A. Yes.
- Q. – and sharp right?
- 10 A. Yes, that's correct.
- Q. And it's – a loading race is like a ramp –
- A. Like a ramp, yes.
- Q. – which the animal goes up –
- A. Walks up.
- 15 Q. – into a truck.
- A. That's right.
- Q. Just going to page 2 –
- A. Yes?
- Q. – the top photo shows what?
- 20 A. The top photo is taken from the far side, which is behind the kennels and it's looking out to the entrance, so we're seeing it from the other perspective. You can also see the skylights. There is, I think, three or four skylights there for natural light to flow through, and it opens up to the wooden holding pens. At the top of the photo, at the right-hand side,
- 25 that's the cattle crush from the other side.
- Q. Right, now at the bottom there's what seems to be very – almost an ident –
- A. I think it's the same photo.
- Q. Same photo, really, as the photo at the bottom of page 1.
- 30 A. Mhm.
- Q. Now, going to page 3 –
- A. Yes?
- Q. – what does the top photo show?

A. The top photo shows we had the entranceway coming in. These are the holding pens for the cattle. If they are – or calves. If the weather changes, which can happen quite often and quickly, we hold them there if they've been drenched or if they've been looked at or given special food like hay or lucerne or silage or they've been given vitamins, and they're kept in there until it's dry. That's two or three hours, and there's a steel gate you can see on the right-hand side and that is closable.

Q. Right, just going down to the bottom photo –

A. Yes.

10 Q. – what's that do?

A. That –

Q. What does that show?

A. So we've stood here and we've looked to the left, to the cattle crush, and now we're looking straight through and we can see the different holding pens. It's all under cover.

Q. Now, the prevailing wind in this area is what?

A. Is westerly.

Q. Now, what does that mean in terms of wind coming into this area? Take the picture at the bottom of page 3?

20 A. We – yes, these yards were purpose-built for the westerly winds so that we didn't – so that we, as people, or any person that is actually working in the yards or any animals, um, were protected against the westerly winds.

Q. Right, now just going to page 4 –

25 A. Yes?

Q. – could you describe in the top photo, what that represents?

1200

A. Now we're at, we're still on this – you can see to the right-hand side of the photo is a, like, a raceway. This is where the cattle come in and go into that cattle crush that we saw right to begin with on page 1. You can see the pens which have now been closed. We've seen it from the beginning looking out and now we're looking in. On the – at the bottom here is an open-air holding pen, that's the grass that's in front of the cattle yards which is all concreted. You can see a black fence; that has been

purposely built for the dogs so that they can't see into the yards and distract the sheep or the ca – not sheep in these yards but cattle or calves and the white that you can see behind that black fence, those are the new built kennel complex. It's fully roofed and its been brought down so people are working in dry conditions, dry warm conditions, but there's enough air going through so it's well-ventilated.

5

Q. Right now just going to the – as you walk past the cattle shed you have another structure that is not on the – what side of the road – of the – is that the road, is that a track or a road?

10

A. It's a track.

Q. Right and what side of the track is the furthest structure which is at the bottom of page 4?

A. When we're walking down the track, the yards are on the right-hand side and this building at the bottom of the page 4 is, what we call the deer shed stables, is on the left-hand side.

15

Q. Right now what's the approximate distance from the utility shed to the cattle shed?

A. The approximate distance would be from the utility shed –

Q. To the cattle shed.

20

A. Yeah, it'd be about 50 metres.

Q. Right and from the cattle shed down to the –

A. Oh, to the cattle shed? Sorry.

Q. No –

A. I'm thinking of the deer shed. Yes. No, it's not that far. The utility shed to the cattle shed, it would only be about 10 metres. Sorry. You're talking from the utility shed to the –

25

Q. Walking from the house –

A. Yes.

Q. – you pass the utility shed –

30

A. Yes.

Q. – you come to the cattle shed. What's the distance from the – approximate, from the utility shed to the cattle shed?

A. 10 metres, 15 metres.

Q. Right and what's the distance from the cattle shed, the southernmost – the end of the, and at the end of the yard adjoining the cattle shed to the deer shed?

A. It would be approximately 20 metres.

5 Q. Right and the deer shed is on what side of the track?

A. On the left-hand side.

Q. Right, now just going to page 5, what does that show? The top – what do we have in the top photograph?

10 A. This is opening the front door of the deer shed and what you're seeing there are bags of lucerne, which is dry food. That blue coloured what you can see there is actually a curtain in front of a deer crush where deer can be individually treated, inspected, examined.

Q. Right.

15 A. And on the left-hand side you can see that is one of the walls from the cubicles.

Q. Right.

A. You can also see the skylights in the deer shed.

Q. Right. Now just going back to page 4 at the bottom, you mentioned the front door. Which door are you talking about?

20 A. It's the first door that you see there on – in the middle in the front of the building.

Q. So can you please indicate, just hold up your book and indicate, which –

A. Yes, that, that's the front door that we've just taken the photo of.

Q. Right.

25 **THE COURT:**

Q. And so this top one of page 5 is that front door opened, is that what you said?

A. That's when it's been opened, yes.

1205

30 **EXAMINATION CONTINUES: MR GARDINER**

Q. And at the bottom of page 5, we've got, what does that depict?

A. This is showing the rafters from the deer shed. It is very high and it's depicting the skylights that are used to have natural light. It's called a "deer shed". They used to have deer sheds that were dark, but our deer are very calm and relaxed, and we have lots of light, natural light in our shed.

5

Q. Now, and what does top of page 6 show?

A. Top of page 6 shows, looking at the first cubicle, that's a door to the left-hand side. If the photo is put up like that, that's how it's meant to be, so sideways like that

10

Q. Now just going back to the – what's the layout of this deer shed inside?]

A. Inside, we have three cubicles and a general area around the deer crush so that animals can move in a circle round the whole shed. Each one of these cubicles has their own doors going out to a deer loading race going out to a paddock, going out to – connecting to the open area and connecting to the other cubicle.

15

Q. Right, now there has been evidence given by Mr Plowright –

A. Yes.

Q. – to the effect that there were on or more of these visits and we will deal specifically with the event, there were a number of dogs in the deer shed, adult dogs?

20

A. Yes.

Q. So when you talk about cubicles, we're going in the front door which was at page 4, the bottom of page 4?

A. Yes.

25

Q. And these cubicles for want of a better term, where the dogs were, where are they situated, left, right?

A. If we take the page 4 and you can see the roof, the roof, what do you call it, the top part of the roof that you halve it, to the left-hand side is where the cubicles are for the, where the dogs were held. You can see there's a on the left of that photo you can see that there is a like a high fence and there's a door behind it if you have a look there. That is where along that side, the whole side of the deer shed, that's where the three cubicles are located.

30

Q. Right. Now you've got just looking to the right on this building there seem to be double doors.

A. Yes.

Q. What are they for?

5 A. So you can open it right out.

Q. Right. And at the back, there's a window open?

A. Yes.

Q. Is there a corresponding window on the other side of the building?

A. Yes, there is.

10 Q. Can you describe what we have at the back of the deer shed?

A. At the back of the deer shed we have two stables. These stables with a concrete floor, all the sides, wooden panelling around the sides, open rafters so there's a good airflow going through and the doors are like stables or as stables there's two doors, they're far wider than this normal door because it's bigger enough for a horse to be able to go in and out.

15

Q. Right. Now and there were – there has been evidence about puppies being in these?

A. Yes.

Q. How many areas are there at the back divided into two?

20 A. It's only two, there's two stables.

Q. Right. So there has been evidence that there were puppies in these stables?

A. Yes.

Q. Right.

25 A. These were all temporary measures while everything was being built, but the puppies in the stables, it had a concrete floor and wooden walling and the puppies had a puppy bed which during the day the puppy bed is hung up on the wall and as it is seen with veterinarians, they use newspaper when they have dogs in their holding pens, so we used on the floor newspapers for the puppies. The puppies are not little baby puppies, they were all around about eight, nine, 10 weeks.

30

Q. Right. Now do you remember or can you comment on the dimensions of this building?

1210

- A. Yes. The stables were, or are, the stables are... oh, I haven't got it in front of me. I think –
- Q. Approximately –
- 5 A. Yes, just approximate, the stables would be approximately three metres – each stable, three metres by three metres and I think 3.5 metres high.
- Q. Right, and what about the cubicles where the dogs were?
- A. The cubicles where the dogs were, each individual cubicle, 3.5 metres high and each cubicle would be approximately two metres, two to two and a half metres and two metres deep.
- 10 Q. Now, was there any windows, were there any windows in each of these cubicles, for want of a better term?
- A. There's no windows as such. There's doors. There's two doors in each cubicle which open out into an open area. There's the wooden dividing walls are approximately 15 centimetres high off the ground, which you
- 15 can see there. If you take the top photo in page 5 and it's left open, open air, and then you have the skylights from the whole ceiling, from one side to the other, so it's a very light, airy building and it's been built by master builders for large animals, and large animals need a lot of air and ventilation.
- 20 Q. Right. Now we'll just go to the bottom of page 6.
- A. Yes.
- Q. What do we have there?
- A. What we have here is our – which is the 19 – which is the woolshed constructed by Landcorp in 1930s.
- 25 Q. Right, now this woolshed, as one walks down the track –
- A. Yes?
- Q. – what's the distance between, by your estimate, between the cattle – what side of the track is it, right or left?
- A. It's on the right-hand side.
- 30 Q. As you walk down the track?
- A. As you're walking down the track.
- Q. And what's the distance from the bottom, from the end of the cattle yard, this is comprising the adjoining area, the stock can be gathered outside.
- A. About 200 metres.

Q. Right, and where's the deer shed in relation to the woolshed?

A. If you're looking at that photo on page 6, the deer shed is to the right of that building.

Q. Right, exactly right or to the right and forward or back?

5 A. To the right and forward, going back to the house.

Q. Righto. But it's on a different side of the track.

A. Yes, it is.

Q. Now just going to page 7, we have there – what does that depict? Taking the top photograph.

10 A. The top photograph, this is a photo standing in the entrance of the woolshed which is a woolshed that could house approximately 200 sheep. It's for three shearers to work simultaneously. We have in the middle of the photo a wool press and to the left of the photo you'll see large bags and those are wool bags when wool is in it. You can see with
15 the blue door in the middle of the photo, that is a large area. Coming towards us that is – it's part – the half of the woolshed which is of solid wooden timber.

Q. Right, now just going to the bottom photograph –

A. Yes.

20 Q. – what does that depict?

A. This is standing at the back of the woolshed looking forward to the entrance of the woolshed.

Q. Right, so this is the bottom photo, page 7. Just going over to page 8 and the top photograph, what does that show?

25 A. This is the – two of the holding pens overnight for sheep and other animals, and these are slats and you've got about a two metre drop down to the ground.

Q. And the photograph at the bottom of 8?

A. This is at the far end of the woolshed with the windows which can open
30 and close.

1215

Q. Right and going to the bottom of – top of page 9 –

A. Yes.

Q. – what does that photograph depict?

A. You see on the left-hand side the entrance to the woolshed.

Q. Right.

A. In the middle you see the sheep yards and cattle yards and to the right you can see the deer shed.

5 Q. Right.

A. And in the middle, there you can see the cattle yards.

Q. Right. So that photograph is from a different perspective and looking back towards the house?

A. Yes.

10 Q. Now page, the bottom of page 9?

A. Bottom of page 9 is a photo which is to the side of the 40-foot hay barn in length and is a fenced area which is where Dani used to reside.

Q. Right and going to the top of page 10?

A. This is standing at the front of the woolshed looking in. The woolshed was built so that you could drive in with a tractor and drive out the other end, so you can see the double doors at the other end and skylights.

Q. Now just looking at this photograph.

A. Yes.

Q. You've taken the photograph from the end looking towards the trailer?

20 A. Yes.

Q. With the doors open?

A. Yes.

Q. Right. Now what I'd like to do now is just go to the topic, "Volkerson Kennels".

25 A. Yes.

Q. You mention it was established, I believe, in 1962 or thereabouts?

A. Yes, thereabouts. That was established by my mother.

Q. And she's been involved – when did you become involved with the kennels?

30 A. Good question. I've been brought up with German Shepherds all my life. As a child, yes, I would have been a child handler of German Shepherds and playing with the German Shepherds, yes. Actively involved as a teenager.

Q. Right.

A. That's training dogs, handling dogs, looking after dogs and with 16 I was an exchange student for a year in Germany.

Q. Right now the – so what's your role at the kennels in relation to your mother?

5 A. To help my mother in every respect with the kennels. We do a lot of research and – with overseas bloodlines and the kennels are – the kennels over that period of time have imported over 28 German Shepherds from Europe to improve the bloodlines.

Q. Right now what are your qualifications in relation to dogs?

10 A. My qualification is that I am a dog judge for open shows by the New Zealand Kennel Club. I was also a peer judge for German Shepherds in Germany. That means that I was attending various shows throughout the country with an expert judge that was teaching me how a German Shepherd best be.

15 Q. Right now you, just in terms of your qualifications with dogs, you lived in Germany for –

A. 20 years.

Q. 20 years. And you've had – how would you describe your experience in both Ger – firstly in Germany and second in New Zealand?

20 A. In Germany I was visiting, well all throughout Europe, but visiting specialist German Shepherd shows. That means there was only, it was only a one breed show and I was travelling on the weekends all around Europe to the world championships to the state championships to the country championships, whether it was Italy, Germany, England, Holland, 25 Belgium, Switzerland, France. I visited the top breeders. I have had a lot of guidance and talks with top breeders in Europe and very passionate about as learning as much as possible about the breed.

1220

Q. Now in terms of hands-on experience –

30 A. Yes.

Q. – when you were in Germany, what hands-on experience did you have with you know the German Shepherds?

A. With German Shepherds, exhibiting German Shepherds in Germany, in Belgium, Holland.

Q. And when you talk about exhibiting the dogs, were they your dogs or were they other – are they, they weren't yours?

A. No, no, they weren't my dogs. They were other breeders' dogs.

Q. And you appeared on their behalf at different shows?

5 A. Yes.

Q. Now in New Zealand, what does your experience consist of?

A. In New Zealand it's a different story.

Q. With Volkerson Kennels?

10 A. With Volkerson Kennels, in New Zealand when I came back I have been involved in training the dogs and handling the dogs and showing the dogs, looking after the dogs, high protein diets, doing a lot of research on the dogs, on their bloodlines, on their health, travelling around the country. I was asked by the – he's now unfortunately passed away, but a former president of the kennel club asked me specifically to show our German
15 Shepherds in all breed shows throughout the country to help teach New Zealand Kennel Club judges what a correct type of German Shepherd looked like.

Q. Right, now is there – just while we're on German Shepherds, is there a difference between German Shepherds, ordinary German Shepherds
20 and German Shepherds show?

A. Our German Shepherds are quality, top quality German Shepherds. They have obedience, the combination of having obedience qualification and being the best anatomical structure for shows. That means they have to have excellent hips and elbows, their character, their size. They are
25 only allowed to be a specific weight. Bitches are only allowed to be between 22 and 32 kilos. Males are supposed to be between 30 and 40 kilos. These are worldwide standards which are set by the Federation of Cynology, I hope I'm saying that correctly. It's called FCI and the German Shepherd Association called the SV in Germany and these, this criteria
30 was set when the breed was first founded in 1892. The breed has progressed in the last 130 years and because they are trying to improve the breed, they've improved the breed with their hips over the last 50 years. I think it's down now to about 3%. They do not have good hips so there has been – anyone that's had a lot to do with German Shepherds,

breeding German Shepherds, training German Shepherds would know that the German Shepherd structure it should have a high wither, it should have a sloping backline. It is essential because the hunk waters and a croup of a German Shepherd is the motor, the motor to drive this working dog forward, because a German Shepherd is a working dog which is used for herding sheep, cattle, for the police, for search and rescue. It's also used for disability, for the blind institute as guide dogs because it is an intelligent dog that is easy to train. It's a sound dog, it has a very spirited character but also a very sensible character which you can easily adapt.

10 1225

Q. Right, now Mr Plowright when asked to comment on German Shepherds seemed to be a bit dismissive of German Shepherds that were shown when he spoke about, he was a bit critical of the sloping back and as I recall the strength that the dog would have in the, near the regions in terms of, for example, jumping up over a fence, what do you say to that?

15

A. That is totally incorrect. A German Shepherd, the police could not use German Shepherds or search and rescue if they were incapable of jumping over two metres walls. This is part of their obedience training that they have to be very fit, very agile, have strong hind quarters to be sound, what we call "sound". That means they have good sound hips and elbows.

20

Q. But he was differentiating between an ordinary German Shepherd as I understand it, this is where he was coming from, he was distinguishing between an ordinary German Shepherd and one which is bred along certain lines to be shown in shows.

25

A. That is totally incorrect. What he is referring to are Shepherds that do not have the pedigree heritage. This is part of one of the criteria of a German Shepherd, it must have a – well, the ideal is to have a high wither. Some Shepherds don't, they have a flat wither, not everything is perfect.

30 **THE COURT:**

Q. Sorry to interrupt, but can you just explain what a wither is, sorry?

A. Yes, the wither, that big photo, do you have that photo in front of you?

MR GARDINER ADDRESSES THE COURT – PHOTOGRAPHS (12:26:49)

THE COURT ADDRESSES WITNESS – REMAIN SEATED (12:27:06)

LEGAL DISCUSSION – PHOTOGRAPH BOOKLET PRODUCED (12:27:24)

5 **EXHIBIT D PRODUCED – BOOKLET**

EXHIBIT E PRODUCED – BUNDLE OF PHOTOGRAPHS

LEGAL DISCUSSION – EXHIBITS (12:22:43)

THE COURT:

10 Q. Sorry, and I'd interrupted you, but I was just – I heard this word "wither" a couple of times and I just like to know a bit more about it?

A. These are, this is from a calendar from 2011, so it's 10 years old.

Q. Right.

15 A. They're both world champions, one is a male and one is a female. Both of these bloodlines we have in our kennels. The whither is this part here, just over the shoulders. See where the head and the neck and it comes in to a wither, that's what we call the wither. You can see here where the lead is.

Q. Yes.

A. That's the whither just here on top between the two shoulder blades.

20 Q. Okay. And so when you say a "high wither" I'm just not sure?

A. If we look at this photo here, you can see it has a sloping back.

Q. Yes.

25 A. If it has a flat wither, you're not going to have that heightened whither. The heightened wither is a long, it's a long length of shoulder blade which enables the dog to have a more far reaching gate. These dogs are trotters, that's their ideal pace.

Q. All right, I think I understand that, yes.

A. Thank you.

1230

EXAMINATION CONTINUES: MR GARDINER

Q. Now I just want to deal with some other topics.

A. Yes.

Q. You mentioned that the kennel, I may be repeating myself further down
5 but further down the... The kennel, there's a difference between – we
dealt with a public kennel versus private kennel earlier.

A. Yes.

Q. You commented on that.

A. Yes.

10 **THE COURT ADDRESSES MR GARDINER – NO CONTRAST (12:30:44)**

EXAMINATION CONTINUES: MR GARDINER

Q. We have a private versus public kennel, which you've addressed that
issue already.

A. As a pri – yes, we are a private kennel. We are not a commercial kennel
15 or boarding kennels or –

Q. Right, but I want to take another –

THE COURT:

Q. Is that what you mean by public kennel?

A. Yes. Boarding kennels you can go and visit; we don't have visitors
20 because we try to keep our property pristine with no diseases. It has the
highest qualification of no diseases.

EXAMINATION CONTINUES: MR GARDINER

Q. So when we talk about a boarding kennel –

A. Yes.

25 Q. – as opposed to private, we're talking, and I did put this to Mr Plowright,
we're talking about a situation where in a public kennel – if I want to go
away for the weekend and I've got a dog and I want it to be looked after,
I book it into the private – the public kennel to be looked after and I'd pay
a fee for the period that the dog spends there. Is that –

30 A. That's correct.

Q. Now there has been a distinction going around in evidence at different times, the difference between hobby, a hobby, you've described or been said to describe the kennel as being a hobby of your mother versus a commercial enterprise. It's a further sort of mode of description. Can you describe what you mean by hobby versus commercial?

A. Certainly. This is a hobby, it's a sport and it's a very passionate one, one that we have been following, I all my life, my mother all of her life, and there's very, very strict criteria for each of the dogs. That means as a hobby when we are breeding a litter we are breeding to improve the breed. That means there aren't very many litters. If there are not the right guidelines for those bitches to go to or if it can't be flown over to Europe or if no one – we have actually imported semen from America, which had come from Germany and Italy. The commercial kennels will breed – a commercial breeder or a puppy farmer will breed every time a female comes on heat. Our girls, for example if we take Debbie or Desney, they'd had one litter in their lives and they were six year old, reason being we were showing our dogs first, trying to – throughout the country and trying to make them up to champions before breeding with them. That means we didn't start breeding until later in life, so, three year old, four year old, so they were mature adults. We don't breed from them very young and if we breed from them at all, if they fulfil all the criteria we need to improve the breed. A commercial breeder there is no criteria. They do not have to have their hips x-rayed, they do not need to have any tests for DM, which is a problem that a lot of these little dogs, well, medium-sized dogs have, cross-breeds as we call them or street kids, and you've got two different types or three or four different types of breeds being put together into one and now being bred and sold. We're not into that, it doesn't interest us. We've never been a puppy farm or a puppy mill or commercial in any way. These – with a hobby, it is a very expensive hobby, and we have strived for the very best of the breed in the world because we wanted to compete on the world stage, in the world championships, representing New Zealand.

1235

- A. That was our goal. That means the dogs had to only be in that particular height between 55 and 60 centimetres, females, and males between 60 and 65 centimetres at the top of their wither, measured to the ground. They must have their hips X-rayed but they can only be X-rayed once they are 12 months old because puppies and their joints are not fused, they are not together, they grow into the sockets, and that's why it's important they're not over-exercised as puppies, that they are contained, they play, but no – not too much because these bones are not joined, they're loose, and it's important that they're not overfed and not too heavy, because that weight is on joints that are not fused, and that is detrimental to the pups.
- Q. Right, now just going to picking up on the point that you've covered, you mentioned the low number of litters which are produced by Volkerson bitches.
- A. Mhm.
- Q. And the focus has been on winning shows and so on. Would it be true, just say whether it was yes or no, is it true that in winning shows –

OBJECTION: MR RADICH – LEADING QUESTION (12:36:33)

EXAMINATION CONTINUES: MR GARDINER

- Q. I accept that it was going to be a leading question, your Honour, but I believe it's non-contentious. Is it true, yes or no, that the more shows that a dog wins and the more distinguished its pedigree, the more valuable that dog is?
- A. Yes.
- Q. And do you strive to match a dog, a bitch of that standard, the dam –
- A. Yes.
- Q. – to a sire of good quality?
- A. We would only use a sire to any bitch that was better or as good as that particular bitch. We're the only ones that have imported world champions in Australasia, the first.

Q. Right, just picking up on that point, in evidence Mr Plowright, Inspector Plowright sort of commented in relation to a fee of \$5,000 that might be paid to purchase a puppy.

A. Yes?

5 Q. Now, can you just comment on that fee and what it represents?

A. Certainly. That fee is for a family pet and not to be bred from. Those puppies are of world champion parentage. These world champions, their values are one million Euro plus. The bitches have a value of 100,000 plus, that can go up to – there is no limit, and the quality of these pups, these, what we call family pets, the quality was superior than what other breeders were breeding as show dogs. We wanted to give these families the chance to have such a high quality puppy, very intelligent, very sound, very happy puppy.

10

Q. Now, Volkerson Kennels was GST registered.

15

A. Yes.

Q. So a fee of \$5,000 would be subject to GST.

A. Yes.

Q. And other tax.

A. I've got nothing to do with any part of the –

20

Q. No, fair enough.

A. – bookkeeping or anything like that. I've got nothing to do with that except it was a very reasonable price, especially when you're charging \$7,000 for mongrels.

25

Q. So just going back to – now, you used a range of veterinary advice to cover situations that arose in relation to the breed – the upkeep and care and breeding operation involving these dogs, is that correct?

1240

A. That is correct.

Q. What vets did you use?

30

A. Right, we used Takanini Veterinary Associates. This is where we had the majority of our puppies were vet, veterinary examined, health examined and where they received their first vaccination. We also used it's now called Anexa Vets in Maramarua and Ngatea. That's also for general health of dogs, vaccinations or anything that would arise like that or if we

were doing artificial insemination we will have to have blood tests taken every few days a progesterone test which would be sent into Gribbles to be examined so that they could say when the bitch would ideally be ready to have artificial insemination. We also used Stuart Badger in Hastings who is the country's leading reproductive veterinarian who has given a lot of seminars over in Europe, America about reproduction. We have also used – we sometimes used Great South Vets and we also used Franklin Vets in Pukekohe. So each vet has its special area and we try to use the best in each area.

5

10 Q. So who kept the accounts for the kennels?

A. How do you mean accounts for the kennels?

1242

Q. For example, who paid, oversaw the payment of the vets for these sorts of things?

15 A. All that had nothing to do with me, I just take them, I've got nothing to do with accounts or finance or.

Q. No, that's all right. Now you mention artificial insemination, to a layperson, that's may be a bit of a mystery. Can you explain what it actually involved with breeding?

20 A. Certainly. Especially in New Zealand, in Europe or in Germany according to the German standards, you're not allowed to do artificial insemination, it can only be a natural mating. That is super when you have such a wonderful number of different size with different bloodlines. New Zealand is very restricted, so you're restricted to importing new bloodlines to get the best and obtain that high standard. Artificial insemination can be done
25 two ways. It can be done surgically and that means the vet determines from the beginning when a bitch comes in to season and she is tested every few days until she has the perfect timing when the eggs are ready to be fertilised and that's when she will be surgically inseminated with
30 frozen semen that has been thawed out. This frozen semen has been imported. We import it from America, so it took one year to get the semen to New Zealand, that it complied with all the MPI regulations and so that everything was correct. This semen is then thawed out, the vets do that. I'm not a vet but I have seen it once it's been thawed it and that is then

surgically completed. The other method is called “cervical” and that was actually created by a New Zealander, she was a sheep farmer down in the bottom of the North Island. Marion Wilson is her name and she experimented on doing a cervical AI over a period of 20 years and my mother used to support her in that by taking males down so she could experiment and to perfect this method of artificial insemination, and cervical is not such an intrusive way of doing artificial insemination, it’s done with people when they are unable to have children or for whatever reason and with the cervical, the dogs do not have to be operated on, but not as guaranteed for results. You don’t always get results, positive results because you have the surgical cervical artificial insemination, it does not mean you’re going to have a litter.

1245

Q. Now just cutting to the – just going back to Dr Badger, you said he was an expert on artificial insemination?

A. Yes.

Q. So if, what did – if you wanted to get his services, if Volkerson wanted his services, what did that entail?

A. I would call him and say such a female is now on heat, the first day it’s on heat and he would guide me through when he wanted that bitch tested by a local veterinarian here.

Q. Was he more oversight as to the procedure for artificial insemination as opposed to actually attending to it?

A. No, he does the actual surgical insemination, but there are steps you have to take until you get there.

Q. Right, but just in terms of Dr Badger’s involvement with actually doing the artificial insemination, did that mean that the practise was to send the dog to him in Hastings?

A. We would drive the dog down to Dr Badger which he would check the bitch and everything, health-wise, that she was in perfect condition and he would perform that surgical operation.

Q. Right. Now when the procedure was finished –

A. Yes.

Q. – how much time elapsed that his clinic before the dog was returned to Volkerson Kennels?

A. We would wait in Hastings for the bitch and that the procedure within his clinic it would probably be two or three, four hours.

5 Q. Right. Now who was responsible of the vets that you mentioned in Auckland, what veterinary clinic did you use for pregnancies, overseeing births, pregnancies and births?

A. Oh, do an ultra-scan if they are pregnant?

Q. Yes.

10 A. We would go to Takanini.

Q. Right. And in terms of the oversight pregnancy, was there much hands-on from the vet himself or herself?

A. No.

Q. Not at all?

15 A. No.

Q. When the dogs gave birth who attended to that?

A. Yes. I attended to that. The dogs give birth in our home, we have a special, as you recalled a maternity room and the bitches, I am with them 24/7 and if I'm not there, my mother's there.

20 Q. We will deal with that in a minute further. Now, how many dogs were registered as you recall to the Volkerson Kennels in say the year 2017 and '18?

A. The registration is that – that means the registration was approximately 50 were registered. From that 50, half of them would be at least pups as soon as they're over three months and over. The reason being is when we breed such a special litter we don't really want to sell them very quickly, we like to see all of them so that we are selecting the right one because a puppy has to have all its teeth, the ears have to come up, it has to be the right height, the right structure, the right character, there are a lot of criteria.

25

30

Q. Right. Now we've heard, evidence was given regarding computer chipping?

A. Yes.

Q. What was the procedure in relation to Volkerson for getting dogs computer chipped?

A. Microchipping – the microchips, we were to various vets whether it was Franklin, Maramarua or in Takanini and they, they insert a small little microchip and that's usually on the neck or shoulder on dogs.

Q. And what information is contained on a microchip?

A. That is a 16 digit number and that number, that microchip is actually - working dogs under the law don't need to be microchipped, but we like to have our dogs microchipped so that we know where they are. It means that that microchip number goes with that animal for a lifetime. So if we're importing something from Europe it has a microchip number. It is checked every time it goes to a show, goes to the vet, if it's flown anywhere, when it arrives here. That's its identification and that is really important that microchip identification is the only identification that we use.

1250

Q. So just as opposed to microchip being used for identification –

A. Yes?

Q. – identity purposes, we have registration which is basically a charge from the local council for a licence to have that dog over a set period of time, say a year.

A. Correct.

Q. And would the council have access to the microchip number as well?

A. Yeah – um, how do you mean access?

Q. When you register a dog –

A. Yes.

Q. – would you – you register it by name but you would also register it by its identity number, which is the microchip, wouldn't you?

A. We usually give their microchip numbers. We had Dr Adrian (**inaudible** 12:50:57) come to our property. He scanned every single dog on the property and noted the microchip numbers and these were supplied to the Waikato District Council.

Q. Right. Now, I just want to deal with SPCA inspections.

A. Yes.

Q. There were a flurry of SPCA inspections starting on the 28th of July 2017.

A. Correct.

Q. And then a number of further ones on the 4th and 11th of August.

A. Correct.

5 Q. And the 12th and the 13th of October. Correct?

A. Correct. Yes, that's correct.

Q. And there were also a series of subsequent inspections which the witness Inspector Davis referred to as well. Now, I intend to just refer now to different inspections, and in the process perhaps I'll start off just as a prelude to that by just referring to the approach in relation to puppies and how they – how you handle them, what the practice was. Now, where were the puppies born?

10

A. The puppies are born in our home.

Q. Right, and where were they kept and for how long in the home?

15 A. They were kept in our home for approximately six, seven weeks, depending. Reason being is that we have – that they're supervised, that the mothers are supervised and the puppies are supervised, that they hear all the different sounds, because the socialisation is very important with little babies, that they know what a washing machine sounds like, a dishwasher, a vacuum cleaner, all these different sounds that happen in a household because if they're going to be a family pet they need to be accustomed and socialised to these noises.

20

Q. Right, can you just describe the process from this period –

A. Yes.

25 Q. – through to a year, one year old?

A. Certainly.

Q. And just to put it into perspective, a puppy is generally accepted as a dog up to the age of one year.

A. Of one year, yes that is correct, yes. The puppies start off with their mother. The mother, the first few days after they're born, she has a lot of colostrum so that is a natural immunity against any illnesses. They're on – she's lactating, the puppies start their introduction to different foods round about three and a half weeks, and this – we were giving our puppies pure Angus beef mince with less than 5% fat because puppies cannot

30

take any fat content, they can't digest it, and this is together with the mother and it's gradually, slowly introduced to them so that their little stomachs adapt.

1255

- 5 A. After the first few weeks, we're now so five, six weeks, we start them – then introduce Royal Canin puppy food so that they're getting different vitamins and different – a balanced diet with beef, the mother and the dry food. Once they're weaned off their mothers, we are feeding Royal Canin puppy food and still with the beef mince and we'll give them bones to
- 10 chew on to get their little teeth coming through and for them to play with and it helps their ears. And once they're between six and eight weeks we usually have them vet health checked and they are vaccinated. All our bitches are usually vaccinated before they're (inaudible 12:56:03) so that the puppies have immunity. We do not have any (inaudible 12:56:06) or
- 15 any of these diseases and we haven't had in the last 30 years been on this farm.

Q. Just at this stage, when you describe a dog being unwell, you mean?

A. Yes, I meant she is pregnant going to have puppies.

Q. Right, now after the dog gives birth?

- 20 A. Yes.

Q. Does the dog remain with the puppies?

A. Yes.

Q. In the house?

A. In the house.

- 25 Q. And what's the situation in relation to cleaning up after the puppies? You know when they urinate and they defecate?

A. That's a really good question. Yes, when they're little babies the mother is cleaning up after the babies and that remain so until they're about, until they're introduced to dry food and proper food.

- 30 Q. Right, so when you say cleaning up after the babies, that's when they're on milk?

A. Yes.

Q. And she cleaning up involves licking them –

A. That's right.

Q. – and –

A. She needs to lick their stomachs so that they can actually go to the toilet because they don't have that function until it's a little bit older.

Q. So how long do they, does the mother and puppies remain in the house?

5 A. They remain in the house five, six weeks.

Q. Right and then what happens?

A. Then we start weaning the mother off the puppies that's a gradual process and then the puppies are put out, they were put out in the little puppy shed and we bring them, we have newspaper down and they have a puppy bed and this is washed every morning.

10

Q. That's in the house?

A. That's in the house and also in the puppy shed it was hanging up but that wasn't obvious.

Q. But when the puppies go to the puppy shed or the garden shed Mr Plowright called it?

15

A. Yes, mhm.

Q. Inspector Plowright called it, where does the mother go?

A. The mother is – we usually have her, it depends who the mother is. Some we can have loose so that they can just run around so they're in close proximity to their babies. They can talk to them, they can – we have the mothers playing with the pups and it's just a gradual process of weaning the mother with the pups.

20

Q. So when's the process of weaning off the –

A. It's usually completed by eight weeks.

25 Q. Right and after the eight week point, are the pups inside the house and the bitch, the mother is outside the house?

A. That's right.

Q. And then what's the next phase of the pups' development?

A. The pups, say from their five weeks onwards they learn to play with little soft toys but only when someone is present. We do not leave toys with any dogs no matter what age it is because they could, they tear them apart, they're looking for the little squeakers and they could choke on it.

30

Q. So when did the pups move out of the house as such? Well you're in the puppy house during the day, would that be a fair comment or are they there all the time?

5 A. It depends on the weather. We're trying to give the puppies as much fresh air as possible. They're outside loose on the lawn playing, they're not being put in a confined area to rest. It's important that they rest and don't over exercise. It's going backwards and forwards and it depends on the puppies how many and it depends on the puppies whether we keep them inside or put them outside.

10 Q. Now – so when would the puppy be adjudged to be independent of its mother and capable of looking after itself?

A. Eight weeks, eight weeks usually.

Q. Eight weeks?

A. Oh yes, definitely. The mother still plays with it but it's an independent –

15 Q. Right. Now what's the practice for showing a puppy, at what age are they considered to be under the rules, under the Kennel Rules, is it Dogs New Zealand now?

A. Yes, yes, well it's New Zealand Kennel Club and they have a trading name as Dogs New Zealand.

20 Q. Right at what stage is the dog capable of not only living independently but also of being sufficiently developed to be able to participate without harm to itself in a show?

25 A. Baby puppies starts from three months to six months, from six months to nine months as a minor puppy and from nine months to 12 months is a puppy.

Q. And to answer my question, at what stage is a puppy qualified under the rules, Kennel Rules to participate in a show?

A. Three months.

Q. Three?

30 A. Yes.

Q. So what's –

A. So we start training them at a young age, we start training them at a very young age, yes.

Q. Right. So (inaudible 13:01:33) that they went three months or four months with the most beautiful puppy or something like that?

A. Baby puppy, yes.

Q. Baby puppy?

5 A. Mhm.

THE COURT ADDRESSES MR GARDINER – BREAK (13:01:47)

COURT ADJOURNS: 1.02 PM

COURT RESUMES: 2.16 PM**EXAMINATION CONTINUES: MR GARDINER**

Q. Now we'll just deal, Ms Wallace, with the inspection on 28 July 2017.

A. Yes.

5 Q. What was the winter of 2017 like? How would you describe it?

A. The winter in 2017 was the wettest winter we had had in 30 years.

Q. Right and at that time how many – how would you describe the number of dogs you had on the property?

10 A. We were quite excited because we had two large litters of approximately 10 puppies each. One was 10 and one was, I think, eight. And one was – sorry, what was the question again?

Q. How would you – how many dogs were on the property?

A. Right. On the property there were 32 – 31 adults and 32 puppies, and the puppies ranged from I think three weeks to upwards.

15 Q. Upwards to what?

A. One year.

Q. One year. And how did the rain affect the terrain, the area around the house?

20 A. All around the house unfortunately we have a, like, a clay-based soil, so it gets, it pugs up so when it rains it's very heavy and it turns to mud very, very quickly.

Q. And what about the farm proper? The farm itself.

A. The farm itself we called it lake city. All the deer paddocks were all under water. It was like a new lake, there was just so much rain.

25 Q. And now where were the puppies kept? The ones that – did you have any puppies inside at this stage given the two litters that you described?

A. Yes, we did. We had puppies inside.

Q. How many puppies were inside, roughly?

30 A. I think there were – probably about half of those puppies just approximately. I can't say exactly.

Q. And what about the bitch? Had they been se – had she – had they been separated out from her?

A. No, one bitch hadn't and those were the little puppies. No, they hadn't been separated.

Q. Right so when you – did you have a situation where at one time during this, roughly, during this year, you had two bitches who gave birth at the same – did they give birth at the same time?

1420

Q. So when you had – did you have a situation where one time during this, roughly during this year you had two Bitches who gave birth, did they give birth at the same time?

10 A. Yes, very similar, just within days because what happens when one Bitch comes on heat, all the other girls all like to come on heat at the same, at the very similar time.

Q. So did you at that, broadly at that stage not necessarily on the 28th of July 2017, did you broadly speaking, have a couple of Bitches in the house with their litters?

15 A. Yes. Well, normally the puppies, I remember the little puppies we put outside, they were four weeks, five weeks old. We had a mobile enclosure, metal enclosure so they were getting fresh air and usually, we take them around the lawns if they're playing a little bit, have their little exercise and then we put them in the enclosure, clean out and then they go back in.

Q. Now just in terms of the rain –

A. Yes.

Q. – what was the temperature like, broadly speaking?

25 A. It wasn't cold.

Q. It wasn't cold?

A. No, it's just when it rained, with heavy rain. For the Pukekohe fruit growers, the potatoes rotted in the ground, that's how wet it was, it wasn't – it was just an unusual year.

30 Q. Now, can you describe generally what your – well, describe your routine in caring for the animals at Volkerson Kennels, what was it that time?

A. Certainly.

Q. Starting from early in the day to the end of it?

- A. Okay. My day starts between four and 4.30 in the morning and the luxury of being on a farm and being independent is that you can decide when you're going to do whatever and usually, I always dealt with the puppies, they were done very early, the mothers, they were all taken for exercise and toileted and fed and cleaned, and so the puppies were always very early. I was also training dogs and depending on the weather, if the weather was good, sunny, not raining, then I'd try and get that in early before I started cleaning the kennels so that they can just rest while I and with other – we had international students, agricultural students and other international students helping us, train, play, clean out the kennels.
- Q. Now, I'll just deal with these phases specifically because when it was put to Inspector Plowright that you're up at 4 am and so on, he was, I suggest, a little bit dismissive of that given the fact that it's usually pretty dark at 4 o'clock?
- A. Can be dark, it depends on the moon. The moon can be a big white moon, it's like everything's lit up. We have electricity in our woolsheds because that's – so where I had electricity that's where I'd clean first, pick up first and the garage, the implement shed, they all had electricity so it doesn't matter what time of day or night, we just switch it on.
- Q. And what about the main dog kennel at the time?
- A. The main dog kennel, there was no light there, so I couldn't do them at 4 o'clock, that's why I decided to do everywhere where I had electricity.
- Q. What about the puppy shed which you referred to –
- A. Next to the –
- Q. – which is next to the utility shed at the time?
- A. At the time, that was done, usually that would be done around about 6.30, seven. I could let them out because there was a big area for them to run around in, turn on the lights and we've got lights over the garage, it's a big floodlight, so it's all lit up, that.
- Q. What about the immediate surrounds of the, around the house and within the fence?
- A. Within the lawn and the gardens?
- Q. Yes.

A. That is with the house we can light that up, so it's not a problem at all. If I was walking with the dogs and it was still dark it would be adults. They are toileted outside of that area. If I go into the paddocks and walk around the paddocks, I have a big torch, a flood torch I take only one dog at a time and they're running loose, I can follow them, it doesn't matter where they are so it was never a problem.

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1425

Q. Right, and what about a situation where you exercised the puppies?

A. Yes.

10

Q. How would you – what sort of exercise would they do during the day?

A. The puppies, they are fed two to three times a day and I would take them out of where they are, we'd go for a little walk around – we've got a very big oak-like tree and walk around there, they would follow me, I had – they would be fed outside, they would then play, walk around, then I would – when their little house was being cleaned out, the puppies would be put in a confined area so they're not running around, because we've got a lot of animals on the farm and if they got into a paddock a deer could kill them just like that or any other animal, so – and the mother is there as well.

15

20 Q. When you say "put them in a confined area," what did that mean?

A. It was a metal, um, probably about two metres by one and a half metre, um, metal enclosed area which I could move so it'd be moved every time they went in there.

25

Q. On average how many times would the pups be exercised, that is be able to run free, as opposed to being confined to the puppy hut?

A. That depends on the weather.

Q. Per day, per day.

30

A. If it's pouring with rain, naturally the puppies are not going to be outside, so the puppies, they come out in the morning, after they've been fed, had their play time, they would go into the confined run while it was being cleaned out. Then it's their sleep time, so their resting time, they go back into their little house and they can play and just rest, sleep, they go to the toilet.

Q. Well, just using as an analogy sleep time with a puppy. With a child, a young child, the child might be up for two or three hours and then want to sleep.

A. Exactly.

5 Q. And then it gets up two or three hours later, for argument's sake.

A. Mhm.

Q. What sort of pattern does an Alsatian – correction, German Shepherd puppy, what sort of pattern does that follow?

10 A. It has exactly the same patterns. All they're doing is eating and sleeping – eating, playing, sleeping, walking around and then the whole process starts all over again.

Q. Righto, now in terms of urination and –

A. Going to the toilet?

15 Q. – producing faeces, I can't get my tongue around the other word – we'll keep it simple. In terms of that, how would you describe what occurs during the day in respect to an individual puppy?

20 A. Because the puppies are being put onto new food, it's not the mother, their faeces are very soft and can be, with the Angus meat, very runny. Runny, I'm not talking about diarrhoea or anything like that, it's just loose, it's not a firm faeces, whereas an adult will be, depending on the food, quite firm, so there's a lot of going to the toilet. We call it number ones and twos, so urinating and defecating. That's normal, and it is a lot. The – all the time, so that's why it's regularly cleaned out. It would be cleaned out at least morning and night and it depends on the puppies, early
25 afternoon.

Q. Would puppies, if you have different litters at the same time –

A. Yes?

Q. First of all, how common an occurrence was that?

30 A. 2017 was an unusual year. We hadn't had a lot of puppies previously so we were very excited to have the puppies, so it was unusual that the bitches, they were happy to be pregnant and they were very healthy, otherwise they couldn't have got pregnant or had such large litters, but that shows their good health they were in to conceive and to bring into the world these puppies.

Q. Well, Dr Jess Beer, I think it was Dr Jess Beer when I put that proposition to her, didn't agree. Why would you say that you're right and she's wrong in that regard?

1430

5 A. Very good question. I'm talking specifically about German Shepherds and longevity and fertility is a big, um, subject and it's a genetical trait and whether they're healthy or not and a lot of – like people, there is a lot of people, a lot of dogs, that are unable – that look like they're healthy but they are unable to get pregnant and that is a sure sign that they are
10 healthy that they have got pregnant, that they were large litters, that they were healthy and that the puppies were healthy, that's very important. I'll give you another example to people, which everyone can understand, and there's enough research done on it, take it back to the second World War with the concentration camps and if they had anorexia you would not
15 have a period, you would not get pregnant. It's impossible. The body shuts down, that's one of the first parts that shuts down is the fertility. There's no need to – that's just a natural reaction and with our girls we were very proud that they could have such large litters. Yes, if you have one or two it's far easier, but we don't determine that. That's up to their
20 genetics, up to their – how they feel. Was it the right day when they were mated? There are so many components that have an influence. What just bears talking about it, yes, there are lots of mongrels everywhere that could have or don't have litters. I've got no idea, never been interested. It's only been about German Shepherds.

25 Q. Right so just taking litters, different dogs from different litters.

A. Yes.

Q. Puppies. Do they – how do they socialise with one another, if at all?

A. Oh, they love socialising. The puppies play together, they have their little, they have their own little games, we have our games, we give them toys
30 to play with and tunnels to go through and the puppies like to, they like to dig little holes, they like to play hide and seek, they like to play tag with themselves, they like to also – not fight, play fight like children and – or follow a, I have on a long pole a little toy hanging down and they would

try and jump up at it or, you know, pull it along. They love their little games.

Q. Right so just taking – just as a matter of interest, who were the mothers of these two litters?

5 A. The mother was – one was Nala.

Q. Right.

A. Which you saw. She was lying beside her, 'cos she teaches her puppies little games and plays with them and the other was Haiki (spelling 14:32:38).

10 Q. Right and now there were two other dogs which were pregnant at the time, or thought to be pregnant at the time of the last inspection by the SPCA, which was on the 13th of October. Who were they?

A. It was Debbie and Desney. Both were sisters. Both were five years and 11 months old. Both had only had one litter in their life. Both of Debbie and Desney, Dani and Dolly, both their parents were imported, were world 15 champions. The mother was imported in New Zealand. The father was sold to China for €500,000.

Q. But you didn't own the father?

A. We didn't own the father, no.

20 Q. So the father was – you imported semen from –

A. No, no, no the – we were very lucky. The mother came over in well, which is a risk, you never know with the flight and everything else, but she had four puppies and we kept all four puppies because we were so thrilled and honoured to have those bloodlines.

25 Q. Right now in July 2017 was the family your immediate, your mum and yourself and your sister who's called Ann?

A. That's right, yes.

Q. Was there any particular re – were you – particular reason – were you anxious at that time and if so, why?

30 A. Very. My mother and my sister had experienced a very serious armed home invasion where they were both attacked at midnight, my mother waking up with a knife in her side at about midnight, one o'clock in the morning, from five masked men and they nearly killed my sister and all of these – and I think four of the five, if I remember correctly, were – actually

we worked very closely with the police. They managed to catch. Four of the five were put in prison to sentences up to, I think, 11 years. It was treated seriously.

1435

- 5 A. You should be safe in your own home and what happened then in July/August was one of the armed criminals had escaped parole from Spring Hill. My sister was absolutely petrified, she's been petrified since it happened and she locks herself in the room. Everything's deadlocked. She's very, very anxious and, of course, when she was informed that this
- 10 person had escaped and they hadn't been able to catch him, the Herald bought out articles asking the public for help to try and calm her down, this is why the mother of Debbie and Desney was purchased because this Bitch was a world champion and had all her obedience qualifications, but more importantly, she had qualifications in man work protection. That
- 15 means that she would bite on command and she was, this was a very – she had that with distinction.

Q. What was her name?

A. Her name was Sheba.

Q. Right.

- 20 A. Lived inside and that was for and to try and give her confidence again that a dog would protect her. There was no dogs at the time.

Q. Right. So what sort of other measures were taken by way of security?

- A. We put a dog in every corner of the house. We put lots of dogs around the house so that if someone did come, a dog would hear it before they
- 25 would hear it or we would hear it and that they would bark, at least give us a little bit of time to react and I explained that to Laurie and Kevin, I sent them the emails. I sent them the articles and all the information on that and said that we were at high alert. It was petrifying.

- Q. Now I asked questions of Inspector Plowright regarding whether he heard barking from the double garage when he came on one of his visits?
- 30

A. Yes.

Q. He made comment in his evidence to the effect that every dog seemed to be barking when he came. Now we had evidence from one of the prosecution witnesses, I can't remember whether it was Dr Beer or

Dr Flint. I think it was Dr Beer, to the effect that when a German Shepherd gets excited and I think she may've gone one step further when you talked about barking, what it's a sign and enthusiasm, what's it a sign of. Now she did not seem to think that that was characteristic of a healthy well adjusted dog, what do you say to that in terms of German Shepherds?

A. Absolutely the opposite. A German Shepherd is a guard dog and we train them to bark if a stranger comes or if there's something unusual that they don't know that they inform us, that is their no.1 job, first of all, to protect us, to be our best friend and to protect us.

10 Q. So when some people from, well, are strangers to the farm, ie the two inspectors who came just say it was a visit for argument sake by both Inspector Plowright accompanied by Inspector Davis, how would you describe – you see the barking as normal -

A. Absolutely normal –

15 Q. - is that what you're saying?

A. That's absolutely normal and this is what they're supposed to do, they're informing us, someone has arrived. They will inform us when a car is down at the bottom of the driveway or if it slows down going along the road, they will tell us.

20 Q. I just want to – on the first visit there were various dogs that were noticed/ observed outside the SPCA inspectors and they were tethered to the picket fence, and I think there may've been other dogs that were tethered. Can you comment on, that was a matter on comment in the first 130 Animal Welfare Act notice which is at page 20. Do you want to look at
25 that? That's prosecution exhibit 1, go page 2.

WITNESS REFERRED TO PHOTOGRAPH BOOKLET, EXHIBIT 1

1440

A. Sorry, I haven't got it just yet. These are – there's two of the same one. Sorry, one moment.

30 Q. There's one which is –

A. Yes, yes, yes, here it is.

Q. Just go to page 2?

A. Page 2, yes. Right, tethering, these are young puppies.

Q. Excuse me, and also top of page 3.

A. Page 3, yes.

Q. Now what's the point of tethering a dog first of all?

A. This is one of the most essential first things a puppy learns to be tethered, to respect a lead, to relax, not to see they're evasive, just to be able to sit down and lie down and just peacefully enjoy its environment. If we look at page 3 there's an adult bitch there and this is teaches the pup, oh okay they'll try, to be calm just to relax. We just want them to relax, because when we tether them we're usually giving each puppy because each one is different, different food. They might get more calcium, they might get more –

Q. Right.

A. – different supplements and yes.

Q. So just going to page 3, the bottom – the top of page 3, you said an adult bitch, which dog is the adult?

15 A. To the left? Top of page 3 (inaudible 14:41:48) behind.

Q. Say again?

A. The one behind the puppy.

Q. So the puppies at the front with the water bottle?

A. Yes, with the red lead, yes.

20 Q. And the adult bitch –

A. Is behind.

Q. – and that's on a lead?

A. Yes.

Q. Now that lead, what sort of lead – well we'll just take that as an example. In the case of those dogs what sort of leads has each got? We'll take the puppy first?

A. The first one that's Monty, the first lead is a (inaudible 14:42:18) lead, it was a show lead. It's 1 point, one metre 40 centimetres long without the neck collar plus the neck collar.

30 Q. And what sort of neck collar has it got on?

A. I can't see.

Q. Just taking the second dog, what sort of lead is that? The one at the back, the adult top of page 3?

A. Yes, I see there's something there but I can't see exactly what it is.

Q. Right. Now one of the points that was made by a prosecution witness, might have been Dr Beer, it was that when dogs are tethered, they can't relax. They can't lie, stretch out and so on. Just taking the first dog, the puppy, what would your response to that be?

5 A. Absolutely incorrect and she saw when she came on the 13th, this little puppy was at the picket fence because he is waiting for me to come back from the vets to go up to the Bay of Islands. I didn't want him in the car so long and he was lying there. Their body camera footage shows that he was lying there, he was sitting there, he was walking around, same length, it's normal. It's important – this puppy if it wanted to could chew through that lead just like that in a minute but it's important that they respect the lead so that I can give that puppy to anyone at anytime anywhere and not worry it's gonna pull them over that it knows, I'm on a lead I'm fine I go with that person. Which you could see when the SPCA people took our dogs whether it was on a pole or on a lead, the dogs just went. They're gated.

10

15

Q. When you describe being taken or on a pole, what does that mean?

A. We hadn't seen anything like that before they came in with , I don't know how long I would assume two metre or one and a half metre long poles with a metal noose around it with something else in it and were marching our dogs out. I've never seen one before. There is a photo in that booklet.

20

Q. We'll come to that later.

A. We'll come to that, yes.

Q. Now just going to that second dog, do they have freedom, the adult did it have freedom – in your view looking at that picture, does it have freedom to lie down?

25

A. Absolutely.

Q. Yeah.

A. You can see here that because it's a little bit worn.

30 1445

A. You can see here, he thought, well, because of it was a little bit worn.

Q. Right. In that case just looking at 3, top of page 3, the puppies have got a water bowl?

A. Yes.

Q. The other dog hasn't.

A. Oh, we can't see one.

Q. That's true.

A. Yeah, yeah.

5 Q. Now, there has been some comment made in prosecution evidence that these dogs were tethered there for an unreasonable, it's not just dogs, but some other dogs, we'll just take, for example, the previous page where perhaps it's not as clear, bottom page 2.

A. Yes.

10 Q. From the top of page 3, there is some worn grass?

A. Mhm.

Q. There is some clear space, no grass?

A. Yes.

15 Q. It's unclear just looking at page 2 what does that indicate to you in terms of tethering?

A. In terms of tethering, I was just going to say "poor grass", it was very water logged, they'd only got to be there for two, three minutes and it'll be warm. These puppies were put they give because when they're in a group and playing together we cannot give them specific food and watch them eat that they eat, there's certain amounts that we want them to eat.

20 Q. Right. Now the dogs at the bottom of page 2 don't seem to have water bowls or two of them that one can see, is there any?

A. They've just been fed and been watered that's why and they're watched and then they're taken away there. They need to rest because after eating we don't want them to gallop around or play around or test any entstines, it's just a resting period, it's only temporary.

25 Q. Now just going to the top of page 3 again –

A. Yes.

30 Q. Can you comment on the worn area. Now the prosecution with evidence to the effect that a worn area indicated that a dog had been in the same place for an unreasonable period of time, and it had been there so long that it had worn down that area, you know for the turn for the grass to soil for argument sake. So what do you say to that interpretation of such a situation as we see with both those dogs at the top of page 3?

A. What you see here this is kikuyu grass and kikuyu grass has ear, roots. It means it doesn't go into the ground, it just grows along the top. So it's very easy, as soon as within its dogs, cattle or whatever and very quick to achieve this. Plus, it's not the same dog that's always there, they are rotated because each one gets it individual "me" time.

Q. Right and I think as it has been pointed out during the prosecution case, there's a object to the right and behind the puppy?'

A. Yes.

Q. Which was identified as?

10 A. It's a rubber ball and it has holes in it and inside this, it's a large bowls do the can't swallow it or choke on it, and with this ball whether having holes in it, it's got a little ball inside that as soon as it moves, it makes a noise.

Q. Right. Now one other matter which we just go to page 5, the bottom. There's a dog under a chair, do you recognise that dog?

15 A. Who is it?

Q. She's just come out of the laundry and that is Tansy.

A. Now again a similar – look at that area under the tree as shown by the photograph, it seems to show a large area which is denuded, well, it is devoid of any grass? Is there any and I just notice to the left of in Tansy's right there's what appears to be a water bowl?

20 Q. Yes, there is a water bowl there. She's only there while her area's being cleaned out. This whole area under the trees, these trees are 50, 60 years old, there is no grass, there was no grass, there is no grass and today's there's no grass. It's sour, it's dry, but because they're big trees they seem just to suck it all out, and we've got big vines that grow up, here. It's got nothing to do with the dogs. You can see there's kikuyu just going in air roots there, but it's got nothing to do with her or any other dog, that was temporary.

1450

30 Q. Right so that's the dog which is described as being tethered to a tree?

A. Mhm. The reason being too, when they came my sister was going to – she was either doing it or just starting to mow the lawn and so that there are no accidents or any dog fights because someone has a difference of

opinion amongst the dogs themselves and while it was being cleaned out, that's why she was there.

Q. Now just going, just in the section of the prosecution booklet, there are other dogs on tethers so –

5 A. Yes.

Q. – I'm just – we've dealt with puppies, we've dealt with an older dog accompanying one of the puppies at the fence line, we'll just go to another dog, the next dog that's described as being tethered, well, it is tethered, is at page 9.

10 A. Yes.

Q. Now who's that dog?

A. This is Anelly.

Q. Now that, what sort of tether has that dog got?

A. That's a Royal Canin. That's just temporary so that our contract fencer
15 can get in and out of the utility shed. He was scared of Anelly and if she wasn't tied up there then he would not go into the shed to get the tools and equipment that he needed out of the utility shed.

Q. Right. This is the same person who had difficulty with Anelly.

A. Yep, same dog same person.

20 Q. Who was in the – tethered in the utility shed later in the booklet?

A. Yes.

Q. So –

A. You can see she's very youthful. She's there, I think, eight years old.

Q. She's eight years old.

25 A. Mhm.

Q. And how long is that tether?

A. That tether is at least one metre 40. That's also a Royal Canin lead.

Q. What's – when you describe a lead as being a Royal Canin lead, that's – you've described it as being a show lead –

30 A. Mhm.

Q. – but is there any – is it a notable brand?

A. Royal Canin is a manufacturer of premium dog dried food. We use their endurance feed which you can purchase from only from vets. You cannot

purchase it in a shop and this food is slow energy releasing for working dogs, because working dogs are working normally throughout the day.

Q. Now just looking at that dog, what would you describe its posture as? This is at the top of page 9.

5 A. Yes, she's lying down. She's relaxed but she's watching everything that goes on. She's alert, she's attentive and she can be quite the opposite if she wanted, but she's got everything under control.

Q. Now we next go to, there's a photo of a dog at page 12 which is on a tether.

10 A. Yes, Regina.

Q. Have you got any comments to make on that one?

A. Yes. She's on a light lead. This lead is over two metres. She is just – this is just temporary, waiting while her kennels are being cleaned out.

Q. Right now just looking at the floor, and of course over the page we seem to have –

15 A. Yes.

Q. Are both those photos taken of dogs in the cattle yard?

A. They're both in the cattle yards, yes.

Q. And also over at – and they're both tethered?

20 A. Yes, these are pups. They're all tethered.

Q. Right.

A. You can see one playing on page 14, Elite, playing with a water bowl.

Q. Right.

A. They've all been fed, they've all been exercised and this is just a resting period before the...

25 Q. Right, so I'll come back. I'm just going to go back over these pages. So at the top of page 14 we've got one, is that a pup?

A. Yes.

Q. And that's got its water bowl.

30 A. Yes.

Q. We've got a different, is that a different pup –

A. Different one, yes.

Q. – below? And then we've got yet another pup tethered at the top of page 15.

A. Yes, that's the same one as top of page 13.

Q. So we've looked at dogs which are tethered, a lot of dogs, but putting aside, the one outside the cattle shed. Now, looking at pages 12 to the top of page 14.

5 A. Yes.
1455

Q. If one can – that's the cattle yards but if we look at the interior of the cattle yards at pages 2, 3, 4 – 2 and 3 of the photo booklet, this one –

A. Yes.

10 Q. – which is fronted by the –

A. Oh, that one.

Q. That one.

A. Sorry, yes.

Q. I think my learned friend in re-examination –

15 A. Oh, very good, yes.

Q. – he posed some questions, made some observations.

THE COURT ADDRESSES MR GARDINER – CHECKS WHICH BOOKLET
(14:55:32)

LEGAL DISCUSSION – PHOTOGRAPH BOOKLET A

20 EXAMINATION CONTINUES: MR GARDINER

Q. He made the astute observation, or he elicited evidence relating to the contrast between what you have in exhibit A, the defence exhibit, this is the one where you took photographs, you know, recently –

A. Yes.

25 Q. – and the position that is portrayed at pages 12 to 15 –

A. Yes.

Q. – of the prosecution booklet.

A. Yes.

Q. Can you comment on the contrast between the two?

30 A. Certainly. Right, um –

Q. Perhaps the – yes?

- A. The pages from 12 to 15, top of 15, this is in winter. You will see that the concrete is littered with hay and cattle faeces. It's dry and then it turns into powder, and the cattle had been through just prior, whereas if you look at page 2, this is summer. There hasn't been any cattle in the last couple of days through the yards and there's no dogs there.
- 5 Q. Righto, so just asking, just taking that one step further –
- A. Yes?
- Q. – looking at prosecution booklet 1 –
- A. Yes?
- 10 Q. – what's your explanation for the dogs being tethered there with the floor in that state?
- A. It's a natural environment. Our dogs are all very natural, they're all – they're working dogs, they're out in the paddock, they're out in the dirt. They're allowed to have mud. Here you can see that their coats are good, they're looking healthy, their eyes, their nose, all the details, they're healthy pups.
- 15 Q. Right.
- A. This isn't an unhealthy environment, otherwise they would have runny eyes, their nose, the dogs would be sick which they were not. When the cattle have gone through, it is something natural. If they're out in a paddock and the cattle go to the toilet, it is natural. Dogs play with it. We have dogs that'll pick up dry cattle faeces and run round with it. It's just a – it's a game.
- 20 Q. Right, now just going back to some other photos here –
- 25 A. Yes?
- Q. – we've got the puppies tethered and you explained that background.
- A. Yes, it's temporary.
- Q. Yeah, we've got – there was some issues about cleanliness.
- A. Yes?
- 30 Q. And an example was given in particular of the single dog pen at page 6.
- A. Page 6, right...
- Q. Now –
- A. Yes?

Q. – in the bottom picture, I cross-examined or asked questions of Inspector Plowright –

THE COURT ADDRESSES MR GARDINER – CHECKS REFERENCE
(14:59:06)

5 MR GARDINER ADDRESSES THE COURT – PROSECUTION BOOKLET 1, PAGE 6 (14:59:08)

EXAMINATION CONTINUES: MR GARDINER

Q. The photograph at the bottom purports to show part of the single dog pen which is the top of the page. Now, I asked some questions of
10 Inspector Plowright and he – I put to him the proposition that what he was observing was not faeces but actually a decaying cowhide. Can you explain –

A. What this is?

1500

15 Q. – that proposition and deal with the interpretation or the inference that he drew that we're talking about – well, he gave evidence on that we had faeces here.

A. Certainly. If you have look up at – this dog is a young adult. If you look at the top photo you'll see that the grating on the kennel is clean. He'd
20 been given a leg of a young calf. These bones are very soft and the dog will eat and chew up the bones because they're soft, the hide, and what you see here is highly magnified and this is the hair from that hide and the – yeah, it's – someone that has a lot to do with natural foods would immediately recognise that.

25 Q. Right. Now –

THE COURT:

Q. Sorry, could you just...

A. Certainly.

Q. What part of a young calf was it given?

30 A. Back leg.

Q. Back leg?

5 A. Back leg. You can see there's some bones still in the – in the kennel above. And you can see if you look at the lower – the highly magnified photo below, if you look at the metal, when they're running around and if it was as they inferred, days and days or weeks or whatever they like to use of faeces build-up, which it wasn't, the dogs are moving around, they're jumping up against the metal grating, looking for – looking, playing, and it would be coated in faeces. If you look at the dog himself, he is clean, he is dry.

10 **EXAMINATION CONTINUES: MR GARDINER**

Q. Just going to the top of page 5, can you describe that? There were some comments, critical comments made regarding the ground in this caged area and a description was given that there was a lack of shelter. Now, can you just first of all describe the ground, and the inference was that
15 these animals had been left, these puppies had been – and I think there were three of them, and you can correct me if I'm wrong –

A. No, it's correct.

Q. – there were three. These puppies had been left there for a lengthy period of time, worn down the ground to what it was, and that they had no shelter
20 because the – what was to the left, over one side of the cage, was not sufficient. Can you comment on the evidence – prosecution evidence was given along those lines. Can you comment on each – there are about three points there. Deal with them in turn. Firstly, the ground being worn down by these puppies.

25 A. Yes. First of all, the puppies have come out of inside and they're getting a little bit of sunshine and fresh air. There was three puppies, as you can see. This is a portable enclosure and if you look to the right of the photo, up the top there, you can see how there is no grass there. That's under these trees, that's the beginning of where these trees go. It's – that's how
30 it is. With it being so wet, they're only going to run round, play, roll, they will – it will look like it does there. That was normal for that time of year and for the rain that we had. The puppies are only there for, well, their –

while the room was being cleaned out and they certainly do not stay there for a long time or overnight or anything like that. They're babies.

Q. So how old would these puppies have been?

A. Those puppies would be four and a half weeks, five weeks, if that.

5 Q. There was an inference made that they were kept there permanently because there's what appears to be a tarpaulin which is to the left.

A. That's right. It's a horse cover and it's a lined horse cover, just to – if it suddenly did rain, we would be out in a flash to bring them inside but that they had cover, sorry, what was the question again?

10 Q. No, you've answered it.

A. The horse cover, mhm.

1505 ha

Q. Now just looking at the grass area outside the cage –

A. Yes.

15 Q. – this is an observation, it seems to be a lawn that I wouldn't like to have, it's full of weeds?

A. Yeah.

Q. Can you explain what we have outside and it's not –

A. You're quite right, well noted. These are bigger leaves a dog leaves there. It's actually from horses. Birds can bring in everything. We have a lot of, we have a very active birdlife. It is not good grass around there and it's not a good lawn and you can see how quickly it just disappears because it's not good quality like out at the front.

20

Q. No, just looking, going back and looking at page 4 –

25 A. Yes.

Q. – well first of all we'll go to page 3. There's a double dog pen?

A. Yes.

Q. How would you – I can't remember what the evidence-in-chief on this was. I think it past must've bit. Can you explain the issue of cleanliness in relation to this double dog pen?

30

A. This is a double dog kennel, you can see it has been cleaned out. All the netting is clean, the wood is clean, inside is clean. Out the back there is a house for them to retreat to, so it's far larger than what is required by code of compliance or MPI. It's all made out of wood and it's a cedar

flooring so that it's soft on their feet. It is slatted and yes, it had been, you can see it had been cleaned that morning.

Q. Now just looking at the – go to page 4, is that the same dog kennel?

5 A. That is the same dog kennel. You can see one is still clean, you can look at her coat, this is a long coat German Shepherd. It is clean here at up the top. That is, it's black and that is from beef, the faeces from beef, the blood in the beef, it is black and with winter you'll find it looks pretty dry on the right-hand side on page 3, but there's a lot of moisture in the air, the humidity and a lot of moisture in the air.

10 Q. Right. Now going back to page 2, back to page 2?

A. Yes.

Q. At the top, you've got, well, in fact there are three pictures which relate to dog pens next to a cottage on entry to the driveway?

A. Yes.

15 Q. And it's five dogs mentioned?

A. Yes.

Q. Page 1 going through to the top of page 2?

A. Yes.

20 Q. Now, Inspector Plowright made some comments about the extent to which this caged area or fenced-in area was bare?

A. Mhm.

Q. Can you just comment on that?

25 A. Yes, certainly. This is what we call an "exercise" pen. It is approximately six metres or seven metres by six metres, so t's a very large pen for puppies to run around in. They can play in the mud, they can whatever and because it's been very wet, these puppies have been bought out from the stables, put in here just to run round, they were given a few bones to chew on, to play with, so that they can stretch their little legs, exercise, play. You can see they're all in good condition and yes, as a working dog
30 they need to be accustomed to every type of weather and situation. They're not a little long coat fluffy dog that's on a couch, they need to be active, they need to see what's going on. You can see up top on page 1 the hens in the background?

Q. Yes.

A. And so they can watch those, they can watch the birds, they can watch other dogs, just something going on. There's a paddock out there, so they could – I'm not sure if there was cattle or calves in that paddock at that date, I don't know, but they're put there temporarily to have a good run. They don't live there.

5

Q. Now how old were these puppies?

A. These puppies look around about three and a half months' old, three months old.

Q. Now just going back to the top of page 1.

10

A. Yes.

Q. Inspector Plowright was critical of the standard of accommodation which was there. We have, for example, in the centre the green building, shelter?

A. Mhm.

15

Q. That can be described as a kennel?

A. Yes, that is a kennel. We have five pups.

1510

Q. Pardon?

20

A. We have five pups in this area. One, two, three, four, five. Yes, five pups in this area. The crate on the left-hand side and on the right-hand side, these are air freight crates which are specifically constructed to travel long distances from Europe to New Zealand, that they've got plenty of ventilation and they are protected. They can go in and out, they can go in and out of the kennel if they want to or play in there. It's up to them.

25

Q. Inspector Plowright was critical because he said: "Look, these structures aren't waterproof." –

A. Be –

30

Q. There is – I'll just finish this, there is no shelter. They're not waterproof. They could be made waterproof if, for example, they're given a base, a base is put under them, but there could be still difficulty, I'm paraphrasing broadly at the point that he made, what do you say to that criticism that they're not waterproof and therefore they're not suitable shelters?

A. They are made out of plastic. It's a special plastic, so they are waterproof from that perspective. Where the slats are, where the ventilation is on

the side, which is essential, you wouldn't want it totally closed so that is an airflow going through and this is temporary. They don't live there, this isn't there house. This is just for when they're in this area running around. If they want to, they can go in there. If they don't, they don't, and you'll find more than likely that the pups will have preferred, instead of going into those crates or the little kennel, to lie on the ground.

Q. Right now, you mention these dogs are working dogs?

A. Yes.

Q. I just want you to clarify that term. These are show German Shepherd dogs. How do you come up with terms like working dogs in relation to German Shepherd dogs, which have a pedigree and are bred to compete in shows for the breed?

A. Yes, for the breed. That's a really good question. German Shepherds are classified as a working dog. Their heritage goes back to herding sheep, guard dog, herding sheep, that's their essential characteristics and as a working dog, whether it's for the police, whether it's search and rescue, whether it's obedience, agility, anything, they have to be able to – they have a double coat. That's one important thing.

Q. No, go back a step.

A. Yes.

Q. Who categorises German Shepherds as working dogs?

A. That was categorised when the dogs were first, I wouldn't say created, but first recognised as a breed back in the late 1800s and that was categorised as a working dog. A working dog must have a double coat.

Q. Can I – no, go back a step before we reach coats and all that sort of stuff. In New Zealand –

A. Yes.

Q. – the organisation that categorises dogs –

A. Yes.

Q. – is –

A. Is the New Zealand Kennel Club.

Q. And that, right, now how many categories dogs are there in the – set down by the New Zealand Kennel Club?

A. There's seven categories.

Q. What are those categories?

A. Those categories are toys, terriers, gun dogs, utility dogs, working dogs, non-sporting and I think I've missed out one. That's six.

5 Q. You got the prize, you named most, most categories, but just getting back to working dogs –

A. Yes.

Q. What are the breeds encapsulated by the term "working dogs" under the New Zealand Kennel categorisation?

10 A. Border Collies, Corgis, Collies, you will have German Shepherds of course, and Old England Sheepdogs, Belgium Shepherds, Malinois, Huskies – no, not Huskies. Sorry, take that back. What are they called? Shelties, Kelpies.

15 Q. Right so there are a whole range of breeds. Now amongst those that seem to be the standout as you might scratch – a layperson might scratch their head that the dog is in the category of a working dog, is the Corgi.

A. Mhm.

1515

20 Q. Righto, so a whole range of breeds. Now, amongst those that seem to be the stand-out as you might scratch – a lay person might scratch their head that the dog is in the category of a working dog, is the corgi. Why would the corgi be described as a working dog?

25 A. You think a corgi's small, she is a working dog which the Queen has been breeding very successfully. They're used because a corgi can bite at the back of a cow, at the fetlock, and jump away quickly and in the time that the cow kicks out against it, the corgi's gone, it's too small. The leg goes up behind.

Q. So are corgis used for sheep – for cattle herding?

A. Cattle.

THE COURT ADDRESSES MR GARDINER – KEEP MOVING (15:15:38)

30 EXAMINATION CONTINUES: MR GARDINER

Q. Just taking heed of what her Honour said, just going to pages 7 through to 8...

A. Yes?

Q. Now, you referred to the puppy house. Both Inspectors Plowright and Davis described it as a garden shed.

A. Mhm.

5 Q. That's the building at the top of page 7.

A. Yes.

Q. Now, you mentioned ventilation being –

A. Yes.

Q. Where is the ventilation provided? How is it provided again?

10 A. This is made out of Canadian cedar shingles and the air flow goes through the shingles. It's also through the window which isn't open at that moment, because we had been away on the 28th of July. My mother was – had an emergency and was at the doctor's, so it was closed from the inside, that no one could just reach in and steal a puppy or take a puppy
15 or whatever, so that's why that was closed, but it's very important, it's two metres high so it has a great height so that it has a natural circulation. If you –

Q. Now just looking at bottom of page 7 –

A. Yes?

20 Q. – top of page 8 –

A. Yes?

Q. – and top of page 10.

A. Page 10... yes.

Q. Now those, do all those photos relate –

25 A. No, page 10 doesn't relate to the puppy shed.

Q. Right, we'll deal with that separately.

A. Mhm.

Q. So the photo at the bottom of page 6, 7 and top of page 8 –

A. Yes?

30 Q. – would you say that just looking at those photos, that the SPCA inspectors might have been justified in construing and interpreting what they saw as being unsatisfactory?

A. Um –

Q. We'll just deal with the bottom of page 7 first.

A. Page 7. Here you have puppies. They look, I think, around about six weeks old. The puppies had been out. They had wet feet. They had been fed so they're going to go to the toilet. They're wet and running around in the grass. The newspaper absorbs the moisture in their feet and on their little stomachs. At the back of that, which you don't see in the photo, is their bed hanging up which was put there. You can't see it in the photo but that's where it was. It's been cut out, it's not there.

Q. Righto, top of page 8.

A. Top of page 8, that's just taken – you can see there's dry paper, you can see they've gone to the toilet. That brown, um, faeces that you can see there, that is from the dry food, that's the transition, so it takes a little while and if you look at the top of that page you'll see white faeces. That is from the beef and you can see now they're getting, they're used to the beef, it's firming up, and we're trying to introduce the dry food and of course that takes a little bit, so that's being cleaned out and you can see, if you go back to page 7 you can see that it had been cleaned out up the top. Where I'm standing, there is a big bin where the newspapers were put. That's their mother just there, and you can see there's cleaning utensils at the right of that shed, so this is – when it's like that, after the kennels have been done, it's all taken out again and new newspaper put down.

Q. But we have a situation now, when the SPCA came on this day –

A. Yes.

Q. – they were there at, what, what time? One-fifteen or...?

1520

A. I think they came at midday and we were in, we were at the doctors and we received a call that they were there and we came back straight away. So it was an unusual morning because my mother had, we had a medical emergency. The puppies had been tended to early that morning and, yes.

Q. So in that photograph at the top –

A. It says 3.34 –

Q. – is that you?

A. Yes, that's me.

Q. Right, now are you just showing the – you seem to have SPCA officers at standpoint at least one, one officer standing behind you, are you showing the officer at it's 1.34 -

A. Yes.

5 Q. – the inside of the shed?

A. Yes.

Q. And then what we have, what they see is the situation at the bottom of 7 and top of 8?

10 A. Yes. Now if you look at page 7, yes, that's correct. Now if you look at the lower photo on page 7, you can see half of it is dry, the paper, up the top to the right?

Q. Yes.

A. And the hard part on the left they've gone on to the one side to go to the toilet and that's where the photo's been taken and magnified.

15 Q. And what's the size of the interior of the puppy shed?

A. The puppy shed is two metres by two metres, so it's two metres wide, two metres deep and it's I think two and a half metres high.

Q. Right. Now in terms of cleaning out this area, how many times is it done a day?

20 A. Depending on what the eating and how long they've been outside, it's cleaned at least two times and if it was like that when we come, it'll be cleaned again, three – whenever it's either three times, but at least two times a day.

Q. Now I've got a photograph at the bottom of page 8 -

25 A. Page 8, yes.

Q. - which seems to be on I think so own -

A. Yes.

Q. Can you describe what you see in that photo?

A. Certainly.

30 Q. And explain it?

A. This is the open area of the utility shed and this is Hobby. Hobby and Anelly are usually in there together. Hobby is guarding the shed because we have had multiple break-ins to the locked part of the utility shed where

we keep all our tools and what do you call it, machinery, and everything else that we need for the farm, and also the saddlery.

Q. What about the state of the floor, what is that?

5 A. State of the floor it's concrete. You can see here he has eaten a bone, there's white faeces there, that's from bones. As soon as they go to the toilet it oxidises in order to turn white. When they've just gone to the toilet, it's a light yellow colour.

Q. So is this dog on the loose inside the utility shed?

A. Yes.

10 Q. Which opens up to fresh, you know, to the open?

A. Absolutely. You can see if you turn to page 9, Anelly she's out in front of it and this utility shed would be about seven metres by five, six.

Q. And how high?

15 A. How high? One moment please. At least five metres high. It has got a high stud height because the tractors have got to be able to go in and out of the shed.

Q. Now, just looking – so Hobby –

A. Yes.

Q. – he's roaming around inside the shed?

20 A. Yes.

Q. And he's on its own or?

A. Yes, he's on his own.

Q. Now, why is the shed floor in that state?

25 A. It's concrete, there's all different colours there, yes. I can see he's gone to the toilet in the middle of the page. A dog can go to the toilet, they'll go to the toilet when strangers come, that's a normal reaction. They go to the toilet up to seven, eight times a day, it depends on your age, what they're doing, what they've been fed and then that's just – that would be first of all, just picked up and because of the wetness, that would be water
30 blasted as soon as there's a dry spell.

Q. now where was Hobby usually kept?

A. Oh, he was always running free in there.

1525

Q. Right so how many times a week was that area cleaned?

A. It's cleaned every day. The faeces are picked up every day.

Q. Right. Now just going through to the top of page 10, can you describe what that represents?

5 A. Yes, this is the stables at the back of the deer shed and this looks like the first – when you're standing in front of the stables and the deer shed it's on the left-hand side.

Q. So how many dogs are in this area?

A. There's three puppies in here.

Q. So what we're looking at, is that all – can you describe what it is?

10 A. Yes, it's newspaper that's obviously been wet. There's also bones there. They have gone to the toilet there. It's a concrete floor. This opens up half of it. It had been raining, as we said, quite consistently the days before and the puppies come out of there and run around the paddock. As we are not a boarding kennel we rotate our dogs, but we – also with
15 the cleaning it's one after the other. They're all not just done magically all at once.

Q. Right.

A. But it has yet to be cleaned out.

Q. Now just going through to page 11.

20 A. Yes.

Q. What is that?

A. This is now inside the woolshed and this is at the rear of the woolshed. This is a holding pen and it has another pen behind it. These are slats that you're seeing, and you can see the drop that's going down. It's
25 approximately two metres. It ranges between 1.6 and two metres because the shed has been built on a slight slope. There's also pens underneath, not from us but the original had sheep holding pens so that they're dry when the shearers come to shear the sheep, underneath because they had far more sheep than what we did.

30 Q. Right. Just looking at these, these photographs are not very good quality.

A. Mhm.

Q. They sort of indicate that the area is dark and therefore you can't see the dog properly. What's your comment? Do you – what's your comment in relation to that?

A. The area is not dark. It has windows on the left side, the right side, all the way around all four sides of the shed. It has a very high stud, there is a lot of light coming in there. Yes, this is probably how the sun's coming in, because you can see behind there's a lot of light, so the sun, how it's coming in through the windows, this is the shade part of it.

Q. Right I just wanted to show you something.

A. Yes.

Q. This is exhibit E.

A. E? Mhm.

10 Q. We'll just go through to page – well, they're not numbered.

MS STOIKOFF ADDRESSES THE COURT – EXHIBIT CLARIFICATION
(15:28:28)

EXAMINATION CONTINUES: MR GARDINER

15 Q. You're right, your Honour. Nine pages, but looking at – we're looking at page six. Could you just hold up, Ms Wallace, the – show her Honour what photograph you are looking at?

THE COURT:

It's Dr Beer in the woolshed by the looks.

EXAMINATION CONTINUES: MR GARDINER

20 Q. Correct, yes. Now this is a photo of Dr Beer. Correction, who does it – what does it show, that photograph on the right of page 6?

A. This photo is of Dr Beer and Elite where she is noting down about Elite and about to take him and this is in the woolshed. It's the same slat, it's the same woolshed, there's no change but you can see the light so it depends on what directly taken photos and the light. You can see it is very light, it is very good ventilation in a nice area.

25 Q. But is that light –

A. Yes.

Q. -that good because the electric power's been turned on?

A. No, no. It does have electricity yes, we use it for our shearers or if we're doing anything in the evenings or early mornings. That is just natural light.

Q. Right, why do you say that?

5 A. Because it is natural light.

COURT ADJOURNS: 3.31 PM

COURT RESUMES: 3.51 PM**EXAMINATION CONTINUES: MR GARDINER**

Q. Now Ms Wallace, just going – we then have a series of photographs, they all run together which are the kennel runs?

5 A. Yes. Page 15?

Q. Yes, page 15 through to page 19.

A. Yes.

Q. Now the point has been made that a lot of, about the – the criticism is that they were dirty, the water was, it was insufficient, there was no access to water in some cases, water containers were empty. Water that was in some of the containers looked, didn't look very nice to drink and they weren't basically, they weren't clean enough. What do you say to that looking at pages 15 through to 19?

15 A. The water, we have bore water and it comes from 120 metres deep. It is not purified or chlorinated town water, so there is a big difference, but it is natural and it is very heavy in iron and manganese. You can see here the kennel was clean. There are old kennels with old concrete, this is before the new kennels were built.

Q. And mention was made I think by Inspector Plowright or it might've been Inspector Davis about your sister cleaning the kennels, hosing and just the faeces going just into the grass. Take a look at page 18?

20 A. 18. Yes, my sister is hosing a general area, she's not hosing faeces. There is a to the right if you're standing in front of the photo, the right of the photo you can see there are two pallets. This is, they're on top of a concrete, a big concrete tank, sewerage tank and the reason why these pallets are on top of that is because we had someone drive over it and break it. You can see at the bottom of that photo there's a concrete wall, they said it goes into the grass, no, it didn't, no, it's straight out. This sewerage tank or ... tank... you can see if you turn onto page 19 –

25 30 1555

Q. Yes?

A. – because he ran over it and broke it, that it is leaking. It's not because the kennels are being cleaned and it's all been out onto the grass, no.

What happens when the kennels are cleaned, first of all, the faeces are picked up. Faeces, the bones or whatever's in the kennels, they are all picked up and then it is water blasted out. In this case here on the 28th it was hosed out because this part in the water blaster which is in the photo on page 18 had to be ordered and it took time.

5

Q. Just to clarify that, going to page 18, were you saying just then that part of the water blaster is featuring in the picture at the bottom?

A. Yes. The bottom page, you'll see that is the water blaster. The part that is being replaced –

10

Q. Can you just identify –

A. Yes, it's on a red – you can see the water blaster gun is pointing upwards with a hose wrapped around it, a black hose.

Q. Right.

A. And the red, with the little wheels.

15

Q. So when was that water blaster fixed?

A. We had to – we received a phone call that day that the part has arrived and it was, I think they'd sent it down to Ngātea and it was ready to be picked up.

Q. So how was that broken?

20

A. That was broken through, um, very innovative international students.

Q. Righto, now just going to the top of that page 18, there's a dog standing up.

A. Yes.

Q. Now, it's been said that dogs were – had matted coats, had faeces on it.

25

First of all what do you say to that?

A. Well, if you look at that dog here you can see there is no – its coat is clean. This is guarding: "This is my area," he's barking, he's telling the other dogs: "Strangers are coming in," which is what we want him to do, this is exactly the right behaviour, what he is doing there.

30

Q. And what's the name of that dog?

A. That's Astro.

Q. Righto, and are we talking about an area which he occupies which hasn't been cleaned?

A. No, it has been cleaned. It's just wet.

Q. Right.

A. It's old concrete and it's stained and it's very discoloured.

Q. Now, just going to page 16, we've got a front-on view of some of the areas.

5 A. Yes.

Q. Now, at the front we've got an area where the dog can walk around. What's at the back?

A. At the back we have wooden houses. This is their sleeping area. They are wooden – solid wooden planks at the bottom. These wooden houses are approximately one metre 50 wide and 1.25, I think, deep.

10

Q. Righto. So would the dog, when you want it to sleep, it would go –

A. Go out the back.

Q. – go to the back and is that wooden area elevated?

A. Yes, it is slightly, yes.

15 Q. Slightly above the concrete area.

A. Yes. Yes, it is, it's actually 10 centimetres.

Q. Right, and basically the dog, if it wanted to exercise or walk around, it would walk to the front of the old kennels.

A. Yes.

20 Q. What was the size of the area in front of the wooden area? You know, the sleeping quarter?

A. Yes, the run part, the runs, they were two metres long, so plus the 1.25, so they were 3.25 in, I think, total so they were two metres long and it's one and a half metres wide.

25 Q. Right, now there's mention, it was mentioned by the SPCA witness inspectors that there was, I think it was particularly Mr Plowright, that there was discolouration of the concrete.

A. Yes.

Q. Can you explain that?

30 A. Yes. The concrete is at least 35 years old and it has been – it was re-concreted with a layer of concrete, but through the water blasting and the vibrations from the water blaster, that broke up the concrete and then yeah, it became uneven and it had that discolouration. It was...

Q. But –

A. It was stained.

Q. – so –

A. It's not dirty, but it's – it's not nice for the eye, put it that way.

1600

5 Q. Now just talking about not nice to the eye just taking page 16 we've got some stuff on the top of the kennel?

A. Yes.

Q. What is that?

A. That is a tarpaulin. If we have a storm coming in we just wrap the kennel
10 over in the front so that the wind doesn't, or the rain doesn't drive into where they're sleeping.

Q. Right, but just looking at that tarpaulin, it looks as though it's got a few holes in it?

A. Yes, because if it goes into between the – see the doors there's a gap in
15 between the door and the kennel, they'll put it down. It's something to play with. It's, yeah.

Q. So what's a tarpaulin made of?

A. It's plastic. It's used to houses really. We were given it and we were
20 given and it was, it wasn't brand new so it would've had its straws but it was good if we needed to use it for them.

Q. And we see the tarpaulin featuring in at the top of page 18?

A. Yes, yes, you see it from the other angle.

Q. Now one of the criticisms that was made of the kennels is that these old
25 kennels was – the dogs were insufficiently protected from the weather, therefore they had no adequate shelter. What do you say to that?

A. That's incorrect. This is why they have their separate houses if they want
to get away from the – any sort of weather if they want to do, it's up to the
dog themselves they do have that freedom. These are working dogs,
they're used to living outside, they're used to – all different where the
30 elements – they have a double coat which is the undercoat acts as a – in
winter to keep them warm and it's waterproof, that the skin's waterproof
it's just the outside coat and (inaudible 16:01:56) to cool the dogs down.

Q. Well looking at photograph 16, at the back is there a – is that a window at
the back? Would you say we got –

A. Where?

Q. – looking at the dog on the right picture?

A. Left, right. No, it goes right back. It goes – the kennel's go right back to the – that metal that you see there at the top and through to the right, that
5 is the utility or implement shed.

Q. Right.

A. So it backs onto that. So it's positioned there so it's protected by the utility shed from that side. They've got their little house in there. On the left-hand side which you can't see there is a water tank, a 20,000 litre
10 water tank which also gives them protection and it's an orchard.

Q. So when you describe a water bore, that's some distance away in the corner of one of the paddocks?

A. Yes there is.

Q. How does the water get from there to quarters like this?

15 A. We have a pump which pumps it through Alkathene hose and that goes to all the paddocks, to all the troughs and for water for the kennels.

Q. How does it get – water for the kennels get to the kennels?

A. It's through a pump.

Q. Through a pump?

20 A. Yes, we have a pump shed.

Q. And where's the outlet from which water is taken to fill the container, clean the containers and fill them?

A. I don't know whether there's a photo there, just one moment please. No there isn't. If you turn to page 18 –

25 Q. Yeah.

A. – we're standing, this is closest to the house, the home (inaudible 16:03:49) we have the main dwelling looking down to the orchard and to the right of this, there's a fence about five metres away, a fence, and on that fence that's where the Alkathene runs and connects to all the water
30 where the water's going there's a tap there.

Q. So we take the top picture?

A. Yes.

Q. Page 18?

A. Yes.

Q. That feeds in the background is what you're describing?

A. That's at the back and that goes around like a – what do you call it, like a upside down L coming towards you.

5 Q. Right. Now and finally just on this segment before I summarise some questions, we've got a dog at page 17, what does that show, that photo show?

A. Yes, this is Paris and you can see the kennels are cleaned but the concrete is very discoloured, it's wet and she's just looking out.

10 Q. Now just to summarise some points. First of all the criticism about tethering?

A. Length of the tether –

Q. Yes.

A. – was in the main, what, how long?

1605

15 1605

Q. Now just to summarise some points.

A. Yes.

Q. First of all, the criticism about tethering.

A. Yes.

20 Q. Length of the tether –

A. Yes.

Q. – was in the main, what, how long?

A. In general we purchased our leads. The leads all have a general length of 1.4 in length.

25 Q. Right and to what extent does this restrict the movement of the animal?

A. Well it doesn't restrict the movement of the animal, it's just that they go to the end of that lead.

Q. Now there were some views expressed on a choke chain, otherwise described as a check chain or a slip chain.

30 A. Just one moment, please.

Q. Yes. Are you okay?

A. Sorry, I'll just sit down for a moment. Sorry. Could you say that question again, please?

Q. Now some evidence given by prosecution witnesses –

A. Yes.

Q. – in relation to use of a choke chain.

A. Yes.

Q. Which is also known as a check chain, C-H-E-C-K.

5 A. Mhm.

Q. And a slip chain. What do you say? The criticism was, not – basically the evidence seemed to be not illegal but shouldn't really use them. What do you say to that?

10 A. What do I say to that? This is used worldwide. They learn from a very young age what it is. They know how to relax it. It does not hurt their necks or the coat. We don't want it to hurt them in any way. We want them in perfect condition. These are chains. There was German – we had it imported from Germany. They were very large, linked chains. They're called neck chains, whereas the other ones are the English
15 choker chains, we call it. It's been translated into choker chains, but if you take the original language where it comes from they're not called that, they're just neck.

Q. Neck chains?

A. Yeah.

20 Q. Right now the cleanliness you reje – there's criticism, there was a section, there is a notice which you were given at page, which is at page 20. So we dealt with the – I just want to deal with this, the broad points covered by the notice. There was criticism about inadequate shelter. So what's your response? What do you understand by shelter in this context?

25 A. In this context?

Q. Given the interaction with the SPCA.

A. With the SPCA. First of all, we were shocked when they came. We sat down together and talked about it. They talked about what they thought. We listened very carefully to what they said. Mr Plowright, we said, well,
30 I suggested, well – we agreed on the timeframe to build new kennels, which we were wanting to do and we were planning, but it was brought forward to suit the SPCA. It was hard in 2017 because it was an election year. There was a building boom, it was very hard to get materials, to get people to do anything and to construct anything under a very closed

timeframe. I suggested to Mr Plowright and Ms Davis: "I hear where you're coming from. Let's work together. Let's make this a success story. You can take all the allocates for that. We just want the best for our dogs," and Mr Plowright said to me: "There has never been one success story."

5 Those were his words. I was quite shocked and I'm sure they can hear it on their body camera footage, but that's what I do remember Mr Plowright saying. I said: "Right, well, let's turn it around. Let's make this one. We'll work together."

OBJECTION: MR RADICH – NOT PUT TO MR PLOWRIGHT (16:09:32)

10 **EXAMINATION CONTINUES: MR GARDINER**

Q. Just going to the cleaning.

A. Yes.

Q. The cleanliness issue. What's your view in relation to the criticism made of that?

15 A. The criticism –

Q. Lack of cleanliness.

1610

A. Lack of cleanliness, the kennels are cleaned out every day. This was – everything was delayed because of the emergency, the medical emergency we had that we went straight in, and we went in mid-morning I think around about 9 o'clock, 9.30, I can't remember the exact time, it was after the puppies had been done. So it was a – it wasn't a normal day put it that way and yeah, these are big dogs, these are large dogs, they do eat a lot and therefore, they go to the toilet a lot and so if they

20

25 didn't get cleaned out daily, you would have mountains.

Q. And you dispute that that was –

A. I do.

Q. Yes. So what you're saying is in the circumstances, you consider –

30 **THE COURT ADDRESSES MR GARDINER – WITNESS WORDS NOT YOURS (16:10:55)**

EXAMINATION CONTINUES: MR GARDINER

Q. In a nutshell what was your position in relation to criticisms of cleanliness, lack of cleanliness?

5 A. Normally everything would be water blasted. The water blaster for us gives a higher level of cleanliness. We've never had any diseases or bugs and the dogs were healthy, so it shows that it has been continuously cleaned. With hosing it, it is different and especially if you've got old concrete, it is not as nice as what we would like it to be, but the way it was portrayed, I dispute totally.

10 Q. Just taking the last point in that notice, they talk about "puppy enclosure requires flooring to prevent mud and to provide dry living conditions" what do you say to that?

A. That's typical from someone that's come from the city. Whether all the different weather elements, yes, there are going to be wet feet, it is normal
15 to be out in the grass, we want them to have a natural environment. The puppies, they don't live there, they don't sleep there, it was temporary.

Q. Right. Now just generally speaking in terms of the code of conduct -

A. Yes.

Q. – for dogs, how do you view the situation in relation to tethering?

20 A. For tethering. Tethering is not illegal. This is something absolutely normal. If we can't tether a dog when you go to a vet, when you go to a shop, when you go to anywhere, to just to a groomers, the first thing they do is they attach it to rod so that they can groom a dog. This is normal. They must – puppies have to learn what tethering is and to respect it, just
25 to relax and to – for it to be normal, it's like a horse. If you don't teach a horse to tie up.

Q. What about the length of tethering which the SPCA believed had been an unwarranted period of time, what do you say to that?

A. If they were tethered permanently, they do need a length of chain. They
30 made the recommendation of two metres. This is in no code of welfare. This was their personal preference. We listen to this. We went and purchased light chains which were two metres and 40 which the same chains were said when asked, when you asked Mr Plowright, he said

“They were short chains”. They had the chains in their hand, their own photos show that. They were two metres 40 plus the neck collar.

Q. So which chain, where are?

5 A. That’s the chains they took with them on the 18th of May 2018. You’d never put a chain on a pup, well, we wouldn’t. We would not put a puppy on a chain, it’s too heavy, it’s too clunky, it’s too non-giving. They’re just to learn what a lead is, to respect it and that’s it.

Q. Now just to, lastly, on this area, on this visit, in relation to the cleanliness, how did the – access to water –

10 A. Yes.

1615

Q. Penultimate point.

A. Mhm.

15 Q. Access to water, what do you say to the criticism, and it’s not featured at paragraph – correction, at page 20, but what do you say in relation to the access to water by the animals which are featuring in the photographs here in this section?

20 A. All our dogs had access to water. They don’t stay in the kennels. They don’t live there 24-7. They’re out and about and they’re trained, they have their water, they’re fed, they were all hydrated, yes, they played with it, they turned it over. That’s fine, it just gets filled up again.

Q. Right.

A. You can see if you turn to page 13, the lower photo, Elite’s jumping up because he wants to pounce on the water.

25 Q. Right, now what about the point that is made, it’s been made at different times in this proceeding by the prosecution witnesses about enrichment?

A. Yes.

Q. I keep forgetting the actual term that’s used. What was –

A. Behavioural enrichment.

30 Q. That’s the one.

A. Yes.

Q. So what do you – just looking at the photos in this section, to what extent do you believe that, firstly, the puppies had behavioural enrichment?

- A. This is very important for us, for puppies to start off with a lot of – all the dogs, behavioural enrichment. The puppies at a very young age, yes, the sounds and the environment from a home that teaches the different smells, the different sounds, then they graduate to playing outside on the lawn with toys, with us, with other people, with their mothers, having a little bit more room to move around and just play. Then – so with them going out in the grass, they're experiencing a new environment. It could be dry, it could be wet. This is all behavioural enrichment. They can go off in their little discovery tours to the gardens where the flowers are or over to where the vegetable garden is. They are hearing the birds. The larger animals that are outside of the fence, so they're in a protected area, inside the picket fence, the cattle, all the different environments. It's extremely important. Once they get a little bit older they're running loose in the paddocks where there's rabbits, there's ducks and turkeys and pheasants and peacocks and all different sounds and animals to get their attention so that they're playing, they're attentive, they're looking around and spirited.
- Q. Righto. To what extent were the puppies exercised and what did the exercise consist of?
- A. The puppies are taken from their little puppy house or if we go down to the stables, from the stables, they're put on a lead. One person, one puppy, and we usually have two people, so one puppy's following the other puppy, so they're learning how to move on a lead and they are taken down to the cottage where, if you turn to page 2, that's the big exercise pen where they can run around free, so it's training, they're fed, first of all they go on the lead, they're fed individually, the they're put into the big pen and that happens one after the other.
- Q. Right, now what about the adult dogs? Where did you exercise them?
- A. The adult dogs, we've got paddocks all around the house and all around the kennels and it's depending where the cattle are or the sheep. I would always take them where, or whoever's taking the dogs, where there was no large animals, and they're just let off to run loose and gallop around the paddock to begin with. That's not training, that's just exercising, going to the toilet, having a look round, seeing what rabbits, what possums have

been around, they're picking up all different scents and smells and following that, so it's a tracking – it helps them when they want – when we start tracking with them, 'cos we have tracking dogs, it's the start.

5 Q. Righto, now you mentioned in relation to – we'll come to the date, 18th of May 2018 in its own right, but in that situation you will be giving evidence in terms of what occurred on that day.

A. Yes.

1620

10 Q. Can you describe, we'll just take other – you've taken other badges of dogs, essentially your evidence will be to the effect that you've taken – you took this batch of dogs. Essentially your evidence will be to the effect that you've taken, you took this batch of dogs for water of a better term up to that area?

A. Yes.

15 Q. Where the dogs were ultimately located. Just talking your other dogs, to what extent did you take another dogs up there in different times to exercise?

A. This training is going on, pockets, all during the day from morning till night.

Q. Did you spell, specify the training that we're talking about?

20 A. The training is they are put on leads and they are exercised beside the quad bike it's a fitness training and the fitness trainings are at all different speeds and it includes flat land and hills, so that they are getting well muscled and dry and firm and because we don't excess fat or soft. We want them dry, hard and firm. They love it –

25 Q. What does the term "dry" mean?

A. Dry means that the muscle toning is very muscled.

Q. Right.

30 A. It's not – if someone that sits at a computer all day, hasn't got very good muscle tone. They're very – because they're not exercising. I'm out all day so I've got a good muscle tone most of the time. So that's a difference –

Q. Right, so you take, when you say quad bike, what are we talking about? You're driving a quad bike?

A. Yes.

Q. And what – so where do the dogs fit in?

A. The fits I'm either holding on leads and taking the quad bike, well usually two people sits on both sides so we can take two or four dogs up. It depends –

5 Q. What about six?

A. Yeah that depends on the group of dogs, it depends you said at that time on the 28th of July it depends what dog that I'm training, but some are running lose beside it. As soon as they hear the bike they all want to go.

10 Q. Now when you get up, when you mentioned that that, were mentioned that that area is one that you've used in the past?

A. Yes.

Q. Talking about the past now.

A. Yes.

Q. What's the procedure when you get up there in terms of training the dogs?

15 A. We have a damn and so I like to swim the dogs so they get a good even muscle tone and along their backs. So swimming, the heel work, flat work, also hiding in the trees and calling them and then and they'll try and find me or find whatever person that's taken them up. The dogs, it's a fitness training because they need to be able to have a norm – it's cardio training so that they have a normal heartbeat if they are running consistently for 20 kilometres because they have to very fit. Up there, I had according to Mr Plowright and Ms Davis' recommendation, I had chains two metre 40 chains, light chains with soft collars up there with stainless steel buckets of water ready for them. They were tied there, we have a lovely little stream, this is my favourite place of the farm because it's tranquil. There's no sounds, there's no – all you hear is just the water and the little waterfall trickling away and so it's peaceful.

25

Q. So and what was your, what was the procedure normally with other dogs, other groups of dogs that you took up there after you finished?

30 A. After we finished –

Q. The exercise?

A. – if we had a – it depends what speed we've gone up. If it was, 'cos on the 18th we did a lot of swimming and we were fast so I was very pleased with that and I'd like to just give them a rest. I took up food with me, fresh

water out of the stream and just let them rest. I go back down to the kennels, clean the kennels and then go back up and bring the dogs back. So that means each time they're doing that part of the training they're doing it fresh, fit and they're wanting to move.

5 Q. Now and was it your usual practise to leave the dogs there and go back to the farm and then come back?

A. Yes.

Q. It was?

A. Yes.

10 Q. Why did you do that? Why would you do that in terms of training of dogs?

A. It's best practice. I wouldn't be very very good of me – it was such a hard training all the way up, uphill and then turn and come back down again and it's not at a walk. We're trotting, we're galloping, we're swimming. It's fitness training so I want them to rest like if you go to a – what do you
15 call them where you work out –

1625

Q. Gym?

A. Fitness gym, yes. When you are concentrating on one particular machine or however you like to call it, appliance, you do your workout, you have a
20 rest, then you do the next one, you have a rest. This is normal practice, this is best practice. You can't move full speed non-stop. It's a gradual training, like the athletes, like a marathon runner. It's gradual.

Q. Right.

A. And I change the dogs around, it's never the same dogs.

25 Q. All right now let's go, I'd like to go now to the situation on the 4th of August.

A. 4th of August? Yes.

Q. Now on that day the – it stated that – by the inspectors, that they weren't shown any dogs in the garage and the implication is that you were hiding dogs in the double garage by the house. What do you say to that?

30 A. We've got no need to hide dogs anywhere. We have a large farm and we like to use our farm. I was certainly not hiding any dogs in the garage. We only put dogs in the garage if, in this case, it was a bitch on heat and this is to keep her separate and safe from the environment, because there

are stray dogs in the area and we do not want stray dogs coming to a bitch on heat.

Q. Right.

5 A. Puppies that had been – yeah. And if – you couldn't hide any dogs because here's strangers coming, they can hear the voices, they can smell a stranger is there and they will bark, that's what they're supposed to do.

Q. Right now just in terms of the wooden puppy shed –

A. Yes.

10 Q. – which is next to the utility shed, what do you say? There was some criticism made of the state of that shed. What do you say in relation to that?

A. No, you can see that it has been cleaned out. If you look at the top of the picture on the left there is a container –

15 Q. Which picture is this?

A. On page 21.

Q. Yes.

A. That's what you're looking at, isn't it? Or am I wrong?

Q. Yes.

20 A. At the top there you can see a container where the wet newspaper or soiled newspaper has been put. The pups have already been fed and they've had their run outside, I think they're still outside. If you have a look, I was talking about a bed where they have their extra bed in this whole room. If you look at the second photo, up the top you can see
25 wood coming down. That is a wooden frame for the bed that goes into this place at night.

THE COURT:

Q. Sorry, which page are you looking at?

A. Page 21.

30 Q. Page 21. So where is this container for the paper?

A. So see here there's a piece of wood coming down, this is a frame, it goes –

MR GARDINER:

No, no, correction. Her Honour was asking were the paper – container for the paper is.

THE COURT:

- 5 Q. Talking about a paper for the container.
 A. Yes. The top photo here, the white container.
 Q. Oh, right. Outside?
 A. Outside, yes.

EXAMINATION CONTINUES: MR GARDINER

- 10 Q. And could just, could you go to the picture at the bottom of page 21?
 A. Yes.
 Q. Can you comment in relation to that, please? And also the picture at the bottom of page 22. Just comment in relation to each in turn?
 A. Yes, 22 is the easier one. We see there the container. This is after
 15 they've just been fed and watered here. They have been out, they've come back in. This is a stainless steel dish.
 Q. And the bottom of page 22?
 A. The bottom of page 22, that's where you see the frame, the bed frame where they sleep in. That is put on the floor and their bedding put in it.
 20 Q. Right, where is the bed frame?
 A. Can you see it there? There in the middle.
 Q. Just show her Honour.
 A. Sorry. Here. It's hung up on the wall. You can just see the bottom part of it and the sides, it's one metre square. Can you see that?

25 THE COURT:

- Q. No, it just looks like I can see the wall. So I'm not sure what you mean. Is it with that silver thing in the middle?
 A. That silver thing is part of the wall, but in front of it you'll see like an L shape, it's a U shape. It's hanging on the – here, that's the bottom part
 30 of it hanging on the wall, this bit here, because the bed goes up.
 Q. So you are saying that is not the wall?

A. No, no, it's hanging on the wall. Oh, that wooden part is not the wall. No.
No.

1630

MR GARDINER ADDRESSES THE COURT – WITNESS CAN MARK IT

5 (16:30:03)

THE COURT:

If you mark it and say what you say it is.

EXAMINATION CONTINUES: MR GARDINER

10 Q. I'll just ask Ms Wallace for the record. Just in relation to that photograph
which is at the bottom of page 22, am I right?

A. Yes.

Q. You mention a bed for the dogs which is on the wall?

A. Yes.

Q. And would you please mark, you've marked that?

15 A. Yes.

Q. With a pen which you've got from the Registrar?

A. Yes.

20 Q. Yes. Could you return that to the Registrar and just produce that book so
the Registrar can show, well, first show my learned friend, myself, my
colleague behind me and then give it to her Honour. Perhaps she can
clarify – I'll just ask her a question by way of clarification. Now you've
marked some pieces of timber?

A. Yes.

Q. Or put some arrows. Can you explain –

25 **LEGAL DISCUSSION – NOT PUT TO CROWN WITNESSES (16:32:15)**

THE COURT:

Q. Right, so you say that's a bed hanging on the wall?

A. It's a wooden, it's specifically made for the pups. It hangs on the wall during the day and it's taken off the wall at night, and that's where their bed is and that's where they sleep.

Q. Thank you.

5 EXAMINATION CONTINUES: MR GARDINER

Q. Now looking at the newspaper at pages, the bottom of page 21 and 22, how many times a day once again is the newspaper in this puppy house changed?

A. Two to three times a day.

10 Q. Right. Now one question – it's a point that's relevant to all sections of the booklet?

A. Yes.

Q. You've mentioned international students and other correction, staff at the kennel?

15 A. Yes.

Q. Now can you during 2017 and '18, can you state, well state as far as you can recall how many students there were?

A. If I remember rightly, I think we had approximately 37 students from 30 different countries. They stayed from various lengths from a week to five to six months. Some with a practical semester, like we had Danish students that were doing a practical semester on the farm and from all over the world.

20 Q. Right. So how many did you – that's obviously throughout that period for varying periods of time?

25 A. Yes.

Q. So how many people on any given day during that period with just say the first inspection that's on the 28th of July 2017 through to the last inspection on the 18th in terms of these charges, on the 18th of May 2007, 18, how many students would you have had on any given day doing the cleaning, on average?

30

1635

A. On average we would have between two and five. The students would live down in the cottage. Some of the girls were up in the main house

and the students were allowed to, if they wanted, to either pick a dog or a puppy that they had a special bond to and they would take it back with them to the cottage, it'll be running free or in the house and we let them have that freedom, but there were – we had dog trainers, we had veterinarians, we had agriculture students, we had IT professors, we had chemists, we had virtually every different profession you could think of, and we just had girls that wanted to spend time in the kennels with the dogs.

Q. Now you, during this period –

10 A. Yes.

Q. – of 2017, the kennel had a lot of success in shows?

A. Yes.

Q. The person that was responsible for showing the animals was these dogs, German Shepherd dogs, was that largely you assisted on occasion by other people?

15 A. Yes, that was largely me and assisted with others because I'd need other people to help with the fitness training. To have dogs in perfect condition and perfect show presentation it requires a lot of training, a lot of time and effort, and in 2017 it was an extraordinary successful year and I showed or they helped me show, other people helped show 18 German Shepherds of all different ages and that is quite a feat.

Q. And during these, these competitions –

A. Yes.

Q. – they could be held anywhere in New Zealand?

25 A. They're hold throughout New Zealand, yes, mainly in the North Island.

Q. Now what happened when you weren't there to oversee the cleaning and all that sort of stuff?

A. There were students there.

Q. Right, but who supervised them?

30 A. My mother was there and my sister was there, there was always someone there.

Q. Right.

A. These are adults, they're not children.

Q. Right. So what was the average age?

A. Average age, 23 to 33.

Q. Right. Now I'm just going to the photo at the top of page 22, that seems to show seven puppies, am I right?

A. Eight puppies.

5 Q. And how would you describe their demeanour?

A. Happy little puppies, they've all just eaten and you can see that on their little faces, they've all just had beef mince and with extra calcium, they have very strong bone. Happy little faces.

Q. Right.

10 A. None of those puppies have got super eyes or weeping eyes or infected umbilical cords or anything like that, they're healthy puppies.

Q. Just going to page 23.

A. Yes.

Q. This is the puppy pen which was shown in the last segment?

15 A. No, it's not, it's a different one.

Q. Different one?

A. Mhm. And it was said by Mr Plowright that it was the same one, but no, it's a – where is that one? Sorry, I just have to find it. This one is larger. This is – okay, that's the first one. This one here is actually from a trailer, so it's two meters in length and I think one and a half wide.

20

Q. So it's hard to see – are there any puppies in that?

A. Yes, there are.

Q. There are.

A. I think there's two puppies in there, I can't see them, yeah, but there is or one puppy there, I'm not sure. Sorry, my glasses are –

25

Q. Just taking you back to page 22, top half of the page.

1640

A. Yes, yes.

Q. How old is this litter of puppies?

30 A. Those puppies, um... I think were around about seven weeks old. I'm just guessing, seven, seven and a half weeks old.

Q. Now, in that photo at the bottom of page 23, you're not sure whether there is any puppy in that cage.

A. I can't see him.

THE COURT:

The picture says “three.”

EXAMINATION CONTINUES: MR GARDINER

Q. Three, yes.

5 A. Oh, three puppies, oh, I was seeing it as one. I couldn’t see it.

Q. It’s hard to pick –

THE COURT:

So the SPCA’s thought there were three –

WITNESS:

10 Okay, it’ll be three. I – sorry, I couldn’t see it.

THE COURT:

– so you might want to have her comment on whether she agrees with that or not, perhaps.

EXAMINATION CONTINUES: MR GARDINER

15 Q. Righto, I suppose we should say – now, this cage which appears to have – which has three puppies in.

A. Yes.

Q. Twelve weeks, how would you describe the grass surface?

A. The grass surface, that’s what wind is like.

20 Q. Right.

A. It’s been moved.

Q. Right, and can you recall how long the puppies had been in that cage when the SPCA came?

A. They would have been fed, just fed and then put in there –

25 Q. Right.

A. – until everything’s cleaned out.

Q. Right, and what about that – what’s that thing over the top or over the side?

A. That's a horse cover. It's canvas, not – is it canvas? Ah, yeah, horse cover.

Q. And what's the purpose, to what extent would that horse cover be useful?

A. It's shade.

5 Q. Right, so what about rain?

A. It's used for horses when they're outside so it's to protect them from the sun and from the rain.

Q. Right, but looking at the nature of the cover, to what extent would it provide protection for the full area of the cage?

10 A. Good question. It's not supposed to be for the full area. You can see the shade at the bottom of that photo. That's where the sun is coming through, the morning sun.

Q. Right.

A. And they've still got areas that are open if they want to. If it did rain they could go underneath but then they wouldn't be there if it did rain, they wouldn't be outside.

15

Q. Right, so in other words, to what extent was this the permanent home of these puppies?

A. It's not a permanent home. It's temporary.

20 Q. Right, and why'd it temporary?

A. It's just so that they're in an enclosed area. We're out in an open area, so they don't go through the fence into the paddock.

Q. Right, now just going to the top page where this dog is tethered in the cattle yard –

25 A. Yes?

Q. – this is a week after the previous visit.

A. Yes.

Q. It's unclear, just in terms of the surface, what can you say about –

A. You can see that she's had water and she has just been fed. You can see she's been running around outside because her coat is wet. This is Regina.

30

Q. Right.

A. And because the ground is waterlogged, yes, she is muddy. She's a long coat. She is attentive, alert, bright.

Q. All right –

A. Good condition, hay is on the ground, you can see that.

Q. Right.

A. On the concrete, sorry.

5 Q. So what else is that, the concrete and – what other material is on there?

A. From cattle.

Q. Right, so is –

A. It's a multi-purpose yard.

10 Q. Right, so when cattle are put into the cattle yards, is it usual to put down hay on the floor?

A. Well, it quietens them down so that they're eating.

Q. Oh, right.

A. And they eat and they just stand around, walk around.

Q. Right, so what's the – how many cattle would go through the yard?

15 A. It depends. It depends if they're calves or grown-ups. It depends.

Q. Now just going to page 24 –

A. Yes.

Q. – we have the deer shed at the top.

A. Yes.

20 Q. Going down to the bottom –

A. Yes.

Q. – how many – this is one of the stables at the back.

A. Yes.

Q. What does that picture depict?

25 A. Here we have one of our international students. She came from the UK. She is just – at the time, picking up the soiled newspaper and when everything has been done then clean newspaper will be put down.

Q. Right, now one of the criticisms made was in relation to the smell of ammonia.

30 A. Yes.

1645

Q. The ammonia was not measured but mention was made of the extent to which faeces, urine can be absorbed into what –

- A. Yes, this is a concrete base. There is the wooden wallings, yes it can be absorbed into wood. Everything has a different sense of smell and you can have five people, the same thing they'll have a different opinion of what they are smelling and the level or strength of smell. Dogs – this is actually a very good subject because it was mentioned a lot by Mr Plowright and Ms Davis although the reader wasn't used to prove that if it was that bad, but regardless. Dogs urinate and this is not offensive to dogs. If a bitch is coming into season, she will urinate outside in lots of spots and this is to tell the males she's coming on heat, and when a dog goes out he will urinate everywhere to say, this is my territory. And I'll give you probably an easier example that might be easier to follow is a wild tomcat. This is out in the open, out in the garden, only this week, I walk out and it stinks and there is nothing, but there had been a wildcat, a wild tomcat and that it urinated marking the area 'I'm here' but it's not unhygienic. It's for some people offensive, unhygienic, but it's not unhygienic, it's for some people offensive, for some not but for the dogs we use, we took their advice. They said well use food detergents 'cos we've had to use other detergents. That didn't work, it wasn't good for the dogs, they reacted to it and we then seek professional advice from professional cleaners that clean because we were cleaning the kennels and they were cleaned but they were still saying: "We can smell this." I'm thinking, this can't be possible. We couldn't smell it like they did. They're more sensitive coming from a city environment, so went to these professional cleaners and said what was happening and they said yes of course. "It will be clean, you just need to wet it or dampen it and that activates the ammonia and you have the smell again and no matter how much cleaning you do you will not get rid of that," and they suggested we use a biodigester which is enzymes that actually over a period of two weeks eat the crystals, the urine crystals so that there's no smell. They use this in schools, hospitals, urinals, rugby clubs, anywhere where you've got a lot of people, because whether it's people or dogs, or cats or any animals, for those that are not used to it, it has for some an offensive smell but for dogs no.

Q. I just want to ask you the question in relation to – thank you for that. I just want to ask you the question in relation to the picture at the bottom of 24?

A. Yes.

Q. A further question.

5 A. Yes.

Q. What's that around the bottom of the wall, another word it seems to be a steel. There's a sort of like a retaining, I'm not sure what the word is, there's a raised area which could be stainless steel or metal, you could perhaps explain what it is which those around and appears to protect contamination of the walls?

10

A. Yes it does.

Q. What is it?

A. It's concrete, it's a concrete like a curb probably about 15, 20 centimetres right around each one. So it's a separate entity, a separate area.

15

Q. Right.

A. It can't go into the next neighbouring stable and it stops the moisture going up into the wood because then the wood would expand with the moisture.

Q. But one of the points that Inspector Plowright made two points about the porous nature of wood, that wouldn't seem to be a problem here –

20

A. No.

Q. – given that order –

THE COURT ADDRESSES MR GARDINER – NEED TO BE WITNESS' WORDS NOT YOURS (16:49:37)

25 CROSS-EXAMINATION CONTINUES: MR GARDINER

Q. Just to take your Honour's point, what effect would that order have?

A. The effect has, so when it's been water blasted out, that the water doesn't, although the walls are water blasted clean, the water's not sitting at the bottom of the concrete and then being absorbed up.

30 1650

Q. Right.

A. It's a per – it was built by master builders. This is what they recommended how it should be for it to be hygienic and easy to clean and manage.

Q. Now one of the points that was made by Mr Plowright related to the WWOOFers international student.

5 A. WWOOFers.

Q. That's your term for the?

A. I can't remember whose term it was. I don't call them WWOOFers but, yes, I know what you're talking about.

10 Q. Right, but he made a point of comment which had an implicit criticism, arguably, that there – while the dogs were in there –

A. Mhm.

Q. – this person was cleaning, you know, removing newspaper and so on. To what extent to you believe that was desirable practice in terms of cleaning this area properly?

15 A. With the puppies still being inside?

Q. Yes.

A. The puppies have had their runs and there has to be second person there when they come out to supervise the puppies.

Q. Right.

20 A. And if there isn't a second person there at that moment it's not advisable to just let them run loose because we have too many animals, too many things that could happen.

Q. Right.

A. They have to be supervised.

25 Q. So wouldn't the answer – what's a better way of dealing with this situation?

A. We were interrupted. That wasn't a normal day. We had, suddenly we had the SPCA there and everyone drops everything. She continued and we, I, came to see how I could help.

30 Q. Right now going to the top of page 25, what does that depict?

A. Those are beef bones.

Q. Where is this?

A. That is a very dark picture. I would say that would be the other side of the stables – no, there wasn't – they said there wasn't anything in there

so that would be in the stables where that English lady was in. It's the same stable.

Q. Right so this photo – so what inference do you draw from that, this photo at the top of page 25?

5 A. Page 25?

Q. Yes.

A. They've had a good chew.

Q. Right and what's the relationship as you see it between the photo at the bottom of page 24 and the photo at the top of page 25?

10 A. How do you mean?

Q. For example –

A. It's the same area, it's the same bones.

Q. Right.

A. They would have been fed and left with the bones to chew on and to play with. We do that because with the chewing the bones it's very good for their muscles, their jaw muscles.

15

Q. Right now we'll just go to the bottom of page 26.

A. Yes.

Q. There was some – Inspector Plowright gave some evidence on the use of crates and the extent to which a crate could be used to train a dog and so on, now there was a dog in the crate at the bottom of – picture at the bottom of page 26. What do you say in relation to the situation addressed by Mr Plowright regarding that crate?

20

A. Regarding this crate?

25 Q. This crate.

A. This crate is a transport crate which is used for international travel, so it is IATA approved. It has the right amount of air circulation within the crate. It is a female German Shepherd that has just come on heat. She's been put in there temporarily and you can see she's just been fed. There's a container, a Royal Canin container to the right of the photo next to the running machine, trainer, running machine. This is in the middle of winter so you cannot hose out a double garage because it wouldn't dry, so at the bottom of the crate is newspaper and yes...

30

Q. Right.

A. It's not her home and it's not where she is permanently.

Q. So where would she normally be, being a –

A. In a kennel.

Q. In a kennel? And what – now just going to the top of page 27.

5 A. Yes.

Q. The situa – just address the situation just in at the top of the page, page 27.

A. Yes, certainly...

1655

10 A. Page 27, yes, certainly. You can see the tray, this is a collapsible crate and the tray that's at the bottom of the crate has newspaper on it or had newspaper on it which came out of that carton to the right and up the front of that is that German Shepherd you just saw. In this crate, this is from overnight, it hasn't been – the paper has not been changed yet, and that's
15 when they move around or whatever, it is a normal situation.

Q. So that crate –

A. Is empty.

Q. – is empty?

A. Yeah.

20 Q. But we have a similar sort of crate which features at the bottom of page 27?

A. Exactly, yes and you can see it's locked to make sure that, yeah, that she's safe.

Q. Going to the top of page 28 –

25 A. Mhm.

Q. – what does that show?

A. This is an old crate that was to be put on the fire and it was used for possums and things like that to try and see if we can keep them away, but that didn't work.

30 Q. So to what extent was that crate being used?

A. It was not being used at all.

Q. Page 28 on the page, what does that show?

A. That's going back to the photos that were on the 28th, so I asked for it to be –

Q. Is this the one with the cowhide in?

A. Yeah.

Q. And what do you interpret, what does the top of page 29 show to you?

5 A. It's magnified this is to the top part of the house, that's the back of the kennel, that's the wooden kennel where the dog sleeps. This here is faeces from the bones, that's why it's white and with some moisture it turns into like a chalk-like substance, it's just a white powder.

Q. Right, and that's, where is that situated?

A. That's on the floor, the wooden slats you can see.

10 Q. And bottom of page 29, we've got a dog which is over on the fence?

A. Yes, that's Leo, he has a five acre fence, five acre paddock, sorry, free-running and he helps herd the cattle, and whatever animals we have in that paddock, and protects and tells us.

Q. And the mention was made of this dog being on a lead or a lead –

15 A. Leo was never on a lead.

Q. It was never on a lead?

A. No.

Q. So there was a lead as a caption to this picture shows tied to the tree?

A. The lead tied to the tree, yeah.

20 Q. Now one of the criticisms in relation to this area was the large bare, the bare area and the suggestion was made that this dog was been tethered there for a, was there for a month, more than a length of time and it's been the smallest wear and tear on the ground if want a better term, "the more nature of the brown" indicates that, what do you say to that?

25 A. I can't see where the dog is. I see –

Q. He's on, you can see the head of the dog?

A. Yeah, there's on the other side of the fence, there was nothing there.

Q. So you're interpreting this picture is, oh, I see what you mean.

A. Mhm.

30 Q. There is a dog on the other side of the fence?

A. Yes, on the other side of the fence, yeah.

Q. Right. And it's looking over at the woman?

A. Yes, yes.

Q. Just going to page 30 before we end with the instruction to prevent mitigate suffering, what is this photograph showing to you?

A. Up the top?

Q. Yes, first of all at the top?

5 A. Yes.

Q. Is this a cage in the run, the old run?

A. This is one of the kennels, yes.

Q. And the SPCA would allege that this hasn't been cleaned, there are faeces, the dog is slipping around in the faeces and there's a problem with water. Would you – what do you say to that, just taking the photo at the top?

A. Just taking that, you can see if you look at the fence, the wiring in the front from that front gate of that kennel, you can see it is cleaned, you can see on the side, the wooden side, a wooden wall plywood it is clean. You can see that the concrete which is probably 'cos this has been tipped over that's why it's wet and she has gone once to the toilet. She has a wooden raised bed on the concrete and a dog can go to the toilet, yeah, seven, eight times easily if it wants to. It's not because they haven't had a run or they haven't been out, it depends on their digestion, depends on their, the individual digestion of each dog.

Q. Now one of the points made by as I recall by Dr Flint –

A. Yes.

Q. – was that a dog prefers to urinate and defaecate away from where it lives. What's your response to that?

25 A. Yes, I heard that. Very interesting because I can take you all with me and just open the door and let out a dog into a paddock, free-running, it will go to the exactly same spot, the paddock's at least 10 acres, it'll go to the same spot 'cos it senses out where it wants to go and it'll go to the same spot each time. If I take it to a different paddock, it will sniff it out what sense it can find and I bring it on the second day, it'll do the same. So it depends. It depends there might be little dogs or town dogs that do that, but our dogs, they pick themselves where they want to go whether it's urinating or defaecating, they have particular trees or particular grass areas or spots in the paddock.

Q. What she was saying or appeared to be saying with that observation was that that's the dog's preference and if you have a situation where the dog is confined for a lengthy period, there will inevitably, it will be a build-up of faeces and urine, and the dog, this is not what the dog would naturally do, you know, remain close to the urine and the faeces, what do you say to that?

A. I dispute that because this is why I was saying in a free paddock it can go wherever it wants to and it will go back to the same place.

Q. Now just looking at the picture at the top, that's different from the – that's a different dog from the picture –

THE COURT:

Q. Sorry to interrupt, but Ms Wallace, you haven't answered the question that he asked really because we are not talking about a paddock here, we're talking about that enclosure.

A. Yes.

Q. So I would be interested in your comments about that –

A. Certainly, yes, sorry.

Q. – because as I understand it, Ms Beer's point was that animals don't poo and wee where they sleep and where they are, if they're confined, they need to go out to do that?

A. Some do and some don't. I can take this dog, particular dog out of the kennel, give her a run, she could go to the toilet, but she can also go back by the time I've cleaned the kennel and gone to the toilet there in her kennel. Each dog is different, it has a different personality and a different mannerisms. You can have another dog that would never go in its kennel. It waits until it's taken out, exercised and given a run. They're just all different and we don't or we have never had all our dogs like little computers that are all the same, we want that individual personality. We just clean it.

Q. Right.

MR GARDINER ADDRESSES THE COURT – HAPPY WITH THAT ANSWER? (17:03:38)

THE COURT ADDRESSES MR GARDINER – YES (17:03:38)**EXAMINATION CONTINUES: MR GARDINER**

Q. Just going to a picture at the bottom –

A. Yes.

5 LEGAL DISCUSSION – LAST QUESTION (17:04:07)**EXAMINATION CONTINUES: MR GARDINER**

Q. Just going to that picture at the bottom, what does that depict?

10 A. It depicts, there's three kennels, it's a block of three and you can see
again the wiring is clean, and the wood is clean and the water bowls,
around the edges of the water bowls are clean. So if this had been, I
know it's been inferred that it is, hasn't been cleaned out, it depends on
what time of the day each kennel is cleaned out. As soon as someone
comes, they're walking up and down and they will walk in it, some will,
some won't, it just depends on the dog. I'm just going on the outside of
15 the photo. The outside of the photo is clean, the water troughs are clean,
the dog itself, what I can see, is clean and it needs to be done again.

LEGAL DISCUSSION – TIMETABLING (17:05:34)

COURT ADJOURNS: 5.08 PM

COURT RESUMES ON THURSDAY 27 JANUARY 2022 AT 10.04 AM**MR GARDINER ADDRESSES THE COURT – RECEIPT OF EXHIBITS**

(10:04:23)

5 JANINE ANNE WALLACE (RE-SWORN)**EXAMINATION CONTINUES: MR GARDINER**

Q. Ms Wallace?

A. Yes.

10 Q. I just want to resume where we left off yesterday. I believe that we had finished at page 30, but I've just got one additional question to ask in relation to that page and it relates to the photograph at the top of page 30.

A. Yes?

15 Q. You described – you did comment on that photograph and the one below, but do you have any additional comments to make in relation to the photo at page, at the top of page 30?

A. Yes, I do. This is a very good example. If you have a look at the faeces, as I was explaining when they eat bones or chew up bones, if this is fresh faeces it's a light yellow, like a mustard colour in colour, and give that a few minutes and that will turn white.

20 Q. Right.

A. So that's how you know that's fresh from – that's how it is as soon as it comes up. I know it's not something nice to say, but just for everyone's information.

Q. Right now just going to page 31.

25 A. Yes.

Q. Excuse me. We have in that note, in the earlier notice there was reference to a total of 63 dogs, with a breakdown adults and puppies.

A. Yes.

Q. So how many dogs does that refer to?

30 A. This notice here refers to the 63, the 32 puppies and the 31 adults.

Q. Right.

A. According to this notice.

Q. Right. Yes now the – I just want you to comment in relation to the comments, the requirement in relation to the crates in the garage, firstly –

A. Yes.

5 Q. – and the requirement that the officers, that's both Inspector Plowright and Inspector Davis, required. So first of all, can you comment in relation to the requirement in relation to crates?

A. Crates, these are transport crates or IATA-graded crates. We have several crates in our garage. These are used occasionally if we need to.
 10 These are not against any code of welfare or any – it's not somewhere where the dogs live in, it's just a temporary measure. These crates are – the dog has to be able to sit up, stand up, turn around and generally be comfortable in the crate; that's important. The bitch that was in this crate at the time was on heat and we do that just to take them away from the
 15 general – from all of the other dogs, because the males can smell that they are on heat and they get very – have very strong testosterone and all they can think about is girls and the other bitches, that brings them on heat, so it's not only for our dogs, but it's for any dogs that could be in the rural community, that we don't get undesirable visitors.

20 1010

A. I mean visitors as dogs. I note on with the crates when reading through the – okay, that's about the crates, yes. The crates, these are also advertised on SPCA's own webpage used for training dogs. They can overnight in them. They can be used to put dogs in during the day when
 25 the owners are not there until the owners come back and they actually sold some of these crates to people that fostered out our dogs.

Q. But just on the issue, basically the requirement that was set was to that these things which are specified be fully cleaned and disinfectant immediately?

30 A. Yes.

Q. Was that done?

A. That was done.

Q. That they be cleaned on a regular basis?

A. That is done everyday on a daily basis.

Q. Now just going to the – and the same applied – what was the situation in relation to the puppy shed?

5 A. The puppy shed and the puppies, they're all cleaned daily on a regular basis, morning and night if it needs to be, during the day it depends on the puppies. If the puppies were not hygienic and cleaned, puppies are babies they would get sick immediately and they weren't.

Q. Right.

A. They all had lovely clear eyes, happy, strong, healthy puppies.

10 Q. Just in terms of how they – there was a comment on the woolshed, what's your observation? What do you say in relation to that requirement?

15 A. The woolshed, all the faeces are picked up every morning. The woolshed isn't water blasted out daily because the woolshed, the wooden slats and wood, and this is actually covered with a natural coating of Lanolin from the sheep and the wool and if this is wet it's like walking on ice, it's slippery and so this is why it's done in a regular intervals but it is not water blasted daily. They were only in there temporary, this was all of just a moment in time. We do not know when anyone was visiting, they had no idea and at that moment of time that's where they were.

Q. And on this visit, how long had the SPCA been at the kennel?

20 A. The SPCA arrived at I think 17 minutes past 10 that morning, they'd gone through. They had inspected all of our dogs on the property and had completed that inspection and had written up this aid. We had sat down, no we sat down together when this was written up because I questioned this AWS why it was being written.

25 Q. Now this – so and what was the position, they talked about cleaning the cattle yards, there's reference there to the yard which presumably is cattle yard. Well what was the situation from your point of view? Did you accept what they said in relation to the state of the cattle yard?

30 A. The cattle yards are also water blasted out and not on a daily basis only when cattle have been in there and when we have a dry period because it's a lot of water, that is water blast out of the cattle yards and we'd already had enough mud and water but it was cleaned, yes. So it was spot cleaned, it was cleaned in the areas. I can't remember, I'd have to look at photos to see if it was water blasted on the floor so I don't know.

Q. Now just in terms of – there is requirement for adequate shelter?

A. Yes.

Q. Now did the officers explain to you what they understood adequate shelter to be?

5 A. We understood because all of our dogs have shelter. If we had training or working with puppies or playing with dogs or whatever, it is a temporary moment in time. It's not – they don't live there. None of those puppies lived on the fence which they actually experience themselves, because every time they came, it was different dogs, here, there, because they're
10 rotating them being fed, exercised, trained, our daily routines with the dogs. So we don't go round when we're – if I have a puppy and put the puppy beside the fence and go and get a kennel for the puppy to go in –

1015

Q. Righto, now what was your –

15 A. – not normal.

Q. Excuse me, what was in your response in relation to this notice?

A. This notice, I was very concerned about because Lori had written on this notice that she went into the deer shed, because this is the second notice that she wrote, the original notice, which I pulled her up on, she said it
20 was dark and they used this in their media campaign afterwards –

Q. During – well, we don't –

A. Okay, we're just going on this, that it was dark in the deer shed and there was no natural light, and I said: "Lori, that's not correct, why are you writing down something that is not correct? There is – there is roofed
25 natural light, it's called Clearlite panels, all throughout the deer shed, so it has natural light and it is spacious and light."

Q. Right, now just putting that to one side, this notice, as it states here, is in addition to the previous notice.

A. Yes.

30 Q. So the requirements in the previous – the SPCA officers were expecting you to comply with the previous notice plus this notice.

A. I asked about that because I didn't understand that. I said: "We have complied with everything you've asked," and she said: "Oh, this is just normal procedure."

Q. Right.

A. And we had complied and we were trying to do more than just comply. It was only a matter of a few days. This came on the 4th and – yeah, a few days' gap. I – yeah.

5 Q. And this requirement for cleanliness that related to cleaning on a regular basis the kennel runs, so what was your – what did you – how did you take that?

A. My response – I was quite upset about that because the kennels are cleaned on a daily basis. This is why we do not have any infections or
10 diseases in our kennels or on our farm, and we haven't had it not just today or on the 4th or in 2017, we have never had them, and that's an essential part of the day. We are independent so we don't have to – it's not a commercial operation that at 9 o'clock or at 7 o'clock or at 12 o'clock this has to be done and this has to be done. We're flexible. That's the
15 advantage of being on our own farm, private, and doing it in our own timeframes.

Q. Right, now yesterday I covered the issue of exercise –

A. Yes.

Q. – for the dogs. I just want to come back to that briefly.

20 A. Yes.

Q. Just to summarise the position. With puppies, what was the exercise that they had?

A. Little puppies, we get them to follow us, we walk around in front of them and follow us, so they're learning and sniffing and getting used to their
25 new environment with the grass and all the different smells and play little games, little toys, get little sticks, they'll pick up leaves and we just sit there and let them just explore and discover their environment. As soon as they start getting a little bit older we start teaching them to go on a lead, so that they learn to respect what a lead is, so that they know to go with us, know when to go out in front, when to go beside us, when to – on
30 command, when to move, when to stand, so that we can give it to a new owner or we can take that particular puppy out to a show. They were also taken after they've been vaccinated, then we take them to places where there's a lot of noise, because the farm's actually quite a – it's a rural

environment and it's a very natural environment, so they're not used to city sounds like at a supermarket or at an airport or where there's a lot of people, a lot of different sounds, so we take our dogs there and the pups so they get accustomed to these different sounds because we feel being a natural environment it's far more healthier and – but we want them also to be accustomed to what's out in the wider world. Training, the dogs would swim regularly, I took the older dogs to a horse swimming pool where they were swum daily. They're quad bike trained, they're trained on a lead on foot, they're trained various obedience commands, the hill work is very important, it's an important part of their training, their fitness training, and herding with the cattle, we take one that can do that and teach the other ones, there's always two or three at a time, then with the sheep and we also teach them how to be with deer.

1020

- 15 A. With the ducks and the turkeys, we don't want them chasing them, because if you teach a dog to go after one of these – Kevin was explaining or Mrs Flint was explaining, it's a special ball or a toy that you throw and it moves and they want to go after it, it might be okay in the city but it's not okay out in a rural environment because what will happen then, anything that moves like that, the dog will want to get it and that will be a duck, because a duck will move and then it gets all flustered and of course that makes the dog even more excited.

Q. Right.

A. So we have to teach them not to do that.

- 25 Q. Now just putting that aside and going back to the first visit.

A. Yes.

Q. Their – as a result of intera – discussion with Inspectors Plowright and Davis –

A. Yes.

- 30 Q. – was there any reduction in the dogs that you had?

A. Yes. We had people that – we just don't give away our dogs or find a new home. The person has to – there needs to be a bond between the puppy or the adult and we take our time finding the right people, so it's finding the right home because we want both to be happy. We want the

puppy or the adult to be happy in the home and the new family to be proud that they have this.

Q. But were any –

A. Yes, there were and –

5 Q. Hold on. Were any dogs uplifted by the SPCA on the first visit?

A. No.

Q. No?

A. None.

10 Q. Were any – was – to what extent was there any discussion on the number of dogs that you had?

A. On the first visit they said it was about – they were coming regarding the pups, which don't really get mentioned, down at the cottage. We explained they're training there, what's happening there. It's their exercise pen, it's not where they live. Sorry, could you say that question
15 again, please?

Q. To what extent was, to what extent, if any, was there an uplift of dogs by the SPCA on the first visit of the 28th of July 2017?

A. There was absolutely none and we had agreed, we had discussed it, we had agreed, that we would build new kennels. We knew our kennels
20 complex was old. We'd build a nice new complex. We'll find the right position or where it's going to be built and we would build that and we thought – we understood that we were working together in a positive direction.

Q. Right. Just going to the second visit on the 4th of August.

25 A. Yes.

Q. Was there any discussion, and if so with whom, at the SPCA, the SPCA offices, regarding number of dogs?

A. They had counted up the numbers and they thought that this was – we didn't have enough staff, we didn't have enough room and this is a big
30 farm and we had staff and then they said, well, at the SPCA they had so many people to so many dogs. These are different dogs. These aren't stray dogs or dogs that they've picked up from somewhere. These are pedigree trained adults and puppies, it's a totally different situation. They suggested that, and we were quite shocked about that, that they just

wanted us to give away these valuable dogs. They suggested that we surrender five dogs and I was asked to give them five dogs. They are not my dogs; they are my mother's dogs. My mother was too upset about it all and she was given five minutes to surrender five dogs.

5 Q. Can I – we just go back a step?

A. Mhm.

Q. So who was speaking to the SPCA officers initially regarding the surrender of the dogs?

A. I was.

10 Q. Right. How did your mother get involved?

A. My mother was inside.

Q. Right and to what extent was there any discussion by, direct discussion by the SPCA officers with your mother?

A. There was none.

15 Q. Right do – how did – was the proposal put by the SPCA officers, how was the proposal conveyed to your mother? If she was in the house and you were talking –

A. Yes, yes, yes, and they were sitting outside on the –

1025

20 Q. Right. So how was that proposal which had been discussed with you conveyed to your mother?

A. I ran inside and said – Mr Plowright said: "You've got five minutes to decide on five dogs that you are to surrender."

25 Q. Right, as a result of that, was a decision made to surrender the dogs to the SPCA, five dogs to the SPCA?

A. My mother was too upset about it all. She said she cannot –

Q. So were the dogs surrendered to the SPCA on that day, five dogs?

A. We were all under shock, couldn't believe what was happening.

Q. But putting that aside –

30 A. Yes.

Q. – were five dogs surrendered to the SPCA?

A. Yes they were, yes. I offered to wash each dog as I never let a dog leave the property without being washed.

Q. And Laurie said: "No, no, no, no," they're in a hurry they've got to get back to (inaudible 10:26:04) –

OBJECTION: MR RADICH – WAS NOT PUT TO MS DAVIS (10:26:06)

EXAMINATION CONTINUES: MR GARDINER

5 A. That would all be on body-camera footage.

Q. You just – let's worry about –

A. Yes, sorry.

Q. Now so you had a clear instruction or two instructions, that's the one at page 20 and the second one at 31 which you've commented on?

10 A. Yes.

Q. Now we're just going now to the inspection on the 11th of August?

A. Yes.

Q. I want to take you to the photographs on that occasion, now first of all on that occasion you had a further visit by the SPCA officers?

15 A. Yes.

Q. And who were they?

A. That was Inspector Davis and Inspector Plowright.

Q. Now I just want you to comment on the photographs which were in this segment that's going through to, just bear with me, to page 46, 45. Just confirm that, page 45, so it's page 38 to 45, seven pages. Now at the top on page 38, we have a cage –

20

A. Yes.

Q. – with – which is described as a puppy pen?

A. Yes.

25 Q. With some puppies in it, can you describe from your point of view what that photo conveys?

A. Yes, certainly. This photo as you can see up on the right-hand side the mother is around the corner just coming around with her head where the horse cover is, do you see that? Her head's looking into where puppies are?

30

Q. Yes, yes.

A. These puppies are the puppies that were in the puppy shed, they had been taken out of the puppy shed, fed and they've had their little run around in their playtime and they were placed in here so that they're secured, the mother is there to keep them, to talk to them and while there, shed is being cleaned out. This is a temporary enclosure. This metal enclosure is moved each time that they're in there, as you can see they've only been in there for a few minutes and the grass, because it's, the ground is still damp. It gets trodden on.

Q. So how many puppies do you – are in that pen?

10 A. I can only see one, two, three, five, six, seven. There could be eight, I'm – with my glasses if that.

Q. Now this puppy pen seems to be adjacent to a track, where do you recall it being positioned?

15 A. Yes, this puppy pen, it's a big area in front of the white picket fence and this is a track when you come in from the road to the property. It's that main road where the big oak tree is.

Q. So and what's on top of the puppy pen?

A. That's a canvas horse cover.

Q. Now and why is that there?

20 1030

A. That's just there for shade.

Q. Now, to what extent was this puppy pen a temporary or a permanent place of residence for these puppies?

25 A. It's not permanent, it's only temporary. This is just to keep them in a contained or a supervised area while their kennel is being cleaned. It's also so they get fresh air. They've just been running around playing, they've just eaten. It's important that they just don't all go out on their own. It's just temporary.

30 Q. Right, and just – what we see, where were they – you've mentioned that they're out in front of the picket fence –

A. Yes.

Q. – but what was the line that they – you've also mentioned earlier in your evidence that the house was surrounded by trees and there were flower gardens and so on.

- A. Yes.
- Q. What was the line of sight from the house to the puppy pen?
- A. From the lounge, from the dining room and from the kitchen.
- Q. Right, and what was the approximate distance?
- 5 A. Approximate distance would be 10 metres. Yeah, if that.
- Q. That seems – are you sure of that distance or would it be longer?
- A. No, straight out, um, one-on-one, two, three, four – maximum of 10 metres.
- Q. Right, so how far were they actually from the picket fence?
- 10 A. Two metres?
- Q. Two metres, now just going to the bottom photo, we've got a dog which is tethered there.
- A. Yes.
- Q. Can you comment in relation to who that is?
- 15 A. Yes.
- Q. And the circumstances of the tether as well.
- A. Yes, she's just been put there temporarily while the fencing contractor gets his utensils out of the implement shed.
- Q. What dog is this?
- 20 A. This is Anelly.
- Q. And just going to the top of page, and the utilities shed is what, where is that position?
- A. The utility shed is next to where the puppy shed was, and it's in between the yards, the kennels and the garage.
- 25 Q. Right, and just going to the top of page 39 –
- A. Thirty-nine, yes.
- Q. – who is that?
- A. That's Hobby.
- Q. Hobby?
- 30 A. Hobby.
- Q. And what does he do?
- A. Hobby is a long coat German Shepherd male.
- Q. Now, you've commented in relation to the previous segment of photos on the stable floor.

A. Yes.

Q. It was a week before.

A. Yes.

Q. What do you say in relation to this one?

5 A. I can see he has urinated there to the right of the photo.

Q. Right, and what else does –

A. The implement shed would be approximately, also, 30 years old. The concrete would be 30 years old.

Q. Right, and what's –

10 A. So it's not going to be crystal white.

Q. And you've given evidence in terms of the size of the shed earlier –

A. Yes.

Q. – just once again, how...

A. It's approximately, if I remember rightly, seven metres by six metres.

15 Q. Right.

A. And it's, I think, five metres high or... could be higher.

Q. And what other dogs were in this area?

A. None. It was just Anelly and Hobby.

Q. To what extent is a dog in that area protected from the elements?

20 A. It's totally roofed. It does have Clearlite, so there was plenty of light in there. It's open in this side and it's closed on the three other sides.

Q. Right, now just going to the photo down at the bottom of page 39, what does that depict?

25 A. Yes. These two puppies, there's two puppies in there which have just been de-sexed, and they're in a transport crate where they're supposed – the vet has recommended that we keep them contained so they don't move very much, to help them heal quicker.

Q. And which vet was that?

A. That was the vet, I think it was Takanini Veterinary Associates.

30 Q. And do you have any comments regarding the access to water?

A. These puppies have just been out. You can see they've got clean newspaper but their feet have been wet so it's a little bit wet there. We do not put water bowls in the crates. We bring them out every hour, give them a brief walk, a little drink, and then they go back in again, but we do

not leave water bowls in there because they'll play with it – you can tie it up all they like but they'll play it with their feet and it's everywhere.

Q. Right, and the garage is next to the –

A. This is in the garage.

5 Q. Right, and the garage is next to the picket fence.

1035

A. Yes, it is, where the two taps – there's a tap on the garage and there's a tap on the picket fence.

Q. Now the caption on this photo says – refers to four dogs.

10 A. Mhm.

Q. We've got two here. Where were the other two?

A. The other two were in, one was in a travel crate and one was in a collapsible crate, I think.

Q. Right now just going to paragraph – page 41.

15 A. 41? Yes.

Q. What does this depict?

A. This depicts – this is Paris in front of us here. You can see the kennels have all been water blasted. You can see on the concrete the bedding, the buckets, she has food and water in front of her. She's looking out at the stranger that's just entered her territory.

20

Q. Right now the layout of this particular run –

A. Yes.

THE COURT:

Are we finished in the garage now? We are out to the run?

25 **MR GARDINER:**

Yes, we have.

EXAMINATION CONTINUES: MR GARDINER

Q. The layout of this particular run appears to be, or design of it appears to be a bit different from the runs that we looked at yesterday, the old runs.

30 Can you just describe that and also comment on what appears to be a

lack of – and I believe this was covered in evidence by prosecution witnesses, one or more –

A. Yes.

5 Q. The lack of any protection on the side near the building, you know, from the elements.

A. From the elements.

10 Q. Can you – yeah, so just include in your comm – I want you to comment specifically on what this picture depicts and then I'll ask you a further question regarding the relationship of this run to some of the others we saw yesterday.

15 A. Right, in relation to this run, this run is two metres by two metres and two metres high. According to the Code of Welfare it only needs to be 1.25 metre. So it exceeds all the recommended sizes from MPI or from the Code of Welfare. This here is so – the front is opened so that she can look out into the paddock, look out into the run and see what's going on. So, it is then with solid wooden plyboards on the sides and from behind so that it is protected, all three sides are protected from behind and from left and right. It's next to the implement shed. It has an iron roof. You can see a little bit of the tarpaulin hanging down there. That is there when
20 there is a storm that's coming in from the east that we can just drop down, but when there's no storm it's not in use. There are – there were four kennels here, this is the old kennels.

Q. Just focusing on this –

A. Mhm.

25 Q. At the back to the left –

A. Yes.

Q. – near the utility shed on that side at the back –

A. Yes.

30 Q. – that appears to be a partial structure which would allow, say, rain to come into the kennel. What's your comment on that?

A. That is – one metre is not. That is the other kennel, that's next to another kennel. That's Mafia's kennel.

Q. No, I'm not talking about –

A. Are you talking to the left?

Q. To the left –

A. Yes.

Q. – next to the utility shed at the back of this kennel –

A. Yes.

5 Q. – there is a lattice, for want of a better term. Can you comment on that –

A. Yes.

Q. – and how the dog would be protected by the elements if rain came, for example?

10 A. That is Mafia's kennel and it goes up two metres high so his – these – the kennels were built right next to the – and adjoining the implement shed, so they had the protection from the building and they have the roof.

Q. Right now just – there's a wooden structure on the bottom.

A. Yes.

Q. Is that the, is that Paris' bed or is that –

15 A. That's her wooden bed, something natural. We did try with bedding, putting it on top of it, but they tore the bedding to pieces within minutes.

Q. Right so –

A. Or carpet, we had carpeted ones and that didn't work either.

Q. So when – we looked at some old kennels yesterday –

20 A. Yes.

Q. – and pictures from the previous segment.

A. Yes.

Q. You mentioned that the, in those kennels the bed for the dog –

A. Yes.

25 Q. – was at the back of the kennel?

A. Yes. Oh, that's very good. Yes.

1040

30 Q. No, when we look at the "bed" for the dog here, that's the wooden, raised wooden area, to what extent was that reflected in the other old, you know other kennels and the old kennel complex given the layout of those kennels?

A. The old – the other complex is exactly that what you picked up there on the left of that photo. That the metal mesh there on the left-hand side going up to the two metres and behind that was the wooden, it was a

different wooden kennel. It was totally enclosed except out to the front it was open.

Q. Right, now just going to the next photo at page 42, this shows – what dog is this?

5 THE COURT:

Did you say who the dog was on page 45? Sorry, I missed that.

MR GARDINER:

Yeah she did, Paris your Honour.

10 THE COURT:

Paris?

MR GARDINER:

Yeah, page 41.

15 EXAMINATION CONTINUES: MR GARDINER

Q. Just on page 42, just describe where you believe where that particular kennel and what one sees in that picture?

A. This is the kennel next to that.

Q. Do you read – whose the dog? I know it's –

20 A. I don't recognise it, I'm sorry.

Q. And what does that, the layout of that kennel, what does it read – what does this picture show of the layout within that kennel?

A. The size will be the same. What it shows there that's the door of the – or the gate, the opening door of the kennel that has just been freshly water
25 blasted and they'd been fed and watered. You're probably referring to that, the plywood at the back. Sometimes there's a – you can see a dog looking through there because there's kennels on the other side.

Q. What about the sleeping area for the dog?

A. It's behind her to the left.

30 Q. Right and –

A. You can see the sunlight's coming through there and you can see the raised wooden bed.

Q. Just going now –

THE COURT TO WITNESS:

5 Q. Sorry, where's the raised wooden bed?

A. Where the light is, is just here.

Q. So just to the right of that little bit of sunlight there?

A. Yes, just underneath that you'll see the part of the wooden flatbed.

Q. Thank you.

10 **EXAMINATION CONTINUES: MR GARDINER**

Q. Now just going through the next picture, this looks a bit different from other pictures of the old kennels, so can you just explain, confirm what we're looking at, that's in the top picture?

15 A. Yes it is very good. This is different, maybe we should take the bottom photo first on page 43 and then move up to that so from the location. The bottom photo that you see there is what we've just been looking at on page 42 and 41 and this is from the fire angle and you were looking at to the left of that photo the first two. And if we go back to page 40 – no, go back to 42, you can see a dog looking through from behind where the
20 sunlight's coming through, you can see a little nose?

Q. At the bottom at the – near the front? Is that what you're talking about?

A. Up yeah, there. Right that is the kennels what you're seeing up the top of page 43.

Q. Right.

25 A. As you can see they've all been freshly water blasted, they're all clean, the three kennels there two by two, they have a wooden house at the back, this is their kennel. It's got a two metre run and the house at the back is 1.25 I think.

30 Q. Just in relation to those, these kennels appeared to be occupied. Can you explain just in relation to the top kennel, we've got one dog?

A. Yes.

1045

Q. Normally what's the reaction when a visitor comes to a kennel if it's occ – a number of kennels if it's occupied by different dogs, what's the reaction?

A. They all rush out to the front.

Q. Right so we've only got one dog at the front here.

5 A. Mhm.

Q. What does the lack of the dog, we're just looking at the top photograph –

A. Mhm.

Q. – in either of those kennels indicate to you?

10 A. That it probably isn't one there, but I thought I saw a nose, but maybe I didn't because the left, far – yeah, they're normally there and if you go down to the bottom there's no dog there either.

Q. Right but just, just going to that top one again.

A. Yes.

Q. One of the criticisms that has been made is about access to water.

15 A. Mhm.

Q. Have you got any comments to make in relation to access to water in this old kennel complex, looking at the top, and the container – well, first of all, access to water, what do you say to that?

A. Yes, in each one of these kennels is a concrete water bowl.

20 Q. Right.

A. And that's filled daily with bore water.

Q. And the bore water, it's a matter that you covered yesterday but just for completeness, that is one of the outlets for the bore water is – which comes – is on the farm – is at the kennels?

25 A. That's right, yes, and we have a hose and fill them up.

Q. Now just going to the bottom now, that top kennel at this point in time doesn't have a tarpaulin over it?

A. No, it doesn't.

Q. Where would – do you have enough tarpaulins to put over the – did you –

30 A. We do, yes.

Q. – have enough? Did you have enough? Why isn't there one there?

A. I don't know, but we definitely had. We had a lot, yes.

Q. Now to the left of the kennels –

A. Yes.

Q. – one of the criticism has been the, as I recall in evidence, was that there was a lack of any protection on one side of a kennel, this is – now what's that structure that is coming up on that end of, that far end of the kennel? This is in the picture at the top of page 43. What does that indicate?

5 A. That is the utility shed. Is that –

Q. No, no, no, I'm not –

A. Am I wrong?

Q. – talking about the back.

A. Oh, right. Sorry.

10 Q. I'm talking about the – what we have at the left side of that picture, as I look at it, just there –

A. Oh, right. Sorry.

Q. What is that?

A. Yes that is three metre solid plywood.

15 Q. Right and what's the intention? What were you trying to ach – what was the intention in having that plywood there?

A. As shelter, as protection from that side.

Q. Right.

20 A. So each side of the kennels was fitted out with solid plywood, so they're not seeing the dog next door to them and as shelter.

Q. Right. Now just going to the picture at page 43, bottom.

A. Mhm.

Q. This tarpaulin –

A. Yes.

25 Q. – and looking at the structure, which appears to be a different structure, it's a different structure from the one up above?

A. Yes, it is. Yes.

Q. So where is this structure? Down below this is – are we talking about the old kennel complex in relation to both these structures?

30 A. Yes. Both structures are the old – these are the old kennels.

Q. Right.

A. And this is – these kennels were removed. They were compliant, they were all compliant with MPI rest – MPI rules and regulations, but we had agreed with Ms Davis and Mr Plowright that we build new kennels, so

these kennels had to be moved, demolished, the concrete taken away, the area prepared.

Q. To what extent was this kennel below on the 11th of August being used to house dogs?

5 A. At night.

Q. Right so where are the dogs that were – are there any dogs that one can see in these kennels at the bottom of page 43?

A. The bottom one? Just looking there I see a – if you take the third one along, there's a little nose there. I think the second one there's a nose,
10 then we saw the first one.

1050

Q. But for example, the one at the far right –

A. It's empty.

Q. That's empty?

15 A. Yes, that's empty.

Q. To what extent are there any other dogs which you can see at the front of this kennel? Just looking at on the angle. Just the dog – just the nose of one dog?

A. On the angle I think I can see one.

20 Q. Now, you mentioned the outlook of both these kennels out to a paddock. Can you describe – when you talk about a paddock, there is – can you describe what the outlook is?

A. Yes, certainly. The outlook, it's a – approximately five acre paddock which we have, where we would rotate different animals, cattle, sheep,
25 we'd have dogs running in there, it's rotated. What we have done is because these dogs are very, um... attentive and are watching everything and listening to everything, because this is looking out to the road, so we had a wooden fence with special – it's a special plastic – it's not plastic – well, it is a type – so that they can't see, they can only see but they have
30 to jump up and have a look over.

Q. Right.

A. On the other side, this is next to the yards, you can see the yards just at the bottom there. That's the entrance. If you look at the bottom picture to the right, that's the door of the kennels and that's next to the yards.

Q. Right, now just looking at that hole in the bottom picture –

A. Yes.

Q. – to what extent would that cover the structure that it's, you know, it's down the side of this structure, but to what extent –

5 A. Would it cover?

Q. Would it, yeah, if there was a change in the weather to what extent could it protect the kennel?

A. This tarpaulin is for a house. It covers a house.

Q. Right.

10 A. So it's very large.

Q. Right, now just looking at the photo of the kennel at the top –

A. Yes?

Q. – there appears to be netting at the top –

A. Yes?

15 Q. – whereas there's a difference, isn't there, between the roof of that and the roof of the kennel below? Can you describe what the roof of the kennel at the bottom of page 43 consists of?

A. Yes, I think they call it Colorsteel roofing.

Q. Right, and though these kennels are both different designs –

20 A. Yes.

Q. – your comment in relation to MPI, that's Ministry of Primary Industries requirements –

A. Yes.

25 Q. – what – I'll just summarise here. To what extent was that kennel at the top compliant with their requirements?

A. From the Ministry of – and the Animal Welfare Act, they give out dimensions for large dogs. How big the kennel should be. You can just have them in like a kennel just for the house and a run.

Q. Right.

30 A. Or you can have a house and a joining run onto that kennel, and they give out specific dimensions, how big they should be.

Q. Right.

A. And this would be three times the size to what they recommend.

Q. That's the top kennel?

A. Top kennel, yes.

Q. And just what about – what's the situation in relation to this bottom kennel?

A. That would be at least double.

5 Q. Right, now we'll just go to page 44 –

A. Yes?

Q. – and 45. What do those – what do they show?

A. Yes, we are now in –

Q. We'll just deal with them in turn.

10 A. Okay, number one, we are now in the stables. This is at the back of the deer shed. This is looking in with one stable door open and you can see from the light coming in, the window. At the back of – on the right-hand side up the top you can see the separated wooden frame for their beds, this is where they should sleep, if they want to. You can see this has
15 been freshly cleaned earlier that morning. These puppies are waiting to go out to the exercise pen where they're taken one by one to exercise. They would have been fed. There's a dish there. They would have been fed, watered and had their lead training, put back here if we go back down to the – so you can see it's very light. Their eyes are nice and clear,
20 they're starting to get their ears up, some have their ears up.

1055

Q. Right.

A. Which is a sign of good health.

Q. So just on the comment on the ears.

25 A. Yes.

Q. We'll just take two puppies at the top of page, well, two of three, well, just to pick up your point, three of the – all three dogs or two of the dogs on the left and the right, ears pricked up.

A. Yes.

30 Q. How old are those, how old is this lot of puppies?

A. Yes, that would be approximately about three months old.

Q. Right.

A. They have got their ears up early. That is a very good sign that they are very healthy, they've had a combined diet and that shows a strength of

breeding because there are a lot of Shepherds that have ear problems where the ears do not come up.

Q. Right now just looking at the middle dog, just talking about ears not coming up –

5 A. Mhm.

Q. – that ear doesn't, is not pricked like the ears of the other two. Its left ear is not pricked, it seems to be flopping a little bit back. Is there any cause for comment on that?

A. Yes. Yes.

10 Q. What does that indicate?

A. This little puppy, that indicates that she is probably getting, probably teething. That means the little puppy teeth, her first puppy teeth, the next teeth are starting to come through and it – the teeth, the jaw and the ears on the head are all related and all work together. Some puppies are a little bit slower, that's halfway up, but that goes – at that age they have their ears up, they go half down, they go down, they're moving because the whole skull and head is growing and they're teething and the little phases they go through are their growth phases.

15 Q. Right now just looking at the photos at page 44, there seems to be a – something on the floor to the right – behind, if we take the picture at the top, behind the dog on the, puppy on the right-hand side. What is that?

A. This is the same photo just taken at a slightly different angle, because you can see the bed's the same if you look at the – how it's shaped and how the light is coming in through the window. This is a stainless steel dish which they would have had either water or food.

25 Q. Now just I know, I think it may addressed already but why – I think it has been, but why, just while we're looking at this, these areas covered by newspaper, why is newspaper used in this way?

A. Newspaper is used because it absorbs the moisture. When they've been outside they're going to come in with wet paws. Puppies or dogs they also breathe through their paws; this regulates their temperature. If it's too hot they'll sweat through their pores and this is why you'll find puppies and dogs will always like to go into puddles or play where water is or mud. That's for them like a little luxury, a natural luxury, and newspapers is

used in veterinarians, in their practices, so this is why we thought, well, if they use it then it is better to use that. It's cleaned, it's taken out, it's on the concrete floor but it absorbs all the, absorbs everything.

Q. Right.

5 A. And they can play with it. It makes sounds as well, which they do, they start rustling the paper and they'll play with it.

Q. So this is in the deer shed stables.

A. Yes.

10 Q. There's reference in the caption, prosecution caption, to puppies on the right and puppies on the left. So the inference from that is this relates to one of the stable areas at the back of the shed.

A. The back of the deer shed, yes.

Q. Right so we'll just say that the one here –

A. Yes.

15 Q. We've got three puppies, so it's on the right. That seems – now can you comment on, we're looking at another stable, for want of a better term, but on the following page these are the – on the following page we've got the six puppies on the right, which is in the right stable.

A. Mhm.

20 Q. Is that right?

1100

A. That's right, yes.

25 Q. Can you comment on the difference between the state of the stable on the left, correction, the stable where the puppies on the right – which the puppies are occupying at page 44, and what we see at page 45?

30 A. Yes, the puppies on page 44 are a little bit older. There's only three in here, and see, it's all been freshly cleaned out and on page 44 – on page 45 we have six puppies. They are younger and it's been cleaned out at the same time. You can tell by the newspaper, if you have a closer look at that, been cleaned out at the same time, they all come out and go back in again, and little puppies, after they've been fed, will go to the toilet and there's more puppies there and more – that is normal. It's a perfectly normal situation for puppies.

Q. But the caption at the top of the page indicates that there are – the puppies at page 44 are three to four months, you thought three months.

A. Mhm.

5 Q. So basically three to four months seems a reasonable assessment, would you agree?

A. Yes, yes.

Q. Now, just going to – you've said that they were older – did I understand you correctly? Did you say they were older than the puppies on the –

THE COURT:

10 No, she said they were younger.

EXAMINATION CONTINUES: MR GARDINER

Q. Ah, younger.

A. Younger, sorry.

Q. Thank you.

15 A. Younger, thank you.

Q. Thank you. Right, so we've got – so the puppies on the right, we've got more puppies and have you got any comment on – so they make – what's the inference that you would draw from having more puppies in the right hand – correction, at page 45, in that stable – what would you expect in relation to the state of the newspaper?

20 A. Younger puppies, like little babies, children, they go more often and this has just been – it has just been cleaned out and you can see what happens within – that would be within an hour.

Q. Right. And what about – there was no, just in here, one can't see any drinking – drinking –

25 A. It'll be in the corner.

Q. Right.

A. Into the left-hand corner, and if you look at all those puppies' little eyes, they're all clear, healthy eyes. Now babies are very sensitive and if it wasn't a hygienic, clean environment they would have weeping eyes and they would have conjunctivitis.

30 Q. Right, now we'll just go to 46.

A. Forty-six...

Q. You got, as a result of this visit you got another notice which speaks of inadequate living conditions for 61 German Shepherds, and there's a list of some requirements and these requirements which are set out purport to be in addition to the previous 130 notices that you received. That's at page 20 and 31, so this – can you just go through each of these comments?

A. It would be a pleasure. You said at round about the 61 dogs.

Q. Right.

10 A. That is adults and puppies, so it saying 61 dogs is a little bit misleading because you think: "Oh, that must be 61 grown-up dogs." It is not. If you wouldn't mind reading the points to me, because unfortunately I can't read it.

15 Q. Right. The first point is, just going down in order: "Any dog tethered must have a minimum of a two metre tether and have access to adequate shelter at all times – immediately." What do you say to that in relation to what the officers were faced with on this inspection?

20 A. If we had a dog that was living outside on a chain with no shelter and no water, that means that dog is living there 24-7. That would be a very good recommendation, but these dogs weren't living on a chain as chained dogs, no. They had their house, whether they were living inside with us or in the cottage or in their kennels. All our dogs complied. With the two metre chain we took that recommendation because everything that they have suggested, we have tried to implement and comply with, so we went and purchased two metre – actually, they weren't two metre chains, they were two metre 47. We didn't like using chains because chains is metal, it doesn't give but that's what they wanted. It is not a rule. It is not best practice, it is not recommended. This was a stipulation from Ms Davis and Mr Plowright but it is not according to the Code of Welfare or to the Animal Welfare Act or MPI.

25

30

1105

Q. Say again?

A. Or MPI.

Q. Just so break that down a little bit. You mentioned a two metre chain but the actual requirement is stated to be a two metre tether, that's not necessarily a chain?

A. Mr Plowright said for us to get chains, that was his recommendation.

5 Q. But just looking at the – so why did you think a two metre tether whether it's, we'll just say it's chained was – could be a problem?

A. Going back to your first statement regarding it didn't have to be a chain. If you had a leather lead or a long lead that is two metres, with that length they'll chew through it because it is too long and it is actually quite
10 dangerous. With a chain, what was your question again please?

Q. Well you've explained why a two metre tether –

A. Yes.

Q. – if it was leather it could be chewed through?

A. Yes.

15 Q. And that would explain why a tether, a two metre chain was preferable, do you accept that?

A. Yes.

Q. Why – just so in relation to the short lead so called and the longer tether, what would you – what do you see as the pros and cons of both?

20 A. First of all, you cannot just go and put a dog on a long tether, it would tangle itself up and it will be – we train our puppies from – I'll just take that back. We train our puppies from a very young age and dogs to urine, to respect, to be tied up on a lead. This is so that they respect, relax and know when they are tethered or when it's given to someone or when we're
25 using a lead, that it is something normal, something they're happy with, something that they're accustomed to, something that's used to, it doesn't hurt them and that they know they're going to be exercised, trained or worth doing something. If we tie them up just to rest they know that's fine, we're just going to lie here and relax and wait until we do the next step.

30 Q. Now just going to that first requirement, break it down a bit, the second part of it was to have access to adequate shelter at all times?

A. Yes.

Q. So what is your response to that in relation to what was available at this inspection? How did you take that advice if I can put it that way?

A. That advice we – this is why we, when we were building the new kennels temporarily used if we were tying our dogs up anywhere, whether they were only yards, that it was covered, it had roofing, that it was shelter or the deer shed or the woolshed, this was because of these recommendations from Ms Davis and Mr Plowright. Our dogs always have schedules but these are working German Shepherds, so if they're out in a paddock and that's raining or we are over at a show and it is raining, there's going to be mud, there's going to be – they have a double coat. This is their part of their DNA to withstand all weathers. They can go up to 45 degrees plus and go down to minus 20. This is why they have a double coat.

Q. Now just going to –

A. A winter coat and a summer coat.

Q. At the same time?

A. No, they have – as soon as it starts, the weather starts changing they'll shed their winter coat, that's why you have these (inaudible 11:09:48) of fur and they're shedding their undercoat to get a lighter coat for the summer and then as soon as it starts to get to autumn, they know, they do it in their own times. They will start getting their – they'll shed that summer coat and get a new undercoat and a new coat for winter. So it's a different length, the winter coat will always be a little bit longer than the summer coat.

1110

Q. Now just going to the second requirement, "Water vessels provided to dogs must be secure and unable to be tipped over" and you've got to do that immediately. Can you just comment on the types of water vessels that were available at the kennels at the time of this, as best you can, at the time of this inspection?

A. At the time of this inspection, we had in the kennels as you saw, concrete water troughs which are a little bit harder to move, we had stainless steel buckets. Mr Plowright recommended that we use stainless steel buckets. These were either put into concrete water troughs or attached to the walling. We had, for the puppies, they cannot have a bucket or a concrete trough, no, they have –

Q. Why is that?

A. They're puppies. They can't get up there. They need to have something flat, something small, something that's at their own level.

Q. To what extent can you secure -

5 A. You can't.

Q. Yes, but to what extent is there available to a puppy a water vessel which is safe and which couldn't easily be tipped over?

A. Once they're older you can attach a water vessel to somewhere and you still have to be careful because they're going to play in it, they're going to jump in it with their front feet or their little face. With puppies, it's a matter of regularly making sure that they're hydrated. You see if they have milk they don't always have water. We give different, we hydrate them with different liquids, whether it's water, whether it's milk, but the puppies, they have their big dish and it's just replenished. This is not a stipulation from MPI or the code of welfare, this is just a personal preference. I accept that, we tried to implement as much as we could and we were doing as much as we could, and building the kennels at the same time.

10

15

Q. Now just going to the third requirement.

A. Mhm.

20 Q. It says "Double garage containing dogs in crates, dirty conditions and high ammonia level to be cleared and ventilated, now there were about, to attend to that immediately". Now there are about four requirements in that sentence. So we will deal firstly with the double garage containing dogs in crates. Well, that's stating particular what exists. Now they describe dirty conditions and high ammonia level, what do you say to that?

25

A. I say that this might be a typical city comment, but certainly not, and as you can see if we go back to page 39, there is a portable collapsible steel crate where two puppies are in, and you can see there is a lot of fresh air. While they're in there, it's temporary. It's a moment, it's a snapshot in time and that is really important. We cannot water blast the garage. The kennels are cleaned daily. There's a lot of dust, we have a lot of dust. We're out in a rural environment just from the road coming up, it's loose metal, it's limestone, there's a lot of dust and you can see on the kennels

30

here, this is dust. If you look at page 40 on the top of that crate or if you go to page 48.

Q. Hang on. Top of page 40 on the crate, are you saying that's dust or it appears to be a chain?

5 A. Pardon? Oh, that's a lead.

Q. A lead.

A. You can see there's a little bit of dust but if you look at the ridges from the crate, go halfway down.

Q. Right.

10 1115

A. And you can see there's, well, unless that's my glasses. You can see the dust. There is dust there in the garage.

Q. Right.

15 A. It is swept out, it is light, it's a double garage, it's used occasionally if we need it, but it's all just temporary measures.

Q. Right.

A. It's not a home.

Q. Now you said – you didn't answer the question –

A. Sorry.

20 Q. – precisely.

A. Mhm.

Q. You have referred to dirty – the point that was being made by the SPCA was, "dirty conditions, high ammonia level, to be cleaned and ventilated". Now you said that was a typical city comment?

25 A. Mhm.

Q. Can you just be more specific as to why that requirement was unre – was it unreasonable? Was it an unreasonable requirement? Could it be met? How would it have been met?

30 A. It is a – certainly a – I dispute it and it is unreasonable. Dogs will urinate if someone comes and it is fresh and you will smell something. Just like – it doesn't matter what living, whether you take animals, whether you take people, otherwise we would not have so many different substances to try and mask a smell, whether it's in washing, whether it's in anything. We are desensitised to a natural environment. We don't have dogs living

like it's portrayed here in urine. No, that's not correct and it is very subjective of what's being said here, because if it was so bad, just like we saw, I've never seen one before, was that ammonia reader. I didn't know something like that existed. If it was really serious as they are trying to, or they use the words and it's the same words, it doesn't matter where they go they use the same words, they would have had an ammonia reading from the urine and that would have been explosive and then, yes, that would have been a factor, but no, I dispute it because the, whether it's the crates, whether it's the kennels, they were all cleaned that morning before they arrived.

Q. Right and how often were they cleaned during the week?

A. They're cleaned every day. Daily.

Q. And what about the crates, the crate in the garage? Was that –

A. Daily.

Q. Right. Now just going to the next requirement: "Two adult dogs confined inside deer shed with no natural light and exposed to high ammonia levels to be relocated." Now we don't have any photographs of the two dogs confined in the deer shed, but can you comment – in this booklet can you comment specifically on that requirement?

A. First of all I need to apologise because I couldn't read it, the other AWS. So I – it wasn't the previous one from the 4th of, this is the 11th, from the 4th of August. I was referring to before this comment, because this is absolutely not correct and I said to Laurie Davis right at the point of time: "How could you write something that's not correct?"

OBJECTION: MR RADICH (11:18:52)

WITNESS:

It's here. It's in your – I'm asked a question about what's written in this AWS. I will answer the question. In the deer shed –

THE COURT ADDRESSES PARTIES – CALM DOWN (11:19:06)

THE COURT ADDRESSES MR RADICH – OBJECTION CLARIFICATION

(11:19:06)

EXAMINATION CONTINUES: MR GARDINER

- 5 Q. Ms Wallace, just restrict your comments to what the notice actually says
and what your response to it is now and how you felt about it at the time.
You could cover that, but just specifically in terms of what is written in the
notice. So, I will read it again: “Two adult dogs confined inside the deer
shed with no natural light and exposed to high ammonia levels to be
relocated.” Now there are number of prop – number of points there but
10 we’ll just deal with the first issue. Where –
1120

THE COURT:

Well just – you can ask her to comment on it without you putting the words into
her mouth. That’s her evidence Mr Gardiner.

15 EXAMINATION CONTINUES: MR GARDINER

- Q. Can you just comment on that requirement taking each point in turn?
A. We’ll start with the natural light. It was stated that two dogs were in the
dark with no natural light. This is one thousand percent not true. It is
misleading. There is six double clear light panels over the entire roof
20 giving natural light into the deer shed and it is purposely built for natural
light to come into the shed. After this comment, I went and got a person
from the university and asked them to measure the light in the shed.
Q. Were there not – they haven’t given evidence but just –
A. No.
25 Q. – just comment on there from your own personal knowledge –
A. Yes.
Q. – on each of these points.
A. Sorry, okay. With the light or we would never have any animal in the dark
and natural environment. So is there anymore regarding the light?
30 Q. Yeah, a second point –
A. Second point, yes.

Q. – a second point of this comment, second point that was made is that they were exposed to high ammonia levels and to be relocated. What do you say in relation to those points?

5 A. They were not exposed to high ammonia levels, that is personal. They're cleaned out daily. These are two dogs, we took their advice. They put this in writing that we are to relocate them. The two specific dogs were relocated and it was complied with yes.

Q. Now what were the names of these dogs?

A. I'd have to check my notes and that.

10 Q. Now just going – the notice also next states: "...provided with an opportunity to display normal patterns of behaviour immediately." Can you comment in relation to that?

15 A. Yes, certainly. All our dogs display normal German Shepherd typical behaviour and characteristics. They're all well socialised, they all have a very rich environment which most dogs do not have. That's contained to their house environment. Our dogs have a very varied life and environment whether its animals in every possible way.

Q. And have you got anything – I know you covered this earlier but anything else that you want to add?

20 A. Could you just ask me the question again please?

Q. The point is, to proceed with the opportunity to display normal patterns of behaviour immediately?

25 A. Right, first of all our German Shepherds they're known for that. Volkerson Kennels is known for their character and their temperament. All the ancestors all have working qualifications so our dogs from a behavioural point of view would exceed most German Shepherds in the country.

Q. Now just going ahead, this notice was again inquiries to be made, could be made of Laurie Davis, Inspector Davis –

A. Yes.

30 Q. – and Kevin.

A. Yes.

Q. Meaning Kevin Plowright or formerly Inspector Kevin Plowright.

MR GARDINER ADDRESSES THE COURT – NEW SUBJECT AREA

(11:24:32)

COURT ADJOURNS: 11.25 AM

COURT RESUMES: 11.46 AM

EXAMINATION CONTINUES: MR GARDINER

Q. We'll now head to the segment photographs for the 12th of October which is at page 47 following the SPCA, the prosecution booklet. In fact, to be more specific, it's between page 47 and 63. Now, you describe just going to page 47, the dog – we have got a picture of a dog in the utility shed. Can you address and explain that particular photograph?

A. This is Anelly. She is barking and guarding at the – with the presence of Ms Davis and Mr Plowright standing on guard. She'd been put there temporarily for again our fencing contractor who was petrified of her while he went in and out of the implement shed to get whatever he needed to do the fencing. You will see there are silage containers at the top, there is a –

Q. And can you indicate what the silage containers, where they are?

A. It says "Waste Not Stock Feeders" and these are half circles, it's a whole circle where a silage bale goes in the middle to feed cattle which we do in winter, so they have been stored in there in the meantime because the winter is now over. You will see there's a little bit of hay. She was given a bone to chew on to keep her occupied while the contractor was going in and out. She has defecated there, that is white which is from the calf bones that she has had to eat and this is in the right-hand side of the implement shed closest to the house.

Q. Now, this – you say she's defecated, why do you say she's defecated as opposed to someone, another dog?

A. I don't know, I don't know whether it was her or whether it was Hobby, but there is, I can't say that, you're quite right, I cannot say that. There is – I was just referring to the faeces that you can see there, that has been from a dog that has defecated but it's from eating bones. It is not old faeces that has been there for years, it is simply from bones.

Q. Now if another dog is, to what – who secured Anelly there?

A. I don't know

1150

Q. You don't know?

A. No, no. No idea.

Q. And when Anelly was secured there, well, I'll go back a question. Why would she be secured there? Why would a dog be secured in that situation if there were faeces from another dog nearby?

5 A. She has been secured there because that's the furthest away from the door where he would be entering into the – entering into the, um... to the implement shed, which is closed, which is locked, where the uten – whatever he needs, whatever utensils, whether it's the wire, the machinery, the – everything that he needs is in the implement shed. If
10 she was coming on heat, yes, a male would always be close. That's typical male, which Hobby was in there, um, coming up, that's what marking, that's what we call marking, and a male urine is far, far stronger than a female urine. It's just nature.

Q. You've said that you weren't involved with tethering Anelly there.

15 A. No.

Q. Anelly being a bitch?

A. It's a female, yes.

Q. Right. You mentioned Anelly was barking but she doesn't appear to be barking there, does she?

20 A. You can see from her stance she's – she's, um, sorry, it must be my glasses. She's on guard. You know, she's upright and she's – it might be her mouth is closed there but she looks like she's either barking, about to bark or has just barked.

Q. Now, the person who she would be securing just there is – why would she
25 put – if she was protecting that area, why would she – just explain again, why would she be tethered?

A. She's been – I'm not sure who put her there but she has been put there because that's the furthest away from the door of the implement shed that was locked, where all of the fencing materials are stored.

30 Q. Right.

A. And he would not enter the – he would not enter the implement shed if she was running loose, because he was scared of her, so whoever has just tied her there, furthest away so he can walk in and out and then she's, um, then she runs loose in the whole area.

Q. Right, so just looking, when you talk about the implement shed, that is an adjunct, I take it, to the utility shed.

A. Util – yes.

Q. And where are the doors to that?

5 A. On the left hand – this here is the right-hand side, that wall you see there is the right-hand side closest to the house, so approximately seven metres straight to the left is the door of the utility shed, which is locked, which you go in and out of.

Q. So what's stored in the utility shed?

10 A. In the utility shed we have a freezer, a deep freezer which we have –

Q. No, I didn't say the implement shed. Utility shed.

A. Sorry, that's the – it's – oh, the utility shed, um, it has firewood, it has crates for firewood, it has these silage steel containers, it has an electric saw for the firewood, it also has waterblasters, it has fridges, it has, um,
15 what else did it have in there? It had wood, long lengths of wood on the left-hand side. It also had panels. It has wire.

Q. To what other purpose, for what other purposes would the utility shed be used?

A. It is used to store...

20 1155

1155

Q. Where – to what other purpose, for what other purposes would the utility shed be used?

A. It is used to store – well, the tractor can be driven in there. It's also there
25 to store PKE – one-ton bags of PKE.

Q. Which are?

A. Which is a food, a dry food for the deer. It's used to store flower bulbs, lily bulbs for my sister; that's where she puts them in winter. It's used for, it's used for storage in general. It has all different, different things.

30 Q. Now the implement shed, can you just describe – which runs off to the left of the utility shed, can you just describe the layout of that shed?

A. Certainly.

Q. Once you get through the door.

- A. Once you get through the door – it's totally closed off and there's two rooms. It also has clearlite roof panelling so that it has natural light. In the implement shed in the first room, that is where we had our security camera and monitor. It is – has got a workbench. It has different nails,
 5 different, um, what do you call it? Different, um, no, I can't think of the right word, but things like hammers, pliers, all the appliances or – I can't think of the word.

THE COURT:

Tools?

10 **WITNESS:**

Tools, yes. That's it. Sorry, I just couldn't think of it.

EXAMINATION CONTINUES: MR GARDINER

Q. Well done.

- A. All the tools you can think of that you need to do anything and everything.
 15 It's been a collection over decades, so there is a lot of tools in that room and nails and spare parts – the hoses that is transporting the water from the pump shed to the paddocks, to the kennels. It has shelving and virtually everything that we need in there. Then in the bigger, larger room, that is the – has the saddle – it has leather saddles and horse gear and
 20 horse brushes and tools that you need for the horses. It also has sheepskin saddle blankets and horse covers and it has machinery like post hole borer, larger machinery that, well, (inaudible 11:57:58) machinery that is used, like a chainsaw and larger things. It also has a freezer, a deep freezer and we had two crates in there for – one crate
 25 was, um, yeah... We had two crates in there.

- Q. Well we'll come back, I'm sure we'll come back to the implement shed later, which is why I've taken the opportunity to deal with it now. I've taken the opportunity to deal with it now because – to set out the relationship between the utility shed and the implement shed, but we'll come back to
 30 that later. Just sort of going to the picket fence surrounding the house, that's, as described, at the bottom of page 47. What does that depict?

A. Yes, this is – we have little Casper here on a Royal Canin 1.40 metre lead. He's just been trained, you can see he's a little bit puffed there and waiting, he's supposed to be resting. He had a water bowl full of water. You can see around the water bowl he has been playing because the ground is dark, that's for the water dropping out, that's fine. He's just, yeah, he'd just finished his little training, so this is just to rest him so we can keep an eye on him with him resting, if there's anything that we want to give him extra just so that we can keep a good eye on him. You'll notice with the white picket fence, along underneath the fence there is no grass. This is because my sister likes to keep that, keep all fences clear of any grass and she uses her roundup to keep that nice and clear.

1200

Q. Now it was suggested in examination-in-chief that the area was, the reason why that was denuded of grass was because this dog had been tethered there for some time?

A. No, this dog, this puppy, it's not a dog it's a puppy, this puppy had just been trained. He certainly hasn't been left there for some time. The ground is, it's because of what, this is how my sister liked to have her lawn, her gardens and the picket fence clear of all grass and weeds.

Q. Now just on that basis, just going to – how old is this particular dog?

A. He's only just over five months.

Q. Now, just that I note we'd had a lot of comment on leads, but just looking at that particular lead you said it was a Royal Canin?

A. Yes.

Q. Does this – what sort of, to your knowledge, what sort of collar would this dog have?

A. I can't see him.

Q. You can't?

A. No.

Q. But just looking at the lead, you mentioned earlier in relation to a lead on a dog –

A. Yes.

Q. – how if it was a leather lead a dog could chew through it?

A. Yes.

Q. Now can you describe this particular lead because looking back towards the neck there seems to be a metal part which attaches to a collar. Can you say categorically what, with a lead of this type, this brand what the struct, what the composition of the lead is?

5 A. Yes, certainly. This is a little metal clasp which has a swivel so that it turns and so that it doesn't matter what movement the dog makes, the lead reacts and so it doesn't get, it's to give the ultimate possibility of movement, so if he was jumping up or if he's moving left or right, the swivel moves. It's just got a handle and that's just latched over the picket
10 fence and it's just been put there temporarily just after his little training period because we want him to have good manners, to rest, you know, when they go on the lead it's his quiet time, this is your time just to rest before we do something else.

Q. Now just taking that lead in the bottom part?

15 A. Yes.

Q. We've got what appears to be a metal attachment which you've just referred to?

A. Yes.

Q. Then we've got part of a red lead?

20 A. Yes.

Q. Then the red goes and it seems to be not there, what –

A. That is where the label is and that's where they got their name Royal Canin.

Q. So the red –

25 A. So it's still on the red lead they've sewn like a, they've sewn a label into it so that you know it's their marketing.

Q. Now this lead is how long?

A. One metre 40 centimetres.

Q. Right, now would this lead be, just, I don't want to be labouring the point in relation to tethering, but just in relation to this lead as an example –
30

A. Yes.

Q. – what would a lead of this type normally be used for?

A. It's for training for showing.

Q. Right. And it meets, does it meet – to what extent does it meet New Law legal requirements?

A. It meets all legal requirements. We are training during the day, our puppies, giving them exercise. These leads are- Royal Canin would be one of the world's best nutritional dog food manufacturers and it comes from Switzerland and we love all of their products. They're quality, they're expensive, but they're good for high quality, their food is high quality and it's a very balanced nutritional diet for German Shepherds. This is specifically for German Shepherds that contains all of the nutrients and vitamins that we need and we compliment that with Angus beef, eggs, meat.

1205

Q. I didn't ask you about the food –

A. Sorry.

15 Q. – I'm just focusing on the tether.

A. On the lead?

Q. What's the lead – the lead and the tether. Now the lead, what is it made of?

A. That's of a material.

20 Q. Right, but to what extent would a dog be able to chew through a lead such as this?

A. In a minute.

Q. In a minute?

A. Mhm.

25 Q. So if it's so easy to detach itself from a lead of this nature, why would it be used?

A. Because we have trained this little puppy to respect the lead. When you go on a lead, you respect it, you're relaxed, and they know this is fun. They know there's no – it's not being tethered. For me tethering is something permanent. This is just a moment in time and that's why it's on a lead.

30

Q. Right.

A. It's not on a chain.

Q. Right, now just looking at that container –

A. Yes.

Q. – it appears to be empty.

A. Yes.

Q. What's that container made of?

5 A. Good question. Mmm... um... I am not sure the composition of that container. It's a heavy container, it's... it was a very stable container used for water and especially puppies, because if they wanted to put their feet in they can.

Q. Right, and who tethered this particular dog to the fence?

10 A. It would have been one of our people.

Q. Right.

A. It's just had a lead training session.

Q. Right. Now, you thought that the wear and tear at this – is this a gate?

15 A. This is a gate, and it's a full-sized gate that you can drive through with any vehicle, so that if we're taking anything from the house or behind the house, that you can access it or with a quad bike, so this is just somewhere – the picket fence and just latching the handle of the lead over it, it's only for a moment, and you can quickly run and get this or do this or do that or watch – it's to give that flexibility.

20 Q. Right. To what extent is this gate used to enter and depart from inside the area around the house?

A. Oh, we use it whenever we need to use it. It's used all the time. It's – it's... we've got two gates. That's the big gate, for something to go through.

25 Q. Now just looking at this, there's the big gate. Where is it situated in relation to the house?

A. The house, if you take the top part, looking at the photo, the top left, that's the house there.

Q. Righto.

30 A. Just above the picket fence.

Q. Now just going to photograph 48 –

A. Forty-eight, yes.

Q. – this is described as inside the double garage.

A. Yes.

Q. Can you comment on the picture at the top?

A. Yes, certainly. To the right of this crate there was a cardboard box full of newspapers and these newspapers have been – 'cos they make a lovely sound when they're dry, they've been – there's been a dog in there having fun and the crate, you'll see there is a female dog and this is a good one, you can see the dust there, and yes. You can see it, she has newspaper within her crate.

Q. Right, and just going to the bottom picture, that's a different crate, different dog?

10 A. Yes, it's – if there's a dog in there I can't see that but you can see the number up, the above one is an older crate, the one down the bottom is a newer crate, and because you can see with the upper one that it is slightly rusty, the metal, that's due to its age whereas the crate at the bottom...

15 Q. Now the crate at the top, the dog that was in that crate, was that a puppy or an adult dog?

A. I believe that is an adult female.

1210

Q. And what about the situation in relation to the bottom of page 48?

20 A. I can't see any dog in there or was that...

Q. Well –

A. I don't think there is any dog in there.

Q. But in any event, how long would – 'cos there was an issue about – in the evidence from I think it was Inspector Plowright about the appropriateness of crating a dog and he expressed certain views on when a crate should be used and when it shouldn't and the appropriateness of a dog in this situation being crated. Now just taking that crate at the top, is that – what sort of crate is it?

25
30 A. This is a IATA crate which is used to transport dogs, large dogs between New Zealand and Europe, and as it's a long flight it must adhere to strict criteria that's the ventilation going through the crate, the size that they're able to stand up, turn around, to sit, and be comfortable. Lie down in the crate and be comfortable because these are very long flights and they

need to be comfortable. They're not taken out of the crates when they are flown from Europe to New Zealand. They must remain in there.

Q. Now to what extent would this crate have been used, wasn't being used as a permanent...

5 A. No, they're all temporary. It's used if a bitch is coming into season or in season. It's used if there is, if something hurts itself so it can find it or for puppies. It's also used to teach dogs to be in a crate because we don't usually use crates but a lot of families use crates as recommended by the SPCA and it's not against the Code of Welfare at all, but we don't – if it's
10 going to a family that a puppy is used to being confined in a smaller area so that they're happy. So they go in there for a little bit, come out and it's just increased so that they know what it is and respect it.

Q. Now one of the criticisms that's been made which was actually featured in the last notice related to the use of crates and the need for them to be
15 clean, what was the routine for cleaning out crates or taking a dog out of a crate and cleaning any faeces or urination from, for want of a better term, from the crate?

A. With the crates, what happens is they're put in for a short period of time, they're taken out. They're given a run on a lead and watered and fed
20 outside of the crate. They're not fed in a crate and they're not watered in a crate. It's outside of the crate. They're not kept there for long periods, it's not a permanent, it's not their home, no. It is only a instrument to – for short periods of time.

Q. How long would a dog as you recall be – well how long would a dog be
25 kept in a crate in this situation as opposed being in a crate when transported over the distance?

A. Well from a distance, a dog would be in this crate and the crate is sealed at least 40 hours.

Q. No, I'm not talking about with that –

30 A. Is that wrong, I don't understand it, well –

Q. Yeah, no, no well that's helpful, we'll come back to that. But just, just getting back to this crate. If you had a dog in the crate, we'll just say this one at the top of page 48, how long would that dog be kept in that crate before being taken out for exercise, for eating and watering and so on?

A. The crates are cleaned, when we're using the crates they're cleaned out every morning if there's been a dog in there, but they're cleaned out regularly. I couldn't say to you what time because everything is different, everyday is different on the farm. They would only be in there I believe
 5 an hour, two hours, it depends. It was usually a very short period if that. It depends on what we were doing and why that particular dog was in there. It could be just put in there just to – as a holding crate, holding crate to keep that dog confined while something else is being done or something else was being organised, but this isn't where they live.

10 1215

Q. Right, now you used to go to shows, take dogs to shows?

A. Yes.

Q. When you transport a dog, how do you transport the dogs to a show?

A. I had a professionally fitted out SUV vehicles for – the largest one, eight
 15 seater from Kia, which was fitted out for the guide dog of the blind so it had sections fitted out within the car, they took out all the seats. It was just the two, driver's seat and passenger seat. We do use these transport crates to go to a show if maybe it was a puppy. That is used, yes. Transport crates are used for a lot of different things.

20 Q. And if you were going down to the South Island, for example, for a show, how would the dog be transported?

A. It would fly in one of these transport crates, yes.

Q. And that crate would be provided by you or by the airline?

A. By us.

25 Q. Pardon?

A. By us.

Q. By you?

A. Yes.

Q. To what extent to airlines provide crates for transport of dogs on their
 30 flights.

A. They don't. They don't, you have to supply your own.

Q. Right.

A. Or put it this way, not that I know of. I do not believe that they are supplying crates. They will tell you what dimensions or what size. They

will check when it's, when you take it to be, to the airline, they will check that the dog is comfortable, they will check that everything is correct and that it is secure before accepting the crate.

Q. So you're commenting in that regard on your experience?

5 A. Yes.

Q. You use your own crates –

A. Yes.

Q. – et cetera. Right. Now Mr Plowright when he gave his evidence referred to himself using crate when he was explaining, expressing views on
10 crates, how he used crates and it appeared that he would stop at regular intervals when he was transporting crate – dogs in a crate to give them a run and a water and be able to urinate and defecate and so on, as opposed to having a situation where the dog was in a crate and urinated and defecated. What's your response to that sort of, to that situation that
15 he broadly outlined?

A. If it's flying anywhere you cannot take it out of the crate. The dog is well exercised beforehand, that it does go to the toilet, it urinates, it defecates and before putting – watered and for the transport. We – I'll go back.

Q. Just commenting firstly, specifically in relation to say the dog in the crate
20 at the top of page 48.

A. This one has – would you mind –

Q. How would you avoid –

A. – repeating that question?

Q. Well, Mr Plowright was indicating a situation where he was transporting a
25 dog.

A. Yes.

Q. And he would stop at periodic intervals to ensure that the dog was watered and didn't urinate or defecate in a crate. That's, I think, the tenor of what he was saying.

30 A. Mhm.

Q. In the – to deal with that particular issue. Here we have a situation and we've covered dogs going to shows in your area and the transport within a vehicle, perhaps we'll come back to that, but just looking at this crate where the crate, the dog is in the crate –

A. Mhm.

Q. – newspaper has been changed.

A. Mhm.

5 Q. Is that a reasonable inference to the newspaper being changed and in that situation that the dog has been there for a while?

A. No, no, no.

Q. Why do you say that?

A. What happens is when they're in there and we had strangers there, the dogs would bark because this is her territory. It will – with the papers they start trying to scratch at the door and because they want to get out, they want to guard, there's someone coming in and it's natural instinct for a German Shepherd. If they urinate which can happen, but it depends, it could be hormonal, usually though they're being walked, they're being exercised. It doesn't really, unless it's puppies, puppies have to learn all these different stages, but that paper was new that morning, so I don't know what time, I don't what, I don't have got those details with me.

1220

Q. So is essentially are you saying that the situation would be managed in relation to -

20 A. Absolutely because if a dog's in here, it's only here for a reason is to be monitored and it's monitored from the house, that means we're going backwards and forwards with that dog, we want to know what's going on. It could have a temperature. If it has a temperature, we're taking the temperature.

25 Q. Well, let's move on to –

A. Yes.

Q. – the photo at the top of page 49.

A. Mhm.

Q. What does that depict?

30 A. This is a collapsible transport crate. It's also a typical crate that we use if we're at a location and for a certain time, for a couple of hours, to place a puppy. This puppy is in here, you see there's new clean newspaper, it would've been desexed and it's confined.

Q. So just looking at the, going back to the crate, two crates on page 48, what extent are they compliant with legal standards?

A. Absolutely legal standards, both the – this crate, these crates are sold by the SPCA in their shop and this is compliant with the World Aviation Authority Animal Welfare, that's at page 48.

Q. Excuse me, is that both crates or the one at the top?

A. No, this crate here on page 49, no.

Q. No, no, go back to 48.

A. Yes.

Q. To what extent is the crate at the top of the page compliant with legal standards in New Zealand?

A. The size, the way it's manufactured, the airflow, the whole crate is specifically manufactured to the World Aviation and Welfare requirements.

Q. And what about the crate underneath?

A. Yes, the same there.

Q. And just going to the cage at the top of page 49, to what extent does that crate comply with New Zealand legal standards?

A. This is a – that's a very good question. It is compliant from the sides. A puppy must be able to sit, turn round, lie down. There's all different sizes. It has a tray at the bottom which slips out. It is a holding crate. You couldn't, no, you could, but you wouldn't transport or fly using this crate anywhere because someone could get hurt, they could put their fingers and if it's an aggressive dog or whatever, it could hurt. That's why the crates on page 48 are constructed in the way that they are, so that they are safe, secure and look after the wellbeing of the dog. This one here – it's different, it's just a confinement which you can then collapse and put away once you finish using it.

Q. Now this crate was in the double garage?

A. Yes, it is, just by the door.

Q. And how long had that dog been in the crate, correction, in that cage?

A. In that cage, you can see it's only just been there, so I don't know.

Q. Right.

A. I believe a very short time.

Q. Right. Now, under the animal code dog code, to what extent does a dog have to be exercised, should a – what's recommended?

A. What's recommended – well, you can see it there, the recommendations. A dog should be, I can't quote the code I haven't got it in front of me.

5 Q. There is a code?

A. Yes.

Q. Do you want to have a look at it?

1225

A. Yes please. Thirteen, 14, right. Yes, according – is that too loud?

10 According to the minimum standard of the animal welfare, Code of Welfare 2010: (a) Dogs must be provided with sheltered and dry sleeping quarters. Measures must be taken to enable to keep dogs warm in cold weather. Sleeping quarters must be large enough to allow the dog to stand up, turn around and lie down comfortably.

15 **MS STOIKOFF ADDRESSES THE COURT – SHELTER OR EXERCISE?**
(12:26:06)

THE COURT:

I thought we were talking about exercise and yet this is the kennelling and shelter and so Mr –

20

WITNESS:

That's my mistake, sorry.

THE COURT ADDRESSES MR GARDINER – HELP YOUR WITNESS
(12:26:19)

25 **THE COURT:**

Q. I understand it's minimum standard number 13, page 27.

A. Thank you very much. The minimum standard, this is 7.8, exercise. The minimum standard, number 13: (a) Dogs must receive daily exercise sufficient to maintain their health and well-being. Dogs must be supervised at all times when exercising with exercise equipment such as

30

treadmills to limit the risk of injury or over-exercise. And then, a recommended best practice is –

Q. Okay, we don't need to hear this –

A. Don't they?

5 Q. – read out, Mr Gardiner.

A. Sorry, am I doing something wrong? Sorry.

THE COURT ADDRESSES MR GARDINER – DIRECT YOUR WITNESS

(12:27:18)

EXAMINATION CONTINUES: MR GARDINER

10 Q. We've got crates.

A. Yes.

Q. These crates are in a cage, two crates in a cage. There are some animals in the garage.

A. Yes.

15 Q. I've asked you about the use of crates and – but the – and you've denied that the dogs are kept, are living out of these crates.

A. Mhm.

Q. Now, to – so – and I've asked you how long they were, in relation to the dogs, a dog shown in page 48, top, top, how long that dog was in the cage. You've answered that, so the related issue is how long was –
20 where would that, I suppose, where would – if the dog was taken out of the cage, how often would that occur? Well, firstly, how long would it be retained in that cage? We'll just deal with it this way.

A. The dog is retained in the cage for a short period of time. It's then taken
25 out on a lead, excuse me, taken to several paddocks that are adjacent to the house, and to the garage, where it's let loose and exercised and watered, um, depending on the dog, like a puppy that's just had an operation, that would remain on the lead so that it doesn't gallop or hurt itself, to help speed up the recovery but they are walked every – every
30 couple of hours at least, if that, if it's that longer period.

Q. And if the proposition is put that the dog, for example, on page 48 at the top of the page, is kept in a crate and living there, what would your answer be?

5 A. My answer would be, they have come three times prior and found this dog in three different places, so no. Definitely not.

Q. And what about the dog in relation to – at the top of page 48 – 49, rather?

A. Forty-nine, this is a puppy. No, definitely not.

1230

10 Q. And just going ahead to the following, this is a picture of the 13th of October, this is, I'm not sure which exhibit this one is your Honour. Is that D or E, it's the body camera one, defence.

THE COURT TO MR GARDINER:

Q. Is this one of yours?

A. Yes, it's the defence.

15 EXAMINATION CONTINUES: MR GARDINER

Q. I just want to go on exhibit D to page 2. Is this the – just looking at the double garage, that's at pages 48 and top of page 49. At page 2, top photo?

A. Yes.

20 Q. That's the interior of the double garage on the 13th, the day later?

A. Yes. Yes.

Q. So to what extent had the – I think you may've given evidence earlier on of the dimensions of a double garage, but can you state what they were? Roughly?

25 A. Roughly –

Q. This picture here?

A. Yes I believe it's approximately about six and a half metres wide and it is approximately five metres long.

30 Q. And what's the light, again, you maybe traversing some that we covered earlier?

A. It has windows one each side of the garage and there is 12 full sized windows from a house, full size windows in total, so that's the left-hand

side, the back of the garage and the other side towards the kennels and it has a glass door, that is the door has, it's divided into two and it has two class panel?

5 Q. And I believe there may have been mention of ammonia levels in this area, what's your comment in relation to that, a criticism of that nature?

A. Absolutely dispute it.

Q. Right, and to what extent are you able to clean the double garage itself?

A. It can only be –

Q. Given what's in it?

10 A. – swept out, that's where there's dogs in there, there's crates if need be, but it's not used for dogs.

Q. Not normally used –

A. Not normally used for dogs.

15 Q. I think you've given evidence already on the photo at the bottom of page 49

A. Yes.

Q. So we won't deal with that at the moment, well just go through, I'll probably put that aside. Just going through to page 50.

A. Yes.

20 1233

Q. Perhaps just out of an abundance of caution to go back to the bottom of page 49.

A. Yes.

25 Q. We've got an area which is bare, Mr Plowright, it was Inspector Plowright indicated that that area to the foreground where the dog is standing was denuded of grass because that dog being tethered there was walking up and down or something along those lines. What do you say to that?

30 A. Absolutely dispute it, it still looks the same five years later. It's a far larger area where the trees and shrubs and everything else has grown, it just does not grow grass and if you look to the right of that photo you can see all of that area. There are no dogs, it's not possible for me to be there, there is no grass.

Q. And there's what appears – well there's a water bowl at the back?

A. There's a water bowl there, yes. She's only put there temporarily while her, while her room is being prepared.

Q. What was the name of that dog?

A. Tanzy.

5 Q. Tanzy, we did cover that earlier. So that tether would enable Tanzy to go in (inaudible 12:35:07) and access that bowl?

A. Yes, but she's only there for a short time because she usually runs loose around there and was going or was actually mowing the lawn and she is a little bit spirited, so we don't take any risks and her place was being
10 cleaned out.

Q. Now just going to – and where's her usual place?

A. Inside the house.

Q. Now just going to the top, the top of the page, page 50.

A. Yes.

15 Q. What does this depict?

A. These are the three babies little bit...

Q. And how old were these puppies?

A. These are the same three puppies from page 5.

Q. They seem to be – they are in a different pen?

20 A. They're in a different enclosure because now they're a little bit bigger they could push the other portable enclosure over. These puppies, it's all very well to say they'd like you to destock, but puppies have to have a certain age, they have to be vaccinated and have – be to it the first new, the first bit of lessons so that they're able to be independent and go to a new
25 home. So this all takes times. It's not a matter of a moment. So you can see that this whole area is – was a clear area, it's green grass. It has a water bowl and they've turned over their dinner bowl. They're looking at Ms Davis and Mr Plowright and they're greeting them which is exactly what they should do.

30 Q. So just looking at the ears.

A. Yes.

Q. The puppy at the back seems to have one which is flopping, now just flopping forward, where is the other two? Well there seemed to be some ears –

A. There seemed to be – yes they are.

Q. – some ears which are erect and some which may not be.

A. Essentially.

Q. Can you comment again briefly on that?

5 A. Yes, this is – each puppy is very different and their growth it's very uneven. All puppies don't grow the same. That means their ears don't – they're usually, they're flat when they're born. Some come up at a very early age, some take a little bit longer but these are typical puppies. Typical very good German Shepherd puppies.

10 Q. Now that puppy at the bottom of page 50?

A. Yes.

Q. That's a different enclosure or it's the same one?

A. No, no, we're now in the kennel area.

Q. Right.

15 A. And before I was talking about the fence, the black – I'm not sure what it's called now. You can see the wooden fence to the right up the top. This is in the kennel area so it's enclosed. This is Monty, Monty I have been taking around wherever I went so he's getting new ideas seeing this, that and whatever I'm doing. At that time, just put in there, while I actually
20 gave Mafia, Astro and Dolly a Drontal worm tablets so I can't him with me at the kennels. I don't want them barking, I don't want them coming out and hurting him. He's just there to watch, watch, hear, observe everything that we do. What you see there on the left-hand side you can see that netting, that is the old kennel enclosure that's been taken away and just
25 put there temporarily while the new kennels are being built and then that's been removed.

Q. Right.

A. But he doesn't live there, that's just a moment. You can see it's very great, it's quite (inaudible 12:39:42) from all the water but he's fine you
30 know just to wait for me, watch, walk around.

Q. Now the – Mr Plowright I believe identified in relation to that photograph 50 he said: "Look, we're to this fact that area was bare because the dog had been there tethered for a long time and this was exemplified by, I'm paraphrasing, the bareness. What do you say to that?"

1240

A. I say to that that it's totally untrue. This puppy was put there. We were interrupted, so that's what I was doing at the time. It's just a clip-on, it's a show lead, it's a clip-on to the enclosure, the old enclosure, while something's happening and this puppy has been, as you can see in the photos, everywhere. He's just been shown, he's getting ready for a show the next – for the weekend. He certainly doesn't live there, he lives inside. He was one of the most spoiled puppies of them all.

Q. So how old is this puppy?

10 A. He's, in that photo, probably about six and a half months.

Q. Right, now the – that's his water bowl that's turned over?

A. He was actually given – it is a water bowl, yes, it's a stainless-steel water bowl, but I had given him some supplements as well.

Q. Right now don't have a situation, just, I know you've spoken about the old enclosure and so on.

A. Mhm.

Q. Where that enclosure behind his was previously over the area which has been worn bare and it's been moved back, do we have that – is that the situation we have here?

20 A. No, no, no. That enclosure was then put in the hay shed. No, this is just a – it's – because it's on a corner and it's a pipe, it's stable because it's an empty enclosure it doesn't have any –

Q. Right, no, no –

A. – kennels and they can pull it over, so it's – any dog can be put there.

25 Q. Right but just getting back to the point that was addresses by Mr Plowright.

A. Yes.

Q. He argued, or appeared to argue that, or state, given evidence that the area was bare because the dog had been tethered there for a while. You deny that, but why is that area bare? Can you give an explanation for that?

30

A. Yes, I can. It's – the grass and the ground is very wet and you could see this puppy could not get to the furthest part in that photo on the left where the ground has been – where the grass has been trodden on. The length

couldn't do that 'cos that's a two metre length and it couldn't do that. This is the place where we use, where I just clip them on if I'm doing something, onto the pipe, and it's stable. I know it's not – the kennel enclosure is not going to fall over and this puppy was only put there a very short time beforehand. I can't tell you how many minutes.

5

Q. Right now just going to page 51.

A. Yes.

Q. Is this again Monty?

A. This is the same –

10

Q. Same puppy?

A. Same Monty, yes, and you can see, you can see how it – it's – the grass is trodden down, because it's so wet, you can see how the grass has grown within the enclosure.

Q. Right now just looking, looking at the bowl in front of the dog at the bottom of page 50, it seems to be a different type of bowl to the one which is with the dog – puppy, at the top of page 51. What do you say about that?

15

A. Well spotted. It is a different bowl, I think, as far as I can see.

Q. So do we have – is this a situation where –

A. I don't know if there was two bowls there. I don't know.

20

Q. Right.

A. It looks like the other one or maybe it's just been – it was the same one, upright, and it's been turned over. That's probably what it would be, because I don't see a second bowl there, so that's with water tipping over.

Q. But it does seem, the shape of it does seem in – at the top of page 51, appears inconsistent with the shape of the bowl.

25

A. It could be an angle how they've taken it, I don't know because when a stranger comes in they are going to move around and move around very quickly.

Q. Right.

30

A. They're guarding and excited. What's happening now is something, there's something going on.

1245

Q. Now let's go, we'll go to the old runs, these photos.

A. Mhm.

Q. Now we looked at the old runs earlier?

A. Yes.

Q. Just looking at the runs which are at pages 52, 54.

A. Yes.

5 Q. We go back to the runs at page 43. Just put your finger at page 43?

A. Yes.

Q. And we'll look at pages 52 to, we're now going to turn through pages 52 to 54. The runs we're seeing at page, that we see, the run we see at page 53, 52, top of page 52?

10 A. That's Dolly.

Q. Yes. Bottom of page 53 and page 54, there's no dog.

A. That's my fence, the same kennel.

Q. Right. Now those two runs with – there's reference to another dog?

A. Astro?

15 Q. Yes. So that, just taking the top photo at page 52 –

A. Yes.

Q. – which one is Astro?

A. Astro you can't see. On the left-hand side where that rope is coming down, that's where Astro is. This is Dolly in the middle.

20 Q. Right.

A. And then you have on the right-hand side Mafia.

Q. When you say the middle we've only got two dogs and two –

A. Yes, you can only see two dogs, but you can see there is a wooden panelling up the top of page 52, on the left-hand side there's a wooden panelling where the sun's shining on it.

25

Q. Right.

A. That is the side to where Astro is.

Q. Right.

A. He's behind that.

30 Q. So he's in another run?

A. Yes, he is.

Q. Which is not shown, but that wooden area, that plywood area –

A. Yes.

Q. Wooden area, plywood?

A. Plywood, yes, it is.

Q. That separates him from Dolly, in the middle?

A. Yes, yes.

Q. And out to the right of Dolly you can only see the legs we've got the dog
5 Mafia?

A. That's correct, yes.

Q. Now, just going back to the top of page 43, this is the same block?

A. No.

Q. Right, that's not the same – who's the dog at the top of page 43, yes?

10 A. Um, I don't think these – oh, this is from the 11th, yeah, it's taken away.
That is actually, it looks like Debbie.

Q. Right. So are we talking about these kennels which are at page 52, are
they the ones at the bottom of page 43?

A. No, no.

15 Q. So what you're saying is that the kennel at the bottom, at 52 is different
from either kennel on page 43?

A. Yes, I am, yes.

Q. So their part of the old kennel?

A. Yes.

20 Q. Page 43?

A. Yes.

Q. Two different parts of the old kennel?

A. Yes, mhm.

Q. And at page and they've been cleaned?

25 A. Yes.

Q. And then we have the kennel at page 43. Where is that, the one at page
52, where is that in relation or where was that in relation to the kennel,
two kennels at –

A. 43.

30 Q. – at 43?

A. If you take the implement shed there, see that white pipe, drain pipe,
water pipe burning along –

Q. That's the bottom of page 43?

A. No. Yes, yes, there. Now see how it goes round the corner, and if you look at page 43, that second photo, can you see grass growing on top of the roof?

Q. Yes.

5 A. It's green.

Q. Yes.

A. Those are the kennels. So it's a, what do you call it?

Q. Another extension.

A. Yes.

10 Q. And that's, just looking at the bottom of page 43 -

A. Yes.

Q. - we can see plywood, the little bit at the top and a brassed area at the back?

A. Yes.

15 Q. Is that right?

A. Yes.

Q. And that's where a kennel at page 52 is located, is that what you're saying?

1250

20 A. I'm saying the kennel that you – that we just see at page 52 is... there's a bit clearer picture... one moment, please... is on page 64, if that's easier for you to – the bottom picture on page 64.

Q. Righto, but where is it located in relation to the kennels on page 43?

25 A. Page 43, if you – there's green grass here on the left-hand side of the – here.

Q. Yeah, that's what I was referring to just before.

A. Yes – oh, sorry, I thought you were referring to –

Q. No, I wasn't, I was referring to the one on the left-hand side of page 43.

A. Yes.

30 Q. You can see a structure. There's a bit of grass behind it.

A. That's it.

Q. And I asked you whether that was what we were referring to at page 52.

A. Sorry, yes, that's correct.

Q. All right?

A. Yes.

Q. It is correct?

A. Yes.

5 Q. And we've got a close-up, another situation of the same kennel which is at page 52, this is a further extension of the old run, and that's at the bottom of page 64.

A. That's correct. There you're seeing all three runs, yes.

Q. Righto, so just going to page 43 –

A. Yes.

10 Q. – just say the old kennels is, for argument's sake, in three parts.

A. Yes.

Q. Parts one and two, page 43 –

A. Yes.

Q. – the ones at page 43 do not have dogs in them.

15 A. Yes.

Q. But they appear to have been cleaned.

A. Yes.

Q. If we go to page 52 –

A. Yes.

20 Q. – and concentrate on that at the moment, has that kennel at page 52 – another one at 53 –

A. Yes.

25 Q. – and we'll worry about 54 in a minute, page 54, but just taking pages 52 and 53, are those kennels – they haven't been cleaned, well, correction, describe what they depict.

30 A. They are – have – that day, we were waterblasting and the waterblaster hose split and – it's probably because it's been used a lot, every day, and the pressure of the hose, and we had to replace the hose which was a Kärcher hose with their head office in, um, what's it called... where Fisher & Paykel has a company, what it's called... where they used to have their 1000 acre farm, that...

THE COURT:

Highbrook.

WITNESS:

Highbrook, yes, that's it, in Highbrook, and so I rang them and asked them did they have one, they had one, so I had to organise someone to pick it up because it takes us an hour to drive in and an hour to come back, and organise
 5 for it to be delivered and so the hose was later that afternoon delivered so that it could function again, so it could be waterblasted. This here what we're seeing is from the moisture. It's old concrete, it's stained, unfortunately, and with the moisture it can be slippery on the coating of concrete that was put onto these kennels, but if you look at the wiring and if you look at the wood, you can see
 10 that – and see concrete bowls, they're all clean, so if it had not been cleaned on a daily basis, they certainly would not be clean because the animals are too active. They're running around, especially excited when strangers come, so they're in full motion, on guard.

EXAMINATION CONTINUES: MR GARDINER

15 Q. Right. Are you saying, just looking at the surface at page 52 –
 A. Yes?
 Q. – to what extent does – looking at the flooring in the picture at the top, that appears to be discoloured and –
 A. It is.
 20 Q. – and otherwise.
 A. It's –
 Q. How would you – sorry, has that kennel been cleaned?
 1255
 A. We call it that the faeces were picked up in the morning and what you're
 25 seeing here, this black, there's a faeces there in Dolly's pen, that's from meat and meat has a different time of digestion going through and it usually is not of a firm substance when they're on a raw meat diet, and that's what you're seeing there.
 Q. Okay. Now just on –
 30 A. You can see the concrete is broken, there's parts missing and that's through the water blasting, it just lifted that new concrete over it.
 Q. Right. So when we look at the surface –
 A. Yes.

Q. – of the kennel at the top of page 52 –

A. Yes.

Q. – you're saying that that surface is like it is because it reflects the imperfections in concrete which was laid many years ago?

5 A. Yes.

Q. And it does, it shows one lot of faeces, is that what you're saying?

THE COURT TO MR GARDINER:

Mr Gardiner, you're –

10 **WITNESS:**

I believe, I believe that it's –

MR GARDINER TO THE COURT:

I thought I was summarising what she said your Honour. I'm putting it –

15 **THE COURT ADDRESSES MR GARDINER – PUTTING YOUR WORDS**
(12:56:05)

EXAMINATION CONTINUES: MR GARDINER

Q. Can you, just to take her Honour's point, you know, I don't want to put my words into the situation, can you just summarise in your own, you know,
20 what that – summarise the position in relation to the state, apparent state of that kennel at the top of page 52?

A. You can see in this photo in this kennel, Dolly's kennel, on the sides and at the back of her house where she sleeps –

Q. Excuse me, you say Dolly's kennel, which one are we referring to?

25 A. The middle one, this is page 52, the top photo and the dog that you're seeing there is Dolly.

Q. Right.

A. You can see her coat especially underneath, she's a long coat and long coats are very, their coat is much finer than a short coat dog, and that is
30 clean underneath. So if it had been something that had not been done for days as implied by Mr Plowright, that would all be dirty and it would be

- a totally different colour, but if you look into her kennel on the left-hand side where the sun's shining, you can see down to the bottom to the concrete, it is clean and the same on the other side and as far as I can see at the back. You can see at the back of the kennel it is dry. She's
- 5 been going up and down. They use the water. They put their feet in the water. They're walking around. With the concrete, unfortunately it was old concrete, unfortunately, it is imperfect, there was pieces missing, but this kennel had, they defecate several times a day. It can be anything from two to eight times and early in the morning when it's done, when it's
- 10 picked up, it wasn't water blasted, it was water blasted later that afternoon, but that's also – we did everything we could to get the new part. We started water blasting and if it breaks down, then it breaks down.
- Q. One further comment, some further comments in relation to this kennel at page 52, where would the dogs sleep?
- 15 A. If you follow that wooden line on the left-hand side where the sun is?
- Q. Yes.
- A. You'll see it's raised above the concrete is their wooden house which is approximately two metres wide, 180, two metres wide and 125 deep.
- Q. And –
- 20 A. That's where the grass is growing on top.
- Q. Right. And what's the, to what extent is there any elevation?
- A. It's approximately 10, 15 centimetres above the concrete.
- Q. Now, just going to the water bowl –
- A. Yes.
- 25 Q. – we've got, clearly there's a wooden bowl at the top left -
- A. Yes.
- Q. - in the top photograph?
- A. Yes.
- Q. What was that water bowl made of?
- 30 A. It's made of concrete.
- Q. Right. Now looking at the water in the water bowl at page 52 –
- A. Yes.
- Q. – at the bottom?
- A. Yes.

Q. It's hard to sort of judge, well, correction, what do you – how would you describe the water in that?

5 A. The water in with the concrete and with us using bore water, the bore water contains a lot of manganese and a lot of iron, and a lot of other natural substance, it's purified, it's not chlorinated, so the water oxidises very quickly. You can see that the concrete has discoloured through the water, it's just a normal process and she's been in and out as you can see, there's little marks there on the concrete or part of the concrete, the raised concrete. So going in and out and that's what long coats like more
10 water than short coats, that's why this is a 20 litre concrete bowl, so that they can drink and play and do whatever they like, but because of the long coat and the long hair on her paws, you can see that this concrete here is damp.

Q. Now, just going –

15 **LEGAL DISCUSSION – PART OF EVIDENCE (13:00:49)**

COURT ADJOURNS: 1.01 PM

COURT RESUMES: 2.18 PM

THE COURT ADDRESSES MS CRANSTOUN (14:18:35)

EXAMINATION CONTINUES: MR GARDINER

Q. Now Ms Wallace we're at page 53 of the first prosecution booklet.

5 A. Yes.

THE COURT ADDRESSES WITNESS – COMFORT CHECK (14:19:23)

EXAMINATION CONTINUES: MR GARDINER

Q. Ms Wallace, just going to page 53 of the booklet, the first prosecution booklet.

10 A. Yes.

Q. Can you describe what is depicted in the top photograph first?

A. Yes, certainly. The – it's the same kennels that we've just seen on page 52 and again you can see the netting and the piping is clean, even though they are very old kennels. You've got discolouring on the concrete, but you've also got blood on the concrete as well and there is –
15 I can see faeces, which is from meat.

Q. And where are the faeces?

A. The faeces, it's on the right-hand side. Just down the bottom there's two little round black –

20 Q. Right.

A. – parts of faeces. It's just a part of the faeces.

Q. So looking at those, how long do you estimate those faeces would have been there?

A. Well that has been in the duration of that morning.

25 Q. And so, why do you say that?

A. Because the kennels are cleaned daily.

Q. Yes.

A. That means that all of the faeces are picked up and water blasted. It wasn't water blasted on that day. It was picked up in the morning. A

German Shepherd when it goes to the toilet, yes, it can be, depending how it's fed, quite a lot.

Q. Right just going to the bottom of page 534, what does that depict?

5 A. This is Mafia. This is the right-hand side of the kennel complex of three, old kennels. Again, you can see that it is clean. What's really important here with Mafia is he is standing up talking to, or barking at the – we call it talking, barking at Mr Plowright and Ms Davis. So, he's standing up on his back legs. If you notice his feet, his legs, all of the inside and his stomach is all clean. It's not, as implied by Mr Plowright, all dirty, and he
10 had no room to lie down or whatever. The concrete is wet. There is parts that are discoloured. There are also parts of blood there. There are two water troughs, one's a 20 litre, one's a 10 litre concrete trough and at the back of the photo you can see his raised wooden kennel, housing.

Q. Right and that's – I see. Now just going to the water at the front.

15 A. Yes.

Q. It looks quite dark. Have you got any comment? What would you say about that?

A. Bore water is not – the concrete itself is dark, yes, but bore water is not like town water.

20 Q. Right so just exp – I know you did refer to it earlier.

A. Bore water, because it's not going through all these purification processes that town water goes, and then they put in chemicals to purify it and make sure that it's got no bacteria that could be harmful to people. It depends where the water is coming from and this is just pure out of one metre 20
25 depth –

Q. Now the –

A. – one metre, 120 metre depth, the bore, and it's going along plastic Alkathene hoses so it can, with time it can have an influence, yes.

Q. To what extent does bore, B-O-R-E, water require any purification or
30 whatever?

A. It doesn't. It's for animals. It's going out to the troughs out in the middle of the paddock, the cattle, the sheep troughs, deer, all animals. It's distributed to them. We use it in the garden, the kennels, the animals.

Q. Right.

A. Any other water needs.

Q. Now just going to page 54.

A. Yes.

Q. What's at the top?

5 A. At the top this would be, I assume, the back part of his – at the top there's two water troughs, concrete water troughs.

Q. Right.

A. The left-hand side is the 20 litre one and the right-hand side is the 10 litre one.

10 Q. And, right, so just going to the bottom at page 53.

A. Yes.

Q. At the top of page 54.

A. Yes.

Q. Are we talking about the same water troughs?

15 A. It's the same, yes.

Q. Right now just going to the bottom of page 54, can you describe what that depicts?

A. That's at the far end of the same kennel. You can see he has gone to the toilet here and it looks like he has spread it around. There's blood on and discolouring on the concrete. There's cracks in the concrete. There's parts of concrete up the top there missing there. It's all different levels and you can see his raised wooden bed in the background there.

1425

25 Q. Righto, but are we talking – just going to... how many dogs are in that area?

A. There's only one in every kennel.

Q. Righto, so which kennel do you believe –

A. This is the third kennel. This is on the right-hand side, standing in front of it, so you have Astro, Dolly, Mafia.

30 Q. Right, so is this the kennel that the dog at the bottom of page 53 is in?

A. Yes.

Q. Right, and what part of that kennel does this depict, just again?

A. Yes, this depicts the... the first third of the kennel at the back from where the sleeping area is in.

Q. Right, before the sleeping area?

A. Yes.

Q. So what do we see, just once again, just to make quite clear, on the left there –

5 A. On the left?

Q. – what do we have?

A. We have the wooden, plywood panelling. You can see it's clean down to the ground so you can see it's – this is not old, um, old defecation.

Q. Righto.

10 A. You can also see through the wire mesh, 'cos this is magnified, that that is clean and if that had been different, with them jumping up onto the – they're always jumping up onto the wire with their feet, that would then be dirty and have everything else (inaudible 14:26:48).

15 Q. So basically this is a long shot – well, correct. How would you describe this if one was looking from the wire down the kennel? What distance would be from where –

A. Oh.

Q. – this here, but from where one would stand at the wire down to the back of the kennel?

20 A. Two metres' distance.

Q. Two metres?

A. Yes.

Q. And what's that ledge at the back?

25 A. That's the sleeping quarters. That's one metre 50 deep, so the kennel itself, with the run, is three and a half metres.

Q. Right, in length?

A. In length.

Q. And what about width?

A. Width, it's about one and a half. Yeah, one and a half to two metres.

30 Q. Now I just want to – there's some detritus there. I just want to just specifically address it.

A. Yes.

Q. You've got an area, you've got something which – like a bit of bark. What's that? It's just looking – that's this item here.

A. That there? Um –

THE COURT:

Q. Are you pointing to the left-hand side, it's the sort of biggest –

A. Oh, that there?

5 Q. – lump I suppose?

A. Um...

EXAMINATION CONTINUES: MR GARDINER

Q. Perhaps the correct question is, what do you believe that to be?

10 A. I don't know. The black... (**inaudible** 14:28: 07) the black, that's from meat. It could be – could be just above that is – it could be a little bone. I don't know.

Q. Right, and towards the middle you've got –

A. Towards the middle, yes.

Q. – that's faeces, just there.

15 A. Yes.

Q. The black, just north of the –

A. Mhm.

Q. – the item which you don't know.

A. Yes.

20 Q. Just across from that, a short distance away in the middle of the run –

A. Yes?

Q. – what's that?

A. Those two little black spots?

Q. Yeah.

25 A. Those two little –

Q. There's three, three.

A. Three – let me see, three, one-two-three, okay, yes, three. Those two little, um, very small, um, faeces from being fed meat.

Q. Right.

30 A. It's – the blood makes the faeces turn black.

Q. Right, and right out to the right, towards the right-hand wall –

A. Yes?

Q. – looking at it on my right, what is that?

A. You can see that there's concrete broken and you can see there are black spots. Those jet-black spots, that is from, um, blood and faeces.

Q. Right, so –

5 A. But there is discolouring there as well, so it's not all from faeces at all, it is... we've got parts of concrete, concrete not there...

Q. Right, so how would you describe the state of this area of the kennel from this picture? What does it indicate?

A. It indicates, um, that this has yet to be water blasted.

10 Q. Right.

A. For that day.

1430

Q. Now just going, we'll go through now to the cattle yards -

A. Yes.

15 Q. - which is at page 55?

A. Mhm.

Q. And this segment is – so what is that area, what's the name of that dog?

A. Ritzer.

Q. That's Ritzer?

20 A. Mhm.

Q. And where is she tethered?

A. She's tethered to, it's on again a Royal Canin one metre 40 long lead and this lead is attached to a two metre long steel bar which is part of the crush of the cattle yards.

25 Q. Right.

A. So it can move along if she wants to or she can go wherever she wants to.

Q. Now there was some – Inspector Plowright made some observations in relation to the material that's in a semi, the dogs in a semi-circle -

30 A. Mhm.

Q. - it looks relatively clear. Then we've got some stuff which is around the outer edges. What do you believe, why do we believe that we have a semi-circle and then that material round the edges, how does that come about, what does it signify?

- A. Well, where she is it is clean. I don't know what's round here. You can see from the left-hand side above there that the cattle yards has been used, it hasn't been water blasted out yet from having cattle through. If you look out to the, on the left-hand side of the photo, you can see that's dark, that's all from cattle and if you look to the right-hand side, you can see that's dark, that's from cattle. The animals, the driveway between the cattle yards and the deer on both sides of the driveway is grass as you can see. We have animals there as well grazing and when they come out, that's where they go. She's been put there temporarily, so it's a moment in time, we can see her good condition.
- 5
- Q. And just to the right behind it's, near tail, what's that?
- A. That is a bone.
- Q. Right. And Inspector Plowright expressed a view that basically this material that's on the outer edge had all been around the dog and the dog
- 15
- had wanted to create space for itself and had done that from walking up and down and in some way, the material, I'm paraphrasing, the material that is on the outer part of the semi-circle has been removed from inside to the outer through the movement of the dog, what do you say to that proposition?
- 20
- A. I do remember him saying that and I do remember him saying that it's been brushed by her tail which that is not a typical German Shepherd trait, so I don't know where that's come from. No, I can't agree with that.
- Q. Right. Now, we've got a different shot with the same dog -
- A. Mhm.
- 25
- Q. – at the bottom of page 55?
- A. Yes.
- Q. And when you spoke about the area out to the left and into the right, that – could you indicate what you're talking about?
- A. What I'm talking about, to the left you can see that is a gate or a door that
- 30
- can open from the cattle crush out towards us and also this door where she is attached to, that opens right out as well. So when the cattle are going through some of them don't like to go through the front, so this is all opened up and they come out the side.
- Q. And what about the sort of what appears to be a door –

A. Yes.

Q. – which Ritzer is looking at?

A. Yes, that gate. You can see everything on the ground there that the cattle had come through. This hay, there's dried faeces and whatever else
5 they have, but you can see from both on the left and the right of the photo.

Q. Now, this area has a, just from page 55, the bottom photo?

A. Yes.

Q. How would you describe the roofing that appears to be there?

1435

10 A. It did not appear as – it's definitely there. This is Coloursteel roof. The roof over where she's standing, it is a beautiful sunny day. The – it is approximately from there to there is at least 1.25 metres over head and the roof itself comes down I would say about 60 centimetres, half a metre down. You can see just the top there, the top of that photo how it comes
15 down. So it's like a – it's a covered roof so that everything is protected.

Q. So just to clarify one point, couple of points. Just looking at where the gates are?

A. Yes.

Q. The roof starts from – just describe the width of the roof from where the gates are to the part of the roof that appears to be supported by the pole
20 at the bottom of page 55?

A. That part would be I would say at least one and a half metres. So she's at least under one and a half metres of roofed –

Q. So when we talk about the westerly wind, a westerly wind blowing, which
25 is evidence has been given that the westerly wind is a prevailing wind. From what direction looking towards the cattle shed would that wind to be coming from?

A. It's coming from the – (inaudible 14:36:45) of the yards. The yards was specifically professionally built to protect anyone that was working in there
30 so it is warm and dry and not – and I guess the prevailing westerly winds.

Q. So once again, where does the westerly wind come from?

A. To the right-hand side of the photo. That comes out further and could be two metres. I'm just guessing here, one a half to two metres.

Q. Just so to make it specific.

A. Yes.

Q. Now we're talking about the wind, it's coming from the right-hand side.

A. Yes.

5 Q. Are you saying that it comes towards the side of the building on that side, is that what you're saying?

A. No, no. I'm saying where the two large posts are on the right-hand side, behind there it's totally walled, it's totally enclosed and it's coming from that side.

10 Q. Now just going to page 56, who tethered, are you aware of who tethered the dogs in here?

A. No, I'm not, because when after they're trained, they are then tethered for a short time given, depends on how hard they're trained or what sort of training, given extras, and that's why they're all separate to make sure that each dog receives the right supplement it needs for its particular training.

15 Q. And just looking, you've touched upon this I think another – in one of the earlier segments of the book, just comment, just taking we'll deal with the first top picture?

A. Yes.

20 Q. Can you describe the state of the floor and why it's like that?

A. The state of the floor is after the cattle have been although I actually I think yielding, yielding cattle, mostly one year old had been through and they'd been put under cover while the drench was being absorbed into their skin under a controlled environment, which had nothing to do with me but that's how it is and it's just a normal state after that. Well they're given hay, so they're relaxed in there and are calm and sensible.

25 Q. So just looking at the top photo and comparing it with the bottom one?

A. Yes.

30 Q. Are we talking about the dog at the top, is that the one that features down below as well on the right?

A. On the right, yes.

Q. And in the photo at the bottom, how many dogs can you identify?

A. Three.

Q. And they're well spaced from each other?

1440

A. Yes, they are.

Q. All these dogs are on short tethers?

5 A. No, Zita that's the one that's looking out through the crush and smiling and making sure – just seeing what they're doing, she was on a, I'm just going by memory, I think on a light chain. The others were on leads.

Q. Right. Now just looking at dog, the dog in the passageway.

A. Yes.

Q. Which features in both the photographs.

10 A. Yes.

Q. That's got a, just looking at the photograph at the top, there is what appears to be a water –

A. Yes, water bowl.

Q. – container?

15 A. Yes.

Q. That water container is upside down?

A. Yes.

Q. How do you think it reached that position?

A. Oh, just playing.

20 Q. Right and to what extent – how many other water containers were in this area as you recall?

A. Each one would have had a water container.

25 Q. Now what about, one of the criticisms in this case by the prosecution, well, by the SPCA, which is memorialised in the charges, some of the charges is that there was no access to water. What do you say – how do you construe the phrase, "no access to water" from your point of view?

30 A. Absolutely not correct, and it says in the Act and in the Code of Welfare and best recommended practice that a dog does not need to have a water bowl in front of its head 24/7. It needs to be hydrated and have frequent access to water. They have been trained, they have had their water, they have been watered, they were all hydrated, not one dog was dehydrated in any way and that is also reflected in every single medical report that was made by the SPCA. There was not one mention of any dog being dehydrated.

Q. Right and just go to page 57.

A. Page 57? Yes.

Q. We'll deal with the top photo.

A. Yes.

5 Q. Can you describe what you see there?

A. There you see a young dog standing his ground and saying: "You shouldn't be here in my territory," and he's standing up on its back legs and barking on a lead, you can see the water bucket beside him and you can see very clearly where the cattle have all been and how it's all been distributed all around. On the left-hand side of the photo you'll see there's like a black square, that's a, like a whiteboard. You can also see above there's – it's a dark line going through. That is the roof coming down, so it's like an upside down U. It comes down part of the sides, the back and above.

10 Q. Right. How long is, how long were these, was it intended to tether these dogs in these places for?

A. They were only there for a short time.

Q. Because the suggestion appears to be is that they are living here permanently.

20 A. Mhm.

Q. So what do you say to that?

A. We did not know that – we were not informed beforehand. We had no idea that the SPCA was suddenly arriving. This is a snapshot in time, it's a moment in time. We are active, we are working the farm, we have our dogs, we are moving them, we're training them, we're exercising them, we're spoiling them, feeding them, watering them, so, no, and this was – we have the, just behind that you'll see there's fruit trees there. This is where the new kennel complex is being built and so the ground preparation work has been, been, or, had been done at that time on the 25 12th. We were very happy to show Ms Davis and Mr Plowright because it had been very wet and to have achieved the progress that we had we were very, very pleased and we were hoping it to be up and running as quickly as possible.

30 Q. Right.

A. Here, this is just under shelter so it's got the shelter, it's got the water, it's got a good length of lead, it's a moment in time and that was it.

1445

5 Q. Right, now just going down to the next photo at page – we'll now assess the photos at the bottom of page 57 –

A. Mhm.

Q. – through to 58, at this stage.

A. Right.

10 Q. Now, looking at page 57, what does that – I think we may have covered this already. Well, some similar photos. What does that photo at the bottom depict?

15 A. You can see here we have puppies looking up to see who's just arrived, it's at the half – this is in the stables at the back of the deer shed. The stable door is half opened and clicked back. They're standing up on their back legs. You can see that all the walling is clean. This had been cleaned out that morning. You can see there's fresh paper there. It's all a little bit, um, churned up because puppies like to run around and play and fight each other and – when they're in there, and that's what it shows.

Q. Right, now in the other photos –

20 A. Yes?

Q. – we'll just go, perhaps go back to those, I just want to – by way of comparison. Just taking – we've got page 44 –

A. Mhm?

Q. – there's reference to puppies on the right, six puppies on the left.

25 A. Mhm.

Q. In both those – in the photos, three puppies, they're on the right. Now, when one compares the photograph there –

A. Yes.

Q. – at the top –

30 A. Yes.

Q. – and the bottom, it's occupied by the same – by these dogs, back on... 11 August. In this area there's a sleeping thing.

A. Yes.

Q. With newspaper in it.

A. Yes.

Q. When we go to page 57 and top of – when we go to page 57 we've got two dogs which – how many dogs are there? Two, three according –

A. Two.

5 Q. – to – three puppies according to the picture, but where would the – there appears to be also a third one which doesn't seem to – one can't see.

A. Mhm.

10 Q. We don't have the sleeping container, if I can put it that way, which clearly features at page 44, featuring – it doesn't appear to feature in this photograph.

A. No, it's been taken out. It's probably been taken out to be water blasted. What happens is the puppies – in the morning, the puppies come out of here and they're running around in a paddock, they have their play time, it opens out into a – it's that probably two or three acre paddock that's
15 where the woolshed, the deer shed and the hay barn is, so they run loose. There's also a sheep water trough there which they jump in and out of and then after that, after they've had – they're taken down on a lead and walked down to the exercise pen down by the cottage and then they come – they're there for a little while and then they come back into here. That
20 frame, (**inaudible** 14:49:04) frame for the little sleeping area, that would have been taken out to be cleaned.

Q. Right, now these puppies, do you – are these the same, two of the same, perhaps three, we can't see the third or I can't see it, but are they the same puppies as appear at the top of page 44 but a bit older? Couple of
25 months, couple of months older?

A. I think so, yes. Yes, I think so.

Q. And then –

A. I believe so.

Q. And then we've got another puppy on its own –

30 A. Yes.

Q. – which is referred to as a puppy in the left stable.

A. Mhm.

Q. Now, there's not a sleeping thing, it's not – container is not, it doesn't appear to be there at the back.

1450

A. That is the same, it's not as it's stated here, that is exactly the same photograph. If you look in the middle of page 57, that is a little black irregular shaped dark and if you look at that, it's exactly the same one and
5 I think that's probably the third puppy. Now there's two here and I think that's the third puppy. It's the same –

Q. The same group of three.

A. – it is the same stable, yes.

Q. Right. So in other words, the paper that you're referring to is – could you
10 just indicate in relation to both photos, perhaps if you could circle it, the Registrar could give that a pen to the witness to circle what she's talking about.

MR RADICH ADDRESSES THE COURT – ACCEPT IT IS THE SAME AREA
(14:50:47)

15 **LEGAL DISCUSSION – CHARGE RELATING TO DOGS** (14:51:15)

1455

EXAMINATION CONTINUES: MR GARDINER

Q. Just going to – we've had some clarification there. Ms Wallace, I want to
20 take you now to photos 59, pages 59 and 60. Can you describe what you understand the photo or first of all, when we look at pages 59, 60, 61, 60 to 60, are we – how many dogs are we talking about?

A. We're looking at one dog and this is image.

Q. Now just taking page 59 –

A. Yes.

25 Q. – can you describe what that – first of all what that describes – what is depicted in that photograph?

A. This is in the general area of the deer shed, it is next to the deer crush, that dark piece of wood at the back of the photo is the part of the double-door that opens out into the paddock and you can see the
30 stainless steel water bucket up the top right-hand side. She has had a bone to chew on to keep her occupied. The reason why she is not running

loose yet because she's just been put there and if all of the cubicles have a 15 centimetre – what do you call it, the warmer of each cubicle starts from 15 centimetres to the floor so this is free, this is open, and as she is new, we did not want her putting her head underneath or trying to – there's no fights within the deer shed. I explained this to Mr Plowright the reason why this is a gradual introduction and when he came the next day, she was, she's assimilated, she's fine in there, they've affected her and she was running free and greeted him.

Q. But at the moment she's tethered?

10 A. At the moment it's temporary, she's tethered so that she accepts and the others accept her.

Q. We'll come to the others in a moment but just looking at the floor?

A. Yes.

Q. Can you describe what the floor shows?

15 A. In the middle of it you can see that staining is from blood and here she's, I would say in the upper – beside her, I think there she has gone to the toilet. The stranger's coming into her, you can see the bone – oh, okay...

Q. And down at the front, there seems to be – can you describe what there is? It's about an inch and a half from the bottom, what's that item?

20 A. I don't know. Are you talking on the right-hand side of that photo?

Q. Right-hand side down the bottom of the picture, page 59?

A. I don't know.

Q. Now why is the floor in the state that it's in?

A. This is blood, this is dried blood in the middle of the photo. This is from the fresh bone that she has received because that calms her down and it calms the others down and it's absolutely normal. It's not dried food so...

Q. What about the faeces?

A. Well she's gone to the toilet and could be when with them opening up the door, it could be from anything.

30 Q. And what's the size of this area, cubicle, would you call it a cubicle?

1510

A. No, this is just the general area. This general area would be probably about five or six metres long I think.

Q. Right. And how wide?

A. Yes, it would be five or six metres long and the width, it would be about five metres -

Q. Right and –

A. - or something.

5 Q. – what would be the width?

A. I think the approximate width would be five metres, that's the total width. That is divided, so the area where she is would be two and a half.

Q. Metres?

A. Yes.

10 Q. So two and a half metres wide and how long?

A. I would say it'll be about five metres long.

Q. And just looking at the photos at page 60 -

A. Yes.

Q. – taking the top photo -

15 A. Yes.

Q. - that – we seem to have that photo shows more clearly?

A. Clearly, yes, it is.

Q. You correct that. Are we talking about see where it's foot is?

A. Yes.

20 Q. The dog's foot?

A. Yes.

Q. Is that the same area that features the same floor space that features just to the right of the dog in page 59 which you referred to as faeces?

25 A. Yes, and I stand corrected. You can see what's happened there, she's urinated.

Q. Right. So –

A. Freshly urinated.

Q. So just going to the top of page 59, that scene, that area which you thought was faeces –

30 A. Yes.

Q. – that seems – why do you say there's a difference between – you describe it as faeces and then over the page you describe where its foot is, it seems to be in the middle of that area and how would you describe, you don't think that's faeces having had a look at that picture?

- 5 A. No. On page 60 and sorry, it's my glasses, they're not right glasses that's why I'm having a little bit difficulty at its exact. You can see on page 60 it's a close-up that is urination from her, that could be because it's been opened or for whatever reason, you can see that very, very clearly and also from the shape and the marking, that was my mistake there. I think mat the top of that, if we go back to page 59, it could be that or possibly be there, actually left-hand side, top bit, that to me looks like if I'm seeing right, a little piece of faeces.

THE COURT:

- 10 Q. A piece of?
 A. Sorry, on page 59.
 Q. Yes.
 A. That dark piece in the middle where she's urinated, there is a little, I can see it's raised brown in the middle at the top of the where she's urinated.
 15 Q. So you're talking about the circular bit that's been urinated?
 A. Yes, I am, yes.
 Q. Okay, thank you.

EXAMINATION CONTINUES: MR GARDINER

- Q. And just going down to bottom of page 60 –
 20 A. Yes.
 Q. – that shows inspector for the back for the area that you've described. At the back on the right, what do we see there?
 A. That is a large beef bone.
 Q. Right. And these marks that one sees how would you, could you address
 25 those, what are they?
 A. These marks we're seeing that she has urinated there, so if she starts walking, it's going to be dark as well, it changes the colour of the concrete it's wet until it's dry. I can see there is a faece there on the left-hand side.
 Q. Right. So now the charge – we're probably getting to it sooner than I
 30 intended, but the charge refers to other adult dogs, four adult dogs houses in this area, where would the other three be?
 A. The, there were –

Q. Well, first of all, were there three others?

A. On that day, I'm not sure, but there are three cubicles there.

Q. Right.

5 A. And the measurements of those cubicles are two and a half metres deep, five metres high and the length of each of them would've been probably three metres on each.

Q. Right. And –

A. So it is six metres, long.

1515

10 Q. Right so –

A. I don't recall Mr Plowright or Ms Davis looking at any of those three dogs.

Q. Right so –

A. And – or asking me to bring out any of those dogs. That's why I'm a little bit confused.

15 Q. Right, and so – right. Perhaps that's an issue my learned friend may address later, but just going to the next situation.

A. Yes.

Q. The woolshed.

A. Yes.

20 Q. Now we've had – go through this – now first of all the photos that we see on the next three pages, they all relate to the woolshed –

A. Yes.

Q. – would you accept that?

A. Yes, I do accept that. Yes.

25 Q. So take photo 61, to what – we've got a dog poking –

A. Mmm.

Q. I'll just, no, just at page 61, how old is the – what are we – what do we have?

30 A. We have here, what we're looking at is Desney. Desney is five years and 11 months old, so a six-year-old bitch. In equivalent, that's like a 42-year-old adult in human years.

Q. And is Desney the dog at the top?

A. Both. Top and bottom.

Q. Right and this – the caption on this refers to four adults and five puppies.

A. Mhm.

Q. Just going to the top of page 62.

A. Yes.

Q. What dog have we got in the foreground?

5 A. In the foreground – behind is Serina, and the one in the foreground looks like Lena.

Q. And are both those adults?

A. Yes.

Q. Just going to the page 62.

10 A. Mhm.

Q. What does that depict?

A. Oh, I've done this wrong.

Q. The bottom of the page.

15 A. Bottom of the page? This is a long coat girl putting her head up. It's in the middle of the woolshed and to the right of the photo you can see a pup with his little paws over the, the wooden railing, saying hello as well.

Q. And then what does the top of page 63 show?

A. That is the, that is the same dog from page 62.

Q. Right and do you recognise that dog?

20 A. Yes, it's Lena.

Q. Pardon?

A. Lena.

Q. Now this area at – I'll just go back a step. When these photographs, when the SPCA went to the woolshed –

25 A. Yes.

Q. – where were you?

A. I was with them.

Q. Right. When they went to the deer shed were they – who...

A. I was with them.

30 Q. You were with them?

A. Yes.

Q. When you were just going back to the deer shed, when you went to the deer shed, what is your recall in relation to the three adult – the adult dogs which that were supposedly, which were there?

A. There was no problem. On the 12th there was no AWS given. There was never any issues discussed or raised that they were in – that any particular dog was not compliant. There was absolutely no issue whatsoever raised on the 12th of October.

5 Q. So how many, how many dogs, just going back to the deer shed –

A. Yes.

Q. How many dogs, adults, in the deer shed do you recall the SPCA actually looking at?

1520

10 A. Well, they didn't look at any specific dog. They went in and had a look but they did not put their hands on any dog or look at any dog closely or anything like that, no.

Q. Righto, but in terms of the adults, you had the dog which you described, it's at page 59, what was the name of that one again?

15 A. Image.

Q. Image.

A. Yes.

Q. Right, you had Image, and how old was Image? At the time.

A. At the time... maybe two-year-old, two, two and a half.

20 Q. Right, and Image was in a general holding area –

A. Yes.

Q. – next to the doors at the side of the building –

A. Yes.

Q. – two doors which open out onto the paddock.

25 A. That's right.

Q. Right, but in addition to that, within the deer shed on the left side as one looks at the deer shed, there were three cubicles, is that right?

A. Yes.

30 Q. And the charge refers to four adults but I just ask you to be specific on this. Did anyone look into that, each of those cubicles?

A. No, and they weren't – they were all – they're not tethered in the cubicles, they're all free running and in each cubicle there's – well, the first one has three doors – four doors, the second cubicle has two doors and the third cubicle has one, two, three, four doors.

Q. Right.

A. Opening out, all opening out into areas.

Q. Righto, and the only – and were you standing – righto. Just leave that, go back to the woolshed.

5 A. Yes?

Q. We've got three pages of photographs. Now, just looking at the photograph at the bottom of page 63 –

A. Yes?

10 Q. – we've got slatted flooring. Can you describe where the scope of that slatted flooring and who was actually on it?

A. It's actually a good photo. The photo is where the puppies were, the pups were. These pups are six, six and a half months old. If you look to the top right-hand side of that photo, 'cos it's been cut out, you can see part of the wooden, plywood solid flooring on top of the slats.

15 Q. Yes. Can you explain – thank you, can you explain the size of the area occupied by the puppies?

A. Yes.

Q. Firstly, first of all, and we'll deal with that...

20 A. The size of this puppy area, it would be about... it's the largest holding sheep pen in the woolshed and it would be probably, well, approximately four metres by four metres.

Q. Right.

A. And it's, I think it's about seven metres high. It's got quite a high stud.

Q. Now, to what extent was that area – did that area consist of slats?

25 A. The whole area consisted of wooden rounded slats and in this slatted area there is a – a good third of that whole area was with solid plywood put on top, which you see here in that photo, still photo up the top on the right-hand side.

30 Q. Right, now how many puppies were occupying the area that you've just described?

A. I was of the opinion four.

Q. Now, just going back, can you describe how that – this is an area at the back of the woolshed, correct?

A. Yes. It's in the middle – the bottom photo is at the middle of the woolshed, so where that pup is leaning over on the wooden pulley gate on the right-hand side, underneath that window, that is – he is leaning out of the area that you see on page 63.

5 1525

Q. And that's at the top of, is that at the top –

A. That's at the bottom of page 62.

Q. Page 62.

A. Underneath the window, you can see a pup with the little head.

10 Q. Right, I see what you mean. So you're talking about the dog at the far right looking over again?

A. Yes, yes.

Q. Now in that area occupied where that head is at the bottom of page 62?

A. Yes.

15 Q. What dogs were in there as you recall?

A. As I recall, that's a long coat...

Q. I'll go back a step. On the left-hand side of that photo behind the head?

A. Yes.

Q. What are we looking at in the far – down in the corner?

20 A. That is another area the same size as what we're looking at here. This is about three by four, three metres by four metres. All of these dogs if they wanted to, they can just jump over so they can have the whole area. It's not restricted to that small part.

Q. But in this area where this head is poking up?

25 A. Yes.

Q. There's a slatted area at the back, you've described the dog looking over a gate on the right, it's a puppy, to what extent can one walk down the back into another area?

30 A. You can walk all the way through from one entrance, because where that puppy's looking out there is two doors, one double-door that opens out to the – it's a loading race and the open air, sheep yards, and you can walk from one end of the building through to the other.

Q. And what is impeding one walking through at the moment say between where the puppy is and the other side?

A. These are pulley wooden gates to actually really just separate the sheep and you just pull them up and pull them down.

Q. So just going to page 61 we've got a dog looking out, that's an adult dog?

A. Yes.

5 Q. Who was it again?

A. That was Desney.

Q. Desney, and is that in the area at the far end of the building?

A. Yes it is.

Q. And behind Desney, what are we looking at?

10 A. Is another area where she can come and go and as she pleases.

Q. So is that another pulley gate?

A. Yes it is, yes.

Q. And so there's another area where some other dog could be stored or live?

15 A. Can run around, yes.

Q. Or be held, is that correct?

A. Yes, that is correct, yes but that one there goes around to the middle one so it's got both the back to move freely.

20 Q. Now just going to – now are all these areas, the flooring, apart from the puppy area it's all – the flooring consists of slats throughout on this side?

A. On that side so it's half the building. The other half is solid wood where the general areas and where they shear the sheep.

Q. Now we go to – now we're about to start just briefly going through the photos on the 13th?

25 **MR GARDINER ADDRESSES THE COURT – BREAK TIME (15:29:14)'**

COURT ADJOURNS: 3.30 PM

COURT RESUMES: 3.47 PM**EXAMINATION CONTINUES: MR GARDINER**

5 Q. Now, we're now going to the 13th of October. Actually, before I do that, I won't be – now as a result that after the SPCA inspection was completed on the 12th of October what happened?

A. When it was completed, I was very excited about the layout of the new kennels and what did they think of it, and it wasn't a lot of comments. They said that they were going to go away and have a coffee and think about things, and then we'll come back. I never heard or saw from them, that was it.

10 Q. Right. On the day that the SPCA came, this is the 12th of October, were there any workers, WWOOFers she called?

A. Yes, they were, yes.

Q. Were they working on the farm at correction at the kennels?

15 A. The kennels on the farm, they were around, yes, but usually – yeah.

Q. Can you remember how many of these people were working at the kennels on that, during the SPCA visit, can you recall?

A. No, I'm sorry, I can't. I can look back in diaries.

20 Q. No, no. How long was the visit for as you recall? You don't have to be spot-on in terms of the time?

A. It wasn't a long visit. It was a fairly short visit. I think they left at about one, one in the afternoon.

Q. And as you mentioned earlier only you did allude to whether or not a notice was left?

25 A. There was no –

Q. Was there any notice left?

A. There was no notice left, there was no, no dog was discussed or any non-compliance or anything, no.

Q. Now the following day the SPCA officers came to the property?

30 A. Yes, they did.

Q. At what time as you recall, what time did they come?

A. They came around I think just approximately 'cos I wasn't there, I was at the vets, at around about quarter past 11, 20 past 11.

Q. Right. And can you describe how many officers arrived?

A. There were I think if I remember rightly, 10 vehicles.

Q. 10 vehicles?

1550

5 A. Yes.

Q. And roughly can you give a –

A. And people? There would have been... oh, and the police, there was the police there as well and from...

Q. Excuse me, when you say “the police,” how many police?

10 A. There were two, sorry, there were two policemen from the Tūākau Police Station. There were, if I remember correctly, two animal welfare vehicles, um, three, could have been three, two to three, and the rest were SPCA vehicles. There was vans, there was SUVs, there were all different types of large vehicles.

15 Q. Right, and we have Inspector Plowright, you know, who were these – did you –

A. Yes, we had –

Q. I'll go back a step, I'll go back a step. Did you recognise any of the people who attended?

20 A. Yes, it was Inspector Plowright, Inspector – Ms Davis, there was, um, we – I think, was it William Lloyd? There was Rhys Heatley, there was another lady from the Waikato District Council with grey hair, I can't think of her name at the moment, sorry, there was people that I hadn't seen before, um... yes, there was a lot of people.

25 Q. Righto, so –

A. Oh, and sorry, this is the 13th. There was Jess Beer. I hadn't met her before. She was there. Um... I'm not... um... at the moment, sorry. I think William Lloyd was there, I think Cody Taylor was there. That's going on the faces at the moment. Sorry, that's all I can at the moment

30

Q. So what – was there any interaction between you – oh, correction. Who was the leader of the SPCA?

A. The leader of the SPCA was Kevin Plowright.

Q. Righto, what discussion, if any, occurred between yourself and Inspector Plowright?

A. I received a phone call that they had arrived so I was away at the time at our local veterinarian and I turned around and came straight back. I think
 5 arrived around about 11.30, and then Kevin Plowright came out of the kennel area and asked me – said he won't be asking any questions today. They – he has brought Dr Jess Beer with him to examine each dog and I said: "Fine." I said: "Where would you like to start?" "Oh no, we don't want you. You're to keep away, we don't want you anywhere near the –
 10 anywhere near the dogs," they would do that on their own, and that was in front of, that was all in front of the garage.

1555

And then I realised about Monty, and Monty was gone and I'd only just put Monty there before I went, because I was preparing to drive to Kerikeri
 15 for a weekend of shows, Saturday and Sunday, and I had just washed and groomed Monty, got him ready and I thought it's a two hour drive, it's a long drive and I didn't want him to be unnecessary in the car, so I just looped him over the fence, he had his water, and went to pick up some Royal Canin 4800 Endurance dry food and Dermotic ear drops and I
 20 come back and see all these people there and Monty was gone and Monty was in one of the vehicles, I think it was of Rhys Heatley and I asked: "Why have you taken Monty?" "Monty was tethered, and he had no shelter and no water." He didn't need to have shelter because he was only just put there temporarily. He doesn't live there, that was just a
 25 moment in time. He had water, he wasn't dehydrated, he was healthy, he was of good weight, he was in perfect condition and they knew he wasn't there beforehand because I had him with me the day before around the kennels, but they liked Monty, so... Then I was asked by the constable I think it was, I'm not sure which one – they started explaining
 30 to me and it was best that if I just kept away. I asked under what: "Why are you – do you have a warrant? Why are you taking the dogs," 'cos he'd taken Monty and there was – Monty was a perfectly healthy dog and according to the Animal Welfare Act you cannot uplift a healthy dog and

I was told he was underweight, tethered and had no shelter and, yeah, that was bad.

Q. Okay so who else was present when you had this discussion and Mr Plowright, Inspector Plowright, had this discussion with you?

5 A. The –

Q. Perhaps if we –

A. Could I have a minute, please? Could I just walk out for a minute, please?

THE COURT:

10 Q. Do you want to go outside for five minutes? All right. Can you put your mask on though?

A. Yes, I'm sorry.

1600

DEFENDANT LEAVE COURTROOM BRIEFLY

15 **THE COURT ADDRESSES WITNESS – LET COURT KNOW IF NEED ANOTHER BREAK (16:01:13)**

EXAMINATION CONTINUES: MR GARDINER

Q. Do you want to take your mask off Janine?

A. Yeah.

20 Q. Now the question I asked you was who else was present when you had this dialogue with Inspector Plowright?

25 A. I'm pretty sure there was a police person and I think then Inspector Davis then came, but he was the first, very – there were other people spaced out, so there was probably, five, six, seven people just in the first proximity.

Q. Now, on this occasion where was your mother?

A. My mother wasn't there. I would say my mother was in the house, she would've been very, she was very upset. It was very intrusive. It was very, actually very frightening. It was -

30 Q. Now on that day do you remember whether you had any workers, WWOOFers working?

A. There would've been WWOOFers there, yes.

Q. You don't remember seeing them? I'll go back a step.

A. There were, there were people there, I've just got a bit of a blank at the moment.

5 Q. Right. And you don't recall – there were people there, but you don't recall the numbers? What about your sister Anne, where was she?

A. She was there as well, but I think she was either with the workers and taken them away down to the cottage or inside the house, I'm not sure.

Q. Can you remember the number of workers who were there with Anne?

10 A. I believe there was two, I'm not entirely sure.

Q. Right. Now, so can you describe what you saw occurring and where you – Well, I'll go back a step. During the - what was the intention of the SPCA as conveyed to you by Mr Plowright when they proceeded to move through the kennels and the other buildings?

15 A. Um, thank you for that and now I remember the dialogue because I was talking to one of the constables because we had done everything, we had moved heaven and earth - actually I think there was three girls, two girls and one young man. We'd moved heaven and earth to try and get the new kennels finished, completed as quickly as possible and we put the
20 people that were building the kennels under a lot of pressure to get everything done quickly. We were trying to comply and get everything, everything that they wanted done as quickly as possible and as good as possible. Yes, there were three.

1605

25 A. The dogs had been washed, groomed, stripped out, of course trained, we were getting ready for a show to take probably about five up to Kerikeri and I thought this was very – they didn't say anything on the 12th. I wasn't given any notes, I heard nothing. We were complying, we were doing what we could and then suddenly you have 10 vehicles coming to collect
30 or pick up our healthy dogs and that was obviously one of my most shocking experiences.

Q. Where did you stay when they proceeded through the kennels and the buildings?

- A. I was, I went inside. I went to my mother. There were dogs running around and pups running around on the lawn. I went inside to see my mother. The two policemen were there. I was told, I said I would get a lead and help them. They wanted inspecting the dog, they're most welcome to but that was not wanted. As far as (inaudible 16:06:44) to begin with (inaudible 16:06:46) went through the gate.

THE COURT ADDRESSES WITNESS – MOVE MICROPHONE (16:06:57)

MR RADICH ADDRESSES THE COURT – CONSCIOUS OF TRANSCRIBERS (16:07:02)

10 EXAMINATION CONTINUES: MR GARDINER

- Q. What we'll do is just go through and this section of the photographs and prosecution booklet and then I'll come back and get you to comment in relation to the dogs that were seized, righto?

A. Fine.

- 15 Q. Now just looking at the top of page 64?

A. Yes.

- Q. Can you describe – well that caption on the photograph is Monty?

A. Yes.

- Q. Can you just describe how Monty came to be – again, how he came to be in that position?

20

- A. Certainly. Monty was a gorgeous long coat German Shepherd male puppy approximately seven months old. Monty and I have been in shows since he was three months old so he had won a lot of baby puppies, best of breed, puppy over the working dog group, lovely little personality, loved everyone and was in beautiful condition. I had him ready this morning, that morning on Friday morning because we were leaving in the afternoon to go to Kerikeri to the Bay of Islands and I just prepared him for the show. He's on a show lead and I just looped it over the picket fence. He has a water container there if you have a closer look at the water container because it was said he didn't have any water. You can see the water just below that water container. You see the dark colour on the ground. Just

25

30

5 coming from the water container if you like to take the – look at page 47 of the 12th, you will see it's the same picket gate but here we have Casper and if you compare that pup with page 64 the top photo, you will see that the water container is in a different position and that where the water's come out it's not on that photo so you can see it's recent. You can see that this dog did not need shelter, he was only put there quarter of an hour, 20 minutes beforehand and because, well you can see from both photos and you could see from the 12th he was in the kennel area.

1610

10 A. There was photos on page 50 and 51, that is Monty. Fifty-one is close-up, it's a little bit nicer close-up, and 64, that's very – he was, he was very relaxed there when the people were there, even though there was a crowd around him, but he was used to that because of all the experience he had had up until that point in time.

15 Q. Did Monty have a show name?

A. Yes.

Q. What was that? What was his show name?

A. Everest von Volkerson. He had – Monty had five champion challenge certificates from eight. That means five independent judges, working dog judges, national and international had thought that he was worthy of the title of a champion which was extraordinary at his young age, and that means that his character, his presentation, his anatomical structure, was what they saw worthy of being a champion and here in New Zealand you need eight champion certificates to be given the title a champion, but you only have to have five different judges from the eight, but I took the more difficult way and I always had eight different judges for each championship title, so that it was really a well-deserved champion title.

20

25

Q. Righto, now just before we – I just want to ask one further question in relation to Monty and then move on.

30 A. Yes.

Q. What were his bloodlines?

A. Monty, his mother was a world champion. She had been imported from Italy and both her parents were world champions. She was a very valuable bitch. Her name was Brenda del Fretteto. She had her ZDP,

her IPO3, which are obedience qualifications and she had all three highly distinguished. She had perfect hips and elbows, as did her parents. His father was a New Zealand champion and his father was a world champion and his father had two, two hips, perfect hips and perfect elbows, normal elbows, normal hips, and his lineage came from world champion lines from – I’ve got to sit down, sit down again. From Germany, and it was his – from his sire’s side, that was Nino from Tronje, the world champion that was – and American double – it was double Sieger then, and that was the dog that was sold that was – not sold, he belonged to a surgeon and was insured for 1 million US, so his lines were – we were very excited, that’s why he was being shown, excited to have these bloodlines.

Q. So potentially he was – well, he was a puppy but potentially he was a sire in his own right?

A. Yes, he would be a future – if he had the chance, yes.

Q. Right, so just going to the second photo at page 64 –

A. Yes.

Q. – this shows a picture of – the caption is: “Old runs, three adult dogs, as for Dolly and Mafia.”

A. Yes.

Q. Now, just on the left, far left where there’s an officer kneeling and he’s holding a pole?

A. Yes.

1615

Q. That kennel besides which he is kneeling appears to – it’s empty?

A. No. The dogs could sense that something wasn’t right, they were being invaded into their area and the dogs, that’s Astro is the back of his kennel, Dolly is in the, if you look where that rope is hanging down you can see a little face.

Q. Right.

A. That’s Dolly and this one here on the right-hand side is Mafia.

Q. And that’s with the gentleman with his back to us?

A. Yes, the bald headed, that’s Rhys Heatley.

Q. Right, but going to the left –

A. Yes.

Q. – there's – no, I think one can see a dog at the back?

A. You can see his legs –

Q. Yes.

A. – just a little bit lighter.

5 Q. Yes. So on the left we've got Astro have we?

A. Yes, we have Astro.

Q. Right. Now that run seems to be very clean?

A. Yes, they had all been freshly water blasted.

10 Q. Right. Now can you explain the difference in colouring between the run on the left and where Astro was and the one in the middle where Dolly was?

A. Yes, in this picture, yes, the concrete is not as stained in his kennel and the – he is at the front of, I can see rightly you can see it's lifted and you've got different levels of concrete because that had been re-concreted and that hadn't fallen apart as much as in Dolly's and Mafia's.

15

Q. Right. Now looking at the one in the middle –

A. Yes.

Q. – we've got an object on the left just behind the water tank, the water container, what do you believe that to be?

20 A. I believe both those objects, left and right are bones.

Q. Right.

A. Beef bones.

Q. And in the middle is it fair to say there might be – is that, what would you describe that area in the middle to be?

25 A. It is discoloured, it's discoloured, they'd all been water blasted that morning so they're all clean and it's just discoloured concrete.

Q. Now just looking at the dog on the right, that's Mafia -

A. Yes.

30 Q. - can you see, can you describe what is behind him and to the side in his kennel?

A. Yes, that's the plywood wooden sides. He has on the right-hand side it's, it'll be a good over 1.2 metres high and on the left side of his kennel it would be just over one metre I think, a little bit high, a metre.

Q. Right and each of these dogs had water?

A. Each of these dogs had water, there was water containers in there. Astro had a bucket which you can't quite see because of – that was one of the SPCA inspectors, I can't think of his name.

Q. And that officer holding the pole –

5 A. Yes.

Q. – we have referred to this picture I believe, well, it has been covered previously in evidence, but what do you describe, what was that pole for?

A. That's approximately two metres long pole with a steel, it's wire, steel wire that's all, how would you call it, not turned but woven and this is what they
10 use to march these dogs out.

Q. So when you say "march them out" what do they do with the pole?

A. It's like a big steel metal noose and they tighten it around their neck, and take them out and with it being so long and they've distance between themselves and the dogs which I understand, I didn't want the dogs
15 stressed their wellbeing. I said: "I would walk out any dog".

Q. And what was the response of that in the end?

A. They didn't want me anywhere near any of them. When they wanted to go into the implement shed, I was then asked, I think they got the police to ask me or Mr Plowright, I'm not sure which one to - they said they could
20 break the door down or smash the door down, but they would prefer to if I would open it for them which I did.

1620

Q. So just – what happened – I'll just deal with the dogs as they come up, what happened in relation to Astro, Dolly and Mafia?

25 A. Astro, Dolly and Mafia, all three were seized. All three were healthy. Astro was – they said he was underweight and I'm not sure what else, I haven't got it in front of me. Astro and Mafia were taken, and they were sent to the Pukekohe Pounds and they were there for two weeks and there on the 27th, so two weeks later, 14 days later, they got their first
30 veterinary full examination.

Q. Right now just going to Astro, was one of the criticisms made that they were underweight?

A. Mhm.

Q. Another criticism that they had matted coats?

A. Yes.

Q. And also a further criticism that they had ear infections?

A. Right.

5 Q. Now just in terms of a dog being underweight, we're going to come to this later but just at this stage we've heard references been given so far in these proceedings, one relates to the Purina Scale which the SPCA applied to different dogs, and that was one to nine, a scale of one to nine. We had Dr Hardcastle refer to a Purina Scale three to five – one to five, and you have referred to yet another scale, and I want you to refer to the
10 scale which you would – I want you to elaborate in relation to that scale and the weights of male and female dogs, German Shepherds, can you – perhaps a start point might be to refer to what the code of, code – minimal code of conduct, if I could put it that way, the Code of Welfare in relation to dogs says about minimum weights, range weights, weight
15 ranges? I think it's at page 11.

A. Page 11? Yes. So there are minimum standards, they are to finding them thin or, like, emaciated, and obese. A dog should be maintained as ideal as in appendix one. This is – oh yes, it's only this one to five, that's one to five.

20 Q. Yes.

A. And it says here: "Ideal, number three, without excess fat covering, waist observed behind the ribs when viewed from above," and that is – all of our dogs were of correct weight. With German Shepherds, German Shepherds are very agile and are working dogs, so it is not good for them
25 or their joints to be heavy or obese or to have too much fat – weight. They should be well-exercised, well-muscled and be of an athletic, slim build. The weights for female German Shepherds are from 22 kilos to 32 kilos and this fluctuates because of the different sizes of a bitch. A bitch – there's a five centimetre difference in height, the lowest height and the
30 highest height, which is 55 centimetres to 60 and you can have – there is allowance, one centimetre under, so, at 54, and one centimetre over.

1625

A. Some are a little bit too big, but that is their weights. It used to be 20 to 30 kgs but they've allowed another two kilos for the large dogs that are

actually really over size. With the males, the males are – should be between 30 kilos and 40 kilos, again, depending on size, on their age when they're young, they're growing, they're developing and maturing into a real male. Astro was only 16 months old, he wasn't very – he wasn't – he was a young boy, he hadn't reached maturity yet.

5

Q. How old was Dolly?

A. Dolly was –

Q. Back then.

A. Dolly was born in 2012 – yeah, 2012, 2013.

10

Q. So she was about five?

A. About five.

Q. And Mafia?

A. Mafia, Mafia was born in 2014 so he was just about a three-year-old.

Q. Right, so what's your – to the contention or the assertion that these dogs were underweight, what's your response?

15

A. This is why we have scales, so it's not just on an optical or visual – a visual appearance because everyone has different interpretations of how they would like a dog or how they see a dog, but we have very strict rules on their weights and as our dogs were all working dogs, they're all kept in an ideal weight for – none of our dogs that were uplifted were emaciated, were underweight what they should be. For a town dog that's not working, they could have – they'd have a different weight, they'll be more like number four here in that appendix. They'll have a little bit more fat because they're not moving much and that's okay. That's how they are, they're a pet, or grossly obese, which happens a lot, that's one of the biggest killers at the moment. Um, and having them in this athletic weight or what we call ideal weight, it – it gives them – it's good for their bones, for their joints, but it's also for their overall well-being and health and their longevity. They live longer if they are slim.

20

25

30 Q. And just looking – I'll bear that in mind, but this –

A. Sorry.

Q. – just going to that appendix –

A. Yes?

Q. – you've got definitions and examples of how a dog should look.

A. Yes.

Q. Now, you're of the view that the dogs certainly meet the standard set as ideal in three.

A. Yes.

5 Q. And – right.

A. Because if you take two, you can see here it's just – that's a good question. You see how you can see all – I hope it's not my glasses. You can see all of the ribs. They are covered but you can see all of the ribs.

10 Q. Right, and you reject any suggestion that you could see all the ribs in any of these three dogs?

A. I strongly say, um, dispute that either of these three were underweight.

Q. Now, what about the allegation that they had matted coats? We'll deal firstly with Astro.

A. With Astro?

15 Q. Yes, sort of –

A. Astro had –

Q. – coat did Astro have?

A. Astro had a very short coat and by short I'm meaning one and a half centimetres. He had his mother's very short coat and a very dense undercoat, but it's a very short coat. It cannot mat.

20 Q. Right. Dolly?

A. Dolly is a long coat. Long coats are more susceptible to matting because it's like silk, it's very – a very fine coat and just dampness in the air or high humidity, the long hair can – it's like getting fuzzy. It'll go together. I have
25 a – just to give you an example to understand with that, a friend of mine, she has very fine hair and sleeping overnight, just sleeping, she obviously sweats and by the morning she had mats in the back of her head, in her own hair. It's not because she doesn't do her hair, she's very particular about that and uses special products, but the hair itself is so fine and with
30 sweating or the heat, it just mats and she obviously moving and that happens with long coats.

1630

A. They are susceptible to that but Dolly as we saw in the photos before, I think it was on the 12th, I'll just have a quick look one moment please.

Sure it was. Yes, on page 52, we can see the hair on her chest that the chest is underneath, that you see where the black part of her saddle is and underneath there there is a light colour coat which is between five and eight centimetres long. And you can see there and her hind quarters where there's also a long coat. There is no matted, it's clean. So to say that she was matted, I don't know when she was looked at. I haven't got anything in front of me so I can't say exactly according to their records. And Mafia –

Q. Excuse me, the picture that we're looking at at the top of page 52 –

10 A. Yes.

Q. – that was of the dog the day before?

A. That is the 12th, yes.

Q. 12th so and what about Mafia? What sort of coat did he have?

A. Mafia has a short coat. He has a longer short coat than Astro, Astro has an extremely short coat so that's how impossible. He's never – also Astro has never had an ear infection in his life. Going back to Mafia, it was a lovely what we call a show coat.

Q. And in terms of – was there, just in terms of your – you reject any, that any air condition – if there's any of these dogs had an ear infection, you reject that it was manifest, that you could see it?

A. Absolutely. Yeah on page 64 with Mafia, Mafia had I think it was on the 17th of September, Mafia was at Takanini Vets where he had a full health check where he was vaccinated, where he was x-rayed for his hips and elbows. These x-rays were then sent to Professor Makaro to be evaluated in Sydney Australia and he came back with normal hips and elbows, and we had – he was certified by Takanini Vets he was healthy and this poor boy was put into the pound for two weeks. He would've known where he was, just left for two weeks. So what – I take no responsibility after this dog left our place because anything could happen.

30 Q. Now this pound to which you refer, you said it was Pukekohe Pound?

A. Yes.

Q. Now whose responsible for the Pukekohe Pound?

A. I'm guessing here but I would say responsible for Pukekohe Pound is the council. The council owns the pounds.

Q. Now just, we'll go now to the – one final comment.

A. Yes.

Q. Access to – would you say shelter, what's your opinion – you've expressed views in terms of shelter involving different parts of the old runs, but how is shelter provided against the elements in this whether it be to provide shade or protect against rain in relation to these runs?

THE COURT ADDRESSES MR GARDINER – NO ALLEGATION TO DO WITH SHELTER (16:34:23)

LEGAL DISCUSSION – CHARGES

10 1635

EXAMINATION CONTINUES: MR GARDINER

Q. Just going to the utility shed –

A. Yes.

Q. – can you comment on the, on what we see in both those photographs at page 65?

A. Yes, this is – page 65, yes, the bottom photo is a highly magnified photo of part of the top and this is blood and from a calf bone, the remains of the hair. At the top we see there is a water bottle there and that's everything, yeah.

20 Q. Now, so in terms of – so why is the flooring like this again?

A. It's got hair from a animal, not a dog, that's blood you can see there the dark colour not the light colour, the dark colour there and that's the hair from that animal.

Q. Right. Now just going to page 66, your brief comment in relation to this photo at the top involving Casper?

A. Yes. This is Casper, the same puppy that was on the 12th had just been trained was on the, I'll just get the page, on page 47. This is the same puppy where he had just been trained and just put there for a short rest. He's been trained and been put under this shelter here. What is interesting with this photo is if you – it's also on that same steel rod, two metre long steel rod and if you turn to page 55, you will see this was taken

on the 12th of October, so that was the afternoon before and if I remember rightly, Jess Beer said was a group of people who came up to him. He did bark. I wasn't there, I was just by the camera footage, he did bark and he urinated which is normal for a puppy, he's not used to seeing so many people coming like he did. He's obviously tipped over his little water bowl. He's just been exercised by one of the WWOOFers and they've placed him which is fine, he's on a good length and he has bowl, he's been fed, he's eaten. With this puppy, he's a short coat puppy and more than that, he still has his puppy coat. He's getting his adult coat which is nice and black and shiny, but he still has his puppy coat. So the coat length is approximately one centimetre.

Q. Now just going to the bottom of the page and Casper was one of the dogs that were seized?

A. He was, you can see he's in good condition. He's in lovely condition. He's not too heavy, he's not too light. He's exactly how he should be for his age which was at the time if I remember correctly, five and a half months. You wouldn't want him heavier because that's not good for his bones because their joints are not fused, there's a distance between the socket and the hip joint, and if they're too heavy, you're pulling that joint out of the socket and then later they could have hip dysplasia.

Q. Now just going to the bottom of the page we've got another dog called Zita?

A. Yes.

1640

Q. Can you describe where this exactly is?

A. Yes. Zita is a long coat German Shepherd female, approximately six years. Zeta, both parents are world champions. Zeta is featured on page 56 on the 12th of October. That's her little head looking out there, looking to see what's going on when Mr Plowright and Ms Davis visited, and in this photo here, this is on the inside of the cattle crush so it's over-roofed. If you see there's Zeta on the side, you've got a blue – that's a knee from Jess Beer and the person standing there is Mr Rhys Heatley.

Q. Right. Now what about the – just going to, we've got the same dog at the top of page 67.

A. Oh, yes. Yes, yes, we have. Yes.

Q. Can you comment on its condition?

A. She's probably a little bit heavy in condition. She's in very good condition. She'd be probably about 27 kilos, looking at that photo. You can see there's little tufts of light coat in the dark on her saddle. That's little tufts of her winter coat. She had been washed and stripped out, but with changes of weather they can still push out coat that they don't want. That's undercoat coming through.

Q. How old was Zeta?

10 A. Zita was a good six – it was 2017.

Q. Just put it into –

A. A good six years, I think.

Q. – context. What's the average age of a German Shepherd, correction, their longevity, looking at their longevity?

15 A. Longevity? We hope they live as long as possible. The normal age is, say, eight years, eight to 10 years if they're not sick in any way. Our dogs enjoy a very long life with us, that's why we feed them so healthily and keep them in the right condition and usually the age here with our dogs is between 12 years and 15.

20 Q. Right, just in relation to the dog at the bottom of page 67, do you have any comments to make in relation to that one?

A. Well when we compare both, here we have with Zeta a long coat. She is a very valuable bitch with both parents being world champions from Europe. The bitch down the bottom didn't have such world champion parents. She is a short coat so as you can see, she has a large water container in front of her. She's on a light two metre chain with a – I can't see what's around her neck, in good condition. You'll see that the – where she is that the concrete is clean.

Q. Now going to 68, page 68.

30 A. Page 68. I was asked to unlock the utility room. We'd just put two dogs in here, Debbie and Zena. I was asked to bring them out. I brought Zena out first. Zena was a long coat and Jess Beer had a look and she was then put back in her crate, asked to put back in her crate which I did. I then – from behind, that is Debbie's crate. Debbie was put temporarily in

this crate. Everything was cleaned out that morning. You still see newspapers on top of the crate. Debbie was under observation and being monitored because Debbie was...

1645

5 A. Debbie was under observation and being monitored because Debbie was in whelp and approximately three and a half weeks in whelp and she had a discharge. We thought she was losing her puppies. She was put on antibiotics, a course of antibiotics, and she was receiving these antibiotics morning and night, and so she was kept in a – she was taken for walks, exercised, fed, watered. My mother and a Japan – that's right, it was a Japanese, um... international student were grooming her every day, stripping her of her winter coat. She's what we call a wire-haired, very dense coat, so it's a very strong coat and they both were spending one to two hours a day in the utility shed stripping it out with a comb. I brought – Mr Heatley at the top photo is shining a torch in there, although there is clear light and natural light in there as you can see at the lower photo. That's just natural light, but that highlights it more. Where that green (inaudible 16:46:32), that is a deep freezer. I brought – I came in – oh, he's doing that while I've taken out Zena. I've just brought – at the lower photo I've just taken out Zena and (inaudible 16:46:49) and put a lead on Debbie.

Q. So the photo at the bottom of page 64, is that Zena?

A. No, that is Debbie. There's no photos there of Zena.

Q. Righto.

25 A. They weren't interested in Zena at that time.

Q. Right, now you mentioned earlier in your evidence for this day that you weren't supposed to be participating with any dogs. Why are you here in the locked room helping, assisting the SPCA/animal control?

A. I was asked by the police to unlock the utility room and I brought the key. I had to ask for – I had to go inside and ask where the key is, and I came and unlocked that room and I was asked to – they went in and I was asked to bring out the dogs, which I did.

Q. And just explain the coat that we have on Debbie.

- A. This is what we call a wire-haired coat and she is being stripped out. That means they're taking away the winter undercoat and where the black is, it's – you can see that's all been done, the front, there's a little bit more to do on the hind legs. I can see from here that there is still the old winter –

5 THE COURT:

Q. Is this on page 69, Ms Wallace?

- A. Yes, sorry, 69 and it's the lower photo. And if we have a look at the hind leg, that's the rear leg, there are a little bit of tufts of – it's not mats, she's not matted. It's tufts of undercoat, winter undercoat coming out. With the
10 change of weathers, like we've just had a heatwave, even the dogs all had their summer coat, they react and they immediately put out, expel their undercoat to cool them down because it's getting hotter.

EXAMINATION CONTINUES: MR GARDINER

- Q. Now there's a suggestion, in terms of any allegation that there was
15 matting and faeces on the coat, what would you say to that?

A. Definitely not. We all know Japanese are very – she'd been washed. This is one of our top bitches. Japanese are very, um, (**inaudible** 16:49:27)

OBJECTION: MR RADICH – NATIONAL GENERALISATIONS (16:49:34)

20 WITNESS:

I would just like to say one sentence, please.

OBJECTION: MR RADICH (16:49:34)

WITNESS:

- It's just about – I was asked whether she had faeces. She could not be stripped
25 out and combed if she had faeces in her coat. No one would want to touch her.

EXAMINATION CONTINUES: MR GARDINER

Q. All right, now, she had a mild ear infection at the time.

A. She was being treated on antibiotics and she had a light ear infection but with the antibiotics she was being treated and her ears were being flushed out every two days and wiped out with cotton wool, damp cotton wool pads as we'd been told and instructed by two different vets. She weighed, she was a little bit heavy for a bitch because she was unwell, we don't mind. She was around about 30 to 31 kilos which is at the upper end of the scale.

1650

Q. Now just going to the deer shed –

10 A. Yes.

Q. – that's at page 70?

A. Yes.

Q. Now this is a close-up of the front door, that's at the top of page 70?

A. Yes, that is.

15 Q. We've got Dr Beer in the deer shed?

A. Below, that's Dr Beer walking towards, I think it is? No.

Q. No, bottom?

A. Oh, bottom, but I was just looking at the orange glove, I think that's Dr Beer walking forward. You can see the empty containers that's where

20 –

Q. And these containers to the right of the door?

A. Yes.

Q. And what's significant about them?

A. What's significant about them, that's where the newspapers and faeces are put in when it's picked up when an area is cleaned.

25

Q. And just going to the bottom photo –

A. Yes.

Q. – page 70.

A. Yes.

30 Q. What does that show?

A. This is at the back of the deer shed and –

Q. Is Dr Beer standing – well –

A. Inside the deer shed.

Q. And where is she positioned inside the deer shed?

A. She is standing in front of the door, there's a door – that's what she's holding there is a door from the far, the cube, the dog cubicle, that's at the end of the deer shed. Now if you look at that photo you can see in the middle, there is another door and you can see the light coming up the top and in the middle?

5

Q. Yes.

A. And that door opens out into a paddock.

Q. Right. Now just going to the top of page 71, what does that photo depict?

A. One of the dogs being marched out. I am – that would be Paris, below is Paris.

10

Q. And Paris is the dog depicted at the bottom of page 71?

A. Yes, it is. Yes.

Q. And what do we have – there's an officer holding a card with no.8 on?

A. Oh, okay, yes, that's true, yes.

15

Q. And what we have, what's that great which, of course, will be to the right?

A. Yes, that is in front of, that's one of their doors from the vehicles where they're about to put her in one of their vehicles.

Q. Right.

A. Paris was here, she's approximately two years old, both parents are world champions from Europe, one's living in America, one was here and a very important girl.

20

Q. Now how would you describe the health of Paris?

A. Oh, Paris' health was excellent. You look up the top you've seen the photo there it's been marched out. You can see from above and if you refer back to the photos in the animal welfare, you can see she's just got a slight waistline, all of her coat is good, come through, it was I think a little bit wet because this had all been water blasted out. You can see if you look at the wooden panelling that the water has gone a little bit up that wall there in the middle of that page of the upper photo. Down the bottom you can see that she is in the process of losing her winter coat, her undercoat, it's these tufts, these are not matts, this is her, this is a natural occurrence that happens at least twice a year, that's losing her winter coat and losing their summer coat. If you rush this process and take it all out, then you are harming the, there's two coats, you've got the

25

30

undercoat and an overcoat, that overcoat you're harming it and it stops the growth, it becomes uneven and it ruins their coat and it will happen again in a short time later. So even though we like to have it all looking perfect, nature has its own way of saying when the time is ready.

5 Q. So just in relation to Paris in the photo on page 71 –

A. Yes.

Q. – what sort of – is she a short coat or a long coat?

A. She is a short coat.

Q. Right.

10 A. She's got lovely white teeth.

Q. And how old was Paris again?

A. Paris was around about, hold on – Paris, I think two and a half, two, three.

Q. Right.

A. Would be three. Three.

15 **MR GARDINER ADDRESSES THE COURT – MOVING TO NEW VENUE**
(16:56:06)

COURT ADJOURNS: 4.57 PM

COURT RESUMES ON FRIDAY 29 JANUARY 2022 AT 10.23 AM**JANINE ANNE WALLACE (RE-SWORN)****THE COURT ADDRESSES MR GARDINER – TALKING ABOUT PARIS**

5 (10:25:42)

EXAMINATION CONTINUES: MR GARDINER

Q. Now just going to page 70 of the first prosecution booklet?

A. Yes.

10 Q. Can you just describe, first of all we've got – I'll just lead on this one.
We've got a deer shed in the top photograph?

A. Yes.

Q. Front door. Can you describe what we have in relation to the photograph below?

15 A. This is the interior of the deer shed, (inaudible 10:27:00) opened one of
the doors and it's the far right cubicle at the end of the deer shed and that
is approximately five to six metres long and one and a half metres wide.

Q. And going over the page –

A. Yes.

20 Q. – page 71, as I recall we actually addressed both these photographs
yesterday but just for continuity given that was then and now we're
starting today, can you just recap on what the top photo shows?25 A. Here you can see healthy dog being marched out, she is – this is Paris
and you can see from her coat, the coat is nice from the top photo there.
The back line, the just slight waistline. She looks, she's been taken out
by one of the inspectors. There's also another dog out the front and I
would say that's one that's been running loose and she's been
accompanying everyone wherever they go and that was Narla.

Q. So what dog do we have in the bottom picture at page 71?

30 A. That is the same dog, it's 12 minutes past one I see there, the same dog.
This is Paris.

Q. Right.

A. Both pictures are of Paris.

Q. And the – just on the coat, can you just recap, explain that coat?

A. Certainly. You can see there's just little – it's just little tough of coat coming out that is the undercoat that she is shedding and not matted. This is an absolute normal process that a German Shepherd has. She had the short coat and this is the undercoat that she is shedding out, it's October, because of the change of weather and coming into summer. So they have a lighter coat in the summer months and then in winter they have a (inaudible 10:29:07) coat and the undercoat is the coat that regulates the skin of a German Shepherd that's why they're never shaved because that is very detrimental to their health because of this undercoat. The undercoat regulates the temperatures and keeps the skin protected.

Q. Are you able to comment on body condition of this one?

A. Body condition is ideal, German Shepherd body condition. She looks like she's, I would say weighs about 26 to 27 kilos. She's in a perfect ideal healthy weight. This is a young adult. Paris would be approximately at that time two to three years old and she's a young bitch, she's never had a litter. Once she got her new coat, her new summer coat that's when her showing career would start. She's in training but hasn't been shown to that point of time.

20 1030

Q. Righto.

A. Both her parents are world champions from Italy. Oh, no, Italy and Germany and yes. She is the litter sister to Champion Pirelli, that was her brother which we'll see in a few minutes.

25 Q. Righto, and how would you describe her overall health?

A. That's a very good question. If you have a look at her eyes, she's looking directly at the person that's taking the photo. They're nice and clear and bright. There is no discharge coming from her eyes. The nose is wet, which is – that's how it should be for a dog. You can see her teeth, that they are very white, strong, how they should be. The whole presence and the demeanour of the dog, she's attentive, she's bright and alert, just how she should be. She's taking everything in that's happening. She thinks she's going for a special ride. Yes, she's about to be put into a crated area in one of the vehicles.

30

Q. Right, now just going to – we'll leave that and go to the woolshed –

A. The woolshed, yes.

Q. – displayed at page 72, and we've got coverage through to – in relation to the woolshed through to page 75. Now, I'll just take you through that.

5 Now, there has been evidence given in the course of examination-in-chief by both SPCA Inspectors Plowright – well, certainly by Inspector Plowright and also, putting aside Inspector Davis on this, by Dr Beer. Now, in relation to the flooring, can you comment on the flooring that's displayed at page 72?

10 A. Yes, I can. If we take the upper picture, this is a typical woolshed. This woolshed is approximately – is that all right with the...? This woolshed is approximately 90 years old, so these – it is solid wooden slats. They are rounded. They have a small gap between them. These are for animals like sheep, goats, larger animals, medium to larger animals. These are large dogs, yes, and it's actually – this photo shows the wooden railings which are 90 years old. There's been many animals that have gone through here. What you can see here, there is in the middle of the page, you can see one dark faeces. Up in the top page there is a stainless steel water bucket which has been tipped over. The white that you're seeing, the woolshed is not totally closed. That means birds can come in and they nest, they fly through and do what birds do, so you will see a lot of white bird droppings, like down in the photo, the lower photo in that dish. The slats are covered in lanolin and that's from the sheep, because they're brought in overnight before they're shorn so that they empty out their stomachs and their bowels before they're shorn by each shearer so that they are clean and they don't go to the toilet when the shearer's shearing them, and that's why there are slats, that's why there's gaps between the slats. They are rounded, they're not sharp, they're very easy to walk on for any animal. Baby animals, it's ideal for little baby newborn lambs, when we're trying to mother a lamb, they're there overnight, so it's important that it's a safe environment.

20

25

30

Q. Right, now I'll come back probably to that photograph shortly, maybe not, but just going to page 73 –

A. Yes?

Q. – we have a dog standing on the slats. Do you have any comment to make in relation to that particular dog and the extent to which it is – pardon me, on that dog, first of all.

5 A. That's actually a very good picture. You can see this dog is – strangers have come into the woolshed and she is barking at them, which she's supposed to do, and because this is her area so she is being territorial. If you look at her feet and how she's on the slats, they're not curved into the gaps, they are on top of the slats so there is absolutely no danger or concern or worry that any feet or any toes could be hurt or injured in any way or be caught, because the slats are rounded on their edges. That is the same photo as we saw on page 72.

1035

Q. And in this situation – and the dog underneath is the same dog? The caption on –

15 A. Yes, yes, yes, Desney, yes.

Q. And how old is Desney?

A. Desney is five years and 11 months, nearly six years old.

Q. Right so she's an adult dog?

A. She is an adult, yes.

20 Q. What about the situation in relation to page 74?

A. 74? Right, the photos that we just saw in 73, they are at the far end of the woolshed. That light that's shining in is from the window, so we're now on page 74 and we're at the front of the woolshed and what we see here, the top photo, are three puppies, they're youngsters, they're round about six and a half months old. Those shoes are from Jess Beer and you can see a water bucket to the right of that upper photo.

25

Q. And the three puppies are described on the caption at the top of the photograph as: "Elite, Puppy and Emma."

A. And Emma, yes.

30 Q. And the "Puppy" is actually a name of a puppy?

A. Yes, he didn't really want to grow up so he had that name.

Q. I just want to go to defence booklet D, exhibit D.

WITNESS REFERRED TO DEFENCE BOOKLET D

A. Yes.

Q. Have you got that?

A. I will have it in a moment.

Q. And in particular paragraph – page 6.

A. So we're talking about this one, aren't we?

5 Q. No, that one.

A. That one?

Q. Body camera.

A. Oh, right. Yes.

Q. Page 6.

10 A. Yes.

Q. That appears to – that's Dr Beer?

A. Yes.

Q. Can you compare that picture with the picture which is at the top of page 74?

15 A. Yes, this all depends on how we take a photo. This is taken from their body camera footage and this is Elite that's greeting Jess Beer, thinking he's going to get a pat. She's taking notes on Elite. You can see the light, you can see the slats, you can see what they look like and all of the natural light. There's a lot – people have to work in a woolshed and it's
20 very hard work and they have to have good light, so we have electricity in there of course but it was purpose-built for lots of natural light.

Q. Right now how old were the puppies, Elite, Puppy and Emma?

A. They were six and a half to seven months old. They are the – that's the little brother to Monty. Emma is the little sister to Monty and to Elite and
25 Puppy, they're all brothers and sisters.

Q. Right now just looking at the photo at page 6 of Dr Beer.

A. Yes.

Q. Have you got any comments to make in relation to the condition of Elite?

A. If you have a look at Elite, Elite is a short coat puppy. He has just got his,
30 for the first time, what we call his adult coat. That means he shed his puppy coat and he has a little undercoat and top coat. You can see looking here his condition, he's in perfect condition. He's healthy and you can see how he's standing there, how he's jump – he's well-muscled and how a puppy of his age ideally should be. He's talking, he's engaging

with the stranger that's just come in and she's just taking notes on him or on someone else, I'm not sure, but you can see the strength in his hocks, his feet, his back legs. It shows – it's a good sign of a good, strong, healthy puppy, how he should be.

5 1040

Q. Now have you got any comments to make in relation to the into relation – or are you able to comment in relation to the dog and the slats? The puppy and the slats?

10 A. You can see this is a puppy and you can see from his feet how they're on the slats and there is absolutely no problem whatsoever for it to walk, to put his, all his weight on his two back legs. That's quite – if there was going to be problems, that – the weight pushing him down would go in between the slats if that was a problem, but it's not.

15 Q. Right just looking at photo 72 and the photo with Dr Beer, the photo – what, what comments, if any, are you able to make in relation to the condition of the slats at page 72 of the first prosecution booklet and the slats that could be seen in the photograph from the body cam footage in exhibit D at page 6?

20 A. These are – this is magnified, the photo, the lower photo in page 72. These are the same slats, nothing has been replaced in the woolshed. They're all approximately 80, 90 years old so that – they're identical.

Q. Right.

A. It depends what you're trying to emphasise.

25 Q. Now we've got a picture, just going to page 75 at the top of the page, there's some wood which appears to be damaged in that picture. Can you – what would you comm – what comments are you able to make in relation to that?

30 A. Do you mind going back to page 74? There's a lower, there's a photo and it's just before, you can see Dr Beer leaning against the wall there and that's Elite again and he's – it's just before he jumps up on her.

Q. Right and what –

A. Page 75, that upper photo, that photo – we haven't owned this property for the whole duration of the 90 years since it was built. It was built by Landcorp because that area was predominantly sheep farmers, so each

farm had a woolshed where sheep were shorn and kept. This has been, you can see some of the railing have been gnawed at, that's through sheep, goats, there's been llamas in there, there's been calves in there, there's been every animal that you can virtually think of has been in there over that period of time. I know Jess Beer thought that's from boredom from dogs. Our dogs are not bored, they have a very diverse life because of all of the natural environment. There's always something happening, it's not a sterile environment or an artificial environment. There's – underneath here, you'll see here, I think they've cut it out, there was actually a duck nesting.

Q. Right.

A. So that's where you got underneath the woolshed. There was also a duck nesting because these won't – the pups and the adults were only put in there temporarily. There was still a duck nesting in the woolshed up where the solid wood was, so that shows it wouldn't be nesting in there, they nest for about 30 days until the eggs hatch, she wouldn't be in there if the dogs had been in there 30 days beforehand.

Q. Right, so where is that? Can you indicate again where it is?

A. Um, it was – there's another photo of underneath woolshed.

Q. Right.

A. Sorry, it's not this one, but I can supply that.

Q. Well just putting that to one side –

A. Yes.

Q. – and going to the photo at the bottom of page 75.

A. Yes.

Q. Inspector Plowright gave evidence that he took a photograph from at the outside the woolshed at the end, which is towards the haybarn –

A. Yes.

Q. – and I asked him a series of questions which related to the area that he could see and cover. Now, having said that, what was the approximately floor footage of the woolshed?

1045

A. Good question, I think it was approximately 11 metres long.

Q. Right.

A. That's just approximate.

Q. To what extent was the area of the woolshed in slatted, did it have slatted timber percentage was? What would be the percentage?

A. 50 percent.

5 Q. Pardon?

A. 50 percent.

Q. And what about the other 50 percent?

A. The other 50 percent is solid wood planks. This is where the sheep are normally shown.

10 Q. Now this footage, this area under page 70 purports to be under the woolshed just going on the caption. What area of the woolshed is represented by this photograph in your estimation?

A. This photo – if we actually turn to in this booklet, I'm not sure which one it's called this booklet here Dan, that one there.

15 Q. That's exhibit, just bear with me. That's exhibit A.

A. Exhibit A.

Q. Yeah.

A. And if we turn to page 6, there is the – it's the woolshed from – look, standing where the hay barn is looking towards it. This photo has been taken at this end where you said it's – where the two windows are underneath there and that's where this photo has been taken. This is an accumulation, we never use it. It's – there could be, there is ducks under there and there's wild cats that go in there sometimes or whatever. It's an accumulation over decades of organic waste of all different animals.

20
25
30 There was never a dog there. This is not, I think he called dog faeces or this was, I think Jess Beer said it was a metre high in dog faeces which is very very exaggerated and not true. These are from the previous owner. These are, I don't know to be really honest, some sort of pipe sort of things, I don't know. It's everything under the woolshed. Things that have left from the previous owner it's over 35 years. It's an area that we just don't use. They did, originally it was built, they had sheep pens, holding pens under this woolshed. So it's between I think one and a half and two metres high off the ground and it's also created in that way that's how they built them, that there's a lot of ventilation and circulation going

5 through the woolshed because when you have a large number of sheep which are a large animal and they are confined in holding pens, say 200 sheep up the top where those few dogs were and pups, they have to be able to breathe well, move well and be – have a good wellbeing for the morning and be dry before the – so that the shearer can share them. So that's really important that they have that circulation of good air whether it's going from – the roof is not quite closed to the walls so there's a gap there, so that you've got an absolute natural circulation.

Q. Now just looking at, we'll go now to –

10 **THE COURT TO WITNESS:**

Q. Sorry to interrupt, but Ms Wallace, could you tell me how long you and your mother have been at the farm?

A. My mother is I think owned the farm around about 35 years.

Q. Okay, thank you, yeah.

15 A. So it's a long time.

EXAMINATION CONTINUES: MR GARDINER

Q. Just going to page 76, that's described as a hay barn. Can you make some comments in relation please to the top photo?

20 A. I certainly can. This is a hay barn with two sliding doors, these doors are kept together with just a bolt, it's on the end of the chain that you left out. The reason why we have that on both ends is so if a cattle they know this is where the hay is, this is where the silage is and they're not dumb.

1050

25 A. They can open the doors if it's not – if the bolt is not put in there, and that's why – it's just very easy, pull out the bolt. This is a 40 foot long hay barn. These double doors that you see, full-length double doors, are exactly the same at the far end so that you're able to drive a tractor through from the beginning right through to the end. You can see there's someone coming out of the hay shed and you can see to the right of him,
30 those indents there that you see are what Mr Plowright did by banging the door 10 times with that concrete –

OBJECTION: MR RADICH – NOT PUT TO MR PLOWRIGHT (10:50:47)**WITNESS:**

But it's on his body camera footage.

EXAMINATION CONTINUES: MR GARDINER

5 Q. We'll leave that for the moment.

A. Okay.

Q. The – so what, we've got – where were you standing, where were you in relation to this hay barn when entry was made into the hay barn?

A. I was not allowed to be there at all. I was kept –

10 Q. That's not what I'm asking. Where were you?

A. I was, um, kept back by the two policemen at the gate where the deer shed is.

Q. Right, so how far away do you estimate that would have been?

A. About 500 metres.

15 Q. Right, and to what extent did you have – were you able to see what was happening outside the deer shed? No, correction, outside the hay barn.

A. The hay barn, um, partially. I did go back to the house and I was very upset about Monty and the policeman said: "Well, if you've got certificates," and I said: "I have certificates." I did go back to get that. I was standing there with a friend, Paula White, who was observing everything but standing with the police.

Q. But when, at what stage were you doing that?

A. Standing there?

Q. Yeah. You mentioned, were you there when the SPCA officers and the animal control officer entered the hay barn?

25

A. No.

Q. Were you there when the – so how long were you actually there and what did you see before and after entry by the SPCA and the animal control officer into the hay barn?

30 A. Um... how long was I there? Um... probably half an hour?

Q. I'm not asking how long you were there, I'm asking you what did you –

A. Sorry.

Q. What did you see before and after? From the position that you were in?

A. From the position, you could see when they brought Ritzer out. I couldn't see them. I briefly saw Pirelli, so that means when they're in the hay shed, that's – not the hay shed, not the hay barn, the woolshed, and probably the – I wasn't there when they were in the deer shed and that's when I was getting the certificates for Monty, so I came back. They'd gone into the woolshed. I didn't see the beginning of that, so I was probably the second half of that.

Q. So just once again, we'll just deal with each situation. Where were you when the SPCA and the animal control officer entered into the hay barn?

A. I would have been – I was at the back where the yards end, where the deer shed is.

Q. Right.

A. There were a lot of vehicles there.

Q. What did you see – where were the vehicles parked?

A. The vehicles were parked closer to the – by the woolshed. There was a vehicle parked by the hay barn. I think there was three to four vehicles in total in this area, this fenced area.

Q. So how many vehicles were there by the hay barn? Correction, by the woolshed?

A. Um...

Q. As best you can recall.

A. As best as I can recall, I believe two.

Q. And how many vehicles were at the hay barn?

A. As far as I can remember, two.

1055

Q. Right.

A. I can't swear that it was two, but I'm pretty sure.

Q. So just to go back, firstly, where were you when entry was made by the SPCA and the animal control officer, or I should say the animal control officer and the SPCA, into the hay barn?

A. I was standing back at the gate.

Q. So to what extent did you see how they affected entry into the barn?

A. I couldn't see the – I could hear but I couldn't see the – I thought he was using a sledgehammer 'cos that's what it sounded like, the banging, and I thought: "Why don't you open it," and I thought that's what he was using. I didn't know that it was a concrete builder's block.

5 Q. Right. So –

THE COURT:

Q. Sorry, you didn't – it was a what?

A. It was a builder's concrete block.

EXAMINATION CONTINUES: MR GARDINER

10 Q. So – and who was using the block?

A. Mr Plowright.

Q. And what else – did you see whether anything else was used?

A. I couldn't see there because the car, the vehicle was parked – I was only just going on listening. The vehicle was parked – the hay barn is here
15 and that – the vehicle was here, so that was preventing me to see what sort of instruments they were using.

Q. So but apart from that – right, so the entry was made into the hay barn and you mentioned that you saw Ritzer being led out?

A. Yes.

20 Q. Can you describe what you saw in relation to Ritzer being led out? When – what – from the time that it came into view for you?

A. Um, all I can remember is she was on, she was walking normally. She wasn't limping. She put her brakes on.

Q. Can you describe what that means? What do you mean by that?

25 A. It's when they stop, they don't want to go with you. They put their weight in their back legs and sort of brake and you give them a little pull, a little help along to continue going forward. She wasn't unhappy, her tail was wagging so she wasn't – she thought she was going somewhere nice but there was no limp, there was no nothing. With the – she had to be slightly
30 – she had to be pulled to go forward and then she just went forward and that would be evident on –

Q. So where was she – I'm sorry, do you want to add anything there?

A. No, I just would have said that would have been evident on that body camera footage.

Q. So where was she taken to?

5 A. She was put in a vehicle which was in front between the woolshed and the deer shed.

Q. Right and where were you at the time?

A. I was with Paula at the gate of – the gate – where the yards are and just before the deer shed.

Q. Right was that gate open or closed?

10 A. It was closed.

Q. Who else was with you?

A. A lady called Paula White, she is a registered emergency nurse at – or at that time, at Middlemore Hospital.

Q. And who else was there?

15 A. There was a policeman. I can't remember if there was one or two, there was a policeman there. I was told I was not allowed to go any further otherwise I'd be arrested and they're just doing their job and, yeah...

1100

20 Q. Now just going back a step, how would a dog normally be put into a vehicle?

A. Depending on the dog and depending on the vehicle, if it's just a normal car or a stationwagon, you just open it up they would jump in and if it's a puppy, you wouldn't let a puppy jump in or jump out. You would lift it up and lift it out. If it's a dog that's just been hurt, I didn't know that at the
25 time that's why I asked, you would lift it up into the car. She was on the left-hand side of the vehicle I remember, yeah.

Q. When you say left-hand side of the vehicle, was that the side of the vehicle – when you looked at the vehicle what side – what part of the vehicle could you see?

30 A. That was the passenger side of the vehicle.

Q. Now this vehicle, did it open at the back or at the side in relation to areas for dogs?

- A. To be really honest, I believe – we were standing at the side and that was open. I don't know if it was at the back, practical it would be, I would think so but I'm not certain.
- Q. So how was, how did, how old is Ritzer?
- 5 A. Ritzer is –
- Q. Well how old was she at the time?
- A. At the time I think just, she was supposed to be going to the same show on that weekend. She's approximately three I think, yes.
- Q. How was she – how was she put into the vehicle?
- 10 A. She was lifted in.
- Q. And how would she normally be put into a vehicle?
- A. Jumping, jumping.
- Q. Jumped in?
- A. Yeah. They loved travelling anywhere.
- 15 Q. Pardon?
- A. They loved travelling anywhere and everywhere. They love their little trips.
- Q. So what was the approximate distance between where you were at closed gate and the vehicle into which Ritzer was put?
- 20 A. Probably 20 to 30 metres.
- Q. When the dog was lifted into the vehicle, what could you see of the actual dog?
- A. I couldn't see, I was extremely upset, I couldn't see much through the tears to be honest.
- 25 Q. You may not have been able to see much, what – can you recall what you could see if anything?
- A. (no audible response 11:03:24).
- Q. Once the dog was lifted into the vehicle, what could you see?
- A. I had Laurie Davis –
- 30 Q. What could you see if anything?
- A. Laurie Davis asked me to come and walk around the vehicle, so probably yes they were – to walk around to the vehicle and identify the dogs and –
- Q. Hold on, when you say the dogs, which dogs are you talking about?
- A. If I remember rightly there were four dogs in there.

Q. And at what stage were you asked to do this?

A. That was after that.

Q. When you say after at what stage of the SPCA visit on this occasion were you asked to do that?

5 A. That was at the end that...

Q. When you actually acted on this request from Inspector Davis, where were you at that particular time and where were the SPCA vehicles?

A. The SPCA vehicles were still parked in front of the woolshed next to the yards and we specifically asked: "Why are you taking Ritzer?" She was
10 in perfect condition and there was no swelling, there was no abrasion, there was no cut, there was no –

1105

Q. Hold on. You, as a result of a request of Inspector Davis, are you saying that you inspected a number of dogs?

15 A. I identified them, yes.

Q. Righto. How soon after Ritzer was taken to the SPCA vehicle by the woolshed was that request made?

A. I can't give you an exact time, I don't know. I can't – I just can't at the moment, um, remember so –

20 Q. What dogs did you look at as a result of the request by Inspector Davis?

A. To be really honest, I don't even remember that. I was so upset about Ritzer that I – at the moment all I can – I just remember asking why, and because she was happy there, she wagged her tail when she saw me, and there was no injury there, or injury that – visual injury that you could
25 see, the skin was intact, there was no hair, it wasn't that the coat or the hair had been rubbed off or removed or it was down to the skin or, um, and that was – both Paula and myself said: "Why?" and if that had – Ms Davis said that she was tangled up in the hay barn. Well, if something – if an animal or a person has been tangled, what you do then is you walk
30 around and you massage that area to get the circulation going, but I didn't know.

Q. Righto, what other dogs did you see, do you recall seeing at that time as a result of the request by Inspector Davis? You mentioned there were four, four dogs.

A. Before was I remember walking around, um... if I remember rightly, I believe that it was Elite, Emma, and a puppy.

Q. Right, and what would you – and how did you see, what was the health of those three dogs as you, in your view on the 13th of October? We'll just say prior to this inspection? What...?

A. They were all in ideal body condition. They were muscled, they had the right weight for their age and their size. They were only puppies and they had – they were in excellent form. Their bones were strong, they'd been given – we put a lot of emphasis on that because they have strong bones, we give them extra liquid calcium which is imported from Australia, it's the most expensive but it is the best, so that they had all the right nutrients from day one, and those puppies all had their ears up, they were all healthy, happy puppies, bright, um, trained and – they were all healthy. They should never, ever have been uplifted.

Q. Right, now just going to the area at the bottom of page 76, there's mention of a dog, Danny, being there. Have you got any comment –

A. Yes.

Q. – can you describe what you see in that particular photograph?

A. Danny was our – he's the litter brother to Debbie, Desney and Dolly. Danny –

Q. So how old would he be, again?

A. Nearly six years old.

Q. Right.

A. Five – five years and 11 months, very youthful boy. He looked after that whole area with the hay shed – with the hay shed – that's in front of the hay shed. He ran free even though there are affidavits saying that he was tethered. He wasn't ever tethered, that was his whole domain. If he wanted to, he could jump over but he didn't, he liked that area. You can see on that photo to the right, if you go up to the middle of the page you can see an iron roof just curved over in front of a tree. Those trees are 60 years old and give a lot of shelter and that's where house was, you could just see the wood.

1110

Q. Yes.

A. It's quite a large house. Dani is at the far end of the photo with Rhys Heatley who has come in from the back and Dani is checking him out. He's a very friendly boy, very healthy boy. With Danny he had been treated with Dermotic ear drops, which is an antibiotic, anti-inflammatory ear drops to soothe and that's lightly massaged in, but it was nothing serious, but with when the weather changes and with the warmth they can sweat in their ears or from food or from ear mites, that's the time when ear mites start to multiply. Ear mites are equivalent to, for people, like nits. We've got a pandemic at the moment for school children and this would be the same, if children had nits that you took them all away and you put them in a foster home and, yeah, take them off their parents. You wouldn't do that, and you don't – to have an ear infection or ear mites or an ear problem that needs cleaning out, that is normal in a life of a dog.

Q. Just on ear infections, what sort of ear infections in your experience can a German Shepherd have? In your experience.

A. In our experience we've been very lucky. They can have, they can get ear mites and that's usually when it's around wood or bark or they're always sniffing on the ground so they could pick up something. That's quite, quite frequent or grass seeds go into their ears, because they are large ears, they're pricked forward and they do sniff a lot. They are tracking dogs, so they are after all different scents. With the – we always have ear drops on hand. If there is any sign of an uncomfortable ear then we treat the dogs immediately. We clean them out and then put the, as we've been taught by our vets, very carefully and never to put any sort of instrument into the ear, just to massage it gently and when I'm doing that I talk to them so that they know it's fine, they can trust us. We've never – if it's a serious ear problem the ears would flop down and they will never, ever go back up again. They will never be erect if it's a serious ear infection problem. We've never had that. We've had wax in their ears, ear mites, they can have a light discharge, you clean the ears out. If you go to a beach you can get sand in their ears, they're always doing something.

Q. Right now which vets did you normally use for things like ear infections?

A. Ear infections we used, it's now called Anexa at Maramarua and we used Takanini Vets and I think we may have used one or two times Great South Vets –

Q. Right.

5 A. – for ear drops, but usually it was the closest, which is Maramarua. That's about 10, 15 minutes away.

Q. Now when Inspector Plowright was giving – you mentioned that, you mentioned that the – Dani, if it wanted to, could have leapt over the fence –

10 A. Mmm.

Q. – and gone.

A. Mmm.

Q. Inspector Plowright did indicate that he didn't think these dogs had the conformation or strength in their hindquarters to be able to leap up over
15 fences.

A. This is where you see that Inspector Plowright has no idea about a working German Shepherd. These are all European bloodlines. They all have to in their training go over two metre high jumps otherwise they – to qualify, to get their obedience qualifications. They need sound hips, very
20 sound construction, their bones need to be strong, they need to be fit, athletic and healthy. Yes, if you have a heavy dog it would have – it wouldn't even attempt to go over any fence or any jump, but these dogs, our dogs, they are moving all the time. They are very active dogs and to say that the hindquarters – Dani, for example, abnormal hips. Dani,
25 Debbie, Desney, Dolly were all x-rayed with 13 months. You only x-ray dogs when they're German Shepherds, when they're 12 months and over because then they're deemed as an adult. Beforehand the joints haven't fused, so –

1115

30 Q. Just getting back to Inspector Plowright, he at one stage referred to his experience of owning German Shepherds and he mentioned that he owned quite a large number with his partner, with that experience with German Shepherds why do you say he didn't, he – to what extent are they different from the German Shepherds that you're talking about here?

A. Put it this way, our German Shepherds are used by the police and if these dogs were not agile, strong and strong hind quarters, they could not bring a man down. They could not jump over any obstacle and what Mr Plowright had I've never seen, but on his description I don't believe they were pedigree German Shepherds. I don't believe they were of quality. I believe that they could've been New Zealand breed, I don't know. This is why we have only European imported bloodline and that has been going since 1962.

Q. We'll just go to page 77, what is that area at the top? What is that depict?

A. This is a little bit, it's a close up. You'll see on the right-hand side of the photo up the top that's Dani running or galloping over to where someone's entering his area. He's guarding his territory and Mr Heatley, I'm not sure if he had a – there was a company at the back there, so Dani knows he's there and so he's galloping to the other gate.

Q. And correction, the gentleman that you're talking about he's at the back of the photo?

A. Yes.

Q. Top part?

A. No, but he knows he can hear or he can smell that he's there and that's where he's going. Even though we have at the front here, these people, so she's going backwards and forwards to one gate to the other and guarding that, protecting that. You can see here we have two people standing here at least, one on the right-hand side of the photo holding the pole with the metal collar that chokes a dog. And here they are talking about a neck collar and here they're using a wire on a pole. So that's a very good comparison and on the left-hand side we have I would say it will be Laurie Davis with her notebook. In front this is – these are posts and wood that we use throughout the farm.

Q. And when you say Dani was guarding that area, why would that be required on a farm?

A. Because we even see those tree stumps, these are 60 year old Australian gum trees and it's opened, it's all opened paddocks and it's to stop anything whether it's, anything coming into that, into close by to the hay barn.

Q. And when you say anything, what do you actually mean?

A. I mean people, I mean possums, rabbits, rats, sheep, anything.

Q. Now just going to the picture at the bottom?

A. Yes.

5 Q. What does that show?

A. This shows on the left-hand side down the bottom, the, both doors, hay barn doors at the front have been opened and if you look at the right-hand side at the far back, it's light, those back doors have been opened.

10 Q. Just to clarify something where you talked about back doors, front doors, going to the photo at the top of page 76, the door that we're looking at there, what – is that the front or back door?

A. That's the front door.

Q. And when you say the back door, where's that situated?

15 A. That is at the end of that building is exactly the same, it's identical and it has identical doors like what you're seeing.

1120

Q. Right. Now you've spoken about light coming in from the front and the back door –

A. Yes.

20 Q. – and that's, and that's reflected at the bottom of page 77?

A. Yes.

Q. Now if both those doors were locked, what light would have been in the barn?

25 A. The light from the skylights. It's a – they're clearlite, probably as wide as this here, metre-width skylights that go over the whole roof of the hay barn.

Q. Right now we had one officer said that, I think, a torch was required to – when entry was made into the hay barn. What do you say to that?

30 A. That's not logical, (a) you've got the natural light coming from above, it's daylight. Light is coming underneath. You can see here from that photo, that's a good photo. You can see the light coming underneath, it's because the ground, rabbits like to go there, everything likes to move around in a hay barn and to get into the hay barn you have to open the doors and we – this is taken at, if I see rightly here, 1318, so it's quarter

past one, I think it was about three – quart – early one o'clock, between one and two o'clock and that is daylight, and you open a door and walk in, it's daylight and for the animals that are inside you couldn't use a hay barn, well, we couldn't. We open the doors and go in. It is light, it's just normal. It's not as bright as outside, yes, that's true.

5

Q. Just to clarify something, you mention – you said that the door, the front doors were secured?

A. Yes.

Q. Can you just spell out why they were secured, explain why they were secured? You did indicate or give a – indicate why that might have been so, but can you just confirm?

10

A. Yes, they are – we could have just closed them, they're hanging doors and we could have – they hang up the top and down the bottom they slide because they are heavy doors and because of the length of them, the size of them, and if they were just closed that would prevent any rain going in. You do have open hay barns, but we have closed so that no rain can go in either end, but the – it was a – not quite as large as this plastic cup. It would be like the bottom of this plastic cup, that would be the size where the bolt went through that you just pulled out. That was on a chain on – which was welded onto the door, so you could see it. It's at, if you look at page 76 where that person that's coming out of the hay barn and if you look on the left-hand side you see his – he has gloves on and if you go up a little bit you can see there is a, like a rod, that has been welded onto the door and the two, the two circular – what do you call them? Like, little pipes, they are on top and then the bolt just fits into both of them. So, one's on one side of the door and one's on the other and they sit together. This is done so – because without it, it was done later, the cows can smell – the beef cattle and horses, but mainly the cows and – can smell the hay or the silage that's in there, but it's mainly hay, and they can push the doors open and that's why we have it, just the latch, that a cow cannot open the door, so it's very easy. We're not big people, it's just easy to open, you just take out the bolt, but you can see the chain hanging on the bolt and the bolt in it.

15

20

25

30

Q. Now you've mentioned cows, livestock, where was the – at this time where were the – was there any livestock in the vicinity?

A. To the left there were deer and to the front of the woolshed there were cattle.

5 Q. Right and what would have impeded, if anything, the cattle going to the woolshed if the doors were open and – with the dogs in there?

A. The dogs would bark and they wouldn't come in.

Q. Right. So why not leave the doors open –

THE COURT:

10 Are you talking about the hay shed?

WITNESS:

Yes.

MR GARDINER:

Yes, that hay barn.

15 **THE COURT:**

You just said the woolshed.

MR GARDINER:

My apologies, your Honour.

THE COURT:

20 So you're talking about cows going into the hay shed?

1125

WITNESS:

Yes.

EXAMINATION CONTINUES: MR GARDINER

25 Q. Yes, sorry, your Honour. So why, if the dogs barked and the – you just described the cows wouldn't go in, why weren't the doors left open?

A. Well, we have some cows that believe, um, from which they are, um, some cows wouldn't mind if the dogs are there. They'd just go around them. Some cows will see them as, um, obstructive. They would go them with their heads and something could happen to them. We wouldn't do that. We wouldn't put any animal at risk, we wouldn't take that risk at all.

Q. Right.

A. And the dogs don't live in there. This isn't their home.

Q. Right, now just on that note, just going to page 77, bottom of the page –

A. Yes.

10 Q. – what's the name of that dog?

A. Oh, page 77. Um, yes, what she – this is Pirelli.

Q. Okay, now just looking at that name, Pirelli, is it spelt – there are various spellings that have been used, not necessarily that I've seen, for Pirelli, one with an I and – one of them ending with an I and the other is here.

15 What was the correct name?

A. The correct spelling is P-I-R-E-L-L-I.

Q. Right, so can you describe what this picture depicts in relation to firstly Parelle and whether he's secured and if so how?

A. Yes, um, this picture depicts – you can see the – not Alkathene, in the middle of the photo, what's it called? Oh, I can't think of the correct terminology for that. It's like a black, um, plastic that's put down on the ground. You can see the hay that they're on, so it's nice and warm and dry. You can see he's on a long – a long, um, lead there. this is right, the positioning, these are the old kennels that have been transported from the kennels, the old kennels that have now been – been – are being – the old kennels, the frames, just the frame where the netting is, the runs, not the – the house part of it, but just the runs, so the two metre long runs, that's why they're open and that's why, as you can see, the door's open and at the end of the runs, the door open, there's no doors, there's no nothing, because it was attached to their wooden houses, so it was just put in there for the meantime and it's right at the front of the door, so you open the hay barn door and you would walk from here to there, so that would be one, two, approximately two and a half, three metres.

30

Q. Right.

A. Here in this photo you can see he's looking, who's coming in, he looks a little bit, um... concerned, um, just from the demeanour in that photo.

Q. So we go over to the –

5 A. But also in that photo you can see Ritzer, and she's at the back there looking, and if someone's come from behind, which they did, opened it up, and from the front, um, and if there is an animal in distress, you immediately drop everything and go to that animal.

Q. Just on that, just looking at the bottom of page 77, where's Ritzer?

A. Take the middle of the photo –

10 Q. Right?

A. – and you can see there is a bucket there lying sideways and the door is open.

Q. Yes.

15 A. You've got one, two, three pipes going down, and if you look at the fourth pipe you can see her looking at you. That's at the end. Can you see that?

Q. Can you point to the –

A. Certainly. There.

Q. And show the judge.

20 **THE COURT:**

Q. So that last rectangle, the head –

A. Yes, yes, and you can see there's a light (**inaudible** 11:29:54) with her ears out looking.

Q. I can see a shape, so yes. And you're saying that's Ritzer?

25 A. Yes.

1130

EXAMINATION CONTINUES: MR GARDINER

Q. So why was Ritzer tethered inside the run as opposed to Parelle which is tethered outside a run, what –

30 A. The door's opened, he's just opened the door.

Q. Right, he has?

A. Yes.

Q. Right.

A. She wouldn't do that, she's very, very sensible, very calm, very loving girl. This is just temporary. The reason why they're tethered there and not just running loose with the doors closed, is (a) they could just dig their way out quickly. If something came in, we had deer right beside the deer shed they would be through into the deer and we're putting their lives at risk. This was just temporary because this girl would've been then if we hadn't been interrupted, she was going to the Bay of Islands show.

Q. And when was that show to be held?

10 A. The next day, Saturday, I was driving in the afternoon.

Q. So and where was that show being held?

A. Kerikeri.

Q. Kerikeri. Now just going back to digging out, can you just comment on the – why you – what that was thought to be at risk if they untethered?

15 A. If they're untethered, if you look where Parelle is, just above his head, you can see a light oval shaped piece of light.

Q. Right.

A. That is sunlight coming through from underneath that's opened and at night, we're on a large farm we do have a lot of natural wildlife whether it's possums because we have fruit trees, whether it's (inaudible 11:31:57), whether it's rabbits, whether it's the peacocks, we don't know what's moving around that doesn't belong to us, what natural animals are moving, we don't know and that's just to – they can just, they will, just cats.

25 Q. Without worrying about wildlife, you mentioned that there were deers there and they would – the dogs if they went out and put their lives, I understood, we'll just clarify this. Did you say the dogs that would put their own lives at risk if they went out (inaudible 11:32:39) and went attacked, went into a deer paddock?

30 A. The dogs would not stand a chance, a deer is all lightening fast and they would immediately come to the dog and they just rear up and they use their front feet and they're dead.

Q. And this is –

A. Just doesn't have a chance at all. They're quiet deer, you know but you never trust it. It's a wild animal.

Q. So how many stags did you have in that paddock?

5 A. It doesn't have to be a stag, the females are very protective they'll protect their young. They'll protect the other females. They're very smart, agile, super fast animals and the stags, that would've one large male stag and there would've been young stags.

Q. Right, now just taking that first dog Parelle, you mentioned he's on a long –

10 **THE COURT ADDRESSES MR GARDINER – TAKING BREAK (11:33:50)**

COURT ADJOURNS: 11.35 AM

COURT RESUMES: 11.52 AM

EXAMINATION CONTINUES: MR GARDINER

- 5 Q. Now Ms Wallace, just going to the page – back to page 78 of the prosecution booklet one, you mentioned the lead – just take the top photograph at page 78, the lead on Parelle, can you just describe the length of that lead again?

WITNESS REFERRED TO PROSECUTION BOOKLET ONE

- A. It's a show lead, so the length would be at least 1 metre 40, plus the neck collar.
- 10 Q. Plus?
- A. Plus the neck collar.
- Q. Now why was it on a short – you've explained why it was tethered.
- A. Yes.
- Q. Why was it on a, what might be described as a short lead?
- 15 A. Well this is a normal length of lead. It's not a short lead. A short lead would be only, what, 50 centimetres.
- Q. Right.
- A. It's – you can see because they're on show leads, they're not on chains or anything like that, that it's just temporary, it's just for that moment in
- 20 time. You can see in the top photo of 78, where that white bucket is and there's little blue stuff on the ground –
- Q. Yes, that's to the left of the – can you just hold up the booklet?
- A. To the left of the –
- Q. And show her Honour.
- 25 A. To the left of the photo.
- Q. And what does that represent?
- A. That's the front. You can see it's only – if it is two or three metres, that's the front of the shed. It's taken from a different angle that you can see.
- Q. Right.
- 30 A. So it was just there because it's – they hay is warm, it's dry for a moment with water and –
- Q. So where is the water container for Parelle?

A. He's knocked it over with all the commotion that's been going on, right beside it, the gate.

Q. Which –

A. You see between –

5 Q. Can you point it out?

A. It's between the Parelle, just there between – that's the door.

1155

THE COURT:

Q. Is that a bucket?

10 A. That's a bucket, yes. It – there's people banging on the doors and all the vehicles coming to the, you know, they're not used to that, coming – they don't know what's going on and suddenly all these people in blue uniforms and everything else, they've got a very good sense of smell, hearing, they can hear them coming from the road, and dogs talk to each
15 other.

EXAMINATION CONTINUES: MR GARDINER

Q. How do they do that?

A. By barking, but there's all different types of barks and they're telling each other what they want to tell them.

20 Q. Just going to – now you mention in photograph, at the bottom, the photograph at the bottom of 78 that Ritzer was in the end cubicle?

A. Yes.

Q. Well, go over the page to top of page 79 and there's a different perspective from that photograph.

25 A. Yes.

Q. So and no dogs showing in the photograph, but Parelle was, where was Parelle situated once again in terms of that photograph?

A. Right in the middle right in the front, right, where there is nothing, you can still see the turned over bucket and the open door.

30 Q. Right.

A. That's where Parelle was.

Q. And can you indicate where Ritzer was going on these photographs?

A. She is four metres away.

Q. Right. At the end?

A. At the other end of the –

Q. Right.

5 A. It was the three kennels.

Q. Right. Now, there – so just going to, we'll go here, we'll come back to that photograph shortly.

A. Mhm.

Q. But just going to the bottom photograph –

10 A. Yes.

Q. – at 79, what does that show?

A. This shows this was taken from this angle, this is Ritzer, you can see her face her ears up against the door. If we went back to page 78 and page 77, it looks like she's sitting up there, but as I was not personally in there, I cannot – it just looks looking at the photo from the height that she's sitting and not lying, but here she's lying down on the ground. Someone is in behind her because you can see that there's a torch light and that's where he's used his torch to highlight it. From the left-hand side if you just go from the top of the photo you can see that white, what looks like white, that's the reflection from the torch on her, so someone's right beside her shining that on her and she looks subdued.

15

20

Q. Right and to the left of the, at the front of that picture, can you describe what that is?

A. I would say that's the, the plastic flooring for the hay shed. The hay shed is fitting out so that the dampness doesn't come from the ground up into the hay because of the lower bales and I would say it looks like that, but yes.

25

Q. And we've got examples going to the top photo at page 79?

A. Yes, yes.

30 Q. And so that carried through into the kennel?

A. Yes, and you can also see there from that photo on page 79, the lower photo with Ritzer, on the left-hand side just a little bit past that black plastic I think it is or it's a container, I'm not sure whether it's a container or the

plastic from this angle, but you can see just above that there's fresh faeces.

Q. Right.

A. Can you see it, it's brown?

5 Q. Yes.

A. And that's from the Royal Canin dry food, that's the colour the faeces is and that is fresh and it hasn't been stood on, it hasn't been distributed in the area, there's only one there and that judging by these photos how she was positioned she could not have done that faeces in that position, she couldn't move here.

10

Q. But there was a suggestion that in the evidence-in-chief, or correction from might've been Mr Plowright that the - or it might've been Dr Beer that the dog could've excreted in that way, one possibility, could've excreted in that way by excreting where from the position it was in and moved the faeces away from it with its feet, what do you say to that?

15

1200

A. Definitely not. If you have a look how – the better photo of it – this is just – I just see it in this – in page 79, it's just, it's highlighted by the torch. If we turn to page 80 you can see it is her right leg that has been tangled. You can see from her positioning there that it is impossible for her to have gone to the toilet there. There is not the room, not the flexibility or possibility, and you can see from the pile of faeces that she's done there, that's a, um... excuse the language or the description of it but that's a total deposit of, um, faeces, number twos.

20

25 Q. Right.

A. And it's in – you can see it hasn't been pushed anywhere or, um, she couldn't push it if her right leg is tangled.

Q. Right, so would you – so what should one infer from the position of the dog, say at the bottom of the page, the photo at the bottom of page 80 and the faeces?

30

A. That tells you that she was not tangled when that was – when she's gone to the toilet.

Q. Right, and looking at that faeces, what age would you give it?

A. It's fresh, um –

Q. Fresh being?

A. Fresh, minutes, five minutes, 10 minutes. It's fresh.

Q. Right, now just going to that lead.

A. Mhm.

5 Q. How long was – it's a rope, it appears to be a rope lead, but just before I get onto that, going to the bottom of page 79 –

A. Yes?

Q. – there's a – what appears to be a mauve thing on the door, which connects to the lead. Can you just explain what that is? Is that a part of
10 a lead?

A. That is part of a lead. That is the handle of the show lead, so I would say it's a combination. I don't know, but that is part of a show lead, yes, the handle.

Q. Righto. Just looking at the lead more specifically on page 80 –

15 A. Yes.

Q. – and in both those photos –

A. Yes.

Q. – evidence was given that it was a rope lead. Can you sort of explain how you, what that lead is? You mentioned a show lead, explain what its composition is, why it was used, and the length of it.
20

A. Um, I couldn't tell you the length of the lead. I did not put her there, so I don't know the lead. Yes, you can see it is a rope lead, and it has a swivel clasp at the end of it, according to this photo. It's a very, very strange photo because this girl was very, um, very sensible, very calm, very
25 loving. You can see here she's not barking or, you know, she can't jump up and down, or something's happened to get to this situation, and it's – my only explanation, because they're taught from a very young age, as puppies, as with experience, to respect a lead. They know what a lead is, they know to relax and they know how, if it is anything, to move around
30 and – or if they get tangled, to untangle themselves, but we have never, ever seen anything like this, and, um, it's not a pup that's done it. You could understand if a pup got tangled up in a lead because it doesn't know for the first time, but not an adult, and um, she had been show-trained. She knows what it is. We saw her, if we go back to –

Q. Page 55?

A. Fifty-five, yes.

Q. Top picture? That's Ritzer.

5 A. There she is there. They know what it is. It's normal, it's nothing – it doesn't matter where it is. They know, oh, okay, we just sit down and rest the we're off. But this is, um, it's just unbelievable and it can only be through – through the commotion or a third person. Something isn't right here because the leg is right up there by her face so she can't move.

1205

10 A. If we look at that photo just objectively, because this has haunted me since I've received this and seen these photos, I have never seen it before or experienced it before and not with this girl, it's not someone – we had – you could have a dog that's nervous or erratic or – it's just very strange and it's also for me very strange, you have people walking in from the
15 back and informing up the front, according to the body camera footage there's two dogs in there.

Q. Right.

A. That means they've been seen and they've – Jess Beer came and looked at the dog and goes back to Parelle. I just don't understand it.

20 Q. Right just going to that top photo at page 80.

A. Yes.

Q. There's a cont – what is that object behind the dog?

A. That's a water container.

Q. Right.

25 A. And that's been tipped over. So there's been – she's obviously been moving around, jumping up. She's – you can see if you look down the bottom she's sat herself up, she's waiting to be untangled, there's no nastiness there, there's no – sometimes, whether it's a person or a dog, if it gets hurt the reaction is to be very defensive.

30 Q. Right.

A. She's not.

Q. So just in terms – you didn't put the dogs here?

A. No.

Q. But why would a dog be – why wouldn't it be, if the dog was on a tether, why would the door have been – to the cage, have been left open?

A. At the back it's all open. I don't know.

Q. Right.

5 A. I can't answer that one.

Q. Okay now just going to page 81.

A. Yes.

10 Q. Do you have any comments to make on – you heard Dr Beer give evidence as to the nature of the – how the lead was around the leg and she described what she was doing in the top photograph at page 81. So what, what comments, if any, do you have to make in relation to firstly the photograph at the top?

15 A. At the top, that's Jess Beer holding quite tightly the stifle. This is the hock, what we call the hock, the last part of the – you have the foot down here and that's the hock and she's pointing to where it has gone round, but she is holding it very firmly there as you can see, then they – you can see that the coat, it hasn't – what's interesting with that photo as well, if this had been for a length of time, the hair on that leg would have been rubbed off and that's very important. This – if you wait, she shakes herself, she stretches her leg if we go further on –

20 Q. So we're, are we moving from page 81 to page 82 now?

A. Yes, we are.

Q. Right.

25 A. 81, I think that's probably the end of whatever, I don't know. You can see the reaction, she's on three legs, she stretches out her leg, that's a normal reaction.

Q. We're looking at the photo –

A. Up the top.

Q. – at the top of page 82.

30 A. Yes, page 82. Yes.

Q. And is that lead that the officer is leading the dog, is that one of – is that your lead or is it –

A. That's actually a calving rope.

Q. Right.

A. And it is ours and I don't know where he's got it from, but it is a calving rope.

Q. Right.

A. I don't know. It's Rhys Heatley, yes.

5 Q. So she's – the dog is – so what –

A. She's friendly, she's walking out –

Q. Can you describe the posture of the dog and the inference that might –

A. Yes, yes.

Q. – be – that you draw from it?

10 A. Yes, yes. You can see, we'll take the top picture, she's on three feet, her ears are forward, she's – you can see she's concentrating. You can see from looking up her back line that she's in very good condition. I would say probably about 28 kilos. Her coat is a very nice coat.

1210

15 A. She's stretching that back leg up because she's been in a cramped position as we saw in the photos on page 80, that leg is up the front so it is an automatic natural reaction to stretch that leg right the way back and to get the blood flowing again. And she's been waiting there, you can see she's waited and let that person whoever attended her, Mr Heatley and
20 someone else, I don't know to take her out. He walks her out, he doesn't carry her out. So it shows that she is friendly, capable, healthy in other respects and walked out. When she comes – I'll go up to that in a minute. So if we go then to – so the caption on the top of the page indicates that it's not light bearing?

25 A. That's just a typical reaction to stretch out that back leg which has been in an unnatural position up the front like that. That is a very good sign that she's thinking and balancing herself.

Q. So just looking that we've got those pictures there, that when we go to page 83?

30 A. Yes.

Q. That – so what do you infer given the situation at page 82, what do you infer from the photograph at the top of page 83?

A. 83 and 84 would've been –

Q. Just focus on 83.

A. On 83, sorry I didn't mean to say 84, I meant 83, page 83. The top, I meant the pictures 3 and 4 so that's why I spoke wrong, the still photo taken from a video on a phone from Mr Plowright. If they're taken and give it another millisecond, you would've seen that foot on the floor, but if you look at (inaudible 12:12:07) four, that foot is higher up than it is on 3 and that's when she puts her leg down and she was walking, people saw it on TV wagging her tail, looking around at all the people that were around her.

Q. And there was Dr Hardcastle gave some evidence in relation to that issue, but just moving forward, on the 24th of October, I'll go back a step. When was to your knowledge was Ritzer euthanised?

A. She was euthanised on the 27th I think of October. This is taken on the 13th of October.

Q. No, no, these photographs they've got the caption on the top, 24th of October?

A. Yes, that's 24th of October. This is after she's been literally to a two weeks in the SPCA care. So if we take it back to page 83 or page 82 where they saw the (inaudible 12:13:24) where there was no – well I only saw it in the car where there was no indentation but you see here, there's no cut, there's no bleeding, there's no bruising that you can see, there's no –

Q. That's at page, page 81?

A. 81, there's no – that the fur has been rubbed away so that you can only see a bare skin. There's none of that there. Then she's in the care of the SPCA so she was taken to the SPCA on the 13th. Normally here you would've brought this little girl around and you would've massaged that area where it had been – where the blood had been cut off or held tight but this didn't happen. She didn't look serious in the vehicle from Ms Davis when I saw her, but they saw her, Ms Davis saw her in there and so did Jess Beer. She was not given antibiotics as Jess Beer said straight away, no that did not come until four days later. She received a full veterinary examination on the Monday. She wasn't deemed serious enough to do that immediately on the Friday of – on the 13th of October 2017. She was veterinary checked on the 16th of the – 10th of 2017, full

examination. Then on the 18th of October 2017, she was given, if I remember correctly on the 16th.

1215

A. If I remember correctly, I haven't got the medical records in front of me at the moment, but on the 16th of October she was – had a full veterinary check by Jess Beer and in the care from – from Friday till Monday, she got a – what we call a strep bug in the SPCA. You can have it in people, in hospitals, you can – obviously there have it, unfortunately. It is one of the most deadliest bacterias there are. It's what we call a flesh-eating disease bug and Jess Beer treated her, she has noted that, she has treated her for that, gave her antibiotics, but the antibiotic amount, in my opinion, in our experience, was not strong enough. She had, um, one and a half tablets, the tablets were 250 milligrams of antibiotics, morning and night, so that is –

15 **OBJECTION: MR RADICH – NOT EXPERT EVIDENCE (12:16:19)**

LEGAL DISCUSSION – WEIGHT OF EVIDENCE (12:17:00)

EXAMINATION CONTINUES: MR GARDINER

Q. So just going on, so you've –

A. Just – just going on, um, from the 18th – she was checked again from the 20 18th. She was checked on the 18th but she was not veterinary checked from the 18th, that's six days, till the 24th. And here on the 24th we see that she now has an open wound at the back of the hock, so it's a tendon, it's an important tendon, it's like if – a thigh muscle for us or a – a tendon for us, or the calf, that would probably be the better one, the calf tendons, 25 um, and as you can see here, how this bacteria has taken over.

Q. Right.

A. So if she had had a strong dosage right to begin with, in our opinion, in my opinion, it might not have been a deadly – a death sentence.

Q. Right, now just in terms of the dogs that were uplifted, I just want to ask you some questions about – how many dogs were uplifted on this day? 30

A. There were 15 – there were a total of 15 German Shepherds uplifted.

Q. Right, and I'll take them not necessarily in the order in which they were dealt with, but I'll go through the dogs that were uplifted and just ask you, where I haven't covered these already, what you consider their health position to be. Now, we've covered Monty, so we won't address him, righto?

5

A. Right. May I just say, for the 15 dogs, there were 10 adults and five pups.

Q. Right, say again?

A. There were 10 adults and five pups.

Q. Pups?

10

A. Puppies, yes.

Q. Righto, so far you've commented, you've expressed a view, I believe, on Monty.

A. Yes.

Q. Astro, Dolly and Mafia.

15

A. Yes.

Q. Casper.

A. Yes.

Q. Debbie.

A. I didn't – with Debbie, I think it's important because we – I was told that Debbie was underweight.

20

1220

Q. Right.

A. And Debbie was an adult bitch, five, five years and 11 months and she was, I think, about two and a half weeks in whelp, or three weeks in whelp.

25

It could – three, three and a half and – at the time, and she weighed 30 kilos plus and that is not underweight. She was healthy, she was strong, had vitality, there was nothing wrong with Debbie.

Q. Right well we've covered, just in summary, so far you've commented on the health of – condition, as you saw it, of Monty?

30

A. Yes.

Q. Astro?

A. Yes.

Q. Dolly and Mafia? Casper?

A. Yes.

Q. Debbie?

A. Yes.

Q. Ritzer?

A. Yes.

5 Q. Desney?

A. We haven't covered her. Have we covered her health?

Q. I'm not sure, well, what was the condition of Desney? Health – her body condition?

10 A. Her body condition, her body weight, Desney would have weighed about 26, 27 kilos when she was uplifted. She was in perfect, ideal weight.

Q. Right.

15 A. Certainly not underweight. She'd just had a change of food, we'd put her on a different diet which she reacted to, so we were conditioning her back to the original food that we had her on, but she was healthy, her eyes, her nose, all the – everything about her. She was well-muscled. She was – had vitality. No, she was a very strong, healthy bitch.

Q. And how old was she?

20 A. Five years and 11 months, so nearly six years old. She looked very youthful. Jess Beer thought she was only about two or three or whatever, which shows that she's been well looked after to – if someone just looks at her and thinks: "Oh well, that's a young bitch," which we took pride in.

Q. Right now at the time was Desney receiving any treatment? And if so, for what?

25 A. Desney was receiving Dermotic or Dermotic ear drops. They are – it's an antibiotic, anti-inflammatory ear drop, which is lightly massaged into the ears.

Q. Right.

30 A. Now on that note, because it said, you know, that she shook her head or Debbie – shook their heads, that is a normal reaction if anything's – in any dog, any puppy they, when they go on a lead and get out, they will shake themselves. They will shake their heads, shake everything, everything, their coat to the end of their tail. It's a normal behavioural reaction.

Q. Right now you've covered – you did comment on the health of Elite, Puppy and Emma?

A. Mhm.

5 Q. Perhaps you just might recap what their – you saw their body condition as being?

A. They had just got their adult coat, they were looking super, they were an ideal athletic weight for their age, for their size. They had had a lot of extra nutrients to look that way. They were fit, they were 1,000 per cent healthy in every respect.

10 Q. Right now you also address the sta – condition of, body condition of Dani?

A. Yes, Dani was –

Q. No, we won't repeat.

A. Mhm, okay.

Q. We've covered Ritzer?

15 A. Okay.

Q. And I'll just – Parelle, can you just comment on him briefly?

A. Yes, Parelle did greet everyone coming in. He was in lovely condition. He was just getting his new coat which you could see. Very happy, very bright and alert. He was very excited and in good condition, healthy condition, healthy eyes, nose, mouth, not dehydrated, fit. A happy, healthy boy, how he should be. He had perfect hips. He had been x-rayed, absolutely perfect hips...

1225

Q. And how old was –

25 A. And he was a champion.

Q. Yes. And how old was Parelle again?

A. Parelle, he was just about three if I remember rightly, he could've been three and he is the little brother to Paris.

Q. Right.

30 A. And both parents are imported world champions, one from Italy, one from Germany.

Q. Right, now we had a dog called Zita which reference has been made. Is that the same dog which is also described in different place as Cieta, C-I-E-T-A?

A. Yes, that's been the spelling or the interpretation from the SPCA as we call her Cieta and they have written that down as a Z, but it is C-I-E-T-A.

Q. Can you describe what her body condition was?

5 A. Yes. Cieta was a little girl. Cieta was from height she's on the lower range. She was 56 centimetres high and a German Shepherd bitch can be from 55 to 60. She was for her size and for her age in excellent condition, maybe a fraction too heavy, but she was in excellent condition, good coat, clear eyes, wet nose, healthy, alert, bright, nothing wrong with her, no injuries, certainly not underweight as described. That is just
10 people that don't really know about German Shepherds, real German Shepherds.

Q. Right, we'll come back to that in a moment. Now just in relation to the two dogs that were pregnant, bitches that were pregnant were?

15 A. They were Debbie and Desney, both litter sisters, litter sisters to Danny and to Dolly.

Q. And both those dogs later had litters with the SPCA as a result of the seizure?

20 A. In result, both bitches to prove that they were very healthy, both bitches in an older stage of their life in comparison to human years they'd be around about 42 years old. Both conceived and this is their second litter in their lifetime, both conceived large litters, one had 10 puppies and one had 11 puppies, and –

25 Q. Now just in relation to point, Dr Beer, I asked some questions of Dr Beer in this area and they related to, and it was along the lines that with a – if a dog was capable of having a large litter that in somehow reflected its health condition and she disagreed, said that wasn't necessary so or words to that effect. What's your view in relation to that point?

A. To that point –

Q. Yes.

30 A. – that shows exactly that Dr Beer is a veterinary and we are breeders, and when it comes –breeders of German Shepherds combined, you're looking at a 100 years of experience that's been over six decades. That's a long time and a lot of experience. With the large litters, no, if, the bitch is not healthy, she will not conceive at all, there will be no litter or maybe

one, but usually not at all, she just won't conceive. She just shuts down, that's it. Jess Beer was referring to mongrels that she or street kids that we call them fondly that come into the or that are swept off the streets, wherever, whether it was in, I don't know if she's talking about New Zealand or Europe, she didn't give any exact detail, she just said that she'd experienced mongrels having large litters. With a large litter, if we look at Debbie and Desney, all of those pups when they were born were strong healthy puppies despite that Debbie and Desney had been put under so many drugs, they had been x-rayed three or four times during the pregnancy which you never do –

Q. We don't need to go down that track, but the point is that they had large litters?

1230

A. They had large litters and they could – and their good health, the strength that they took is reflected in their healthy litters that they brought into this world.

Q. Right now what we'd like – I'd like to do now, is just go to the booklet that relates to the 17th, I'm just trying to find it, 17th of May 2018.

A. 18th of May?

Q. 18th of May, my apologies.

A. 18th of May. Right, I'll get that one.

Q. Just go – if you can just – we've had evidence given by Dr Dryer in relation to these dogs and their condition when they came into the SPCA. I'll just – perhaps before we discuss the condition, can you – we'll deal with the incident on the 18th of May. On this morning you – there was a – no, I'll go back a step. I'm out of sequence. I'm sorry. I'll just go back and I'll just ask you some – one further – I just want to look at the notice that was issued in relation to the 13th of May, correction, the 13th of October.

THE COURT ADDRESSES MR GARDINER – DATE CORRECTION

(12:32:04)

EXAMINATION CONTINUES: MR GARDINER

Q. That's at page 86. I was just getting ahead of myself with the 18th of May, but we're nearly there. Right, I won't go through it specifically. Perhaps I'll ask the defendant just to comment on that notice and that way perhaps expedite matters, your Honour. Have you got that page 86 in front of you?

A. Yes, I have.

Q. Now can you just go – comment, comment firstly on the inspe – what the inspection consisted of? See the first three lines under, "my inspection indicated"?

A. Oh, yeah, my inspection. It states: "53 German Shepherd dogs. Ages – various ages. Two, three, four and a half week old pups living in dirty conditions, exposed to ammonia, an inadequate shelter, no water, ear infections, skin conditions and underweight."

Q. Right.

A. None of these dogs were underweight.

Q. Well just in relation to each of the propositions in that statement, what do you say?

A. "Front property runs. Two adults. One female with matted coat." We didn't have any matted coats. It's not correct: "Dirty fur and dirty conditions." As the photo showed, when these dogs were picked up on the 13th and all of them said they are clean conditions, even Inspector Davies said: "Oh, should we leave them," and Mr Plowright said: "No, we'll take them all."

Q. Just going on to the crated dog.

A. Yes.

Q. What's your comment? They make – there's an assertion there. What – do you accept it or?

A. Would you mind reading it to me please? Because, I'm sorry, it's just I'm using a magnifying glass and it's not so good.

Q. Right, it says: "Any crated dog must not be crated for any longer than one hour." What do you say to that?

1235

A. I say – what do I say to that? It's absolutely – it's a personal preference of Mr Plowright. It is not according to best practice or recommended practice from the code of welfare or from MPI. Our dogs don't live in the crates, it's only training, but it is – it contradicts what the SPCA put on their own website, encouraging people to buy crates to teach their dogs to crate overnight, and a night is more than one hour.

Q. Righto, it says, the next point: "Every dog must have access to fresh water."

A. All our dogs have fresh water.

10 Q. Right.

A. And we have – it's not only in their pens, we have water troughs in every paddock, we have bowls, all scattered round fence lines, everywhere, there's always water everywhere.

Q. A suitable sleeping area free from urine and faeces.

15 A. On the 13th of October 2017, there wasn't anything in any one of the areas, so this is – this is actually not – this AWS what is written here is not describing the 13th of October 2017 when these dogs were picked up.

Q. Right, but it also relates to the inspection on the 12th of October, the day before.

20 A. On the 12th of October, no AWS was given, no mention was given, no dogs were taken. If it was so terrible, then why weren't the dogs taken immediately?

Q. Right –

A. That would have been, um... it would have been – if that was correct, it's not correct, but if that was their opinion and they felt so strongly about it, that should have been done, but to take healthy dogs and to select these healthy dogs, that's not – that's, um, not lawful, it's not according to the Animal Welfare Act.

Q. Now, it's said that the woolshed flooring is not suitable for housing dogs due to the risk of injury. What do you say to that?

30 A. I say, um, that it is – we haven't had anything injured in the woolshed, any type of animal. We don't – it was a temporary – all these were temporary measures and we don't have dogs in the woolshed. That was just while, um, temporary while the kennels were being completed.

Q. Right, a suitable sleeping area free from urine and faeces. You didn't really respond to that.

5 A. Each one of our dogs, if they're in a kennel, they have a house which is separate to the kennel where they're moving up and down. They are free from faeces. If the dogs (**inaudible** 12:38:14) they're not living in urine and faeces inside. If they're running loose in a paddock or around the lawn, they're certainly not living in faeces and urine.

10 Q. Now, there were also comments in relation to tethering and normal – exhibiting normal behaviour, but you've already commented on those points in relation to – previously. Do you want to add anything now?

15 A. Yes, our dogs have exemplary and they're known for their exemplary friendly – maybe too friendly, actually – friendly behaviour. They are well – they have a very enriched life, they have a natural life, we do take them into the city so they get used to that life, but they are, um, well adapted and have a very rich life. The reason why a toy is created, it is an artificial tool. It is far better to have a stick – maybe a toy at the end of a stick to play with. To have more natural games and use their natural instincts, how we train them, as working dogs.

20 Q. Right, just going back to the point, I might have missed it, the suitable sleeping area free from urine and faeces. In a nutshell, what do you say in relation to this – that criticism which relates to beds, just say, for argument's sake, we'll say the inspection of the 12th –

A. Yes.

25 Q. – and the further inspection of the 13th of October. What do you say to that?

1240

30 A. What do I say to that? It's interesting they did not take any photos of the houses, the kennelling. They said they didn't have any and then it was changed. The kennelling was free of faeces and that was from that day. It hadn't been water blasted, they came in the afternoon, it was mid-afternoon. No, it wasn't, I think it was 1 o'clock actually. We were, as I explained what happened with the water blaster, that was one day, a moment in time and our dogs don't live in faeces. It sounds shocking and that is not the case. We couldn't do that. Dogs go to the toilet, they go

to the toilet numerous times, it's normal like people. Every dog has a different metabolism depending on its age, what it's doing, sex, hormonal status. You can't tell a dog it's only allowed to go once and that's got to be at 8 o'clock in the morning and that's cleaned away and everything stays perfect.

5

Q. Now just as a general comment?

A. Yes.

Q. This argument that the dogs were lacking nutrition, well underweight, inference corollary of that is lacking suitable nutrition. What do you say to that specifically? It's been explored before but I just want you to say, to address the issue of what is overweight and underweight in your view in terms of German Shepherds?

10

A. German Shepherds have specific weights because we don't want a heavy dog on their bone structure. They're not same (inaudible 12:41:38) that have a big heavy body mass. They're athletic, yeah they're athletes. The specific weights are for a bitch between 22 kilos and 30 maximum 32 kilos and that's from 55 centimetres of height to 60 centimetres of height. A male ranges from 30, fully grown adult, not a puppy. From 30 kilos to 40 kilos. It has a (inaudible 12:42:19) height of 60 centimetres to 65. If you're putting more weight on those bones, you're actually making them obese and this has been researched by the best specialist in the world. These are world guidelines. It's nothing that we made up. We just listened to it and take that on board and our own experience shows that is how it should be according to the Code of Welfare. If we look at that, it says, it shows photos 1 to 5 of how – on page 40. If a dog is just in a family it's not moving around much, it doesn't need much, but our dogs we require a lot. We do a lot with them and that's why their form, their shape, their – whether their mental astuteness it almost be – they need very high protein, good nutrition to be able to be an athlete. It's like if you take an Olympian, they don't eat the same food that a normal person will eat in the city. They just wouldn't do that. They can't. It's a very specific nutrition that is balanced with all the nutrients they need, nutrients that help their muscles that send oxygen down into their muscles over a long period of time and that's why we spend so much buying the very best dry

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food and we have it mixed together with, so it's not just dry food. We mix it together with beef and –

Q. I just want to tidy – have you got anything material further to add on that?

5 A. If you look at page 40 on the Code of Welfare, you can see how it's important to have that waistline, to have the tuck, not to be – have a covering of fat and our dogs were all in perfect condition.

Q. Now just on you talk about the Code of Welfare here, the SPCA appears to use a Purina, P-U-R-I-N-A?

A. Yes.

10 1245

Q. A scale ranging from 1 to 9, what do you say in relation to that in terms of the assessment body condition?

15 A. First of all we need to establish Purina is one the largest manufacturers of dry food. So Purina looks into things I would say very, they're objective is to sell food, worldwide. If we look at, it's good that you've mentioned that with 1 to 9. If we look at the animal welfare, code of welfare from 2010, this says "Source, Purina Cat Care Centre" and remember there's a different between pets.

Q. Excuse me. Where is that notice?

20 A. Page 40.

Q. Yes, and where on page 40?

A. And down at the bottom underneath 5 in brackets.

Q. Right.

A. Do you see it?

25 Q. Under the last dog on that list?

A. Mhm. On the right-hand side of the page.

Q. Right. So you were saying, can you –

30 A. Well, they've also sourced these photos from Purina and it's 1 to 5 and if I remember rightly, Mr Hardcastle said a few days ago, he used a body condition of the dogs 1 to 5 and said Ritzer was 3 out of 5, so she had an ideal body condition and which is quite remarkable under those circumstances that she was in.

Q. Right. So to what extent do you reckon – are you able from your own personal knowledge to reconcile the scale of 1 to 9 with the code,

minimum code and this particular appendix which appears to be sourced to which is Sourced Purina Pet Care Centre, can you reconcile the scale of 1 to 9 with that and the approach adopted by Mr Hardcastle?

5 A. Well, this has deemed a normal body condition score that generally everyone use 1 to 5, 1 to 9, that body condition score, that's something that the SPCA or Jess Beer uses, that is quite foreign to us.

10 Q. Right. Now just putting that aside, we'll just go to the 18th of May 2018. Now on that date various dogs were seized. I just wanted to deal firstly with the visit by the SPCA to the property on that date. Can you just describe what occurred in terms of the visit at your property from the arrival of SPCA personnel?

15 A. Yes, I was cleaning, I was in the middle of cleaning the kennels and this particular morning I was taking my time and actually cleaning the kennels with a substance called Vercon which I had been recommended which is used in hospitals, so I wanted to try it out and you have to spray it on the surface. You leave it for a certain amount of time and then it's washed off, and you can do it once a month, once a week or however you want to do it. I was just trialling that because I was trying to use the best products that are available on the market, and so that's what I was doing and water
20 blasting and hand scrubbing the various walls or every inch of the kennel. So every inch was sprayed with Vercon which is spelt V-E-R-C-O-N I believe.

Q. Now, prior to and how was the principal officer who arrived on behalf of the SPCA on the morning?

25 1250

A. Ms Davies.

Q. Right and when did they arrive?

A. I think she arrived around about 11 o'clock if I remember rightly.

Q. And how many other officers were with her?

30 A. Um...

Q. Well, more or less.

A. More or less. I believe – I can't say exactly, I don't remember. I'd say three or four, could be five.

Q. Now earlier in the day your – when did your day start on this particular day?

A. My – I have early starts, I'm a morning person and I get up generally around about four o'clock in the morning and having electricity in the woolshed and in the implement and floodlights, garage and over the kennels, it enables me to make an early start so what – if I want to do it fair, each day is different but I like to, if I'm doing solid training with the dogs, I like to do it early in the morning, so we have a – the temperatures are not hot, so it's easier on the dogs and it's better for them and I – so I started with the woolshed and started with various other places and then I took my dogs that I'm training, we went up the –

Q. Just before you go, who – which dogs were these?

A. This was Antonio, Tiffany, Anelly, Image, Tiana and Princess.

Q. Right so what did you do with these dogs?

A. Well first of all we have fun and with the bike, as soon as they hear the bike, they're ready to go.

Q. Hold on. When you describe the bike, what are we talking about?

A. We're talking about a four-wheeled quad bike.

Q. Right, just going to exhibit D. This relates to the 18th of May. What is that, what's that vehicle behind the two officers?

A. That is the quad bike.

Q. This is – that's the one, red?

A. I haven't got it in front of me but that is the quad bike.

Q. Okay so when you talk about quad bike on this particular, earlier this particular morning, that was the quad bike?

A. Yes, that's the quad bike.

Q. Can you describe what – how you – what you did?

A. Yes.

Q. And first of all, when did you do this?

A. When I went, first of all I took – I put in the front of the quad bike, we have a plastic, it's a very heavy plastic, it's like a container with a lid on that we can take tools or whatever we want on the bike and I put into that four thou – Royal Canin 4800 dry food. I had it in a plastic bag for the dogs. I use it in various ways, that's their food, but also if I'm wanting them to

get used to tracking I'll put a few on the ground so that they sniff and follow the food. It's a game. So I put in the front of the bike 4800 and I also had cotton wool, they're actually used for people, eye pads, to take off makeup, makeup removers, and I had a small bottle of water which I had boiled and so it was sterile for when I – that was in the plastic container. I then had leads with me, their show leads, long leads and –

5

Q. How long were each of these?

A. They were between – they were different sizes between 140, two metres, different length, but show leads, but I had two different lengths, so I have one close beside me and one a little bit further away when I had them on the leads to begin with because we've got so many animals around the house, whether it's ducks, turkeys, anything. I like to have to dogs on the leads because they get very excited, they know they're off – know that's their training time and we went through one, two paddocks up to, not the middle but probably about – took us about five, eight minutes, ten minutes, then across and because I like to do hill work with them so that they're using their hindquarters and once they've got past these two paddocks I let them off.

10

15

Q. I just want to ask you about, you described you went through two or three paddocks.

20

A. Yes.

Q. Is that right?

A. Mhm.

Q. Did that involve opening and closing gates?

25

A. There was one gate.

Q. Right.

A. Because we have tracks that we use to access all the paddocks.

Q. Can you describe the terrain that you were driving through?

A. Yes, it's – some of it's clay, some of it's grass, some of it's stones that have been put on the tracks. What else is there? Those three.

30

Q. Are we talking about flat terrain or are we talking about hills or a combination of both?

A. We're talk – we start – it's a combination of both. We're starting off flat and then we're – have a slight rise.

Q. So you drove for eight minutes and then what did you do?

A. I let the – I had two running loose and I had the others on – one side is tied to the bike and the other side I am holding and – the younger ones, and we have a dam which is right at the centre of the property. They love swimming so we have, we had a little bit of a swim. This is early in the morning because – and then from there –

Q. Hold on, at about what time in the morning?

A. We're looking at about half past seven give or take.

Q. Right.

10 A. We – it could have been quarter past seven.

**THE COURT ADDRESSES MR GARDINER – PAUSE FOR ADJOURNMENT
(12:57:11)**

COURT ADJOURNS: 12.57 PM

15

COURT RESUMES: 2.18 PM**EXAMINATION CONTINUES: MR GARDINER**

- Q. Now Ms Wallace, just before the break you were describing how you left the farm on the – this is on the – make sure I've got the right book – on the 18th of May 2018, early morning. I think you said at what time? About 7.15 was – have I got that –
- 5
- A. Actually, it's probably when I was up there at about – I thought I was up there about 7.30.
- Q. Right.
- 10 A. So I'd – I didn't leave the farm, I stayed on the farm. I just left the, um, home – the home –
- Q. Right.
- A. – and went up, but I was still on the farm.
- Q. Righto, and you were driving on the quad bike?
- 15 A. I was driving the quad bike, yes.
- Q. And could you just pick up who was with you – I'm referring to who was with you.
- A. The – I had Antonio, I had Image, I had Tiffany, I had Nellie, Princess and Tiana.
- 20 Q. Righto, and some of those dogs, you've mentioned, were on a lead.
- A. On leads, yes.
- Q. Who were they?
- A. I had Princess on a lead 'cos she's the younger girl, um, just so she's not as well trained as the others, and naturally Tiffany, and then I had –
- 25 Antonio was running loose, that's the male, and I had Anelly. Yeah, Anelly.
- Q. So that's four, isn't it?
- A. Yeah, I only had four on a lead.
- Q. Oh, four on the lead –
- 30 A. Yeah, and the others –
- Q. – and who was running loose?
- A. – the others were just sort of running loose.
- Q. So how many dogs in total?

A. A total of six dogs.

Q. Righto, can you describe – you left the homestead –

A. Yes.

Q. – on the quad bike with the dogs –

5 A. Yes.

Q. Can you describe the route –

THE COURT:

Q. Sorry, I just got confused. Who was on a lead and who wasn't? You said Antonio was loose.

10 A. Antonio was running free.

Q. Running, so not on a lead?

A. Yeah.

Q. And who was the other dog?

A. And Image.

15 Q. And Image, and the others on leashes?

A. Yes.

EXAMINATION CONTINUES: MR GARDINER

Q. And just what – how did you make a decision as to which dog to put on a leash and which to let run free?

20 A. With Princess, she's young and she's learning, so she's learning from the others, and we are actually gaiting, that means we are trotting, and I wanted them to extend. Tiffany, I had just shown at Easter so a few weeks prior for the time, so she was fit, but she's had that chemical, um, concoction thrown on her so that the hair lifted on her croup, so she
25 wouldn't be shown but I wanted to keep her fit so when it did grow that I could then show her, and Tiana, Tiana was just... Tiana, was she, I think she was just, I think probably about two weeks in whelp, two or three weeks, and, um, Nellie, well, Nellie, she can't wait to be on the lead. They're just – they were really more to teach Tiffany and to teach
30 Princess.

Q. Okay, so you're driving on the quad bike, you've got some dogs on lead, some not, you're driving up the farm.

A. Yes.

Q. You mentioned prior to the break that the terrain was of a certain nature and it sloped upwards, it went upwards?

5 A. Yes, it's flat, slightly undulating, then there's a little dip and then, um, till we get to the dam, I didn't let Tiffany swim but the others love it, and after that –

Q. Just hold on. So how long did it take you to get to the dam that you referred to?

A. I'm guessing a maximum of about seven minutes.

10 Q. Right, and –

A. Seven or eight minutes, it could be six minutes.

Q. What distance would you have travelled?

A. Um, probably about... three quarters of a kilometre, a kilometre.

Q. Right.

15 A. I don't know.

Q. So where is the dam situated?

A. The dam is actually half way.

Q. Half way to what?

20 A. Half way to where we were going, because they go to different – different positions up there. It's never the same place, but that day, it's about half way.

Q. I know –

A. So it's a –

Q. I'm sorry. When you mention the dam, what is the dam damming?

25 A. Oh, the dam, for us it is, it's surrounded in clay and it's full of water.

Q. Right.

A. And usually the only things that are on the dam are wild Canadian geese, and there'll be some frogs and whatever else, but it's a dam of water.

Q. So how big is the dam, is the area which is blocked by the dam?

30 A. Oh.

Q. The area of water, expanse of water –

A. The expanse of water would be as big as this room.

Q. Right.

A. Yep. And there's also wild ducks there.

Q. And how long is the dam?

A. Mmm.

Q. Roughly.

5 A. Oh, there's two dams, a little one and a big one, but the big one would be at least – would be the length of this room.

Q. Righto, and that's –

A. So that would be three, four, five...

Q. Can you stand behind – excuse me – going from – would you stand behind the screen when you're giving evidence, please?

10 A. Sorry, yes. It'll be probably a good 15 metres long.

Q. Right, and that's the small dam or big?

A. No, that's the big dam.

Q. And the small dam?

A. The small dam would be half the room.

15 Q. Right, and where would the dogs – where were you and the dogs?

A. We were driving along the large dam.

Q. Righto, and what was the point of going to the dam?

A. Swimming is very good for their back muscles and for all of their muscles in their body, and they love it.

20 Q. Righto.

A. So it's a treat.

1425

Q. How many dogs went for a swim?

A. Out of the six, five would've gone in.

25 Q. And what about – what was the dog that didn't go up?

A. Tiffany didn't go in.

Q. And was there any particular reason at the time why she didn't go in?

30 A. Yes, I didn't want her going in in the water because I put Neosoothe on her croup where the hair had lifted and that was healing very nicely and the hair was coming and I didn't want it to be aggravated by water or anything that could be in the water which I don't know of but I didn't want to take the chance.

Q. So how long did you spend at the dam with the dogs swimming?

A. We would've been only there five minutes.

Q. So where did you go? You went somewhere else after that?

A. Yes I did.

Q. Where did you go?

5 A. They'd come out of the dam, shake themselves a couple of times. It's then a hill going up and I let them, those ones to gallop up which is good so that they're really stretching out and then that's where we have a gate –

Q. Hold on, now just going back you mentioned you let those ones do certain things and what do you mean by those ones as opposed to the others?

10 A. The – well they were loose.

Q. They being who?

A. The five that were swimming.

Q. And what about Tiffany?

A. No, Tiffany was beside the bike.

15 Q. And was she on a lead?

A. She was on a lead.

Q. So where did those ones, the other five, where did they go?

20 A. They followed the bike and we went up the hill, we then went along the ridge and onto a track that's been excavated all the way through which is my favourite place to a, it used to be a quarry, it's Bassott Rock and it's right next to a little stream with a little waterfall and surrounded by (inaudible 14:27:06) and there's Kauri trees. There's also Manuka trees it's an old little area.

25 Q. So you went to the stream there's a waterfall, is this the same – was that other, the vans are they serviced by a stream?

A. They're serviced by another stream.

Q. Another stream.

A. Not this one.

Q. So you've gone to another stream, waterfall surrounded by –

30 A. Trees.

Q. – trees, you mentioned some of the trees?

A. Yes.

Q. So what happened then?

A. That's the resting area then I have attached on various positions for the dogs 'cos I don't want to take chains up and down. I had them attached, they were two metre point, four seven in length, light chains and I positioned each one close by to the stream after being through there, they'd been through the stream and –

Q. No, excuse me. Are we talking about leads that you had on the bike, with you on the bike or are we talking about leads that were already in situ?

A. I had leads on the bike but I had put previously chains on these, this is an area that I used like I have about four or five different areas when I'm training because it's all different types of training, and I had chains on the trees. I had –

Q. Hold on, are we talking – we're just going to take it quietly. Are we talking about an area with these chains on the trees? Is this area where the dogs were found later?

A. Yes, yes.

Q. Just keep it (inaudible 14:28:49).

A. Right, I had already placed their water buckets I filled them fresh up from the stream.

Q. So when you say you'd already placed their water buckets, are you meaning you'd placed on a previous occasion the water buckets or no?

A. No, not now, on a previous occasion. I filled up each water bucket to give you an idea from proximity from the stream. Antonio is 11 steps down to the stream and it's my steps, my personal steps the length of my steps according to my iPhone is an average of 86 centimetres. And from Antonio to Tiana it's just eight steps but from Tiffany to the stream it is 38 steps and from – so they're all in close proximity because I wanted them to rest after such a workout 'cos it's fast going so it's quite strenuous and I wanted to bring them down to a nice quiet – that the body just comes down and relaxes and I –

1430

Q. Excuse me, before we go further –

A. Mhm.

Q. – you've mentioned the workout which can you say what the workout consisted of because it's not clear from the evidence you've given so far

what that workout consisted of apart from a swim in a dam by five of the dogs, one didn't swim at all, one's on a lead, five run up the hill and that's about it. Can you describe specifically what the workout consisted of?

5 A. Yes, after that, after they've galloped up the hill four of them are back on the leads and then what I do is it's quite, it's a slight ditch and up, but it's then quite flat on a ridge and there's a track going around, and I, with the quad bike, I go slow, I go fast, I go different speeds because what I'm trying to do is on the one side I'm trying to get them to extend in their stride and then to slow down because this is what we do at a show, they

10 never – it's never just full running around, it's at a walk, it's at a trot, it's at an extended trot and so I'm teaching them to extend all their muscles, and with the swimming, that just loosens everything up so they're ready to go, that's why I let them gallop up the hill.

Q. To what extent was Tiffany able to participate?

15 A. She was trotting, she didn't have any swim and she didn't gallop like the others.

Q. This workout you've described going up the hill –

A. Yes.

Q. – how long did that last for with the variation of pace?

20 A. Oh, it would take approximately from the homestead to where we went, 20 minutes plus this one, so we've got the swim and the workout. So we're looking at a, a full workout probably about 30 minutes, 25 to 30 minutes.

Q. And that includes travel to and from the wooded area where the dogs were found, is that correct?

25

A. That's just going to the area.

Q. Oh, to the area?

A. It's not there and back, no, that's just going one way because that's why I put them there so that they rest because when I come back I take a different direction and we do different things, and bring them back home to their kennels.

30

Q. So when you go, so the normal process would be to come and get the dogs after leaving them –

A. Yes.

Q. – and what's the point of leaving them in the wooded area?

A. The purpose is I fed them there with 4,800 which is a dry food, that takes time to release its energy into the muscles. They've been watered and I want them to rest, I want their heart rates to come down to a normal level and then when I pick them up after their kennels have been cleaned, I pick them up, bring them back down so they're quiet heart rate like an Olympian, comes up and they're moving, it's not just plodding along beside the bike.

Q. And so how long was it intended to leave the dogs there?

A. They're there usually, they can be left there couple of hours. They don't sleep there. It's just a rest at that moment, well, it's a little bit more than a moment, but they, they enjoy it. They know that's their resting time and then away we go.

Q. So –

A. It's always different dogs as well.

Q. So what about dogs when you feed the dogs, where are the dog bowls they're meant to be –

A. I didn't take any dog bowls with me. I have a cup and I measure out how much I'm going to give them, and I put that on the ground.

Q. And is that okay for a dog?

A. Oh, yes, yes, yes, yes. If they're out and in a natural environment that would be absolutely normal. What I also did up there was with Image because I'd been treating her with antibiotics and Dermotech eardrops, I'd taken a little bottle of water which was sterilised and my vet said to put a little bit of to get normal soap, and put that in the water so it's a soft soapy natural soapy liquid and just to I syringe it into the ears and then I just massage it softly. I'm talking to her the whole time, so she doesn't mind, then I had little eye pad, cotton wool eye pad, everything's natural, cotton pad eye remover pads and I cleaned out the ears. She had ear drops in there, and these eye pads were actually still in the tree, 'cos the tree was like that, and they were actually still there, um, when she was uplifted and if she, um...

1435

Q. So just going back a step, the – how long, how far was this wooded area from the dam?

5 A. Oh, it's not far. It would probably be about three quarters of a kilometre, all the way up, and down is 1.4 kilometres. That would have been another, from that fence to 400 – a total distance of, um, yeah, about 1.8, so it would've been about three quarters of a kilometre away. It was half way, give or take.

Q. Righto, and this hill that they ran up and the track that you drove around –

10 A. Mhm?

Q. – so you were exercising them –

A. Mhm.

Q. – how far were they from the wooded area? How far was the hill and the track from the wooded area?

15 A. Um, that area would be... five minutes, seven minutes max. Yeah.

Q. Now, this wooded area, it's on the farm.

A. Yes.

Q. How far was it from the exterior fence –

A. From the bound –

20 Q. – from the other boundary, behind it?

A. From the other boundary fence it is approximately one, you know, a good one kilometre.

Q. Right.

25 A. That's going – it's on a ridge, so it's going – it goes flat and then downhill and then you just come up the other side. The stream's running in the gully, so it's a little valley.

Q. Righto, now you've referred to a procedure exercise process or regime, regime.

A. Yes, yes.

30 Q. Exercise regime.

A. Yes.

Q. In relation – which was followed in relation to these dogs on the 18th of May 2018.

A. Mhm.

Q. To what extent had you used the same exercise regime in relation to these dogs and other dogs previously?

A. It's one, um, I used to train them just on the flat and just going round with the bike or just going just up to the top of the hill, but I've found when I combine it with swimming and more hill work, I had better results, so I've been using this process – our dogs were always the fittest at any show, that's what we prided ourselves on, because by going up the hills and doing that hill work, it's more strenuous, so once you come on flat ground and you are trotting around, it's like you're just floating round, it's easy, and that was my thinking behind it and the training process. This is done with – but not with the pups, this is only done with the adults.

Q. Righto, so what period of time did you use this exercise regime in relation to Volkerson adults?

A. Oh, five, six, seven, eight years.

Q. Right, and to what extent was there variation between –

A. Five years.

Q. Variation, you know, in the exercise regime? To what extent would you vary the exercise regime?

A. Oh, um, well, it depends on the weather because the weather plays a big part. If it was raining, I wouldn't – I wouldn't go that far, I would just go probably about up to the top of the end of the sheep paddock, up to the ridge, and turn round and come back again, and probably do that several times. I'm varying it, it's not the same because it needs to be interesting for the dogs.

Q. Right, now in this case, this wooded area is – where is it located?

A. It's located in the middle of the – the back part of the middle of the farm.

Q. Righto, and do you go up to it or down to it?

A. Both. We're going up and then we're going down to it, and the total length of the farm is approximately just over two kilometres, so – two and a half kilometres max.

Q. Right. And when you go down to it –

A. Yes.

Q. – what is the exposure in that part of the farm to the prevalent wind, westerly?

A. It's – it's a very sheltered...

1440

A. It's a very sheltered little area that gets – you've got the sun coming in, you've got all the bird life which are alike and the dogs like that as well.

5 It's a very natural piece of tranquil environment and it's great just to – just for five minutes to go into another world.

Q. How far is this wooded area from the stream that you mentioned with the waterfall?

10 A. Steps, from Tiffany it's 38 steps so it's not even 38 metres because I don't have that length of stride. So that's about, from Tiffany it was 20 metres approximately.

Q. When we talk about, when you talk about a stream, are we talking about something with which is say 30 feet wide?

A. No, no.

15 Q. How many feet wide, well question, how many metres wide is the stream?

A. It's not, it's a very long stream and they're widen out and it depends what time of the year, more water and less water. It will have maximum exactly where the dogs were. It will have the width of –

Q. But –

20 A. – sorry, sorry, yeah. Have the width of half a metre.

Q. Half a metre?

A. So it's a very...

Q. Small stream.

A. Small stream. It goes out bigger but not there.

25 Q. Now you mentioned these water containers, can you describe what they –

A. They're made out of stainless steel and they're 20 – no, they're 12 litre water buckets. They're 12 litre buckets. They can be used for anything but we use them for water.

30 Q. Now I think it was Inspector Plowright and when I put a scenario similar to this to him, he expressed some scepticism about you taking buckets up on this occasion. Now what do you say – what do you say to that?

A. My response is, he has a different lifestyle to what I have. I have a very energetic lifestyle and the buckets are already placed there and I undo

one bucket and fill up the other buckets and then that's the last one that I tie back up again, but each one had a water.

Q. And where does the water come from?

5 A. With the little waterfall, there's a little waterfall and there's an area where the water comes into and that's rotated and it's quite fast flowing but it's not a big one.

Q. Now there's a suggestion that the – well it's been stated that these dogs had no shelter, what do you say to that?

10 A. I can only, I can really only laugh at that because these dogs had shelter, they had a natural shelter. They had the canopies of these trees. It was a sunny day, it was a beautiful morning and they had the shade from the trees when they were taken. The reason why the 18th was targeted, was because – no, I won't go there yet.

15 Q. Now there was mention of the dogs barking when the SPCA staff were approaching the wooded area, have you got any response to that explanation of these?

A. Yes I have, yes. First of all the dogs and especially Antonio these are his girls, his five girls and Antonio. So he is protecting his area and he will bark and tell anyone, a stranger, keep away from my area, this is mine.

20 Q. Just on Antonio, we just go to page 10, second booklet. We got Antonio, well described what's depicted in one and two? Page 1 and 2? Correction, on that page there are two photographs, can you describe what the top one depicts and then what second one depicts?

25 A. The top photo depicts Antonio on a pole with that wire around his neck. He is watching very carefully what's going on around him and this is taken wherever the SPCA took the dogs, I don't know. I just see SPCA vehicles in the background.

1445

Q. Right, that's the top one?

30 A. That's the top one.

Q. Just going to the bottom one, what does that depict?

A. You also note he has his good coat, cleaned and in super condition. Down the bottom, here he is standing proud and telling everyone to keep

away from his area, exactly what he should be doing for a German Shepherd.

Q. Right. Now just putting that aside for a moment, when you left, you stayed with the dogs, how were they secured?

5 A. They had what we call a flat collar, it's a soft collar and it's a soft collar, and then it's attached to this two point two metre 47 centimetre long light chain and each one of them had those, so that they're all separate, but they're in close proximity so that nothing can happen and all very safe so I thought. Nice and dry. They had their water, they had their food and all
10 hydrated and now it's just resting time, and this is what you do with any sportsperson or any animal that you're doing active sport with.

Q. So what did you, you fed them, they had water, they were spaced?

A. Yes.

Q. And what did you do next?

15 A. After I done Image, yes, she was the last one. You can see that around all of these areas where the dogs were, you can see that they've just been put there because there are no faeces, there is absolutely nothing.

Q. Right.

A. And, of course, they've obviously, they have partially gone to the toilet
20 before coming with their workout.

THE COURT ADDRESSES MR GARDINER – PAUSE TO CONNECT LAPTOP (14:47:01)

EXAMINATION CONTINUES: MR GARDINER

Q. So you described how you did certain things in relation to the dogs
25 Ms Wallace?

A. Yes.

Q. By the tethered, fed, watered, et cetera and then what did you do?

A. Then I went on the quad bike back to the kennels and prepared the kennels and cleaned the kennels, and I do individual one after the other,
30 and then I was had a surprise visit.

Q. Go back. Now there was a I just want to fill out, get you to fill out some detail. We had one officer, SPCA officer who described how he

accompanied a group of five other officers that left the homestead later and travelled up, and mention was made of a quad bike track?

A. Yes.

5 Q. Can you just speak to what that – explain what sort of track this would be and where it might go including and in the process of addressing what you’ve described taking the dogs to training?

1450

10 A. The quad bike track was a fresh track which he very, um, which he observed and that was on the excavated track going down to where the dogs were placed and that was approximately five minutes away from where the dogs were located and that was a track from the morning. Along that big track, excavator track, there are little springs, so that there is water. It had rained a few days later – before we were there, before the 18th. It wasn’t, didn’t rain on the 18th, and he saw this, um... quad
15 bike track from the tyres from the quad bike and accordingly Mr Heatley had actually photographed the tyres of the quad bike so that you could see, match it up exactly.

Q. Righto, so you – after leaving the dogs, you went back to the homestead?

20 A. I went back down to the kennels. I didn’t go inside, no. I went into the kennels.

Q. So you went to the kennels, into the kennels, and what did you do then?

25 A. What I did there is I let out – there was six empty kennels, vacant kennels from the dogs. I let out the first one, I started at the front, if I remember correctly. I did take photos at the time, and I – first of all I – before I start water blasting or doing anything like that or using Vercon, I pick up all the faeces and anything else that shouldn’t be there and put that aside and then I start one at a time. I let them out loose, they’re running around the kennels or in the paddock that’s in front, and it depends who it is, so that there are no fights, ’cos I don’t take any chances, and I started cleaning
30 the kennels.

Q. Right, so when you say cleaning the kennels, are you talking about the old kennels that we’ve previously looked at?

A. No, I’m talking about the brand new kennel complex which is –

Q. So we’ll just take, go to exhibit C.

A. Exhibit C, yes.

WITNESS REFERRED TO EXHIBIT C

Q. Page 19 through to 23, so when we talk about the new kennel complex, we'll just go to the bottom of page 19. This is that new constructed kennel complex.

A. Sorry, that was page 19?

Q. Yes.

A. Yes. Yes, yes.

Q. And there's an SPCA officer there.

A. Yes.

Q. He's an officer who visited on the 18th of May 2018 with Inspector Davis.

A. That's correct, yes.

Q. Now – so we've got you holding a hose there.

A. Yes.

Q. You're talking to your sister Anne, to the right.

A. Mhm.

Q. And who's the third person?

A. That third person, this lady is from the Waikato District Council.

Q. Right, and we've got a close-up of the dog in the kennels in the top part of that page.

A. Yes. She's talking to this SPCA inspector.

Q. We've got a different perspective of the kennels with some dogs showing at the top of page 20.

A. This is taken at the back part of it, looking up towards the utility shed.

Q. Right, and then there was – we've been taken to this book before, so... in fact I went through the photos in this book with Inspector Davis.

A. Mhm.

Q. And we had another perspective, looking at the kennel and along the (inaudible 14:54:40) way, and that's the bottom of page 22.

A. Yes.

Q. Is there any other – are there any special points, points that you would like to make in relation to any of these photographs?

1455

- A. Well, you can see that the kennels are probably, they are very spacious kennels. They are I think six metres long if I remember correctly. If we build them again we wouldn't make them so big, they're too long, never mind. They have a house at the back which is about one and a half metres, two metres by 1.25 I think and you can see that they are clean, you're looking at the wiring. The dogs are all relaxed there. Okay, there's a lot of empty kennels. I wasn't finished. Every time actually I think the noise come, I have been actually cleaning out somewhere and being on a farm, yeah, we had that flexibility. If you look there, there's a pink bucket. That bucket will have
- 5
- 10 Q. Which?
- A. Page 22.
- Q. Right.
- A. That bucket will have, probably have faeces in that. You can see the fruit trees that are on the right-hand side and the flower baskets. We were just starting and wanting to get it looking absolutely beautiful as a showcase.
- 15 Q. And just going to page 20, top photo.
- A. Yes.
- 20 Q. There's a white, looking past the officer on the left, that's inspector, I believe Inspector Williams?
- A. Oh, right, yes.
- Q. You see in between him and Anne –
- A. Yes.
- 25 Q. – looking down the kennel, top photo –
- A. Yes.
- Q. – page 20, we've got a white object, what's that?
- A. That is actually a cover over a water blaster and if you see, see there's a black line sort of coming from it?
- 30 Q. Right.
- A. That is the hose from the water blaster.
- Q. Right. And this is – are these the ones coming towards where Inspector Williams is standing?

A. Yes, yes and you can actually see the gun there, I think that's the gun right at the bottom of that photo –

Q. Right.

5 A. – and it's a high-powered water blaster. I'm holding a hose because I am using Vercon and I'm doing it slow, the water blaster will just suddenly take it off, I'm wanting to get the maximum effect from Vercon on the walls.

Q. Now just in relation to the concrete in this new kennel –

A. Yes.

10 Q. – to what extent was it especially treated to assist, to facilitate cleaning and reduce the smell or if not, avoid the smell of ammonia?

THE COURT ADDRESSES MR GARDINER – GIVING EVIDENCE (14:57:50)

EXAMINATION CONTINUES: MR GARDINER

15 Q. Just taking out the point of her Honour just made, just explain what the service within the kennel is?

A. This is brand new concrete, of course, this is purposefully built as we agreed to with Mr Plowright and Ms Davis on the 28th of July 2017, it was already six weeks, six and a half weeks early and they recommended that we sealed the concrete on the kennels, and by doing that it'll be far easier to clean and you wouldn't have that what they thought was an urine odour. Because they recommended them I asked them what type of sealant because we wanted to use the best one, we were very proud to have these kennels and we purchased it and we had it, all the kennels sealed with this sealant and it looks nice, yes, but it might be good for little dogs, 20 the dogs that do not move or are not active, but for our dogs that are always on the go and very, very active, it was one of the worst things we could've done because what it did was, okay, for a third party so that it didn't smell or maybe for the SPCA and their kennels where they dogs aren't so active and they don't have such big runs and are not on the move, they're just moving slowly, but with ours because they are fast 25 moving and we train them to be fast moving, as soon as the sealant was damp they were slipping and sliding and falling over because it was so 30

slippery and so I was quite pleased after probably about, it took us probably about a year for the water blaster to actually break the sealant down. We put lots of sealant, we've still got bucketful's of sealant to keep doing it, but we wouldn't do it again because it was, it hurt our dogs and we don't want to put them in that danger.

5 1500

Q. Now just going to the – you were cleaning, the SPCA came?

A. Yes.

Q. Can you describe what happened then?

10 A. It was again Friday like on the 13th, that was a Friday the weekend before, just before the weekend because I usually go to an exhibition, a show on the weekend and this was shortly before the hearing was to take place for the disposal hearing in June, beginning of June in Manukau. And suddenly, I had all these people that was Laurie, she said she's come to
15 check all of the dogs and she was taking photos and I thought, well you can see I'm cleaning, we're going through them all and I think you can see the empty kennels. She went through all of the dogs I think. I'm pretty sure that they scanned them. I'm not, no I'm not sure on that so I'll take that back, I can't remember whether the lady from Waikato Council
20 scanned. I think the microchips...

Q. Now going back a step, when was this, just again when were these kennels complete and operational?

A. These kennels were complete on the 13th, I think the 13th or 14th of November in 2017. We had until the 31st of the 12th 2017, so we were
25 thrilled that got early under the difficult circumstances. It was hard to get materials and we had to wait an extra time because we had everything double galvanized so that it would be durable and long lasting, and we then I think I called, I think I called first or sent an email inviting – no, before I called. Yes that's important. Before I called the SPC, Laurie or
30 Kevin or I think it was those Lori or Kevin to invite them down to come and see the kennels, I rang MPI and I wanted to get someone independent to come down and have a look and certify the kennels. That the kennels are of good quality and to have a certification to actually show Laurie and Kevin. And I was then informed there is no form, no

document to certifying kennels. They do not have any specific criteria how that kennel should be. There is no form and I thought, I was very disappointed because I thought that was, would've been excellent coming from MPI but it was impossible. So I then invited Laurie and Kevin down to come and view the kennels, the finished complex and Laurie and Greg Reid came down. I think it was the 22nd of November, so it was probably about 10, a week, a good extra week later they came down to view the kennels.

Q. Now the – you had 18 runs in the kennel?

10 A. No, 16 runs.

Q. Sixteen runs, right.

A. Yes.

Q. And how many dogs could it be in one run?

A. Good question, theoretically you only need a one metre, kennel 1 for one dog for a large dog. Theoretically, we could have two or three or if you had pups you could have more in a kennel. It depends whether you have a male and a female or you have pups, they can be both sexes it doesn't matter or bitches that are best friends that get on with each other. I like to generally have one dog and one kennel and a comment from Mr Plowright was: "Oh you could have two dogs in each kennel." That wasn't the aim. The aim was just that they had plenty of space, plenty of room to move, to see everything and the walling on these kennels it's a special walling to keep them cool in summer and warm in winter. It's used – all the construction is actually for, except the netting of course, is for houses. So it was very high quality materials to give them the best and –

1505

Q. Righto – now just going to – so Inspector Davis came, she had a number of officers with her –

A. Yes.

30 Q. – on this particular morning, so they came round to the kennel where you were working and then, basically, what then happened?

A. Um... basically what then happened? I didn't hear – because of the water blaster and everything else, I didn't hear them come, so I was just – I suddenly had them in front of me, which I was very surprised. She wanted

to have a look at all of the kennels, which she's most welcome to do. I cannot – there's been so many visits, I cannot say with 1000% certainty that each dog was brought out. Sorry, I don't remember.

Q. So is it fair to say, just to sum it up, there was an inspection –

5 A. Yes.

Q. – and at some stage Inspector Plowright appeared?

A. Um –

Q. In relation to the dogs up the back of the property.

A. No, um – yes, I think, um, if I remember rightly, Ms Davis asked – you
10 know, we've done everything, we've really tried to move heaven and earth and everything was... He was, yes, he was... he wasn't there with this inspection, no, and this inspection, I think, took probably about an hour and a half.

Q. Right. Now, as a result of this inspection was there any notice issued,
15 or...?

A. No, there wasn't.

Q. Right, so we'll just say, put this inspection to one side.

A. Yes.

Q. Subsequently, and to cut to the chase, Inspector Plowright appeared at
20 the property.

A. Yes.

Q. When did he, do you recall that he appeared?

A. He was probably there around about 1.15, 1.30.

Q. Right, and can you describe what happened when he arrived? What
25 did...

A. Um, they drove up with their vehicles, so they were all in front of the house. I don't recall how many vehicles, but there were quite – there was a number of vehicles. I just – I went inside. I'd just, I'd had enough after what we were experiencing. We'd had so many raids during the night,
30 people, um, so much had happened because of all the publicity. We'd had attempts to burn the house –

Q. Righto, just get back to Mr Plowright –

A. Yes.

Q. – Inspector Plowright. He came up. Did he seek to talk to you?

A. (no audible answer 15:09:00)

Q. Well, to –

A. Um – he may have. I’m not sure. I was – after I was in the kennels, I then went out the gate and I went through the other gate by the garage and went inside. He may have tried to talk to me. I was...

Q. Right, now there has been evidence led that a notice was left for you and your mother. Do you remember that notice?

A. Yes, I do remember that notice.

Q. And what was the effect of that notice?

10 A. The notice – it was an AW –

Q. Excuse me, this is a notice from Mr Plowright.

A. From Mr Plowright, he left it in front of the lounge room door, and with a surrender notice, and this was an AWS 129 for entering a property when the owner is not there. I didn’t – I’ve never seen a 129 before, so I only found that out after looking it up online, and I thought that was strange because we were there and he had driven up and I didn’t quite understand that.

1510

Q. Righto. What documentation – was there any other documentation that was left?

A. There was a surrender form left with the AWS 129.

Q. Right, and what did the surrender form indicate? What was the effect of it?

A. If I remember rightly, it was blank. I hope I remember rightly. I put it right out of my mind ’cos that would never, ever happen again. The surrender form was, because Mr Plowright said – Mr Plowright said: “Oh, now your little gig is over,” I do remember that very, very –

Q. Righto, just to get to – what about this –

MS STOIKOFF ADDRESSES THE COURT – DOESN’T HAVE NOTICE

30 (15:11:06)

LEGAL DISCUSSION – COPIES FOR MS STOIKOFF AND MS CRANSTOUN

EXAMINATION CONTINUES: MR GARDINER

Q. Now, just getting back to this notice and mention, if any, was made of the dogs that had been picked up, and we put this in the evidence of Mr Plowright previously, another SPCA inspector, from where you left them in the wooded area.

5

A. They drove up with – if I remember rightly there was three vehicles and, um, with the three vehicles they just drove along the track. They could see where they were going, it was very easy. It's – and they came back, probably about an hour later and that was around about 3 o'clock.

10

Q. Righto, go back a step. So when we talk about Mr Plowright going up, he's come to the property and they've gone up through the farm to uplift the animals. Is that right?

A. I didn't know what they were uplifting. They just went off and I didn't know what they were doing at that time, and they were looking over the property, look over the property. We've got nothing to hide, they can go anywhere. We were working on the property every day from morning till night, so go and have a look. It was – yeah. So when he came back, he did say that, through that – we were inside, my mother wasn't there. I was inside, my mother was, um, distraught somewhere else, and he says:

15

20

“Oh, your little gig is over.” They had – I think if I remember rightly, I haven't got it in front of me, the AWS 129, I think it does mention the six dogs, which again, was – I couldn't understand that because they were all healthy, they were all fit, they all had water, they all – none of them were dehydrated. They were resting, they were on what he wanted, we wouldn't use that length of chain but what he wanted, two metre long chains and soft collars, so that was all done, so there was absolutely no reason to uplift these dogs, and just for the information, three of these dogs were champions. The fourth one, Tiffany, I'd only shown I think two weeks, maybe three weeks prior for the first time under a German and Italian specialist judge where she got the highest honour and won an excellent medal both times, and I was very excited about that because she was going to be my next little champion and she got a fantastic critique and I thought: “Great,” and then that happened a few days prior with – remember during the night, with the, um, solution, chemical solution

25

30

on her croup that lifted the hair and, um, there was never a flea on them, we had them inside, we couldn't have fleas inside, that would be a disaster. They're travelling with us, distances in the car, they are treated with Advocate, no flea would have been found on her, not three or four, not one.

1515

Q. Now just going to the second booklet –

A. Yes.

Q. -we've got a, just looking at the first, pages 1 to 10.

10 A. Yes.

Q. I'll just quickly go –

THE COURT ADDRESSES MR GARDINER – PROSECUTION BOOKLET 2

(15:15:06)

EXAMINATION CONTINUES: MR GARDINER

15 Q. Page 1, actually page 4 is Tiffany, this is the dog you've just been referring to?

A. Yes, yes, you can see –

Q. Now, I just want to – you've said this dog was in good condition?

A. Yes.

20 Q. Can you – Dr Dreyer gave evidence regarding a skin condition which is shown at the bottom of page 5 -

A. Yes.

Q. - which he described as amongst he did seem to indicate it was an infection in the skin and he spoke about a thickening of the skin and how sometimes dogs have self-trauma where they scratch at the infected area. Now, can you just comment in relation to what we have at the bottom of page 5 in that photo?

25 A. Certainly. Tiffany is a short coat German Shepherd. You can see at the upper photo she's still losing a little bit of her winter coat, that could be also through with what happened on her croup because three weeks prior she was in absolute perfect immaculate condition, every hair shone on her body. There was quite a shock here. With this I left purposefully the

30

hair because it had lifted up like that, it was smooth skin, it wasn't red, there was no infection, it was just the skin and all the hair was like if it's not even when you shave, women shave your legs, it's like that, it's when you use a there are foams to shave your legs and it does it differently to when you shave your legs, it just – it makes the hair, it cuts the hair off at the skin, and this was smooth, I hadn't seen it before and quite, very disturbed about it and concerned. So I put on Tiffany a cream called Neosurf which is antibiotic, anti-inflammatory, so with the antibiotic and make sure no infection gets there and the anti-inflammatory. If it does get itchy or anything like that, it takes that redness or that soreness out. Now, this is right up on top. If we take this photo here, just to understand it's right up the top there and normally, a dog could not, well, it can't get it with its black leg, it can't reach it. It's in a position where it's very difficult to reach. There were no scratch marks, there were no bite marks, it was a clean area and within there it says, with this photo that you see down the bottom on page 5, you can see that the skin is starting to get its pigment back again because it was all pink and that the hair is actually growing. I'm not sure if you can see it there, but there was another photo where they actually – yes, I've just, it's on page 24 and it'll probably be the best and you can the little hairs growing, the hair is probably about 1 to 2, one and a half metres. So it was good, it was healing and the regrowth was coming, and if we take page 25, I think this would've been – it hasn't been taken at sight, I think it's been taken back wherever they took her and then you can see it more clearly, the hairs growing where it's white and it's not, and around the edges it's dark, so it's healing and this is highly magnified that you're seeing there. This, I don't know when this is taken. I would say that's on page 26, it's taken on Monday, but going back to 24th, that is taken I would say I'm guessing here, taken at the farm.

30 1520

Q. Now just going to the page 4 photo at the top, can you just describe there is – the doctor refers to – in relation to some dogs there's been criticism of the coat and a suggestion that it was matted. Can you just comment briefly on the coat?

A. On the coat certainly. This is not matted coat. Short coats cannot matte. This is the undercoat, the rest, these tufts in the hind quarters and you see she's got her own coat. I took a photo of her three weeks prior and you see how a coat changes. This is with the weather. This is pushing out the undercoat, this is undercoating. If you look at that photo, you can see that it's dark gold in a lighter colour, tufts that are coming out. The dark gold is a new coat and the tufts are the old undercoat which is actually dead coat that's why it doesn't have any colour. It's dead coat which has been pushed out by the dog.

10 Q. Now going to the top page 5, do we have – it's another close up of that area?

A. That's a close up and there you can see very clearly the new coats, the dark gold and that is just the undercoat coming through. If you look to the left-hand side and you'll see the – on the side of her ribs, you can see that there's no undercoat coming out there. It's all new coat. Coat like this or a German Shepherd never loses or any dog that has a double coat all at once.

Q. Now one of the other things that the – two other matters that Dr Dreyer looked at, the first one was the body condition and he describe the scale of one to nine. One – take some of the things he indicated. One means emaciated, five is ideal and nine is obese. So he ascribed there were three dash four on the Purina scale which he refers to and he ascribes a three to in terms of body conditions, five is ideal. So he gets three slash four and he ascribed a three. What do you say to that?

25 A. Tiffany here is in ideal condition for a German Shepherd, for a working dog. The different Purina values or grades that are given whether it's from Dr Dreyer, from Dr Beer. They've got probably about five different vets, they're all given for the same dog, same weight, all different Purina grades. One can say it's two, one can say it's four. One can say it's four, one say it's obese and it should be losing weight going on their medical records and so it's very, it's a personal preference. You can see here she has still got a nice underline but she's nice and – she's not emaciated. You can see from the top line if you turn to page 1, you see the whole dog

how you see a muscle forehead but you can see that she's in good condition.

Q. We'll just go to – the doctor also mentioned that they tried to look at the ears when it was awake, they'd examined the ears and there was a super – I think there was reference by him to a superficial ear infection. What do you say in relation to that?

A. Tiffany has not had an ear infection in her lifetime.

Q. How would you describe an ear infection as a breeder?

A. As a breeder, an ear infection would be – I'm not talking about wax or dirty ears or anything like that because that is a natural occurrence, it happens. As with an ear infection that's due to the warmth. An ear infection would be if a dog – if they have an ear infection they are talking. They're actually scratching their ears or trying to rub their ears on the ground or find something natural to use or they will use their paws to scratch their, then you have a look to check, is it okay or is it just something else. These are just little indications but Tiffany had been down to Wellington, she was in perfect condition.

Q. Now just going to page 6?

A. Yes.

Q. We've got a dog called Princess?

A. Yes.

Q. How would you describe her health at the time that she was uplifted?

A. Princess is still a pup. In this photo she would've been probably, I think she might have been about eight months old, just guessing. Princess was being trained in with getting ready for export actually. Her condition is excellent how it should be.

Q. Now the body score assessment by Dr Dreyer is three out of nine, well I should be more correct, 3/9. So we start at nine but it was at three, nine being as I said earlier as we said was obese, but here did he thought it was thin. What's your reaction to that?

A. I'm not surprised by that comment because according to previous statements that he had made, that he knew about German Shepherds –

Q. Well just focus on –

A. Just focussing on this, she is of correct height and weight for her age. She is not think and she is not obese.

Q. And how would you describe her overall condition?

A. Her overall condition is excellent.

5 Q. Was what?

A. Excellent.

Q. Now just taking the dog at the top of page 7 Tiana?

A. Tiana.

10 Q. Dr Dreyer commented in relation to her that it had a body score of 3.5, body condition score of 3.5 out of nine. What do you say to that?

A. She's of ideal condition. You don't want her obese. If you're looking at her, she's got a nice waistline, she's got a nice backline. The ribs are well covered, her coat is good, she's – if you look at her head, her eyes, her nose, her ears, she's in very good condition.

15 Q. And in terms of image, that's at top of page 8. Dr Dreyer spoke of a body condition score of 3 out of that, on that scale of nine, this dog apparently had an ear infection, what do you say - you've referred to it earlier but can you comment on that in relation to this dog?

20 A. Yes. First of all she is in an ideal condition, I think she weighed about 28 kilograms which is absolutely ideal for a German Shepherd of her size, her age and you can see she's got a lovely coat. You can see the shine on her coat. You're too asking about the collar, there she's still got one of our collars on, that's a soft collar that she originally had on her. I chose it very clearly there. Her ears are erect, they're not out to the side.
25 They're straight up. She was being treated and if you'd use a microscope, I thought they possibly would've seen the ear drops still in the ears but I've now been told that it's absorbed into the bloodstream. So if they'd taken a blood sample then they would've seen that she is under treatment.

30 Q. So there was a suggestion that if a dog has an ear infection?

A. Yes.

Q. And it's entrenched, it's actually established there would be a smell of discharge and it would've been picked up or seen by a lay person for instance. What do you say to that?

A. Interesting comment, everyone has a different sense of smell. This bitch went swimming that morning –

Q. No, she didn't because she –

A. Tiffany didn't.

5 Q. Tiffany, my apologies, yeah.

A. I don't know whether she got any water in her ears but I cleaned out the ears so there would've been. After I was told after that's been done, they shake their head to get the water out, I can't take out all the water. I can only try and just cleaning any debris that comes out very gently. I've
10 never used a utensil to – not to harm the inner ear as I've been trained to do and – sorry, what was your correct question?

Q. In relation to a, an establishment for ear infection and the smell of discharge.

A. Right. When I cleaned out her ears that morning there was no smell or
15 discharge.

Q. In terms of, we'll just go to the dog Anelly which is at page 9 at the top.

COURT ADJOURNS: 3.31 PM

COURT RESUMES: 3.50 PM

EXAMINATION CONTINUES: MR GARDINER

Q. I think we've finished with Nellie. I just want to go to –

A. I thought we hadn't – have we done Nellie?

5 THE COURT:

We were talking about Image.

WITNESS:

We'd finished with Image.

EXAMINATION CONTINUES: MR GARDINER

10 Q. Oh, we'd finished with Image, now we'll go to Nellie. Now, Dr Dreyer referred to Nellie as having, well, he ascribed to it a body condition, weight, correction, weight, of on the scale that the SPCA use, of three out of nine and he referred to a mild build-up in the ears. Can you comment firstly on the body condition of that dog at the top of page 9?

15 A. Yes, the photo of page 9. She is in exactly the right weight which she should be in for her age and her sex and her size. I think she's around about 28 kilograms, which is quite a lot. You can see her coat's all clean, you can see she's got bright eyes, clear eyes, a wet nose. She's listening to that person that's holding her. If you look at her feet, they're all nicely
20 closed and clean and if you look at the photo down the bottom, she's got her tail up in the air 'cos this is her little area which she's being protective about, but she's very clean there. With a slight build-up in her ears, she did not have an ear infection. She might have had some wax or something from swimming or whatever, but Nellie did not have any ear
25 infection.

Q. Now, just going to page 10 –

A. Yes.

Q. – we've got Antonio.

A. Yes.

Q. Can you describe, first comment, well, you've commented on the photograph at the bottom of the page, but just comment on the body condition displayed by the dog in the top photo.

5 A. You can see his body condition is very athletic. He's well muscled, you can see that on his back line, on his under line, the forehead and the hindquarters. If you look at his feet as well, he's attentive, his ears, he's pricked, he's watching, he has a wet nose, clear eyes, exactly how a German Shepherd should be.

Q. Righto, and there was a mention that he displayed some aggression.

10 A. So he should. This is his – he's a guard dog. He needs to – he's standing his ground. These are all strangers that invaded his home, his area, his property. That is a normal German Shepherd reaction and one that we want. We've had our home invasions, our armed home invasions. This is why he's always – when he comes down close to the house.

15 Q. All right.

A. If he's not in the kennels.

Q. Now I just want to go just to three photographs –

A. Yes.

20 Q. – which we have. I think this is – these are three photographs of German Shepherds, your Honour, which I think are exhibit... I've marked the other ones, but...

LEGAL DISCUSSION – IDENTIFYING PHOTOGRAPHS, EXHIBIT E (15:54:38)

WITNESS REFERRED TO EXHIBIT E

25 1555

EXAMINATION CONTINUES: MR GARDINER

30 Q. Now, Ms Wallace, you Honour previously commented in relation to the first photograph which is it's got V6-2011 at the top, this particular dog. So but I want to, she wishes to comment in relation to firstly to the dog with the number SG2-2011, it's at the top left-hand side of the photograph your Honour. And Ms Wallace, can you comment on that and the quality that that particular dog has in terms of body condition?

A. Yes, if we take (inaudible 15:55:40) she won, she was (inaudible 15:55:44) in 2011. This is a young bitch, so this is the highest qualification she can achieve between 12 and 24 months. If you look at her condition you can see she's well-muscled, she's not heavy, she's not obese. It's exactly the same condition as all of the dogs that have been shown in the photos of our own. We have these bloodlines. We had her brother and but I wanted to show a sloping back the condition and this photo is not a new photo, it's nothing to change, this is from 2011. So she was the Vice World Junior (inaudible 15:56:31) whereas the one that was VA6, he was the sixth world champion in 2011. So this is how a German Shepherd should look like, these are world champions. This is how they should be.

Q. And what sort of coat has Chemo got?

A. She has a short coat.

15 Q. Right. And going –

A. And Pia has short coat as well?

Q. Say again.

A. Pia (inaudible 15:57:01) has a short coat as well.

Q. And just going to the third dog which is, that's one of the Volkerson dogs, is that correct?

A. Yes, that's correct.

Q. What's its name?

A. Her name is Ruby.

Q. Right.

25 A. Ruby. Both parents are world champions. She was the first, she made history just a few weeks beforehand before the 18th of May at the Wellington German Shepherd Dog Club, she won best and showed the first time that a long coat has won best in show and gold medal winner. What's important here is or what I thought was important, you can see she's very muddy. This was held at Tottenham Park, so it was pristine grounds, but it rained and the dogs have to be able to move in the rain and you can see the mud tracks, we have kept changing where we were, we're coming from the outside to the inside one metre apart because it was also muddy, and this is why our dogs are trained in all different

weathers, not just sunshine. They love, dogs love the mud anyway, but and unfortunately long coats more than short coats which it makes more work, but that's how it is, but it was just a demonstration. This is your best and show winner, the best dog, long coat and short coat at a specialist show in 2017 and that was on the Easter Weekend in 2017. I just don't remember the date exactly.

Q. And Ruby, Ruby is a, what sort of coat does she have?

A. She's a long coat.

Q. Long coat, and you can see with the mud how short coats don't react so much as she has, but you can see them underneath, under her under chest, her tail, her back legs and the inside of her legs. Because of the longer coat, it takes up the moisture in the mud even though she's not rolling in mud, she's going up. It's just –

THE COURT:

Q. And this is your dog?

A. Yes.

Q. Who lived on your property?

A. Yes.

Q. Where did she live?

A. Inside, she's a house dog. Inside, yes, but trained like all the other dogs were trained, swimming, hill work, flat work and never, it's the first time in the history that a long coat had won best in show, it's usually special coats. Lovely girl. Two weeks, Tiffany was at the same show as Ruby.

EXAMINATION CONTINUES: MR GARDINER

Q. Now, one of the – these are some general points which arise from the evidence of Dr Beer –

A. Yes.

1600

Q. Okay, before I – I just want to put these to you. The doctor was asked by my learned friend, there was a statement by her that only two people were looking after all these dogs. What do you say to that?

A. I say it is simply untrue. They know it's untrue because they spoke to various people, they've taken photos of international students that have been with us, they have taken it on their body-camera footage, their own photos in this magazine. They just cut off her upper half and had her –
 5 which is on page – just had her legs in the stables, and that was page – that was actually... just a moment, I'll just find that. I think it was under – oh, the exact... if we turn to page 24 –

Q. In which booklet?

A. Oh, sorry, it is the first booklet, the big booklet.

10 Q. Thank you, thank you.

A. If we turn to page 24 and look at the lower photo, you'll see on the right-hand side a pair of legs without the upper body and holding a shovel, and you can see she's been shovelling up newspapers and this young lady, Ms Davis spoke to on that day when she was inspecting. So that's just
 15 one example from their own evidence. There are many, so to make that statement, it is not correct.

Q. Right, now she was asked by my learned friend some questions about the level of staffing and care that one should have in a kennel.

A. Yes.

20 Q. And she expressed the view that one person to 10 animals might well be appropriate and she referred to the SPCA as having easily 10 full-time workers and this is in relation to caring for animals, and many volunteers, and expressed the view that it was important not to overstock. Now, just given this ratio of one to 10, if we just take that as really where she was
 25 coming from, what's your reaction to that?

A. Um, everyone's entitled to their own personal opinions. One to 10, even if I take that in reflection to the animals that we had, the adults, there were 31 adults and one to 10 would be theoretically three people. We had at least – there was always two or three international workers there.

30 Q. Right.

A. So – and that's plus our own people.

Q. Right, and to what extent was your day – arguably, when it started and when it finished – in relation to Volkerson Kennels and looking after dogs? What –

A. I don't have any strict time, um, start, finish. It's always – every day is different because animals are always different and it's a different rhythm and it depends on the weather and it depends on a lot of different aspects but I spent from morning till the evening, and it'll always be doing something with the dogs, whether it was on the farm or taking them swimming somewhere else, if I wanted to just have a swimming session at the horse swimming pool, or whether they'd been taken to supermarkets, just at the entrance, so they can hear people coming and going with trolleys and people talking or going into shops, chemists with the dogs or going to an exhibition, a show, there are at least 500 people at each show, all different types of dogs, children, older people, all coming from different directions and it's a wonderful socialisation with that.

1605

A. With the international helpers, some accompanied me to the various shows, especially if it was a little bit further away so that they could see something of the country as well and to help handle the dog or take them to the beach and go swimming or just train along the beach. We had more than enough people. We also had other handlers where the dogs are independently trained, so they're not just used to specific people, but we wanted to be – the dogs and the puppies to be used to different methods, different people, different languages, different tones of voice.

Q. Right.

A. Whether it was boys or girls.

Q. I just want to check, but tell, comment on other things which are germane to some of the particulars of the charges, but I just want to just pick up a few points because I don't want to – we're going to go – I will be going to the charges themselves and getting you to comment specifically in relation to the allegations, implicit, which are reflected in the charges, the particulars of those charges. Now, just on emotional enrichment, I know that there have been views expressed throughout the proceedings at different times by you in relation – because I've asked you questions, you've been asked – mainly – and other people like Dr Beer, Kevin Plowright, Dr Flint, for example, have been asked about emotional enrichment and what it means. Now, Dr Beer made comments that it

involves toys potentially, a place to play, something that will give cognitive stimulation, some dogs have – I can't read my own writing, but I understood it to be a huge need for social interaction. It involves appropriate stimulation and a situation where bad behaviours can be prevented. Now broadly there are about six points there, I am not asking you to comment on each but – and can you just comment broadly in relation to what she says there?

A. Broadly speaking she is referring this to the dogs that she sees within the SPCA or wherever her practice may be in the city. We have pedigree German Shepherds. These German Shepherds are highly intelligent, they are well-trained, and they already have their working obedience qualifications, so it's important for us from a very young age that we are teaching these puppies as much as possible. They're like little sponges taking in everything, all the noises, the sounds, they play little games, giving them the freedom of the farm, it's so important that we can just walk around the paddock; you can't do that in the city. So we have toys, we have – they have little tunnels, squeaky toys, toys that they can just walk around with, I had a long bamboo which was about two metres and I have a toy hanging at the end of it so that it's playing with it or playing in the water trough, they love that, jumping into the water trough and jumping out again. We try and develop their temperaments and their characters so that they are a very stable, healthy, happy intelligent puppy.

Q. Right.

A. And we had one, just giving a quick example, we sold a puppy to Dame Paula Rebstock and she gave a reference and said she was amazed by his character. She, the puppy –

THE COURT ADDRESSES WITNESS – HEARSAY EVIDENCE (16:09:46)

EXAMINATION CONTINUES: MR GARDINER

Q. That's not relevant.

A. I was just going to get to about the temperament, about the character.

1610

Q. Well I think you've expressed – you've responded to points that I mentioned. Just as a carry on from this emotional enrichment, there was another broad comment that she made about there was a lot of vocalising when she came to the property and she ex – opined or she expressed the view that this shouldn't happen and she commented also – we'll deal with that first. What do you say to that?

A. That is absolutely the correct way and what we want our dogs to do, they're guard dogs, to alert us that strangers are on the property and they will bark, they're telling the others: "Hey, there's someone just arrived," and they're talking to each other, telling us, informing us that it – that there's absolute perfect temperament and character. That's how it should be.

Q. Right she commented on a puppy that was jumping up in the woolshed.

A. Yes.

Q. And sort of thought that this behaviour was overly exuberant and indicated a, I'm paraphrasing, something like a neediness which, if the puppy was properly treated, shouldn't be there. Now, what do you – I'm paraphrasing.

A. Mhm.

Q. Just with that concept, can you comment in response to it?

A. Yes, certainly. The puppy is six and half months old, is in – it's like a child that's eight or nine years old and wanting to explore everything and something new and all our dogs have got spirit. We want them to have that spirited character. They're not drones that don't show any emotion. He was greeting her, that's his greeting: "Pleased to see you," and waiting, normally if they greet us like that we give them a little cuddle and a little pat and that's what he was waiting for, that's why he did that and that spirit was a happy spirit. It wasn't a puppy that was depressed and cowering and worried all: "Who are you," and whatever. No, it went out to her and said hello in puppy language, and we encourage that, that's what we want. We want a personality.

Q. Now just one last comment in relation to this, Dr Beer, at least in this context. There was mention – there was some discuss – my learned friend put – Mr Radich put some questions which related to choke chains and

so on. Now, we've had evidence given by yourself and by Mr Plowright and of course Dr Beer. Now she described – she accepted that choke chains, slip chains, check chains, whatever they're called, however they're labelled, they're all the same thing, are not illegal, but she spoke about choke chains being used as a punishment to and involving – being dangerous because they involve the compression of the larynx and there is the possibility, if something goes wrong, for a dog to be damaged in that regard. What do you say to that?

A. Very hypothetical. These neck collars are used all around the world, all three here with world champions and (inaudible 16:13:48) all had the same neck chain on. They are specifically designed for that purpose. We don't use them as a punishment. The dogs learn from a very early age to relax on them and respect them and know when they have something on their neck that nothing – they're not going to be punished and nothing is going to happen to them. That is – and there was not one dog on the property, she examined every dog that was on the property, that had fur missing from its neck or any neck problems or larynx problems or anything like that and I, I have a different opinion, like the majority of most dog breeders, owners, trainers around the world.

Q. Now what I would like to do now before I get onto charges –

A. Yes.

Q. – is just produce some exhibits, some – I want to go through exhibit B, your Honour, with this witness briefly and produce by agreement...

1615

MR GARDINER ADDRESSES THE COURT – EXHIBIT B, VOLKERSON DOGS (16:15:14)

LEGAL DISCUSSION

EXAMINATION CONTINUES: MR GARDINER

Q. I just want to refer to – briefly to – we've had the dogs tethered on the fence. This has been the subject of – I questioned – showed it to Mr Plow

– Inspector Plowright. He made comments on it. I – can you just look at it and just comment, from your perspective, on what that shows?

A. Certainly. This is the cover of this magazine, Young Country, and you can see here are working dogs on a very short chain clipped to a fence.
 5 Now the reason why we do this, when I'm training out in the paddocks, if we see something, an animal in distress or something's gone into the wrong paddock we can clip them onto the fence and they must know to relax and just respect and to stay where they are and this is why we teach them from a young age to be tethered and this is normal on – these are
 10 working dogs like ours are working dogs and this, I think, is a trial that they're about to – I think, or it's just a farmer that's got one, two, three, four, three – six dogs, but it was just interesting because of the conversations that we've been having, that they're on a short chain, they're all on a fence, there's no shelter, there's no water, there's no
 15 nothing and that's normal if you're out, but they're not dehydrated. They're ready, they're watching, they're assertive, like our dogs.

Q. Right. I'd like to produce that by consent, your Honour. Now just going to the point score show records, 1 January 2017 to 30 October – 10 October – 30 October 2017, can you briefly explain what this indicates and the point of – and why you consider it important, from your point of
 20 view?

A. 2017 was a very, was up to a certain stage an absolutely amazing year. I had exhibited, or, we had exhibited 18 German Shepherds throughout New Zealand. There were six males and 12 females. These – the names
 25 are listed here, the date, what show, what they won, whether it was best of breed, a challenge certificate, best intermediate, the name of the judge and where that judge came from because we were – there were 32 New Zealand judges in 2017 and 133 international judges that judged these 18 dogs, which is a huge feat to have 18 dogs fit and in perfect
 30 condition and they are seen anatomically as the ideal for the German Shepherd breed standard and Pirelli, Pirelli was one of the dogs that was taken. You can see he starts it off in January 2017. Other dogs that were taken was – if we turn to the third page, is Tiana. Tiana was regularly shown until – there's a mistake there, it's gone. If we look at

Tiana on the 14th – oh, that's correct, 14th of the 10th, we can see how extensively she was shown under all these different, different locations and different judges and what she achieved. Champion Tanzanite exactly the same; she was best in show winner and best of breed. Antonio, he wasn't a champion at that point of time to the end of 30th of October, but he achieved his championship certificate. Then we have Champion Jade vom Springberg, that is Ruby, that is this girl here that was in the mud, the large photo. Regina, Regina was one of the girls that was surrendered to the SPCA on the 4th of August and she'd only been shown a few weeks prior where she won best of breed, best bitch and challenge certificate.

1625

She had one, two, three, challenge certificates and three reserve challenge certificates from international and New Zealand judges. Everest is Monty and you can see where he's been shown and what date, where he's been shown and the name of the judge and his achievements. I have summarised it at the end that Volkerson Kennels in that short period of time had achieved, had bred and achieved seven champions. To be able to do that, they have to be over six months old to have a championship certificate and worthy of that title and they have to have eight challenge or championship certificates to become a champion and the other two were imports that were exhibited and shown. We hadn't read them but we had exhibited them throughout New Zealand. I have stated the names of the champions and then afterwards the nine champions in one year and then I have stated, because Antonio had seven championships and then one more which he got. And what the other young dogs, they're all young, what they had achieved and I have written, what countries, all these different judges. There was 15 different countries and I have also put here from 2010 the names of bitches that have been – well Anelly was a champion. She had her first litter in 2000 – or was it her litter, that's her champion Anelly at about litter I think and there's just – if we take 2014 the number of litters, puppies, and out of those 24 puppies we had seven champions, three were exported and six of these were all through artificial insemination and yes I have –

Q. Your Honour I'd like to produce that by consent. That will be marked exhibit G.

EXHIBIT G PRODUCED – DOCUMENT

Q. Now Ms Wallace, I want to go quickly to the charges?

5 A. Yes.

Q. Charge 1 alleges that –

THE COURT:

Q. Don't read them out Mr Gardiner. Have you got the charges in front of you Ms Wallace?

10 A. No.

Q. Is it possible she could have them? We'll be here for another week if you read out charge Mr Gardiner.

A. Hold on, there's a, yes, yes, there is a book here.

THE COURT TO MR GARDINER:

15 Perhaps if you just say the name of the dog and she can have a look.

EXAMINATION CONTINUES: MR GARDINER

Q. In relation to this dog, Anelly, this (inaudible 16:28:52) utility shed on the 12th of October, photo H47 of the first prosecution booklet. Particulars: "Tethered unsatisfactorily, short lead." What do you say to that briefly?

20 A. What do I say to that briefly, there is no law against tethering short leads. As you can see at these trials and this cover here in New Zealand it's not, whether it's New Zealand or overseas, the length of lead that any animal is tethered there is no regulations –

Q. Unhygienic conditions?

25 A. No, not unhygienic. She's had a bone there, I've explained with the faeces. She's gone to the toilet once, she's allowed to do that, she was there just for a short time.

Q. Right, now just going to no behavioural enrichment, what do you say to that?

30 A. No behavioural enrichment, this girl here is at least seven years, I think eight years old in that photo, seven, eight years old and behavioural

enrichment she's watching everything that is going. We do not want to keep toys with dogs that are tethered because and if we're not supervising...

1630

5 Q. Charge 2, page – this is the dog at page 47, Casper. Can you comment in relation to, “tethered unsatisfactorily, short lead”? Is your position the same on that one as it was on the previous?

A. Absolutely the same. Perfect coat condition.

Q. It says, “no shelter”. What's your –

10 A. No, he doesn't need shelter if he's just put there temporarily which he was and there is no law about putting an animal, tethering for a short period of time without a kennel.

Q. “No access to water”?

15 A. He had water and the water's around his water bowl. He was not dehydrated. They do not need to have water in front of them 24/7.

Q. “No behavioural enrichment”?

A. He has a lot of behavioural enrichment with all the international students, what we do with it, the training, the rural environment. It's a healthy environment.

20 Q. Right, excuse me for a moment. Charge three, page 48.

A. Yes.

Q. “Unhygienic conditions, three German dogs in a crate”. What do you say to that?

A. That's not correct.

25 Q. How is it not correct?

A. Unhygienic, it's saying cage unclean.

Q. Right, so you deny that that is –

A. Yes.

Q. – the position.

30 A. All the crates were – this is from the 13th.

Q. Yes.

A. It says – oh, no, here: “From the 5th of October to the 12th of October.” So you're saying from the 5th of October to the 12th of October that this crate is unhygienic? I am understanding it correctly?

MR RADICH:

No, we're not – to be clear, we're not alleging that.

THE COURT:

No. What they're alleging, as I understand it, is that when the SPCA turned up
 5 on the 12th of October that those cages were unclean and what they are saying
 is that the dogs were obviously there a while, that is why it has got that date.

WITNESS:

The dogs had been, the dogs had been there, they were in there when they
 came at that point of time, but they had not been – any length of time like it is...

10 **EXAMINATION CONTINUES: MR GARDINER**

Q. "No access to water"?

A. There was no water in the crates, no, because they tip that over. They
 had – when they're taken out they're watered and fed.

Q. "No behavioural enrichment"?

15 A. All of our dogs have a huge amount of behavioural enrichment.

Q. And that behavioural enrichment is as you've described at different times
 in your evidence.

A. Yes, yes.

Q. Right, just going to charge four, page 40. Photograph there.

20 A. Page 40, yes.

Q. This female – may be wrong there. Correction, this is the adult German
 dog – the dog – Shepherd dog tethered to a tree, so that one is –

A. 12.

THE COURT:

25 Page 49.

WITNESS:

41?

THE COURT:

49.

EXAMINATION CONTINUES: MR GARDINER

Q. 49. Thank you, your Honour. Right, just quickly going to that.

5 A. It states here, “no shelter”. She was put there temporarily, doesn’t need shelter, but she did have shelter from the canopy of the trees. She lives inside and runs loose around the house.

Q. Right, “no behavioural enrichment”?

10 A. No behavioural enrichment, this is a champion. She has, as referred to before, a huge amount of behavioural enrichment.

Q. And that’s Tanzy?

A. That’s Tanzy.

Q. Going to page – charge five. This is pages 50, 51.

A. 51.

15 Q. There’s ref –

A. Oh, Monty.

Q. A young male German She – you’ve read the charge?

A. Yes. A young male and stating that he had been there for – “unhygienic conditions” –

20 Q. Excuse me, we’re looking at pages 50 to 51?

A. Yes.

Q. So, “unhygienic conditions, urine, faecal build up”, what do you say to that?

25 A. Absolutely untrue. This is a natural environment, this is on the ground, this is not unhygienic, there is no urine or faecal build up there as you can see, otherwise we would have had nice big photos emphasising that. There isn’t even one faeces there, to say faecal build up or urinary build up – he was put there temporarily.

Q. “Lack of shelter”?

30 A. He was put there...

1635

1635jtl

...big photos emphasising that, there isn't even one faeces there to say a faecal build-up or urine build-up. It was put there temporarily.

Q. Make-up shelter?

5 A. He was put there temporarily so it was only for a short time. He did not need shelter, he does not live there. That's not his home.

Q. No access to water?

A. He did have access to water but he's tipped it over. He was not dehydrated and has regular access to water when he's –

Q. No behavioural enrichment?

10 A. Monty had huge behavioural enrichment in every possible way.

Q. You've covered the issue of behavioural enrichment a number of times and applies –

A. So I don't need to say that?

Q. No.

15 A. Good.

Q. So we go to charge 6.

A. Yes.

Q. This is 50, photos 52 and 53, probably also 54. So 52 to 54, these three dogs, Astro, Dolly and Mafia?

20 A. Yes.

Q. And the old ones?

A. Yes.

Q. Can you just comment briefly, particulars unhygienic conditions, faeces build-up?

25 A. This is, I have explained the faeces has picked up earlier in the morning. This is from during the day. The water blaster was broken and this is old concrete there's also a lot of stain to the concrete but you could see very clearly that the netting, the wire is all cleaned, the pipes are cleaned. The water troughs are cleaned around it. The dogs themselves are cleaned.
30 If you look at their coat underneath, so yes. When it's perfect, that is the ideal situation but for the dogs they were healthy, they had their house at the back, these are two metre long runs. It's old concrete, yes well this is why we built new runs and have new concrete so it looks pristine.

Q. We go to charge 7.

THE COURT:

It's the dog in the cattle area page 55.

EXAMINATION CONTINUES: MR GARDINER

Q. So Ritzer, can you comment in relation to the three particulars?

- 5 A. Tethering satisfactory, that is absolutely disputed. She's on a one metre 40 centimetre long. Show lead which could move a length of two metres if she wants to. She's tied there temporarily after he training and she's certainly not in unhygienic conditions.

Q. Lack of behavioural enrichment?

- 10 A. Definitely not.

Q. As covered by your previous descriptions?

A. Yes, yes.

Q. Charge 8?

A. Charge 8.

- 15 Q. This is four adult German Shepherd dogs allegedly housed in the deer shed. What do you say in relation to that, the three particulars?

A. Right, tethered unsatisfactorily, no it was a long lead.

Q. This is in the deer shed?

- A. In the deer shed. It's actually not on a lead, it's on I think on a light chain
20 if I remember rightly. So the chain would be, all the chains are two metres plus so it's not on a short lead.

Q. Unhygienic conditions?

A. And it was temporary so that she got accustomed to the other dogs that were in the shed, unhygienic conditions. Dogs go to the toilet.

- 25 Q. This charge refers to four adult German Shepherd dogs but –

A. Yes, I don't see any of the three German Shepherds, I don't know. To say that they're unhygienic. There is no evidence that they're unhygienic.

Q. Lack of behavioural enrichment?

- A. All of our dogs as previously said have huge amounts of behavioural
30 enrichment.

Q. Charge 9?

A. Charge 9.

- Q. This is pages 61 through to 63 in the woolshed, 95 German Shepherd puppies. Now particulars: "Unhygienic conditions, faeey build-up, what do you say to that?"
- 5 A. They're not unhygienic conditions. This is in a woolshed. That it 's cleaned every day.
- Q. Inadequate access to water?
- A. No, they all have water and they all have water inside and outside.
- Q. Lack of behavioural enrichment as discussed previously?
- A. Yes.
- 10 Q. Whereas covered previously. Looking at charge 10, this is in relation to Monty photograph 64?
- A. This is now on the 13th, yes.
- Q. Top photo?
- A. Yes.
- 15 Q. Tethered unsatisfactorily short lead?
- A. It's not a short lead, it's not illegal to tether. This dog is on a show lead plus his neck collar, one metre and 40 –
- Q. No shelter?
- A. No, he's only there temporarily he does not need shelter. He has only
- 20 been put there for 15 minutes, he had a water and it was just to rest and relax.
- Q. So no access to water not accepted –
- A. Not accepted.
- Q. – and no behavioural enrichment. That's as your position as is covered
- 25 previously?
- A. As covered previously, yes.
- Q. So going to charge 11, this is Astro looking at the bottom of page 64 through to 65?
- A. Right, no shelter, absolutely disputed. You can see the shelter in the
- 30 house that they're actually sitting in and looking out.
- Q. Behavioural enrichment as covered previously?
- A. Inadequate nutrition, absolute disputed. They're on the most premium, these are very valuable dogs. They're on the most premium quality nutrition that is available and more.

Q. Matted coat?

A. Cannot matte it's a short, short coat.

Q. Charge 12, that relates to a second dog in the same kennels called Dolly?

5 A. It's Dolly the same kennels the same answers and the photos depict that we saw on the 12th of October that the dogs did not have a matted coat.

Q. And in relation to underweight, the allegation the dogs were underweight, you reject that?

A. I reject that totally.

Q. And you've explained your decision?

10 A. Yes.

Q. Your explanation and evidence applies to that – this –

THE COURT ADDRESSES MR GARDINER – KEEP MOVING (16:42:34)

EXAMINATION CONTINUES: MR GARDINER

15 Q. Charge 13, this is Dolly again. She is alleged we've had an untreated ear infection, what do you say to that?

A. I dispute alleged to have an untreated ear infection I dispute that, dogs were treat.

Q. And who treated them?

A. I treated them with Dermotic ear drops.

20 Q. And where did you get the advice that particular substance?

A. From the vets.

Q. Just going to charge 14?

A. Yes.

25 Q. This concerns Mafia, (inaudible 16:43:16) kennels with Astro, Dolly and Dolly?

A. Yes.

Q. Can you comment again lack of shelter?

30 A. Lack of shelter absolutely incorrect. The kennel was at the back of this two metre long run which you can see. He has a lot of behavioural enrichment and just looking at these two people that have just arrived. Inadequate nutrition, no he's fed on beef and Royal Canin.

Q. Matted coat?

A. Definitely not. The photos from the 12th of October show clearly that he does not have a matted coat.

Q. Charge 15 –

A. Yes.

5 Q. – Mafia alleged untreated ear infection?

A. Mafia had been on the 17th of September 2017 had a health certificate, had a full health check, health certificate was x-rayed for his hips and elbows and was healthy. I had given him I think shortly beforehand if I remember correctly eardrops.

10 Q. Charge 16 reference to Casper, tethered unsatisfactory on a short lead?

A. No, disputed totally as previous –

Q. That's top of page 66?

A. Yes, disputed. He's on a one metre 40 lead plus neck collar which is on a two metre long steel rod which you can move along if he wants to.

15 There is no measurements on how long a tether should be.

Q. No access to water?

A. He had water, he had his training and had been fed.

Q. "Inadequate shelter?"

1645

20 A. This is temporary and there was roofing over the cattle yard.

Q. "Lack of behavioural enrichment", as previously covered?

A. Yes.

Q. Charge 17, Zita.

25 A. Zita, no shelter, she's in the middle of the yard which is fully roofed on both sides, over the top and down the sides.

Q. Right and this is the dog at the bottom of page 66.

A. 66, yes, but –

Q. And going to the top of 70 – 67?

30 A. 67, but if you turn back to page – to the 12th of October she is featured and that is page, page 56 and that's her little face and you can see she's in the middle of the yard.

Q. Right just going to charge 18, Debbie, what do you say to – this is pages 68 to nine.

- A. Absolutely disputed, the fact that faecal matter was in her coat, her wire coat. My mother and this Japanese international student were combing her out two or three hours every day.
- Q. Charge 19, Debbie, “untreated ear infection”. What do you say to –
- 5 A. Absolutely disputed, she was on a course of antibiotics and had ear drops.
- Q. Charge 20, “inadequate nutrition, dog underweight”. Paris, “matted coat”.
- A. Absolutely disputed, she was ideal weight and she was losing her, she was shedding her winter coat.
- 10 Q. All right, going to – and what about the matted coat?
- A. She did not have a matted coat.
- Q. Just going to page –
- A. She has a short coat.
- Q. – charge 21.
- 15 A. Yes.
- Q. That’s Desney.
- A. Desney.
- Q. Matted coat.
- A. No, disputed.
- 20 Q. Right, charge 22, “German Shepherd, Desney, untreated skin and ear infections”.
- A. Desney was – that is disputed. Desney was – had ear drops, which are antibiotics and anti-inflammatory and she was receiving antibiotic tablet once a day.
- 25 Q. Elite, charge 23, “unsafely housed”.
- A. These were all temporary until their kennels were completed so that they were warm and dry and in a good – when they were in there temporarily. Unsafely housed? No, they were safe, there were – had plenty of room to move. It was wood, it was natural, and I dispute it in its entirety.
- 30 Q. And the house, the house we’re talking about is –
- A. The woolshed.
- Q. – the housing is the woolshed?
- A. Yes.

Q. Just going to the second, Puppy, named Puppy, page 24, “unsafely housed”.

A. Disputed.

Q. Same response?

5 A. Disputed.

Q. Charge 25, disputed. Same, Emma, same –

A. Yes.

Q. – at the same location.

A. Yes.

10 Q. “Unsafely housed, rejected”. Is that right?

A. Absolutely, yes.

Q. Charge 26, a Shepherd dog named Dani.

THE COURT ADDRESSES MR GARDINER – CHARGE DISMISSED
(16:48:04)

15 **EXAMINATION CONTINUES: MR GARDINER**

Q. Charge 27 –

A. Charge 27, Dani was being treated with Dermotic ear drops, which is an antibiotic anti-inflammatory.

20 Q. And to what extent had there been consultation with the vet in relation to that?

A. That’s – you can only get antibiotic ear drops from a vet.

Q. Right.

A. They’re cleaned out, they’re flushed out and they’re ear drops.

Q. Charge 28, Pirelli? This is in the hay barn.

25 A. In the hay barn? Well he wasn’t tethered on a short lead. He did have water, he certainly had excellent and certainly as a champion has had a huge amount of behaviour – so it’s all disputed.

Q. And what about the allegation that he was underweight?

30 A. He was not underweight. He was according to the German Shepherd breed standard.

Q. Charge 29, Ritzer, “unsatisfactory tethering”?

A. I dis – I dispute – she was tethered, yes. I dispute that it was unsatisfactory tethering because this has been created by the situation.

Q. “Lack of access to water”?

A. She had water, it was turned over.

5 Q. “Unhygienic conditions, faeces build up”?

A. There was no faecal build up. There was – she’d gone to the toilet once and that was fresh.

Q. “Lack of behavioural enrichment”, as discussed –

A. As discussed.

10 Q. – previous – in other cases.

A. Yes.

Q. Charge 30, Tiffany.

A. Tiffany, “unsatisfactory tethering”, she – that was not a tree that she got tangled around, it was a bit of bush and that was due to the invasion of the SPCA people, so that was created. This was a quiet relaxing environment until that moment.

1650

Q. Lack of shelter? Lack of shelter?

A. She had – this is only temporary, she had shelter over the canopy of the trees.

Q. Lack of access to water?

A. She had water. She was hydrated.

Q. And adequate nutrition, dog underweight?

A. She had excellent nutrition, the best that is available.

25 Q. Behavioural enrichment as covered earlier?

A. As discussed, yeah.

Q. Tiffany is untreated skin infections. What do you say to that?

A. Certainly disputed. Tiffany was my little girl and she was treated with Neosoothe too which is the best on the market to heal the skin that had been created by a third person.

30 Q. Charge 22, Princess?

A. Princess, no shelter, she was put there temporarily to rest. It was a resting station. She had shelter from the trees, from the shade. It wasn't

raining. Of course she had the best nutrition and of course she had enrichment.

Q. And what about underweight?

A. Oh, certainly not underweight, no.

5 Q. Tiana?

A. She was the correct weight.

Q. Righto, charge 33, Tiana.

10 A. Tiana, she had shelter from the trees. This was temporary, a resting station from training. She had a water bucket there. She had water beforehand and was hydrated. She was not dehydrated. She had excellent weight, as weighed and recorded in the – all of these dogs had excellent weight recorded in their SPCA medical records. Tiana is a champion and she had a lot of behavioural enrichment.

Q. What about the allegations of underweight?

15 A. No, definitely not.

Q. Righto. Just going to charge 34, in relation of Antonio.

A. Thirty-four?

Q. Charge 34.

THE COURT:

20 Q. It will be exactly the same.

A. Same, same, yes.

EXAMINATION CONTINUES: MR GARDINER

Q. The same, and same in relation –

A. Same.

25 Q. – to Anelly?

THE COURT:

Sorry, I don't mean to cut you off.

WITNESS:

Don't need that. Okay, okay.

MR GARDINER:

That's right, your Honour.

THE COURT:

Q. And 35 is the same as well.

5 A. Yes.

EXAMINATION CONTINUES: MR GARDINER

Q. Right, and charge 36, there are a few additional things here, untreated skin infection, same in relation to the first three points, untreated skin infection –

10 A. She had no skin infection.

Q. Untreated ear infection, what do you say?

A. Untreated ear infection, I dispute it totally. She was being treated.

LEGAL DISCUSSION – CHANGE OF COURTROOM (16:52:43)

COURT ADJOURNS: 4.57 PM

COURT RESUMES ON TUESDAY 1 FEBRUARY 2022 AT 12.31 PM
JANINE ANNE WALLACE (RE-SWORN)

CROSS-EXAMINATION: MS STOIKOFF

Q. Good afternoon Ms Wallace.

5 THE COURT ADDRESSES WITNESS – MASK, STAY BEHIND SCREEN
(12:35:43)

CROSS-EXAMINATION CONTINUES: MS STOIKOFF

Q. Good afternoon.

A. Good afternoon.

10 Q. I just have a few questions that I'd like to ask you and a few things to discuss with you. I'll go first to the SPCA's first visit to the property on the 28th of July 2017. Now we've heard evidence that you and your mum, Barbara Glover were at the doctors at that – when they arrived?

A. That is correct.

15 Q. Now I'm not going to ask you what the problem was or what the condition was, but were you visiting the doctor for an ongoing condition where you and your mum visiting?

A. It's a combination. The medication was changed and a emergency happened.

20 Q. Now on that I have been – I'll ask you some questions and your Honour Mr Radich has agreed that I can lead this next question. Now regarding your mum's health –

A. Yes.

Q. – there's a, is it so that in 2006 your mum fell on a horse?

25 A. Yes.

Q. And in 2008 she fell off the back of a quadbike?

A. Yes and she was very lucky, both C2 and C3 were broken.

Q. And she was hospitalised (inaudible 12:37:36) –

A. Yes, yes.

30 Q. And that she has done, suffered and still does in skin cancer?

A. Yes.

Q. And is it true that the last treatment for that was last year in 2021?

A. '21 and she was there 20 – yes.

Q. And is it fair to say that the knee injury from the fall from the horse is what's caused the latest knee problems and what has resulted in a full knee reconstruction?

A. That is correct.

Q. Now hearing the evidence you've given so far, would it be fair to say that you share your mother's passion and love for German Shepherd dogs?

A. Yes.

10 Q. Now because of your involvement with the farm, do you and your mum talk about what's happening on the farm?

A. Of course we do, yes.

Q. Do you talk about what's going right with the farm?

A. We do.

15 Q. If there are any problems would you let your mother know?

A. Absolutely.

Q. And you discuss everything that was – would you have discussions about what was happening on the farm?

A. Definitely, yes.

20 Q. And if things weren't going well, and in your opinion things were filthy and things were dirty, would you have let your mum know?

A. Of course.

Q. Now although your mum couldn't do alone the physical work around the farm you keep her up to date with what was happening in each enclosure on each part of the farm?

25 A. Yes, I keep my mother very well informed, yes.

Q. Now would it be fair to say that your mum didn't do the training up in the bush walk?

A. No, she didn't do the training up in which we would train the dogs on the quadbike together or on the gater together and she would – after they'd been trained, look at the dogs to make sure they're fit and firm and how they should be.

30

1240

Q. Now, Mr Gardiner took you through each of the charges that you face, charges 1 to 36.

A. Yes.

5 Q. Now, your mother, as you know, faces exactly the same charges but from charge 37 on.

A. Yes.

Q. Now, if I read the particulars of charge 37, that's with Aneli, and I asked you to comment on her being tethered unsatisfactorily, what would you say?

10 A. She certainly wasn't tethered unsatisfactorily.

Q. If I was to say she was in unhygienic conditions, what would you say?

A. Definitely not.

Q. If I was to say she had no behavioural enrichment, what would you say?

15 A. Aneli has the most beautiful life. She had a very enriched character and environment and behaviour. She was a show champion. She had been everywhere with us as a family dog and a guard dog.

Q. Now, as with your involvement with all of the dogs, if I was to go through each one of the charges that Barbara faces, would you answer me the same as the answer you gave to Mr Gardiner?

20 A. Absolutely, all disputed.

Q. Now, regarding the health of the animals, now you were having – some of them were being treated with drugs and so forth that you get from the vet.

A. That is correct.

25 Q. Now, this may be a stupid question, so forgive me. If there was any other treatment like an instrument that could be used like a grommet that we would use in children's years, was there such a device available for dogs?

30 A. It's called an otosc – are you talking about the ears? It's called an otoscope. Vets have otoscopes and we – we have been advised by all vets, the vets that we use, the ears are very sensitive and to be very gentle. When the ears are being cleaned out I always talk to them and tell them what I'm doing so that they understand from my voice not to be concerned about it, so when they're being flushed out, it was always with lukewarm water, distilled water, with a little bit of soap in 'cos that's what

I was told to help loosen it, and once – if there's any wax in there or any debris or from allergies, from different foods or grass seeds, there could be so many things in their ears, and by flushing them out and then to gently massage it in the ear, but very, very gently –

5 Q. But you don't use any instruments?

A. No, never.

Q. Okay, and your mum doesn't use any instruments?

A. No, no, no.

Q. Okay.

10 A. We were told from the vets never to put – even though, like, we as humans use ear buds, but we can feel how far it's going. With a dog we don't know, and never to use an instrument in their ears.

Q. So as far as Barbara's concerned, as far as your mum's concerned, to your knowledge, of course you can't speak for your mother.

15 A. Mhm.

Q. But to your knowledge, with the discussions that you've had, to your knowledge your mum was aware that everything was okay on the farm?

A. Yes, she was, yes.

CROSS-EXAMINATION: MR RADICH

20 Q. Ms Wallace, in your evidence you've used the words "temporary" and probably "temporarily" a number of times. Just as a preliminary point, can I get you to explain what you mean by "temporarily" or "temporary" in relation to the housing and tethering of dogs?

A. Yes, certainly. Temporary is a moment in time. It's at that exact moment
25 when I have been asked. It's a short space of time.

1245

Q. In relation to the tethering and housing of dogs, when you say "a short space of time", do I take it we're meaning minutes or maybe hours, but certainly not days, weeks or months?

30 A. Certainly. The dogs were not tethered as a home. That is – no, they're just finishing their training, starting their training, they've just been given something special to eat or they've been given medication or where we are supervising them and watching them, socialising, protection, for

example with Anelly, for our contractor that was petrified of her, but these are all short periods of time. It's certainly not months and certainly not weeks and certainly – yeah.

Q. Certainly not days?

5 A. No.

Q. So can I take it from that, every time you've described a dog as you've gone through your evidence, as being in a particular position or place temporarily, you're not meaning overnight?

A. Can you expand on that, please? I don't under –

10 Q. I'm not sure how much –

A. What the question –

Q. – simpler I can make it.

A. Would you mind repeating that question?

15 Q. Okay. Every time you've said in your evidence that a dog was in a particular place temporarily, you're not meaning overnight, are you? You're talking, as you say, a moment in time, minutes, maybe hours but not longer than that?

A. No.

20 Q. All right, thank you for clarifying that. I wanted to ask you some questions about the property itself and I thought it might help if we have a, just in terms of the layout and the various structures, I thought it might help us all if we had a diagram to assist in that.

MR RADICH ADDRESSES THE COURT – PERMISSION TO DISTRIBUTE IMAGE (12:46:55)

25 CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Now we'll come to the fact that this doesn't – that this is – this doesn't represent how the property necessarily was in 2017, 2018, but in a general sense, is what we're looking at there an overhead view, a Google Images image of the property, or part of the property around the house?

30 A. It's missing the entrance, but part of the property. You've got down on the right-hand side, the cottage, and the – does it say when this is taken?

Q. No, it doesn't, and that's what I wanted to get through, to get to, because we can see, for example, and I'm going to go through each of the buildings that we can see there, but we can see the new kennel block there, can't we?

5 A. Yes, we can.

Q. Okay so we it was certainly – it's certainly close – 2018 or later would be fair, wouldn't it?

A. That would be fair, yes. Yes.

10 Q. Okay all right so now as we look at that picture, holding it in the landscape format, as you said, we can't see the entrance to the road, but we can see Miranda Road in the bottom right-hand corner, can't we?

A. Are you holding it this way?

Q. In landscape, landscape format.

A. Oh, right. Sorry. Yes, I was holding it around the other way.

15 Q. Okay so if we were – if this were expanded so we'd see the entrance to the property, it would be just down slightly off the bottom of the picture, correct?

A. That is correct.

20 Q. And then if you see the word Google at the – in the middle at the bottom of the picture, just to the left of that we can see the driveway going to the cottage, is that right?

A. That – on the left-hand side, that is correct.

25 Q. Okay now around that area we're looking at, we're looking at two separate buildings, being the cottage and a ga – and the smaller building is the garage, is that right?

A. The larger one is the cottage with the garage just in front – to the upper side of it on the left-hand side.

Q. Right and that cottage is a one-bedroom cottage?

A. No, it's a two-bedroom cottage.

30 Q. Two-bedroom cottage, okay. Who was living there in 2017?

1250

A. 2017 there were international students living in there.

Q. Would there be one at a time or two at a time in there typically?

A. It can be more at a time, it depended on the students. There could be three, four, it depends, all different –

Q. We're pinning it down say to the time of the first inspection in late July 2017, how many people were living there at that time?

5 A. I'm sorry I can't say, I don't know.

Q. You can't remember?

A. No.

Q. Was – but there was an international student or more living in there, is that right?

10 A. I'm sorry I can't say if, I'd have to look back in my notes, I don't know.

Q. So you can't say whether it was occupied or whether it was vacant?

A. I can't say either way.

Q. That's okay, it's not a – I'm not trying to trick anybody here, I'm just trying to understand where we're getting to. So that's the cottage –

15 A. I can look it up, I can look it up and can say exactly but off my head no I can't.

Q. Now to the left of the cottage and the garage?

A. Yes.

Q. We can see what have been described as the exercise pens, right?

20 A. Yes, you can see where the garage is, there is, yeah this would be from 2017/18. Where the garage is that area there is an exercise pen, that long, the whole length of the section and then you can also see there's some shrubs there and a little tree and then you can see something white which is the roof of the hen house I think. It's hard to see from this but
25 there is what looks like a construction there and trees.

Q. So just, just so I understand correctly, in terms of the – what we've called the times in this the exercise pens, that basically the pen that is photographed at the top of page 2 of Crown exhibit 1, have you got that?

A. Yes, yes.

30 Q. So that exercise pen there is a –

A. That is part of the area (inaudible 12:52:29).

Q. Please let me finish the question. That exercise pen there is around the cottage, right?

A. Around the cottage, no.

Q. It's in the vicinity of the cottage –

A. It's in the vicinity of the cottage.

Q. That's what I mean by around –

A. Sorry, sorry.

5 Q. I was trying to establish where it is, whether it's close to the cottage, close to the house, it's close to the cottage, isn't it?

A. Yes.

Q. Now then if one continues up that –

THE COURT:

10 Q. Sorry, can you just – I'm not very good with maths. So the cottage is the larger build in there, the garage is the smaller one?

A. Yes.

Q. Behind it sort of to the left?

A. To the left, yes.

15 Q. So where's the exercise pen?

A. Right beside the garage, there's a long exercise pen and to the left of that you can see the green there, that is also an exercise pen. So both of those it's like an L.

Q. On the left-hand side of the garage?

20 A. Yes.

Q. And at the back of the garage as well?

A. Yes, there is also other areas in around the house as well.

MR RADICH ADDRESSES THE COURT – TO MARK PLACES (12:53:33)

CROSS-EXAMINATION CONTINUES: MR RADICH

25 Q. I'll just place a pen there and if you could maybe circle the cottage and garage and then circle the exercise pens and label them that would be great.

THE COURT:

That's all right, I'll have a look at it a bit later on so...

30

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Yes, we'll I'll get you to do more as we go along and so then we'll hand it up to her Honour. So if one continues along up the driveway, up as we look at the picture in landscape format, it then essentially curves around to the right where we get all these other buildings, correct?

5

1255

A. Yes.

Q. And the, the first one we come to is the house, is that right?

A. Yes, that is correct.

10

Q. Okay could you circle the house and mark it, please? Okay and again just hold that up again for her Honour to see.

THE COURT:

Yes.

CROSS-EXAMINATION CONTINUES: MR RADICH

15

Q. Very good now just before we move onto the next building we're going to speak about the house, it's a – is it a three-bedroom or four-bedroom farmhouse?

A. It is a four-bedroomed farmhouse.

20

Q. In 2017 again, to be specific I suppose, so around July, August 2017, you were living there?

A. Yes, I was.

Q. And your mother was living there?

A. Yes, she was.

Q. And your sister Ann was living there?

25

A. Yes, she was.

Q. And was anyone else living there?

A. We had also international students living with us in our home as well, yes.

Q. Okay so all bedrooms occupied around that time?

30

A. All bedrooms occupied? All bedrooms occupied? I think three of the bedrooms, the lounge, it depended on the person. Yes, so we had a spare room. Yes.

Q. So you're saying there were four bedrooms and a spare room?

A. There's four bedrooms, there is – we had a couch.

Q. I'm not ask – I'm not interested in furniture, could I just ask about the rooms?

5 A. No, I'm just answering your question which is about bedrooms and how many people are sleeping in the house and I am just reflecting back to 2017. We had a couch which was also a single bed, which was in the lounge, and this was used if we didn't want someone in one of the bedrooms, but in the lounge and that's your question asking how many people or how many bedrooms were used.

10 Q. Not entirely but –

A. Okay.

Q. – if you can't –

A. Fine.

Q. – remember, that's okay, but were all four bedrooms occupied?

15 A. One bedroom was not – had three beds in it, I can't remember what was – it was a long time ago, what was occupied and what wasn't, but the spare bedroom had three bedrooms in there, bunkbeds and a single bed.

Q. Okay and just to confirm, when you say *spare bedroom* are you including that in the count of four or are you saying there was four plus one more.

20 A. No, that is the fourth bedroom.

Q. Okay, thank you. So then the next structure we can see there, just up from the house, a smaller structure, is the garage, is that right?

A. Yes, you can see the white picket fence and the garage, the double garage. Yes.

25 Q. And to the – again, up from that a little bit and along to the right a little bit is what we've been calling in this trial the utility shed, correct?

A. That is correct.

Q. Could you just again circle those and identify them for the Court, please? The garage and the utility shed.

30 **MR RADICH ADDRESSES THE COURT – TIMING OF QUESTIONS**
(12:59:47)

THE COURT:

Q. Which one is the garage?

A. That little one that –

Q. Little one.

5 A. – looks like it's got a black –

Q. Same colour as the house roof?

A. Yes, yes.

Q. So that's the garage?

A. That's the garage and then there's –

10 Q. And the utility is just to the right of that bigger one?

A. That grey one, yes.

Q. With the grey one. Right, got that.

CROSS-EXAMINATION CONTINUES: MR GARDINER

15 Q. And then to the right of the utility shed we have a long, thin structure. Is that the new kennel?

A. That is, that is the new kennel complex. Yes.

Q. Okay and above that as we look at the image is the cattle yard building, right?

A. The covered cattle yards, yes.

20 Q. So again I'd be grateful if you could just circle and mark the new kennel and the cattle yard.

A. I'd also like you – just going back to the utility shed, you can see quite clearly the clear sun panels to let natural daylight into it and you can see on both sides of the roof of the utility shed.

25 Q. Very good, have you marked the new kennel and the cattle yard?

A. I'm just doing that now.

Q. And if one then continued along essentially slightly up and to the right as we're looking at the picture, would one see the deer shed on the left?

A. Yes.

30 Q. Right at the top of that picture.

A. Yes, yes, right at the middle. Yes, that is the deer shed.

Q. Could you circle and mark that, please? And then the final building I'd like you to mark on there is the woolshed, which is a little bit further along, right at the top of that picture, correct?

A. That's correct.

5 Q. Thank you for that now just, and just one more thing to, I suppose, before we wrap up for lunch, the hay barn is not on this picture, is it? It's outside of that field of view, right?

A. It's just above the woolshed.

Q. Yes but there's sort of a track –

10 A. Yes.

Q. – isn't there, when you go past the woolshed and if you continued on for, what, a couple hundred metres, you'd get to the hay barn?

A. Yes, definitely.

MR RADICH ADDRESSES THE COURT - TIMING (13:03:10)

15 **THE COURT:**

Q. Can I just ask, in the picture if you just went straight up into where the white border is, the hay shed would be up there somewhere?

A. Sorry. The hay shed is where I've just written, just here.

Q. So it's above the woolshed.

20 A. It's above the woolshed just here.

Q. Right, okay. Thanks for that. That's helpful.

A. We look at here, that fence line going up, that was the fence, the fence line here, that fence line went up to where Dani was in the woolshed – not woolshed, the hay barn.

25 **MR RADICH ADDRESSES THE COURT – COPIES FOR PARTIES (13:03:56)**

COURT ADJOURNS: 1.04 PM

COURT RESUMES: 2.06 PM

THE COURT:

Is this a copy that I can keep?

5 **MR RADICH:**

I'm assuming that's a copy of the marked exhibit that your Honour's just been handed.

THE COURT:

Excellent, right thank you.

10

EXHIBIT 4 PRODUCED – GOOGLE IMAGE PRINTOUT OF PROPERTY MARKED BY WITNESS

THE COURT TO WITNESS:

Right and what I didn't do before the break Ms Wallace was just to remind you
15 that because you're under cross-examination now you can't discuss your evidence with anybody in the breaks or anything like that. So if we get to the point we finish for the day and you're still being cross-examined, you can't discuss your evidence.

20 **WITNESS:**

Right, so what we've discussed in court, is that right?

THE COURT:

Yeah.

25 **WITNESS:**

Okay, with anyone?

THE COURT ADDRESSES COUNSEL – MOVE BACK TO COURTROOM 1
(14:07:56)

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Ms Wallace, just before the break we've been looking at that image and you'd marked a number of the buildings on it. There's one other building that I just wanted to speak about because it's come up in the evidence
5 but it's not on that image and that is the – what's been referred to as the puppy shed, you know what the building I'm talking about?

A. Yes, yes.

Q. And so just to be clear, so we're all on the same page about that. If we go to page 21 of Crown exhibit 1?

10 A. 21.

Q. 21 of Crown exhibit 1, yes. We can see the puppy shed in the top photo of that page, is that right?

A. Yes.

Q. And we can get an idea of where it was even if it's not a (inaudible
15 14:09:28) image, we can get an idea of where it was from the garage being in the background, the garage to the house not the cottage, correct?

A. It is correct, yes.

Q. And it might even help even more if we refer to defence exhibit A. I'm sorry this isn't the fault of the witness my apologies. Can we put defence
20 exhibit A before the witness.

WITNESS REFERRED TO EXHIBIT A

Q. And so we can see on the first page of defence exhibit A the area shown, the utility shared and the garage outside the main dwelling, right?

A. That's correct.

25 Q. And we can see the puppy shed's not there but by inference with the photo on page 21 the Crown exhibit 1, we can see where the puppy shed was back in 2017, right?

A. Correct, would you like me to put a little cross here on that –

Q. No, no, that's okay because I'll produce the exhibit. I'll probably prefer if
30 we don't mark it in that way any further and apologies, I'll need to produce it again but yes, it would've been on that image it's essentially between the garage and the utility shed?

A. If you take the utility shed it was – and you look at the same time at 21. If you take the edge of the utility shed it was right beside it.

Q. So does that cover all the buildings in this area that we've referred to in this trial I hadn't missed any out?

A. We've spoken about the heat pump, the puppy shed, garage, the house, the cottage. I think so, I believe so. (inaudible 14:12:01).

5 Q. Now there were some smaller structures I suppose we could say in terms of smaller dog kennels, correct?

A. Yes.

Q. So for example if we go to page 3 of Crown exhibit 1, Crown exhibit 1 page 3, we see a double dog kennel, don't we?

10 A. Yes we do.

Q. And then there's also if we go onto page 6, we see what's described as single dog pen in the booklet, it's really a single dog kennel there isn't it?

A. It's a house with a extended run yes, a two metre run. It's about three metres in full length.

15 Q. And then of course in addition to those dog kennels, we would've had although it's not clear, it's not shown of course in this more recent image, but there weren't the old runs weren't there which were in the position that the new kennel complex is in?

A. Yes, the old runs were behind under the side of the utility shed.

20 Q. The same, maybe not exactly the same geographical footprint of the same general area?

A. Yes.

Q. And those old runs housed, well there were 10 kennels, is that right?

A. Good question, no I don't think that's right.

25 Q. What do you say is right?

A. Originally there was, let me think. There was a photo. I think, I believe there were 11, three, six and one of five. There is a photo –

1415

Q. Okay, in that Crown exhibit 1 or in a different one?

30 A. I'll just go back to...

Q. Page 16, for example, we can see the old runs in page 16.

A. Yes, that's the three, page 16. Page 17, there's one of the others. Okay, now – oh, I can just count them now. Four. You could be right, 10 kennels. Four – there were either four or five. There was another

(inaudible 14:15:57) I think it is in one of the other evidence booklets. There's either – I can't be exact there, but there's either – that middle one, there was either four or five in that, as far as I can remember.

Q. Okay, so would that make the total 10 or 11?

5 A. That's what I'm not sure on. It would have made, I would say, 10 or 11.

Q. Okay, that's fine. We can park that and if you want, in the break or overnight, you can give that some more thought.

A. Yes, there is a photo then and you can see exactly how many.

10 Q. Okay, were there any other kennels on the property, as best you can recall, at that time?

A. I can't, sorry, I can't, it's – I'm just going back in my memory. So we've got those there and there... no, I don't think so. Not that I can recall.

15 Q. Okay. All right, now just looking at the image, again, the Google image, Crown exhibit 4, so if we look at some of those buildings that we've spoken about in this trial and what you've said in relation to them, the hay barn which is off the map, that wasn't used as anything other than a temporary dog accommodation, right? Okay. And just to be clear, are you talking, do you mean just inside the hay barn, or Danny off to the side? Because we saw Dani –

20 A. Dani had his, um, Dani was – that was his area.

Q. Right, but when you say his area, that was where he slept as well.

A. Yes, he had his own, um, kennel in there and he had the freedom of that whole area. He looked after that area, he looked after the hay barn.

25 Q. Okay, and then the woolshed, of course, we've seen a lot of photos of dogs in the woolshed, but that wasn't anything other than a temporary measure?

A. That was only a temporary measure.

Q. Okay, and is it the same with the deer shed?

A. That's right.

30 Q. And is it the same with the covered cattle yards?

A. That's right. The cattle yards are used for cattle, or if we're training and it's raining, they're inside, we're doing something with them, but... every day is different.

Q. And the utility shed as well, was that anything other than a temporary place for dogs at any stage?

5 A. The utility shed was – we had dogs running loose in there, in the large area, to protect after we'd had so many break-ins into the implement shed where all the equipment was. I think we had three break-ins, if I remember correctly. I wasn't there the whole time so I can't say exactly, but that was the reason to actually try and scare off anyone that's trying to break in, or at least give us – alarm us that intruders are here.

1420

10 Q. Right so if we – I just want to clarify with you, you used a phrase there and I just want to clarify exactly what you meant. The implement shed, when you say the *implement shed* are you meaning room within the utility shed?

A. That was a locked area.

15 Q. Right.

A. That's where all the equipment and tools and everything was – saddles, were kept.

Q. Okay and is that the same room –

A. That is in –

20 Q. – we're going to come to in due –

A. – that very large building that you see there. Three quarters of that was open, aired, and there was a portion that you saw that was locked.

Q. Okay and just to be clear, is that room that you call – that you've referred to as the implement shed, is that the room that we're going to come to in
25 due course when we talk about the dog Debbie?

A. That is correct.

Q. Okay if you look at defence exhibit A again on that first page.

A. Page 1?

Q. Yes, page 1.

30 A. Yes.

Q. The top photo on page 1.

A. Yes.

Q. We can sort of see that it's almost divided into thirds. Is that right? We've got two thirds where it's open and then one third where the front is closed off. Was that where the implement shed was?

A. No. No.

5 Q. Okay, can you explain to me?

A. No, this is down at the cottage and what we have – something should be here.

Q. Sorry, defence exhibit A.

A. Am I looking at the wrong ones?

10 Q. Sorry, defence exhibit A. This one, the photo of the utility shed.

A. Sorry, right. Now I'm back. So what was the question, please?

Q. Yeah, so we look at the utility shed there obviously –

A. Yes.

Q. – and we can see it's almost sort of divided into thirds.

15 A. Oh, sorry.

Q. And we've got two thirds that is an open area and one third that is closed off from the front. Is that – is behind that closed off area where the implement sheet you described was?

A. That is correct.

20 Q. And the dogs, you talked about some dogs sort of having the run of the other open area inside there, is that right?

A. That's correct.

Q. But would they just be there temporarily or was that their home?

25 A. They were – we had them in there to protect, to protect it. Hobby was there. That was his area and Anelly.

Q. Okay, Hobby and Anelly, but just to confirm, are you saying they were there temporarily because we saw Anelly there, for example, in some of the photos.

A. Yes, we did.

30 Q. But was Anelly there temporarily or permanently?

A. Hobby was there permanently. Anelly was there in and out, but we liked to keep him – give him company instead of just being on his own, so it was Anelly, it was a different bitch.

Q. So Anelly didn't sleep there, for example?

A. Inside or outside?

Q. In the utility shed.

A. She may have slept occasionally in the utility shed.

Q. But –

5 A. It's a long time ago. I couldn't say exactly, but she may have. It was a big area.

Q. But I mean, it wasn't her usual home –

A. No, no, no.

Q. – where she'd go to bed at night? Is that right?

10 A. That's right.

Q. Okay. Okay. Now when the SPCA inspectors first came to inspect your property on the 28th of July 2017, they asked you to show them where all of your dogs were, correct?

A. Yes, that is correct.

15 Q. And did you do that?

A. Yes, that is correct.

Q. And they photographed all of your dogs as they were shown them, is that right?

A. I'm sorry I couldn't – I can't answer that. I don't know.

20 Q. Okay but you've had disclosed to you, although we've got a selection of photos in the booklet, you've seen all the photos that were taken, correct? As part of disclosure.

A. I cannot say that I've seen all the photos that were taken, no.

Q. You've seen many more photos –

25 A. I'm have seen some photos.

Q. Can you please let me finish the question?

A. Sorry.

Q. Thank you. You've seen more photos that appear in the booklet, haven't you?

30 A. I have seen more photos.

Q. When they came to visit your property that day they didn't – you didn't take them to the hay barn, did you? Because you said there were no dogs in there, right?

1425

A. If I said that, that would have been correct, yes.

Q. And they didn't go inside the house or the cottage, did they?

A. No.

5 Q. Were there any dogs in the house or the cottage or for that matter the garage close to the cottage at that time?

A. There were dogs in the house and there were dogs, I believe, in the cottage. There were no dogs in the garage.

Q. Are you able to help us with how many dogs there were in the house that they wouldn't have seen on that first visit?

10 A. Sorry. I've got no idea on that first visit, absolutely couldn't – it's too long ago. I could go back to my notes but I don't know. I know that we keep dogs at night as protection.

Q. Yes, I guess I just want to focus on during the day, though, 'cos they were there during the day.

15 A. Mmm, mmm, I understand. Um... I would have to go back to my notes. I cannot answer that.

Q. So would it be fair to say as best you can recall, there would have been dogs in the house and the cottage, but you can't say how many?

A. I don't know.

20 Q. One of the reasons I ask is, of course, I don't think we've seen Rumi. You spoke about Rumi in your evidence the other day and –

A. Yes.

Q. – showed us some pictures of her, but she wasn't shown, for example, wasn't shown to the SPCA inspectors on that first visit, was she?

25 A. Because Rumi would not have been there. We have our dogs out in training, out in socialising, with families, but each dog that was there at the time was shown.

Q. So how many dogs did you have at that stage that might have been away for a day or more than a day?

30 A. I'm sorry, on the 20th of July I cannot – I can't answer that.

Q. Could I ask you to go to page 20 –

A. Certainly.

Q. – of Crown exhibit 1, please? That's the first notice issued following that first visit in late July 2017, correct?

A. Yes.

Q. And you can see there that the SPCA inspectors have recorded 31 adult German Shepherd dogs and 32 German Shepherd puppies, various ages. Is that right?

5 A. That is correct.

Q. But am I understanding correctly from your answers that that represents, of course, the number of dogs they actually saw, but am I understanding correctly from your answers that the number of dogs that you and your mother owned and looked after was actually more than that because
10 there would have been some in the house and/or the cottage or some away at training or something like that?

A. Thirty-one adult dogs that were shown to the inspectors and the 32 puppies were all of the dogs that we had at the time on the property.

Q. Okay, so there were no dogs in the house or the cottage?

15 A. I have answered that.

Q. Well –

A. We have – we rotate dogs coming inside and outside. These were the dogs that were on the property that Inspector Plowright and Inspector Davis asked to see, which we showed.

20 Q. Okay, I'm just trying to get an understanding about whether you say that is – you're clear, that's the full extent of the dogs on the property?

A. I believe that is the full extent of the dogs on the property on that day.

Q. So it's – given that they didn't go inside the house or the cottage, is it not a logical conclusion that there were no dogs in the house or the cottage
25 that day?

1430

A. I don't want to say something that I cannot answer. I'm going on my memory, it's a long time ago. If this is what was there, that's what was there. That is what is written and I can't say what it could've been
30 because we have dogs, the puppies are coming in and out of the house. It's all part – they live in the house, that's part of their training, their upbringing. So but what was shown, they asked to see that and that is what is shown.

Q. I'm suggesting to you that that number represents a bare minimum of the true number of dogs which was actually likely higher than that. Do you accept that?

A. Could you say that question again please?

5 Q. That number of dogs that recorded in the notice, 31 adults, 32 puppies, represents only what they saw and they didn't go inside the house, the cottage, the hay barn, so what I'm suggesting to you is that that number is a bare minimum and the real number was in all likelihood more than that?

10 A. I dispute your insinuation that there was more dogs. Those were the dogs that were there. I have answered the question regarding the house and the cottage. We have dogs coming in and out of the house, that's part of our life and these were – where it had just come back from the doctor so I'm sure I would've had a dog in the car. I never go anywhere without a
15 dog in the car. The 31 dogs, we'd all have to sit down and write down all their names.

Q. You were obviously present in court when some of the SPCA inspectors gave evidence and referred to their concerns particularly Mr Plowright. That you were not being upfront about the number of dogs actually at the
20 property. Do you accept that that was a fair concern for them to have?

A. No I don't and this has all been fabricated and it's been a created story to give it drama. They came, they were most welcome to go anywhere on the property. We even offered and said: "You can scan each one of our dogs and if the body-camera footage was listened to, that would be quite
25 apparent," but to try and create this doubt and to try and create oh they could've hidden dogs here or there or wherever I dispute.

Q. You mentioned the body-camera footage which you've obviously quite properly spent a bit of time going through. So do you recall an occasion on the visit of the 4th of August where you were walking the deer shed
30 and the inspectors asked you if there were any dogs in there and you said no, and then Inspector Plowright as you walked away heard some yelping and went back and there were dogs in there. Do you remember that?

A. Let's put that into perspective.

Q. Do you remember that first of all?

A. I would like to answer.

Q. You need to answer the question.

THE COURT:

Well you need to – you haven't answered his question yet.

5

WITNESS:

Oh, I see sorry.

THE COURT:

Don't be argumentative.

10

WITNESS:

Okay, sorry. I just don't like – yeah, okay.

THE COURT:

It's not of any assistance.

15

WITNESS:

No, I don't want to be either. That's not me. I do remember that yes, very exactly. I was concentrating on walking towards the woolshed. I was concentrating on walking towards the woolshed because they wanted to go into the woolshed and we've just been with the puppies and I was focussing on that, and we were walking from the puppies straight over which is in like in a triangle to the woolshed. And then he mentioned, is there something with the "Is there any dogs in the deer shed?" And I didn't put them there, but we went back and I opened up everything, "So please go through." I love the deer shed, it's a beautiful place.

20
25

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Could you go to pages 24 and 25 of Crown exhibit 1 please?

A. Yes.

THE COURT:

Sorry what page was that?

MR RADICH:

5 Sorry, pages 24 and 25.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. On page 24 first of all, on page 24 we're looking at photos taken of the deer shed right at this time that we're talking about when you'd said there were no dogs in there and then you say you remembered and so you
10 went back, right?

1435

A. This is, this is where the puppies are kept. This is where Laurie Davis spoke to this English lady here and – not very nicely.

Q. Well, I need to –

15 A. And from there –

Q. I need to pause you there.

A. – we went to the left, walked to the left of that upper photo.

MR RADICH:

Your Honour, for the record I've spoken to Ms Davis. It was that, of course,
20 proposition that she spoke to the worker, let alone not nicely, is not accepted by her. If there's any weight put on it by your Honour then we'll recall Ms Davis for rebuttal evidence, but I hope that won't be necessary, but I just note that it is the position for the record.

CROSS-EXAMINATION CONTINUES: MR RADICH

25 Q. So this – these photos are taken on the date of the 4th of August, aren't they?

A. This is what you have said has been taken on the 4th of August.

Q. But you don't dispute that, do you?

A. No.

30 Q. And we can see the inside of the deer shed, the bottom photo on page 24 and the top photo on page 25.

A. Yes.

Q. And this is what you say is – you just described as “a beautiful place”. Is that right?

5 A. It is a very beautiful, spacious place, yes, and this is in the middle of being cleaned.

Q. So what I’d suggest – I’m suggesting to you, is that you didn’t want the SPCA inspectors to see that because it is filthy.

10 A. It is not filthy. That is what you are seeing there and we have an international worker that is actually putting the soiled newspaper into a container. What you see there are calf bones.

Q. Calf bones amid dog faeces?

A. That is not dog faeces. That is – the paper’s already been taken off. That is concrete.

15 Q. So is it your position that in those two photos on page 24 and 25, we’re not seeing dog faeces?

A. That is the same place. 24 and 25 is the same pen.

Q. I understand that.

A. Right.

Q. I’ll repeat the question so you can answer it.

20 A. Yes.

Q. Is it your position that in those two photos we’re not seeing dog faeces, that there were no dog faeces there?

25 A. It is in the middle of being cleaned out. There shouldn’t be any dog faeces but there could be because when you have strangers the first thing a dog will do, and especially a puppy, is go to the toilet. That is a normal reaction and I shouldn’t have to apologise for something being cleaned out.

Q. Sorry, we –

30 A. This was a moment in time and to say this is not a nice area, this is a nice place to be, it is a beautiful place to be, high ceilings, lovely airflow, natural and quiet environment, we thought a secure environment.

Q. So you would simply say that the evidence of the animal welfare inspectors about that area being filthy and stinking should be ignored

because they've fabricated that, is that what you're saying? You used the word fabricated before. Is that what you're saying?

A. That is not what I used in this respect. In this respect we have a puppy room being cleaned. We're having all of the newspaper being put into
5 containers. We have a concrete floor. The concrete floor, as you can see, is dark and we have, I think, three puppies in here.

Q. Okay I'll move on but I'll just – so one last question, so you're saying that your forgetting to tell the inspectors that there were dogs in there had nothing to do with the state of the place?

10 A. No.

Q. Okay. If I recall your evidence a few minutes ago correctly, the – your words *a fabricated story to add drama* related to the evidence of the SPCA inspectors in relation to you not being upfront about dog numbers. Is that in relation to you not being upfront about dog numbers? Is that
15 correct? Is that what you're saying?

A. What is the question?

Q. The question is, I'm trying – you used this phrase – I asked you about whether you had been upfront about the dog numbers with the SPCA officers.

20 1440

A. Mhm.

Q. – and I referred you to their evidence where they'd spoken about having concerns in that regard –

A. Mhm.

25 Q. – and you said, as I understand it, that that was a fabricated story to add drama. Is that right?

A. That the SPCA inspectors fabricated and – to add drama? That is correct, yes. I have lots of examples.

Q. So from your point of view they had no reason to be concerned about you
30 being upfront?

A. No.

Q. When you later had your interview with them –

A. Mhm?

Q. – were you still being upfront at that time?

A. Yes.

Q. So why is it, when they asked you how many dogs you had, you “no comment”-ed them?

5 A. Because I was invited – well, I’ve never had an interview like this and we thought we were going there to pick up our dogs.

Q. How does that relate to you refusing to answer a straightforward question about the number of dogs?

A. I’m not sure what you’re trying to get at.

Q. All I’m doing is asking –

10 A. You know, I made a comment and that was the comment and that’s how I felt at that moment in time.

Q. My question is not so much about you not answering that.

A. Mhm.

15 Q. My question, I suppose, is more about how you can say you were being upfront about the number of dogs in that inter – when you refused to answer that in that interview. Those two things can’t coexist, can they?

20 A. Okay, I see what you’re wanting to know. All our dogs are registered with the council. What I, um, what the – what I was saying – what I was referring to is that it was quite clever the way it was described as 63 dogs, the dogs that had been taken, just the lies about everything. There were puppies, a three-and-a-half-week-old puppy, there’s either – as the first notice states, there’s 32 puppies and 31 adults. This was correct at that time, and I was being upfront with the number of dogs. These are not my dogs, these are the dogs that I look after, but everything was done correctly. This is supposed to be about abuse and cruelty to animals, which there was not one case.

25 Q. Don’t worry, we’ll get there.

A. Mhm, very good.

30 Q. I’m just trying to speak about the number of dogs that were on the property and your contention that right through, up to and including that interview, you were being upfront about these things, and I’m wanting to examine that.

A. Mhm, okay, fine.

Q. Now, you don't need to go to the page of the interview unless you want to, but you're welcome to, but I'm putting to you at page 10 of that interview, Mr Plowright asked you: "How many bitches would you currently have that are pregnant?" and you gave an answer of: "No comment." Do you accept that that was your answer?

A. Two things. I would like a copy of the –

Q. Certainly, let's put that before the witness (**inaudible** 14:43:58) Madam Registrar, Crown exhibit 3.

WITNESS REFERRED TO TRANSCRIPT OF INTERVIEW

10 A. Thank you.

Q. Okay, let's go through these. I'm going to refer to four passages for now.

A. Mhm, mhm.

Q. First of all we'll go to page 9, actually, first of all –

A. Page 9?

15 Q. – if we can, page 9, three paragraphs from the bottom. Mr Plowright asked you: "How many breeding bitches would you hold, are you holding, and how many stud males would you be holding?" and you can see you "no comment"-ed that, at the bottom of page 9, that's right?

1445

20 A. Yes, because I thought it's none of his business.

Q. On page 10 about halfway down –

A. Yes.

Q. – a paragraph beginning with Mr Plowright saying: "Okay, that's fine. How many bitches would you currently have that are pregnant," and your answer: "No comment."

25 A. That is correct.

Q. On page 15 –

A. Page 15, yes.

Q. – about a quarter of the way down Ms Davies says: "Okay, thank you. How many dogs do you have?" Your answer: "I'm not going to comment." Is that – that's correct, that's what you said?

30 A. That's what's there, that's what I have said.

Q. Okay, look, I'll just refer you to those three examples –

A. Mhm. Mhm.

Q. – and I will say again, how on earth can you say you were being upfront about these matters given those brick walls you were putting up in that interview?

5 A. Because I thought it was none of their business what dogs we had, males or females, what we were breeding. I gave them a list exactly of the litters. If we'd – you said page 9, I think it was above that, or was it the other one? Um, one moment. Okay, Kevin Plowright asks: "Okay and how many pups do you produce each year," and I said: "I know exactly," and I read it out to him because – so that – they wanted to know and you – it
10 is noted there, my paragraph: "We had in 2010 one litter, 2011 one litter, 2012 we had two litters, there were eight puppies. 2011," – oh, and two puppies: "2012, there were two litters and there were five puppies. 2013, there were three litters. 2014, seven litters and from these 24 puppies seven became champions and three were exported. Six of these bitches
15 were artificial insemination." Yes, I put that there. I was very upfront, but I did not think this was – first of all, it's not my business. Second of all, it's not his business and none of our males stand to open stud.

Q. I don't want to labour the point, Ms Wallace. It's one thing for you to say: "I didn't answer because it was none of their business."

20 A. Mhm.

Q. And that's – it might be fine, it might not be fine, but that's what happened.

A. Mmm.

Q. My – but what I'm taking issue with is you trying to say that at the same time as you're refusing to answer these quite basic questions because
25 you thought it was none of their business. At the same time you're telling us that you were being upfront. That just doesn't work, does it?

A. Yes, it does. If I choose not to answer a question, that is my right.

Q. Yes, it is, but it's not upfront.

A. Yes, it is. Upfront is when you lie about something and intentionally trying
30 to deceive. That is not upfront in my opinion.

Q. You knew that the SPCA had concerns about you having too many dogs, didn't you?

A. This whole campaign has been about numbers of dogs. It hasn't been about their health or wellbeing; it has just been about numbers because there weren't any other issues to go against.

Q. All right.

5 A. And this should never – we should all not be sitting in this courtroom because all of our dogs were registered, we complied with the law, we agreed that we'd build new kennels and we did that. It was a big challenge, especially in those times, but we did everything possible to try and comply, but numbers of dogs, there's no law against that. With a –
10 such a large farm there's plenty of room, plenty of area, plenty of possibilities for them.

Q. I'll ask you the question again –

A. Mhm.

Q. – and I'll be grateful if you could answer it.

15 A. Certainly.

Q. You knew, and I clarify, right from the very first visit onwards you knew that the SPCA had concerns that you had...

1450

1450 SD

20 ...and I'll be grateful if you could answer it.

A. Certainly.

Q. You knew, and I clarify, right from the very first visit onwards, you knew that the SPCA had concerns that you had too many dogs on the property.

A. They were of the opinion, yes.

25 Q. Thank you. So why not tell them? Why not tell them in the interview how many dogs you had?

A. They'd already seen them. They'd already taken photos, videoed them. They already had all the details from the council.

Q. Okay, I'll continue but I just want to pick up on one thing you said a couple
30 of times. You said: "All our dogs were registered."

A. Mhm.

Q. Just to be clear, you're not talking – you're not saying every canine on the property, irrespective of age, was registered, are you? Because dogs don't have to be registered immediately when they're born.

A. No, that's a very good point. No, puppies actually, that's a very, very good point. Theoretically on a working farm, um... which is what this farm is, it's a working farm, dogs don't have to be registered until they're over three months of age.

5 Q. And the reason I ask that is because it's not simply a matter, is it, if the SPCA wants to know how many dogs are on the property, it's not simply a matter of checking council records, 'cos that won't tell the whole picture, will it?

A. That's why they came and had a look for themselves.

10 Q. Is that a yes?

A. (no audible answer 14:51:45)

Q. Yes, I would appreciate that.

A. So when the SPCA want to know how many dogs are on a property, on this property, it's not as simple as checking council records to see how many dogs are registered, is it? Because that won't tell the complete picture.

Q. That will the registrable dogs, yes, the number. If there are any newborn puppies, it's not going to include that, no.

A. You said in your evidence that you were committed to working together with the SPCA in a positive direction.

20 Q. Yes, I was.

A. Did that include reducing your dog numbers?

Q. Yes, we take great pride in our dogs. It's not just a matter of disposing of dogs where each dog has an individual – and puppy – personality and character and the characteristics of that particular dog or puppy needs to fit to its new owner or new family, and we go into that with quite depth to make sure it is a fitting bond and partnership, and that takes time, and we like to take that time to find the right home, and we said we would do that, which we did.

30 A. I'll repeat the question and I'd be grateful if you could answer it.

Q. Mhm.

A. You said previously that you were committed to "working together in a positive direction with the SPCA." Did that commitment that you speak about include reducing your dog numbers?

Q. We were committed to working with the SPCA, yes, in a positive way, yes. We were committed in – we had to think about what they said because we felt that, um, our dogs deserved to live their life out in full, even when they're old dogs. This was their home, they've known nothing else but their home, and they should be able to do that, but the SPCA wanted, their drive was to reduce the numbers, so we started, um, by trying to find new homes for some of our dogs, yes.

A. And were those efforts successful?

Q. Ah, yes, over the time, yes. It takes time.

10 A. So after that first visit, so between the first visit in late July and the visit in mid-October when 15 dogs were seized, did you – you've surrendered five dogs to the SPCA at the beginning of August, correct?

Q. That is correct.

1455

15 Q. Aside from that, did you destock at all?

A. Yes we did find some homes, yes, some lovely homes.

Q. Roughly how many, specifically how many?

A. Sorry, I can't give you any specific numbers there, I don't have that. I can get them for you but I don't have that on hand.

20 Q. You see, we looked at the notice on page 20 didn't we and they were recorded there as being, that they'd seen 31 adult German Shepherd and 32 puppies, correct?

A. Mhm.

Q. And if we go forward to the next notice?

25 A. Yes.

Q. On page 31, that's from the 4th of August the same numbers are recorded there?

A. That is not correct. If you have a look on page 20 it says 31 adults and 32 puppies. If you look at page 46 it states –

30 Q. I said page 31.

A. Oh sorry, 31, one moment. That is correct, yes, after five dogs.

Q. And then if we go forward to page 46 which is then then the notice –

A. Is that the one, mhm.

Q. – a further week later on the 11th of August?

A. Yes.

Q. We can see they're not broken down as between adults and puppies but 61 German Shepherd dogs, correct?

5 A. That is, it doesn't reflect a true picture because if it is a true picture, they would say exactly how many adults and how many puppies.

Q. So one week before there were 63 dogs seen by the SPCA, correct?

A. 31 adults and 32 puppies, yes.

Q. So 63?

A. Mhm.

10 Q. And then the next week there are 61, so there are two fewer dogs then by the SPCA, correct?

A. According to this piece of paper, yes.

Q. But in the interim you surrendered five dogs to the SPCA, didn't you?

A. That is correct, yes.

15 Q. So haven't your actual numbers gone up?

A. No, as I said right to begin with. We have show dogs, these dogs are with – some of these dogs are with families. We breed them, we own them, they bring them back, they're exhibited and this is fluctuating and we take on our own dogs that are out with various people for training in preparation for shows.

20 Q. Did you mention any of that to the SPCA when they were asking about dog numbers?

A. Yes, I did, yes, yes.

Q. Did you mention any of that to the SPCA when they interviewed you?

25 A. Pardon? Did I mention any of that when –

Q. Did you mention this, because they were concerned about the numbers and what I'm saying to you is on those numbers, even though they've taken five dogs away but the number is still higher than it should be if they'd been shown all the dogs on the first visit minus those five dogs the number should be lower so they had concerns, didn't they?

30 A. They were purely about numbers, not about the wellbeing of the dogs. I can give a – we had a conversation and you've had the photos in this booklet and that's regarding Tansy. Tansy is an excellent example. We bred her, we own her, but she is with a family and she was brought back

for some shows to be trained and that was in that period. And just going back, you asked about 'cos I couldn't find the photo quick enough how many kennels, there were actually five. Remember you said 10 and I said I think there was five but then I wasn't sure –

5 Q. I thought you said 11?

A. Page 43, there you can see the five kennels, so that was six and five that's 11.

Q. Okay.

10 A. Just so, I just see that photo now because you said to look at page – it's just around there. So I wasn't sure that's why I said four or five.

Q. So look, so if we, (inaudible 14:59:58) let's go back to this picture the image Crown exhibit 4 the map. Now understanding that we have the new kennel complex marked there –

1500

15 A. Mhm.

Q. – but if we're talking about the operative period in 2017, we're talking about the old runs which were 11 kennels?

A. Yes.

20 Q. And you've given evidence your practice was to have one dog per kennel, correct?

A. Um, in general, yes. Sometimes we had several pups together or youngsters together, but in general –

Q. With adults?

25 A. Adults there can be two sisters together or a male and a female, but in general we like to have just one per kennel. They're big enough to have two per kennel, there's more than ample room for that, but in general.

Q. Certainly on the visits that we – that the SPCA saw, they – none of their photos ever showed more than one dog per kennel, is that right?

A. No, that's not correct.

30 Q. Okay, can you expand upon that?

A. Yes, certainly. Just give me a moment. The utility shed is one, kennels... The woolshed there were – this is temporary. I'm just finding the kennels. I'm just going through as quickly as I can. Then there was a photo with – but that was in the new kennels, with several pups in one kennel. We

tried to have just one. Those were little ones. Just judging on your photos, there don't seem to be any with two in one kennel in the old enclosures. I do know from time to time that we have had two in a kennel with the run or youngsters, so – but on the 28th and on the 4th and on the 11th I think, going on my memory, it was more than likely one, and if there was two it would have only been one or two like that.

5

Q. Okay so around that time, late July, early August, the non-temporary home for these dogs, there might have been 11, perhaps 12, in the old runs. Is that a fair comment?

10

A. I'd say 12, 13, yes. Mhm.

Q. And then there would have been, there could have been two in that double dog kennel that we've seen photographed?

A. Yes.

Q. And there was that single dog kennel as well, correct?

15

A. That's correct.

Q. There were no other purpose-built dog kennels on the property, were there?

A. Well we had down at the cottage.

Q. There were no purpose-built dog kennels down at the cottage, were there?

20

A. Well those kennels in the cottage were built before we ever came there by the previous owners, the Spencers, and they were actually built for Labradors.

Q. Are you talking about the green kennel in the puppy exercise area or something else?

25

A. And next to it there is a, if we take the photo –

Q. Page 1 of Crown exhibit 1.

A. Yes, okay. (inaudible 15:04:37) a better one actually. There was one where you see the hens, I can't remember where it was. One moment. I'm... if you actually, yes, if you look at page 2, you have a large run with five puppies and you're actually – next to it is another single run and then there is another single run where hens are, and you can see a metal... so there was that full length about 30 metres long. It was a single run where there are – where there was a house.

30

1505

Q. But what we're looking at there in the top photo on page 2 –

A. Yes?

5 Q. I mean, you've already – the green kennel with the two travel crates next to it, you've told us no dogs lived there.

A. There is one and there is a house, page 1, yes, that's a really good photo, that was the one I was looking for.

Q. Right.

10 A. You can see there is a run there and there is a house to the right-hand side. It's been cut out of that photo and then next to that is the henhouse.

Q. I'm sorry, you're going – sorry, you've lost me, so forgive me if we go through this carefully.

A. Sorry, okay.

15 Q. The top photo on page 2, we can see the green dog house which is bracketed on either side by two travel crates, correct?

A. Yes.

Q. Okay, and you've told us in your evidence previously that the dogs didn't live there.

A. Those pups are in the stables at night, yes.

20 Q. Right, so –

A. They're not dogs, they're pups.

Q. So they didn't live there. Are you talking – but we can also see behind there's sort of a metal structure of some kind. Is that what you're talking about, or are you talking about something else?

25 A. No, that's – that metal structure, as far as I can see, is the henhouse.

Q. Okay, yes. Okay, so the dogs didn't live there either, did they?

A. No, the pups were at night in the stables.

Q. And just to be clear, when you say "the stables," you mean the deer shed stables?

30 A. Yes, the deer shed stables.

Q. Okay. What I'm putting to you, Ms Wallace, is that we had about 63 dogs, at least 63 dogs on the property, late July 2017.

A. Mhm.

Q. You accept that?

A. We had 31 adults and 32 puppies, yes.

Q. Okay, and you have housing amongst the old runs, the double dog kennel and the single dog kennel, you have housing for 15 or 16 dogs. Do you accept that?

5 A. Sixteen, 17, yes, right about that.

Q. Well, it would be 15 or 16 on the numbers you gave us, but let's say 17, that's fine. So that leaves a total of some 46 dogs to be housed elsewhere, is that right?

10 A. Let's correct that and just to put it into perspective, puppies and adults is two different things. Puppies, as you can see here, we have five in your photo and the puppies are all in one stable when they're back at the deer stables, so they don't have an individual house each, they're not that old. When we have little puppies like we saw in the photos here, um, we've got –

15 Q. I'm not suggesting otherwise, Ms Wallace.

A. They were inside and now I'm just – it was very good you asked, I'm pleased you asked, because to have those numbers, we have brought the dogs out or they've been out when Mr Plowright and Ms Davis came outside, but we have a lot of dogs which are living with us in the house,
20 which Mr Plowright, he did two search warrants, one was an invalid search warrant on the 27th, dated the 27th of March 2017 and executed on the 28th of March 2018 –

1510

MR RADICH ADDRESSES THE COURT – OFF TRACK (15:09:57)

25 **WITNESS:**

– he came in and had a look inside the house a year later to see if we had dogs and pups inside. I remember very clearly and honest, no, it wasn't honest. The whole search was not honest. My mother and my sister were kept contained, sitting outside for three and a half hours. My sister was not allowed to go and
30 let the Angus cattle out of the yards in the heat of the day. All she wanted was to open the gates so that they could drink water; they were not permitted. They had to sit there and not move. My mother had her dog with her, she thought

they'd come to see her dog. She had her dog with her on the lead sitting outside with policemen left and right and a search warrant was being executed that was not valid with police and there were 10 boxes marched out of private articles. Was that correct and honest? No. Has everything been returned? No. Even
 5 you, Mr Radich –

THE COURT ADDRESSES WITNESS – FOCUS ON QUESTIONS (15:11:09)

WITNESS:

Mr Radich, could you ask me that question again, please, of what you wanted to know?

10 CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Yes, I will ask the question again. I'll ask in an even briefer form in the hope of getting a briefer answer. The question is essentially 63 minus 17 equals 46, do you accept that?

A. Of total number of adults and puppies? Yes.

15 Q. So we have 46 dogs to be accommodated somewhere other than the old runs, the double dog kennel and the single dog kennel, correct?

A. And the puppy house, the stables.

Q. Well you – can we just – can we – do you accept that, is that a yes?

A. Other places to accommodate, that's what you're asking? Yes.

20 Q. Yes. So what I'm wanting to get to –

A. Yes.

Q. – is where those other 46 dogs were accommodated and some, you're saying, were accommodated in the deer shed, correct?

A. Some of the dogs were, that's why it's imprisonment to differentiate
 25 between puppies and adults. So the 17 – you're going back to the 46, the 17 were adults so we need to take that off the remaining number of adults, so it's about half – I've got to think myself now, 31, 21, about 14, 13, yeah, around about 13 adults and the rest of the puppies. So the puppies were kept in the puppy shed. That was a litter at that time, if I
 30 remember correctly, of 10 puppies. There were youngsters in the deer shed stables. I don't know.

Q. Okay so we've got – can I just pause you there?

A. Yes.

Q. So we've got 10, roughly 10 being accommodated in the puppy shed. Is that right?

5 A. Yes.

Q. And when you say accommodated there, you mean they were there, that was their home, they'd sleep there overnight, that sort of thing?

1515

10 A. Sorry, this is where they would sleep yes when they're not out in their day pen or not being run around or playing or being socialised. Yes, there was – we have another German Shepherd female that had the whole run of the farm and –

Q. Is that Narla?

A. Narla, yes.

15 Q. And she would sleep inside at night, correct?

A. She would sleep wherever she wanted, where she felt comfortable whether it be on the deck, whether be inside whether it was outside. She had the run, she was the queen of the property.

20 Q. And in fairness when I went through those numbers before I should've mentioned also Dani, 'cos Dani was, Dani also needs to be accounted for as well. So Dani would get us up to 17.

A. 18.

Q. 18 dogs, okay. It still leaves a huge number of dogs supposedly to be living inside, doesn't it Ms Wallace?

25 A. No it doesn't. I have in the lounge, everyone is different and everyone does whatever they want, but I have with me at night probably three or four, three to five bitches and they're in my room when I sleep to look after me.

Q. What I'm –

30 A. So no, each person, each person lives differently. My sister and my mother had this home, this armed home invasion and this is why we had so many dogs inside and they were in every corner of the house for protection to give us comfort and to give us alarm if something happened.

There were dogs kept in the cottage, yes as security, as pets, we're allowed to.

Q. What I'm saying to you is that on the numbers that we have here accounting for the number of purpose built dog kennels where dogs would sleep at night and excluding those that you've told us were just temporary accommodation at cattle yards, the deer shed, the woolshed, et cetera. It still leaves somewhere between 10 and 15 adult dogs and more than 20 puppies living inside and I'm just saying to you that is implausible?

A. It needs to be put into perspective. Little puppies is 10 puppies, it can range from one to 10. At that time Narla had 10 puppies. We have a maternity room, we have another room for them. If we choose to have adults or puppies in our house, each puppy starts its life off in our home and that is important. And no it's not implausible. How we have our home in our house, that is our decision but to say, oh you didn't have that or we didn't show that, we showed every single dog that we had and to make it correct, 28th of July then Ms Laurie Davis or Kevin Plowright show every single dog, showed the whole footage, the body-camera footage of all the dogs and then we can name each single dog and each single puppy. But to say that we were hiding, we've got nothing to hide. We're proud of our dogs and our puppies. So that would be an easy answer.

Q. Are you saying that you had something in the region of 30 to 40 dogs in your house at nights?

A. I'm not saying anything, I'm not having words put in my mouth either. I am saying that we have many dogs in our house and all puppies start their lives off in our house and each dog is accounted for and it's not just our home, we have two houses on the property and our dogs, we had dogs running loose around the house.

Q. How many dogs are you saying would sleep in the house and cottage at night?

A. You're talking about adult dogs?

1520

1520

... at night?

A. Um, you're talking about adult dogs?

Q. No, dogs and puppies inclusive.

A. That's – I can't answer that because I can't remember exactly. Going back to 2017 July and August I can get you the exact numbers, what litter it was, how many puppies were in that litter and who it was, but I can give that answer exactly.

Q. But –

A. If you would like that, I can give that answer absolutely to the dot.

Q. Well let me put it this way, you're not seriously suggesting that something in the region of 30 to 40 dogs might have been kept inside the house and cottage at night? You're not suggesting it would have been a number that high, are you? Because that's ridiculous.

A. Mr Radich, I'm not asking whether you think what we do is ridiculous. If we have a litter of 10 puppies there's 10 puppies and those 10 puppies have a mother, there's 11, but I cannot say with exactness –

Q. Ballpark figure.

A. – which puppies, which adults, but if you would like that, not a problem, I can give you that information.

Q. What I'm suggesting to you is that what you're saying in terms of what you call temporary accommodation –

A. Mhm.

Q. – the cattle yards, the deer shed, the woolshed, the hay barn, was not the temporary accommodation that you say it is.

A. I dispute that because – it is actually very good that you've mentioned that because with the, the illegal search warrant you took my mother's diary and in that it stated that there were no dogs in the deer shed. So, yes, it was recorded exactly where all of our dogs were.

Q. And your answer in terms of the maths –

A. Mhm.

Q. – for the dogs that can't be accounted for in permanent accommodation outside of the house and cottage is to say that they must have been or they would have been inside the house?

A. I'm not saying that.

Q. Well where they?

- A. I'm sorry, this is five years ago. I would have loved this to have happened all in 2017 when it should have happened, if it was correct and if it was right and if there were legal grounds for it.

THE COURT ADDRESSES WITNESS – FOCUS ON QUESTION (15:22:49)

5 WITNESS:

We had dogs running loose, there were dogs on the deck, we had dogs inside, we had puppies inside, the small puppies inside – may I just have a piece of paper? I'd just like to – then I could say exactly where – am I allowed to do that or not?

10 THE COURT ADDRESSES WITNESS – AFTERNOON ADJOURNMENT (15:25:30)

COURT ADJOURNS: 3.25 PM

COURT RESUMES: 3.50 PM**CROSS-EXAMINATION CONTINUES: MR RADICH**

Q. Ms Wallace, before the break we were of course talking about the number of dogs and where they were housed, have you in the break done some
 5 rudimentary numbers on the page or something like that and is there anything you want to tell us about?

A. Yes, what was – if we take it back a step, what was missing was in the aviary, we call it the aviary but it's a large totally enclosed area and a third of it is roofed and two-thirds is opened and it's approximately, probably
 10 four and a half five metres long and it would be probably about three, three and a half metres wide. It's just an estimate. So we did have – we were using that. So are you asking this –

Q. Sorry, what was that? I just didn't catch that answer, what was that?

A. So we were using that and that is right next to the house. I'm not sure if
 15 it's on the, the photo if we take back your Google photo. The circle I've got on the right-hand side house and on the left-hand side of the circle around the house, not where the light trees are. You see those two dark trees there, and I think you can see a corner of where the aviary is and that is where the aviary is, what we call the aviary is located and it's just
 20 beside the house. So you were asking how many dogs were within the house?

Q. Can I just ask you about the aviary first and can we come back to that since you've raised it. Are you saying that the aviary is a building separate to the house?

25 A. Yes, it's about five steps, six steps from the house.

Q. Does it appear in any of the photos, in any of the photo booklets?

A. I'm not sure. It is where two of the dogs that were seized in 2019 of any paperwork taken out of the aviary, that was Fenter and Emma, Emerald. It's a very good question. I don't see it in your book, I'll just have a look if
 30 it's (inaudible 15:55:01) can't see there either.

1555

UNIDENTIFIED SPEAKER:

On page 14 of the notes of evidence Mr Plowright mentions (**inaudible** 15:55:23)

CROSS-EXAMINATION CONTINUES: MR RADICH

- 5 Q. I was wondering if it appears in any of the photos to assist us in that regard.
- A. I just quickly had a look through –
- Q. I'm not doubting the existence of the aviary, to be clear.
- A. I just had a quick look, I've just got a fear just rushing through it like that,
- 10 but that is an area, a housed area. As you know, we had international students which used to take – we used to have one each, two or three down at the cottage. We had – my mother had in her bedroom, her dog, Anne had in her bedroom her dog, we have a maternity room, the lounge and the hallway, we had one in the kitchen, um, we're just trying to place
- 15 them everywhere because we were absolutely petrified in 2017 because he had escaped, and um, Anne thought that they were going to seek revenge on her because my mother –
- Q. We're getting way off topic, Ms Wallace.
- A. Pardon?
- 20 Q. We're getting way off topic.
- A. Sorry.
- Q. We're talking about the aviary, can we stay focused on that?
- A. Yes, certainly.
- Q. So you've said that what had been left out of those numbers was to
- 25 account for the aviary, is that correct?
- A. I'm saying that was another, um, area where, um, the dogs were housed, yes.
- Q. Dogs weren't housed there in July and August 2017, were they?
- A. I'm sorry, I can't, I don't know, I can't say that at the moment.
- 30 Q. Well, Mr Plowright gave evidence in relation to that –
- A. Did he?
- Q. – and spoke of there being, I think it was cockatoos housed there, does that sound familiar?

A. Oh yes, there's cockatoos, yes, but that is in a separate, um, they have a separate – in front of the aviary there is a separate, um, smaller aviary.

Q. And Ms Davis, if necessary, will give evidence that the aviary, as you call it, was inspected and there were birds in it, not dogs, in those first three visits. What do you say to that?

A. It could have been. That could be. I've got no dates, I'm just saying that that was an area that we were and are still using, yes.

Q. Okay, but if that's accepted, that that area wasn't being used to house dogs in July or August 2017, that doesn't help you with the maths, does it?

A. Oh, I've got no problem with the maths. I'm just saying about dog areas, dog housing, in October, yes, there were dogs in there. But anyway, let's just get back to the house, yes.

Q. So –

A. In the house.

Q. Can I ask a question in relation to the house?

A. Yes, certainly.

Q. Even if we won't for present purposes put a specific number on it, 'cos we're never going to get agreement on a number, I can see that, but do you at least agree that all dogs that are not accounted for in the other places that we've discussed, being overnight places, not places you say were temporary, are you saying that all those dogs would have been housed in the house or cottage?

A. We had in Leo's paddock, which is next to, in front of the, beside the house and in front of the kennels. There's always one or two dogs running loose there to, um, also guarding so that hopefully will tell us if something happens, so that's where if you take your Google map, that paddock there, there's always been dogs in there running loose.

Q. Are you saying there were dogs in the paddocks at night?

A. Next to the house? Yes.

Q. Okay.

A. Twenty-four-seven.

Q. How many?

A. One to two, usually.

Q. And so those dogs wouldn't have had any shelter, would they?

A. Yes, those dogs have shelter, yes, they do.

Q. What kind of shelter?

5 A. Those dogs had shelter. Um, what kind of shelter? There was, I think, a little, um, which was removed and replaced, housing at the corner behind the garage.

Q. I'll be blunt, Ms Wallace. I'm suggesting you're just making things up because –

A. No, I'm not making it up. I've got plenty of photos –

10 Q. – you can't –

A. – to prove – no. I don't accept that. I've got plenty of photos to prove that is the case. I was explaining with our house where the dogs were. We had one dog in the hallway, we had one dog with her – one bitch in the laundry, we had in the maternity room, we had in the lounge, in my mother's bedroom and Ann's bedroom. It was approximately nine adults in the house in July, August, because we were on high alert. There were dogs running outside of the house that were on the deck. That is a covered area, they can come and go as they please.

1600

20 Q. And something in the region of 20 to 25 puppies on top of that, correct?

A. No, that is not correct.

Q. How many then?

A. In the stables the five pups that were down at the cottage, that was – they were out there during the day. They were brought back into one of the stables, they were from one litter. What we had was we had puppies, we kept whole litters because we were a source of attention on those puppies and we wanted to see them grow so we had puppies down in the implement shed, total, whole litters. When they came during the day there were only two or three in there. Yes, that is correct.

25 30 Q. Sorry, you said you had – did you just say you had puppies in the implement shed?

A. Oh no, sorry. I meant stables. Sorry, that was a mistake. In the – I'll just sit down. In the stables we had (inaudible 16:01:29) that either took a pup or an adult with them down into the cottage. They were allowed to

do that. We had – I explained where we had them in our house and this was also when Mr Plowright, with a few others, saw themselves that they were within our house. So, I'm not saying 20 or 40 dogs in a house. Not at all.

5 Q. How many are you saying?

A. I just explained. There were nine adults in the house at night.

Q. And how many puppies?

A. I don't know how many puppies there were.

Q. And what I'm saying to you is that your numbers just don't add up.

10 A. Sorry, I just won't accept that. The 10 puppies – we can go over exactly, 10 puppies were in the puppy house, so that brings the 32 puppies down to 22 puppies. We had five puppies, um, in the, um, down at the cottage in the day pen. These puppies are then taken on leads one by one and moved back to the stables. So we're now down to – from 32 down to 22
15 minus five is seven. There were –

Q. It's 17.

A. 17? Great. 17 puppies then on one side we had a full litter and usually the E litter, that was Elite, Emma, Monty, Egmont, we had Casper and Crystal all inside the house and we're allowed to do that, they're puppies
20 and we changed them around. I can't say exactly which ones, but these puppies were in the house, outside the house, in the cottage depending who wanted which puppy or dog, which one they had bonded with, but I will not accept that, oh, that's not true.

Q. Okay just to be clear in relation to puppies –

25 A. Yes.

Q. – when we're talking about puppies you're talking about dogs of up to roughly what age?

A. 12 months.

Q. And at 12 months a German Shepherd quote unquote puppy is still a pretty big dog, correct?
30

A. Um, no, German Shep – if you're comparing it to a chihuahua, yes, it is. A German Shepherd they have growth spurts. They can be quite fast, slow down, stop, but they keep growing until around about two years old.

Q. But, just, when we –

A. And at 12 months, yes, they're usually about – the females can be around about 55 centimetres, it could be 57, yeah, between 55 and 57 and the males are between, I'd say 60, could be 59, 58, usually around about 60 to 63, 64 centimetres high.

5 Q. To clarify that –

A. At 12 months and over.

1605

A. At 12 months and over.

10 Q. When you talk about those centimetres, can we just be a bit clearer on that, I'm just conscious that I know when measuring for example horses, it's very clearly you're going from the ground, the width of the horses the same with dogs?

A. They're the same with the dogs, yes. That's a good comparison.

15 Q. So when they're standing of course, they'd actually be a bit taller than that, wouldn't they?

A. No, when they're standing – oh, are you talking about their head?

Q. Yes, their head will be higher?

A. Their head is higher, yes. They have a knack in the head, yes.

Q. I want to move on now from the subject of the number of dogs –

20 A. Yes.

Q. – I think we've both made our points in relation to that, but before I do I want to be completely clear and fair to you –

A. Yes.

25 Q. – are you saying there are any other areas other than those we've discussed where dogs were housed other than on a temporary basis?

A. I think we've covered everything. I believe so.

Q. Now what do you say the maximum capacity in terms of dogs for the property would be given the housing facilities you had at the time at 2017?

A. To be really honest I have never thought like that.

30 Q. Can I ask you to think about it now?

A. What are you asking? What are you trying to – what would you – can you rephrase that? So you're asking me –

Q. What do you say –

A. Yes.

Q. – the maximum number of dogs is that could've properly accommodated to a good standard with the property as it was in mid to late 2017?

A. You can't give a maximum number like that because if a bitch whelps and just one dog and has 10 puppies you then have 10 puppies. These puppies grow. They have – it takes time with six weeks, they're then vet health checked and vaccinated and we find, we go through them and see which ones that we feel would improve the breed and run them on and which ones will be going into new family homes. It can fluctuate, it fluctuates. There is no set number.

10 Q. But it would be fair to say I guess that you obviously don't agree with Inspector Plowright and Dr Beer when they say the property was overstocked given the facilities available?

A. No, I don't agree, no. That might be the case how they have it in within the SPCA buildings, I don't know but on our farm or my mother's farm or the Trust's farm, the dogs were all healthy. They were happy, they were of great health and happy dogs and we've never had diseases which shows that they're well looked after. It shows they're well socialised otherwise they couldn't adapt. So no, I don't agree at all.

20 Q. I'm sure (inaudible 16:08:38) agree on that but I'd like to think we can at least agree that you understand the SPCA had concerns that the property was overstocked, is that fair?

A. The SPCA had – they actually said they received a complaint which how could we be – about the numbers of dogs, yes. That is correct.

25 Q. And they conveyed to you in those visits in July and August, that they thought you had too many dogs, haven't they?

A. Yes, they did.

Q. You had said to – and you've said that you wanted to work positively with them in that regard to find a solution, correct?

A. That's correct.

30 Q. And as part of that you, I'm not suggesting your surrendering dogs was an acknowledgment that you were overstocked, but you did surrender five dogs on the 4th of August, correct

A. We were pressured into that and Mr Plowright said we have five minutes and to surrender five dogs and the whole thing has been a shocking

experience and we were under shock. Would we surrender another dog to the SPCA? No, especially when we hear that from those five dogs, two were euthanised because apparently according to Dr Jess Beer, they had hip dysplasia which we know is not correct and um, no, we don't want our dogs having a death sentence. We want our dogs to have a happy life, and if we take our time to find the right family for them, that should be in – for the well-being of the dog. It's about the animals, that they are happy.

1610

10 Q. And then in that period subsequent to those three visits –

A. Yes?

Q. – late July and then the two visits in the first half of August –

A. Yes?

Q. – you then, the next month when you knew the SPCA had these concerns about dog numbers, you then bred from one of your dogs, didn't you? You got her in pup.

15 A. Oh, yes, now I know where you're going. These two bitches both, um, had – we'd been waiting for years, we've done years and years and years of research, waiting for years to be able to have a litter to improve the breed, and they were two sisters, and, um, both were nearly – obviously, being sisters, nearly six years old so of course we were excited to have this opportunity for these bloodlines, these world bloodlines that have been imported, um, to breed with them. We were not told at any stage that we could not breed. We were never in – no reference whatsoever.

20 Yes, they've asked, you know: "How many bitches do you have?" Mr Plowright said in his evidence: "Oh, well, we left so many dogs there, they could breed from those ones." It's not about numbers, it's about the quality, it's about those particular bloodlines with those particular bloodlines, and this is what we'd been waiting for and we were thrilled that Debbie and Desney, um, conceived, which shows their great state of health, that they conceived. Both, one 11 and one 10 puppies, that was amazing, and we so looking forward to that. And the other puppies, they were being slowly, um, their new homes were being found. They were there older – it takes, so that everyone knows, it takes 63 days' gestation

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period. When they come on heat, they only come on heat every possibly six to eight months. Some only come once a year but usually it's every six to eight months so it's a long time to wait. Then when they come on heat that heat could be from two, if they have a false season first and then a proper season, that can take from two to four weeks, depending on the bitch.

5

Q. So we know Debbie gave birth in late November.

A. Yes, on the 29th of November, it was a caesarean, yes.

Q. So she would have been bred from within that 63 day gestation period, sometime late September, would that be right?

10

A. You'd just have to – if I could get a calendar, just backtrack 63 days, um, that would be correct, whatever that is.

Q. Basically going back about two months and a couple of days, something like that, right?

15

A. Yeah.

Q. And Desney gave birth the 11th of December?

A. That's correct.

Q. So she would have been impregnated around about mid-October.

A. That would be correct, yes. When one bitch comes in it excites the other bitches or – especially if they're closely related, they were sisters, and they come on heat so, um, it can happen that several bitches come on heat at the same time, so, um, yes.

20

Q. What's the average litter size for a German Shepherd?

A. Huh... it depends on the blood lines, it depends on the fertility and it depends on the age. Both of those girls had fantastic litters. Their first litters weren't that size. That was their very first litter, um, I think one was three, three puppies and one was four, so Desney had four puppies and Debbie had three puppies.

25

Q. Right, you're talking, just to be clear, you're talking about the previous time they'd been in pup, not the time you got them in pup in late 2017, right?

30

A. No, the first – they both had only had one litter in their lifetime because we didn't think there were any suitable males in New Zealand or Australia that would suit that top quality and to improve on what they were. We are

renowned for our quality and this is why we have waited and then these two were the first litters, both natural matings to a dog that we'd bred. His name is Angelo, he is also a champion, both his parents were world champions so these puppies were born in New Zealand but were of all imported European top, top bloodlines.

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1615

Q. Now with these litters you're aware that Debbie gave birth to 11 but one was stillborn?

A. Debbie? Yes, one was in her – because Debbie started four days early to have her puppies and if you read the medical records from the SPCA it says how she's – that she's panting, which is the signs of going into labour and there should have been veterinary care, but they're not breeders so they don't know, their temperature drops, they go off eating, they won't eat.

10

Q. I'm just asking you about the numbers to be clear. Debbie was put in pup in late September and gave birth to 11 pups with one stillborn on the 29th of November. That's correct, isn't it?

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A. As far as we know. Those are the – what we've received from the records from the SPCA, the medical records.

Q. And similarly in relation to Desney –

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A. Yes.

Q. – she gave birth on the 11th of December to nine pups, but two were stillborn. Those are the records that you've seen, correct?

A. No, those are the – those records from the – the medical records and the – and from Mr Greg Reid who was the chief inspector and from Kevin – Inspector Plowright and from Davis, we've had three different numbers of pups and Debbie was – she had, at the – according the veterinary – according to the medical records she gave birth naturally to seven pups in the veterinary hospital in Mount Wellington. Debbie was then picked up although she was still in labour and still giving birth. She was put in a crate and transported from the veterinary hospital in Mount Wellington to Māngere where she was put in a crate with her seven new-born pups which were all healthy and everyone was very happy and they were suckling and this poor bitch in labour had to give birth in a moving vehicle,

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in a crate with the seven puppies, another pup which was then dead on arrival when it arrived at the SPCA. After that, according to the medical records, there is another pup born that was dead on arrival, because when you have a big litter the bitches – it is strenuous, some can have them very quickly, some like to have a little break in having. She had seven pups according to those records and then she had at least another three according to the records. So, whether it was three or whether – what it was, I don't know. I can only say on the documents that we've received from the SPCA there's been between seven, nine, 10 for Desney.

Q. Okay so around about 20 pups between Debbie and Desney, correct?

A. Yes.

Q. Do you think it was prudent, given what you knew about the SPCA's concerns about your dog numbers, including the fact that you'd surrendered four dogs in early August –

A. Five.

Q. – do you think it was prudent to be getting two bitches in pup and bringing into life, onto the property, potentially something in the region of 20 more lives?

A. Well, very good question. When a bitch is mated we do not know if they will conceive. There is no guarantees that they will have any puppies at all and even if we do an artificial insemination it does not give us a guarantee that there will be a litter. We hadn't had any litters from either of those bitches up until that point and, yes, according to their age and because they've only had one litter it was very prudent. We were going into summer, it was November, December and we can't tell them when to come in, that's their own cycle, so, yes, the amount of puppies or the numbers of dogs are – really, that does not have anything to do with the SPCA. That is not breaking any law.

Q. No –

A. That's their personal preference.

Q. – but do you think that it was prudent given the concerns that you knew they had?

1620

A. For us it's about the welfare of our dogs. Our dogs were healthy and that those two bitches – we did not know that the SPCA had, although they did put it out in Facebook that 15 – eight days – eight weeks and four days before it happened that 15 dogs were being – had been seized. With that, with both those two bitches, that was an absolute, it was a gift. It was – and they were all healthy puppies.

Q. Okay. Do you think getting those two bitches in pup in September and October was consistent with what you've told us you were trying to do in that time? Namely, work with the SPCA to find a positive solution. Do you see any incongruence there?

A. What we agreed with the SPCA, we said we'd work with them and that we would build these new kennels, and that was the compliance and we built the best kennels we could. We took their advice, we got further advice from other manufacturers and help. We'd do it differently today, yes, but it was the right thing to get both of those bitches – looking back, no, because we wouldn't want anyone to have those bloodlines. These bloodlines have been – everyone has been waiting around the world for them and they would have been, the majority would have been exported and why shouldn't we do that? We have the room, we have the space. We didn't want – we discussed in November could we swap them out because if it was just purely about numbers, which it wasn't, if it was purely about numbers then we could have swapped both those bitches out, then both of those pregnant bitches would have whelped in their own home, but it was about the bloodlines because it was the whole litter that was taken. It was Dani. It was Dolly. It was Debbie. It was Desney. So, if it was just pure numbers then when Mr Sheath (spelling 16:22:17) offered to swap them out then logically it would have been yes.

Q. So when you say it's about the bloodlines, are you – do I understand correctly, you're not suggesting, are you, that the SPCA and the dogs that they seized have targeted your best breeding stock for some sort of commercial purpose? You're not saying that's your –

A. What I'm saying is that the SPCA targeted exactly the best bloodlines, the imported bloodlines from the 10, of the 10 adults that they took, seven were champions. All – the majority were all imported bloodlines. The

other ones that were right next to them, they weren't. They weren't such good bloodlines. They weren't taken and this is why it's important. It would only take five minutes. There is a five minute video from Senator Malcolm Roberts from Queensland Australia and that shows exactly how this is happening, not just in New Zealand, Australia, around the world and this was brought to our attention or sent to us in mid-2021. We've been going through this 2017, 2019, where our best dogs have been taken. It was all the breeding stock right through.

Q. And you say that wasn't an accident?

10 A. I don't believe so. I do not believe so, especially when I hear comments from Mr Plowright when he took Antonio: "Oh, he looks like Astro."

Q. So I won't labour the point but just to be clear, you think that the SPCA, rather than being motivated by concerns about animal welfare, was trying to acquire your best breeding stock for commercial profit?

15 A. I am saying the 15 dogs that they uplifted on the 13th of – sorry, the 15 dogs that they seized unlawfully on the 13th of October 2017, all of those 15 dogs were healthy dogs. There was no reason or law to uplift those dogs. They were not injured, they were not abused. We've never abused any dogs or intentionally hurt any dogs. No, quite the opposite.

20 If there's life there we'll always do our level best anything to help look after it. I'll give another example, Zita, they took Zita. She was in the cattle yards, of pure imported bloodlines with both parents world champions. The one next to her, did they take that one? No, because it wasn't.

25 1625

Q. You're suggesting bad faith essentially, aren't you? By Mr Plowright and Inspector Davis.

A. Yes.

Q. Okay.

30 A. If you listen to their body camera footage, when someone – it's become my opinion, it's just my opinion, I hadn't heard the body camera footage before so I didn't know about the exchanges of words, even though he cautions Ms Davis on camera to be ca – about the statement she's about to say, but then he goes on to say, well – and sorry, your Honour, I don't

use this language but this was the language used by Mr Plowright to these people –

Q. Just before you say this, make sure it was put to Inspector Plowright in his evidence.

5 A. How do you mean? It was on the 18th of May.

Q. And was he questioned about this in his evidence, what you're about to tell us?

A. I've asked for the body camera footage to be shown.

Q. Okay.

10 A. I think it would be important because it would shed a lot of light on what's really been going on.

Q. Okay.

A. And that's their own body-camera footage.

Q. I don't want to get drawn into this anymore.

15 **THE COURT ADDRESSES MR RADICH (16:26:31)**

THE COURT:

Q. What are you saying that he said on his body camera, if you want to say it?

20 A. Yes, just please excuse the language. Mr Plowright called me at I think around about 2.02, 2.04 up on the 18th of May. He was talking about me with Ms Davis, called me a fucking bitch and Ms Davis said: "Well, they're going to go down completely." There's a lot of language that I don't want to repeat because this is not the way I talk, but I don't know why, but it was very personal from Mr Plowright when he first arrived. There's a lot of things that don't add up in my case and I've been trying to work it out of course because I've wanted to get behind the real reasons why this has happened and if we take – the discrepancies in the body camera footage, like, if we take the 13th of October with Ritzer, Mr Plowright's body camera footage stops for the last 17 minutes. It's just one image, it stays like that for 17 minutes. It doesn't show Ritzer walking to the car, it doesn't show Mr Plowright – what he was doing. When we take the 18th of May he arrives at the neighbour's property at 11.20. There is no body

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camera footage from 11.20 until quarter past one in the afternoon when he says, driving up into our driveway, he is now entering the property of Janina and Barbara's at 1478 Miranda Road and he has seen dogs from the neighbour's property. 15 minutes later he is showing Ms Davies, who

5 was with him, and Cody Taylor on his phone, photos that he had taken of each individual dog with their buckets telling them which dogs, five bitches, one dog. The bitches were really sweet, that was a comment, there's water in four buckets, there's – and he's showing this evidence, which has not been disclosed to the Court or to us in the full discovery.

10 There's been – it's been withheld and is that – for it's just not honest. There's so much happening, it just hasn't been honest and then I'm being asked now: "Are you being honest? Where were your dogs?" Yes, we were honest. We wanted the best. This is why we put out so much in those kennels and after – on the 4th of – the reason why I then withdrew

15 myself from the – from Mr Plowright and Ms Davies, because I thought, right, we'll make this a success story for everyone. The SPCA can benefit and they can market and do whatever they like. I wanted a success story, but after the moment Ms Davis said that the deer shed was dark and wrote that on the AWS130, that it was a dark shed, there was no natural

20 light and I said this is isn't true, but she didn't care. She was willing to write something that was untrue in a legal document and that really upset me and that's when I lost the trust. I hope I've answered your question.

1630

Q. You've heard evidence of course in relation to this matter that when the

25 SPCA re-home dogs they're desexed before they re-homed, you're aware of that evidence, aren't you?

A. I have received no evidence that one dog has been desexed. I have only –

Q. You've heard that evidence given, haven't you? That's all I'm asking.

30 You don't need to accept it but you've heard that evidence given, haven't you?

A. When was this given?

Q. By Mr Plowright.

A. When?

Q. I'll find the reference in due course.

A. I would appreciate that.

Q. But you don't accept that I take it?

A. No, I don't. I don't accept, no because there's been too many untruths.

5 Q. But you believe there's a commercial conspiracy to acquire your breeding stock for their own profit. That's what you're saying here?

A. Where have the dogs gone?

Q. Could you just answer the question?

A. Say the question again please.

10 Q. You believe there's a commercial conspiracy here for the SPCA to acquire these dogs and breed them for its own profit?

A. The SPCA haven't been honest. Tiana that was taken –

Q. Can you just answer the question?

A. No.

15 Q. Okay.

A. Tiana was taken. Tiana was in whelp, she was a champion bitch again, both parents were champions. We received a letter from yourself stating that she had had a litter of pups when you wanted the disposal order, it was including her pups which we had not prior been informed of and I
20 bought that to your attention and then you then deleted that and said no she hasn't had any pups. I don't what's true and what's not true, because the number of pups that were born, suddenly they die, they disappear. There's been different numbers, the dogs, our main dogs were taken and healthy dogs were uplifted.

25 **THE COURT:**

Q. You still need to answer the questions though Ms Wallace. In a trial you've chosen to give evidence –

A. Yes.

Q. – and you do have to answer questions.

30 A. The question, do I believe that the SPCA has taken our main breeding stock and sell these for commercial –

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. To breed from and for commercial profit, that's what you believe?

A. When you see according to their own medical records that eight of our
 5 bitches and I think there was two males all with one owner and then it's
 then revealed that this person is Gweneth Hilders which is the twin sister
 from Mr Plowright's partner, it does give you a lot of things to think about,
 yes. And yes, I do not know what they've been doing internally. All I
 know is that our dogs have been abused in their care, our dogs have been
 very sick in their care or lack of care. Our dogs' wellbeing have not been
 10 looked after and what we've experienced over this whole period of time.
 We've had people come onto our property during the night with big
 floodlights shooting. There's been so much happened. We have lived in
 fear 24-7 over the past five years. I'm getting up in the night going with
 my big flood torch looking when as soon as the dogs are barking. Whose
 15 there? Where are they? Walking down the road even if it's raining it didn't
 matter because the dogs all started to alarm us. Where is, whatever's
 happening, we don't know. It has been hell and it has not – this hasn't
 been about the wellbeing of the dogs because no they didn't care.

Q. Is that a yes?

20 A. That's my answer, what I've just given.

Q. I'll move on then but I'm suggesting you still haven't answered the
 question so if you want –

A. I think it's possible.

Q. Okay, thank you. Let's talk about something least connected with that.

25 1635

A. Take – may I have one more glass of water, please? Sorry.

Q. Okay, I want to move on to a different subject –

A. Yes.

Q. – but I think, on very brief reflection, I need to – I have an obligation to at
 30 least put one last proposition to you in relation to what we've just spoken
 about –

A. Mhm?

Q. – and this proposition is that the possibility you are contemplating of bad
 faith for commercial reasons by the SPCA is loopy.

A. Then I will – yes, I would like to expand on that. No, I will not accept your interpretation. Our dogs were used by the SPCA in their brochures, direct letters to their members, asking for donations to – calling us a puppy mill, calling us puppy farmers, trying to – what is the, um, the definition of a puppy farmer? It certainly isn't a top-class breeder and we've bred pedigree dogs from the very best in the world and we've looked after those dogs and those puppies, and, um... to say that I am loopy or the idea is loopy, I dispute that entirely.

Q. Well, I certainly didn't mean to cast any aspersions on you personally but I'm saying that theory, to put it another way, is nonsense.

A. No, we were used as a marketing ploy within the first month. It was well known throughout – with the – without – well known that they had received \$500,000 in donations. It's been a big donation, um, drive and that's why – coloured brochures with untruths and photos, put out in the *Listener* magazine, sent to people that are actually dead, sent to other members of the SPCA. We were sent all these and that wasn't about the well-being of dogs, no, it was about using what they could to get as much as possible. This is only about greed and money, nothing else.

Q. Okay, let's move on to something that I hope is somewhat less contentious.

A. Sorry, I – yeah, it's been a very...

Q. You were asked in your evidence-in-chief a little bit about your work history and experience particularly with German Shepherds. I just wanted to clarify a few things in relation to that, if I may. You said you grew up with German Shepherds, that's correct?

A. Yes, that is correct.

Q. Was that at this farm or –

A. No, no.

Q. – was it elsewhere?

A. It was elsewhere. This farm has only been, I think, since, mmm, early, mid-80s. I don't know the exact date.

Q. Okay.

A. I wasn't in the country at the time.

Q. Okay, so in the early to mid-80s, where were you?

A. I was in Europe.

Q. So you'd – can you tell us, again, we don't need a complete life history, but I'm just interested to learn about your experience particularly in relation, a little bit more in relation to dogs, so you – at what age did you head off to Europe?

A. The first time I was 16. I was an exchange student for a year. I couldn't speak a word of German and I learnt that from listening.

Q. Did you get any qualifications at university in any particular area?

A. Later on, yes, I did, I did my A-levels and O-levels – no, my A-levels through correspondence at, um, Cambridge. I then –

Q. Sorry, Cambridge – Cambridge University in England?

A. Yes, yes.

1640

Q. What were you studying at Cambridge?

A. I wasn't. I did my A levels because I wanted to study in Germany and the New Zealand qualifications weren't recognised.

Q. What New Zealand qualifications did you have?

A. School certificate. It didn't mean anything over there.

Q. So what qualifications did you –

A. I got my university entrance so that I could study in Germany. I wanted to study veterinary medicine.

Q. Okay and did you study veterinary medicine?

A. I didn't study veterinary medicine, no, because I was told – I knew I'd have to do an extra year because of the language. My German – I tried as much as I could, but it wasn't perfect and –

Q. Did you stud – did you study veterinary medicine at any stage?

A. No, I didn't. No.

Q. Did you study beyond high school level anything of a scientific nature?

A. That's a really good question. I'm a gemmologist and diamondologist. That is to do with science, with nature, with – it's about gem stones and diamonds. If you're talking about experimenting –

Q. Sorry, I'm just asking about university studies.

A. University I did a master's degree and was the first New Zealander to do that in a public university and that was in Nuremberg and that is

(inaudible 16:41:30) University and I did that and the majors were in – it was marketing, we did, what did we do? We did marketing, law. I did my MBA there.

Q. Okay.

5 A. And I was one of the first in this group because usually a master's was done in a private university and this university started this course of – which I was very interested in.

Q. Okay, so you –

10 A. And regarding science, did I do anything in that field? Yes. I was very interested in promoting New Zealand as much as possible over in Germany and I promoted New Zealand in the exports in food and beverages and I attended many international trade fairs like Anuga, which is held once a year in Cologne, and I then analysed the German market and found that mineral water was something that the German's loved and drank. We didn't need it here in New Zealand, but I thought New Zealand
15 had the most purest water, the best environment and this would be ideal, so I looked into this area very closely and worked together with the leading experts and professors on water and we had, designed – at that time New Zealand just had very heavy glass bottles. I had bottles
20 designed in Europe, lightweight glass bottles. Actually, that is a really good question. Going back to science, yes, I imported New Zealand mineral water, called New Zealand Natural mineral water into Germany and it sounds easy, it's not. You have to set up a distribution network, everything has to be customised. This water I had analysed in the leading
25 university institute in Germany. It's called Fresenius Institute, water, and analysis was done on the water. This water was not what it said on the label. This water – the label New Zealand Natural was owned by – half by the Apple and Pear Board and half privately and I said: "This can't be correct. It must be – New Zealand, we have the best, it must be correct."
30 This was then re-examined and it was found, no, the label was not correct. The analysis, the chemical analysis was not correct, so I did a lot of research in that area. I then contacted the government and, yes, it was found out they knew the analysis was not correct, but it sounded better and that was printed on the water, so I mightn't have any qualifications in

scientific areas, but it is an area that I have been very interested in and this was just one example, with the mineral water.

Q. You don't have any qualifications, do you, in matter veterinary or animal biology?

5 1645

A. University qualifications, no. I have decades of experience, yes and I have worked with some of the best experts in that area, yes.

Q. You were living in Germany, did you mention if I'm getting this wrong I'm sure you'll correct me, but you mentioned living in Germany for about
10 20 years, is that correct?

A. Yes.

Q. So when were you there? When did you come back, when did you leave that sort of stuff?

A. I left after winning the largest German Shepherd –

15 Q. I'm just asking about the years?

A. I am just giving you the answer. I have to also think when did I leave down here which was in, when I left New Zealand I left from Australia because I'd just shown at the largest German Shepherd specialist show, there was 1600 exhibits and won the gold medal with a German import.
20 And then I flew back to Germany and I was asked would I stay, and that's when I decided, I didn't have that intention. I intended to stay and study in New Zealand. I went to Germany in October, yes round about October 1979.

Q. And returned when?

25 A. I returned, I was flying back to Germany in 2001, I came back on regular flights of course, came back to New Zealand but I came back, I was flying to Germany. It was Auckland, Singapore, Frankfurt and flying from Auckland to Singapore, that is when it happened with September the 11th and all flights were stopped everywhere. My mother rang, I didn't know
30 what was happening. My mother rang me to say what had happened in America and asked me to fly home it's not safe and that's when I flew home. I'd left everything that I had in Germany standing. It wasn't planned, I flew back to New Zealand because we were all petrified what was going to happen next.

Q. So that was 2011 when you returned to New Zealand, you then –

THE COURT:

That's 2001 isn't it, September the 11th.

5 MR RADICH:

Sorry, 2001 my apologies, sorry yes. You're quite right.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. 2001?

A. Yes.

10 Q. Have you been in New Zealand on a permanent basis since 2001?

A. I've been going backwards and forwards, I have lived in that time for a year in Germany, well give or take it could be 10 months, a longer length of time. I do have permanent residence in Germany, so when I came back to New Zealand yes I went backwards and forwards. Everything
15 that I owned was still in Germany once things settled but it was...

Q. When you returned to New Zealand and I understand you were doing various things in relation to German Shepherds and shows and stuff, but just in relation to your employment, did you ever have any job involved with animal husbandry or German Shepherds or veterinary matters at all?

20 A. A job, so you're talking about an employed job?

Q. Yes.

A. My mother is the best German Shepherd breeder in the country. I'm not employed by my mother. She's the most knowledgeable person about German Shepherds in the country. I have a lot of knowledge, together
25 we have virtually a 100 years of experience and knowledge and our knowledge is based on the best in Europe. This is what the kennels have been built up on and experience does count for a lot.

Q. It does and please I'm not suggesting one card to be very knowledgeable about something and least they have university qualifications or work in
30 that field. I'm just wanting to understand that you are, you're saying your knowledge and experience comes in that way, it doesn't come from university or being employed in a formal way?

A. That is correct.

Q. When you came back to New Zealand you began a career completely unconnected with German Shepherds correct, you were a real estate agent?

5 A. I have been a real estate agent, yes.

Q. And when did you start that?

A. I don't have the dates, it was in, I don't know, I couldn't get any exact dates.

1650

10 Q. Was it your first job when you came back or did you have other jobs before then? Just so we can get a ballpark idea, even within a few years.

A. Um... I think at the time I was trying to – I was on other, um... I was looking at other entrepreneurial ideas. I came up with the idea, I'd been offered from the King of, um, of the, um, UAE, um... 20 acres of sand and
15 I was looking at ways to take New Zealand ideas up there and I was looking at that time of turning sand into fertile land with worms and various other typical Kiwi ingenuity ideas to turn that land into fertile land and so I was working on various projects, so I can't give you a date.

Q. You can't tell us when you started as a real estate agent?

20 A. Sorry, I can't, no. I would like to but I'm saying something that I don't know exact and I don't want to say it if I don't know it exact. I can get those dates for you if you like but at the moment, because it's so long ago, it's 20 years ago.

Q. In that period of sort of 20 years ago when you came back around 2001,
25 over the next decade, were you living at your mother's farm or were you living elsewhere?

A. I have lived in – I was living at the farm, I was living elsewhere. Both.

Q. And then you moved away from being a real estate agent in around 2013, 2014, is that correct?

30 A. I said I don't know. I don't know the dates.

Q. Does that sound about right?

A. It could be, I don't know. I do remember, now that you've just jogged my memory, about taking properties up to Europe to find big projects, to find possible suitable purchasers for them. I don't know any dates, I'm sorry.

Q. Now, when you moved away from being a real estate agent, when that came to an end, what was your income?

A. What has that got to do with this, please? I don't ask you what your income is.

5 Q. I'm not – sorry, I'll rephrase the question. I'm not asking for a dollar figure, I'm asking where did it come from? Did you have a job, were you on a benefit? What sort of thing?

A. When?

10 Q. When your real estate agent career came to an end, when you moved away from that.

A. I have been, um... I received a benefit but I couldn't tell you when it started because I don't know. I had an accident, yes.

Q. When did you have an accident?

15 A. I'm sorry, I – that's my problem at the moment, I can't give you any exact dates. I had an accident, um, I've had a few of them so...

Q. To be clear, the accident you're talking about didn't inhibit your ability to work these long hours taking care of the dogs, did it?

20 A. Um, 2017, I had – I was supposed to have a hip operation, a hip replacement operation which I did not have. I did not have it because I did not want the SPCA suddenly calling and I cannot walk. With this hip operation, I was pumped full with anti-inflammatories, painkillers, I was taking the maximum dose that I could take. Some days were good, some days were not so good and I was – I strung that out as far, as long as I could.

25 1655

30 I've had three proposed hip operation dates. I should have done it in 2017 because the damage that it has done to my pelvis it wasn't worth it, no, and yes, I have pain some days and some days I don't and now that I've – it's a year since my – over a year now, 12, 14 months since I had my total hip replacement and part of the pelvis was rebuilt because that had been eaten away. It took – it has taken a lot of time, but it was the best thing that I could have done. I've had a very good surgeon. I didn't get – the medication to begin with didn't suit me until I'm – until that was all sorted out. I just reacted and, yes, I was al – I've always been very fit

in my life. This costume that I have on now I bought when I was 25, so my figure has always been around about the same. I have always been very, very fit and the muscles is what has actually carried me through in 2017, 2018, 2019 and to today. It's more the – having that hip replacement I was petrified, I was scared and probably the mental pressure of it, not being able to walk and being controlled, that was a big thing as well, but I have overcome that, and I am thrilled. I can walk anywhere; I'm happy to walk. It's wonderful, it's great that they can do that.

10 Q. What I'm going to put to you –

A. Mhm.

Q. – is that the time when you were – you ceased to be a real estate agent, coincided with an increase of number of dogs on this property. Do you agree with that?

15 A. Partially. What happened was with the – the reason why the numbers increased is one litter was of eight puppies born in January 2016 and these puppies, both parents world champions, both very – had a huge amount of potential. For a German Shepherd we want more than just a puppy. It has to be the correct size, have all its dentition, the correct shape, the anatomical structure, the right character. There is – the males have to have both testicles and so this whole litter, except one, seven from the eight puppies, stayed on the property and unfortunately you took – you didn't, sorry, the SPCA took Astro and champion Antonio. We wanted to set new goals by showing them and x – they're not x-rayed until they're 12 months old, showing that the quality of the bloodlines, they're all DNA'd, there's no diseases there, they're x-rayed when they're 12 months and over, showing that they have good hips and elbows. There's never any guarantee, you can only do your best by having good stock to breed from and hope that you get something very special. It doesn't mean that the bloodlines will click. Maybe it does, maybe it doesn't, but we were very excited and saw the potential in all of these lit – all of these pups. They were all trained and socialised which is, yes, very time consuming but very rewarding, very happy times and so the numbers did start to increase, but we had the groom, we had the place.

It wasn't planned, we didn't know how many puppies she was going to have and that's how it started to increase and of course I was very involved with the showing side of it. So, the litters that are in the point score, as you saw, we – Dani, Debbie, Desney and Dolly, that was all one
 5 litter. Or if we take – I'll just put my glasses on, the O litter. We wanted to have a kennel of champions because we were asked by the President to please show our good quality German Shepherds out for everyone to enjoy and for judges to learn from, because the judges didn't know – they were too used to a New Zealand square type of dog which was from the
 10 1950s. So we'd started actively showing with Anelly which started in 2011, '12, '13 and then we had Zena and Karma and Zita, Image, Image was shown. That was a daughter from Anelly of which is the two image and two shown from a baby puppy onwards.

1700

15 **MR RADICH ADDRESSES THE COURT – CONVENIENT TIME? (17:00:39)**

THE COURT ADDRESSES WITNESS – NOT TO DISCUSS EVIDENCE
 (17:00:50)

LEGAL DISCUSSION – TIMETABLING

COURT ADJOURNS: 5.10 PM

20

COURT RESUMES ON WEDNESDAY 2 FEBRUARY 2022 AT 9.00 AM**THE COURT ADDRESSES MR RADICH – HOUSEKEEPING (09:01:20)****5 WITNESS ON FORMER OATH****CROSS-EXAMINATION CONTINUES: MR RADICH**

- 10 Q. Ms Wallace, where we left of yesterday was a discussion about the number of dogs increase on the property coinciding – increasing coincident with your returning to the property in a full-time capacity when you moved away from your job in real estate, okay?
- A. Okay. That's where you left off, yes.
- Q. In that period, and I'm talking, say, 2014 to 2018, you were selling some of the dogs that were bred on Trade Me, weren't you?
- 15 A. Yes, we were selling some of the puppies that we thought would be ideal family pets – weren't what we were looking for as – for breeding or for showing. These were sold as pets only, not to be bred from.
- Q. And they were for typically between \$2,000 and \$5,000 each?
- A. Yes, they had world champion parentage and they were sold for that price. Yes.
- 20 Q. And did you sell dozens of them throughout that period?
- A. I couldn't tell you what number. I'd have to go back through, I don't know.
- Q. And this was a period where you were on a benefit. Is that correct? Did I understand that correctly from your evidence yesterday?
- 25 A. I think you need to reel that back a little bit. These dogs are not my dogs, so to infer that I'm selling these dogs for a price between 2,000 and 5,000, you've already sent out, or arranged to be sent out, the Serious Fraud Office from WINZ. They checked everything. The dogs are not mine.
- Q. Excuse me, that is – I have no idea what you're talking about.
- A. Mhm. They have been there, they have looked into anything because –
- 30 Q. Please don't suggest that I've arranged anything, because I have no idea what you're talking about.
- A. Okay, fine.

Q. So could you answer the question, please?

A. Yes.

Q. In that period you were on a benefit, correct? There's nothing wrong with that, but it's the truth, isn't it?

5 A. There's nothing wrong with that, but I can't give you any dates and I said that yesterday. I don't have those dates here.

Q. So you're not certain if you were on a benefit during that period 2014 to 2018? You can't recall?

A. I said I'm not certain on the dates.

10 Q. So you can't provide any guidance with – to us? Even if you're not, I'm not asking you to be absolutely precise as to dates.

A. Well I have sworn to be precise and I'd like to be precise.

0905

THE COURT:

15 Q. Well, you've sworn to tell the truth.

A. Oh, okay.

Q. So –

A. It's true – it could be. I just can't give any exact dates.

CROSS-EXAMINATION CONTINUES: MR RADICH

20 Q. Okay, and what I'm putting to you is – what you were correctly inferring –

A. Mhm?

Q. – is that this was partly – understanding your concerns about the purity of the breed and such, but this was also partly a money-making exercise.

A. That's a very good question and thank you for asking that. Breeding takes
25 a long time if you are breeding quality and, as we are breeding the best quality, it takes – it takes a period of approximately 10 years to get to the position where we were at, at that time, and in 2014, there is one piece of evidence where it says the litters in which they were, and '15, that was a period when my mother had the first – 14 – yeah, had the first imported
30 world champion bitch, German Shepherd bitch, from Germany. I think she came in 2012. I'm not quite sure on the dates, again, I'm sorry, but approximately there, 2011, 2012, and as we don't breed very often, only

when we have a suitable partner. My mother had a litter of world champion puppies. Could have been two litters, the exact numbers are there on the evidence under points score, I'm not sure which number it is in the Court records. If I was allowed to have a look at that I could say exactly what puppies and from whom, and as these are my mother's breeding, I assist and help in every way I can and a lot of money has been invested, hundreds and hundreds and hundreds of thousands of dollars have been invested over the time in these bloodlines. We've taken out loans, my mother's taken out loans, to import these beautiful dogs because she wanted the very best and I don't think there's any crime in doing that.

Q. I'll ask the question again. I'll be grateful if you could answer it this time. Part of the reason that you were breeding these litters in that period was to make money by selling the pups. Correct?

A. The main reason for breeding any litters is to breed what we would like to see as a perfect dog that will compete on the world platform. The whole intention was to breed, here from New Zealand, a world champion. Now, these are very valuable dogs.

THE COURT:

Q. Ms Wallace, I'm going to stop you there. Now, yesterday I let you answer as you wanted to –

A. Yes.

Q. – but –

A. What have I done?

Q. – you're just not answering his questions. Now, he's said to you for the second time that –

A. Yes.

Q. – he's put to you a proposition –

A. Yes.

Q. – that part of the reason you were breeding in that period was to make money by selling pups. Now, you can say yes or you can say no –

A. Right, okay –

Q. – or you can – if you say no you can explain why it's no, but I don't need to hear about the bloodlines and the breeding any more.

A. Okay.

Q. I've been listening to your evidence. I'm well aware of what it is –

5 A. Mhm.

Q. – and of your pride in that, which I fully understand, but it's not – by going back to that, it's just not helping us get through your evidence and it's making your time in the witness box longer which is not good for you, so if you could just focus on the question and, to put it bluntly, there's a much shorter answer in there.

10

A. Right.

Q. If the answer's no, then it's no, so – and you can explain but you just need to focus on what he's actually asking you.

A. The few puppies that we sold during that year wouldn't cover the costs.

15

That's on a long-term basis. The costs for German Shepherds are very high because they have a very high standard to meet.

0910

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. So is that a no? It wasn't any reason at all for your breeding?

20

A. To make money? Um... at that point in time in 2014, no, we wouldn't have made any money, no. That was coming up. It needed time.

Q. That wasn't the question. The question is whether that was one of the reasons you were breeding these litters.

A. Why we sold puppies on – no, the reason why we sold puppies on TradeMe was to give families a chance to buy a world-class German Shepherd puppy as a family pet, so they could enjoy it. We mainly kept all our puppies. There were a few that were sold.

25

Q. So your motivations were altruistic?

A. Yes.

30

Q. So why charge \$5,000 a puppy?

A. Oh, \$5,000 is nothing in comparison to what the parents cost. The parents cost – in – mothers in the hundreds of thousands and the father,

um, US one million, so I don't see \$5,000 as a price for a puppy, the best-bred puppy in the country, very much when you – when it is charged on TradeMe for mongrels, five to 7,000, that don't have any pedigrees, no standards, no anything.

5 Q. Well, I'll leave the subject after putting this one broad proposition to you for you to comment on as you will.

A. Yes.

10 Q. What I'm putting to you is that when your real estate agency career came to an end, you were without a job and one way that you saw of making money was to utilise your mother's breeding stock by breeding larger numbers for sale.

A. Absolutely disputed in every word that you've just said.

15 Q. Okay, right, we'll move on. We've spoken plenty yesterday about the facilities relative to the number of dogs on the property. I want now to talk about the number of workers relative to the number of dogs on the property, and get some clarifications for you on that. It was essentially unpaid, as you say, but you were essentially working full time for these dogs in the time you were living on the property, correct?

20 A. It was a passion, yes, um, I were doing other things but... I was there every day, yes.

Q. You were there every day and, in fairness, you were working long hours.

A. It depends – you're talking about what year, please? You've just talked about 2014, where are we at now, please?

Q. Okay, we'll be direct. Let's say the period 2017, 2018.

25 A. Yes, I was at – every day at the property, yes.

Q. Every day, long hours?

30 A. Every day. Yes. Working independently, you can choose your times when you do whatever. That is the freedom of being independent, not being employed, that you have to work from 9 o'clock to 5 o'clock. You decide and whatever the animals decide. If there is an emergency with one of the larger animals, then that's tended to. Everything's dropped.

Q. Now, on the property you worked solely with the dogs and not with the other stock on the property, right?

5 A. I was, um, I dedicated my time and passion to the dogs but if there was an emergency with a – and in a calving or if – when training and I see that the sheep, one going past with a bike, there's something wrong with a sheep. I will put the dogs in training onto the fence, tether them to the fence and go and have a look, so when I come back I can say: "Go and have a look in that paddock, there could be something wrong, I saw this or I saw that."

10 Q. Let me put it another way, then. It wasn't part of your ordinary daily routine to be working with the other stock on the farm rather than the dogs.

A. No, no.

Q. Okay, and conversely, it wasn't part of Anne's daily routine to be working with the dogs –

A. No.

15 Q. – rather than the stock.

A. No.

Q. There was quite a clear division of responsibilities.

A. Yes, there was, yes.

20 Q. Okay, and what about Barbara? What were her hands-on responsibilities?

A. I think really, um, I can't answer for someone else.

Q. You were there.

A. Yes, I was there, yes.

Q. So you can answer.

25 A. My mother was, um... looks after, um, the – all of the stock. She has responsibility for all of the stock.

Q. Just in relation to the dogs –

0915

A. Mhm.

30 Q. What were her typical responsibilities day to day?

A. These are her pride and joy, the dogs, the puppies.

Q. I didn't ask you about her feelings, I'm asking about the responsibilities.

A. These are – this is her responsibilities with the animals. This was her passion and we worked very closely together.

5 Q. What does that mean in practical terms? Was she out there with you cleaning out kennels, picking up faeces, water blasting, exercising dogs, those sort of things?

10 A. Now I know what – now you're being more precise. My mother would help on the gate or on the quad bike. With the puppies we would teach them and help train, especially in their early times, making sure that their bones were strong and giving them extra nutrients and supplements to make sure that each pup had the right amount of nutrients for their bones because they grow in such high spurts, some do, some don't, water blast occasionally but certainly there was people there, that's why we have people, to help clean out the –

15 Q. Yes, we'll get to them. What about like feeding and exercising the dogs, was that something she could (inaudible 09:16:18)?

A. I just answered about the exercising with – on a lead, training dogs on the bike. Of course my mother's not running around the paddock like has been done, she's walking. If she wants to walk a dog, she does that. Whatever she wants to do.

20 Q. Feeding?

A. Some were fed, yes. It depends what – who it was and what it needed.

Q. My question was just – if I didn't make that clear, I apologise. Just relating to her, was feeding sometimes something that she'd do with the dogs?

A. Yes.

25 Q. Okay so in a general sense would it be fair to say you both contributed to the day-to-day upkeep of the dogs, hands-on, but you had the lion's share of the responsibility?

A. Yes, that would be fair.

30 Q. Okay now other workers, were there any paid workers involved with the dogs?

A. Other workers, no. We had international students, we called them WWOOFers and they came from all around the world. Some were agriculture students, some were doing their last semester practical.

Some were – had completed all their studies. We had a vet, we had dog trainers, we had from the military from – we had from every walk of life and they were thrilled to have the possibility to experience breeding from little puppies to adults.

5 Q. Okay, so that's a no? No paid workers?

A. No paid workers, no.

Q. Okay, thank you and I just want to maybe clarify one thing in case anybody here is not aware of it, but this word WWOOFer has been used a lot in the trial. Just to be clear, that's not a word that's used because it
10 relates to dogs in any way, is it?

A. No, no, sorry. No.

THE COURT:

I understand it stands for something like willing workers on organic farms or something like that.

15 **MR RADICH:**

That's exactly right. I just wanted to make sure it was all understood that it's an acronym unconnected with dogs. That's merely a coincidence.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. So these, these – can we call them volunteer workers, is that a fair term?

20 A. That's a fair term, yes.

Q. Okay, how many of them were there in 2017, 2018?

A. Um, I need to refer back to my chronology that is exact, which I wrote contemporaneously. Again, I'm not good at numbers so I cannot give you a number, but we had them from all different walks of life. I think there
25 was around about 37 countries if I remember correctly. I think in total, there was a lot so sorry, I cannot give an exact number. I have written it down and I think actually, I put in my evidence.

0920

Q. I am not suggesting that, to be clear, I am not suggesting that you didn't
30 from time to time, have these WWOOFer helping out on your property

but I am suggesting that you are exaggerating the extent to which they helped?

A. Right, well I dispute that absolutely. I have enough photos of all of the wonderful people that we have had on the farm. Some or a few that weren't so good on a farm, not used to it. Everyone has a different feel to— ability to work, ability with animals, big animals, small animals, everyone's different but in general, they were all amazing people and to say that— to infer that, that's your personal opinion, that is not correct. We've had, these WWOOFer unfortunately COVID happened, we've had a lot of them, they all wanted to come back, they've come back with their parents, with their family, with their brother's and sisters, come back repeatedly, three or four times because they enjoyed it so much. One example—

THE COURT:

15 Q. No, no, Ms Wallace.

A. No example? Okay, fine.

Q. Just please focus on the question.

A. Yes.

20 Q. He's asking you about numbers. You can't give a number. That's the relevant thing?

A. Yes, it was a large number. We always had WWOOFers on our property and it could range from two to seven at one time. We'll have them in the cottage and we'd have them in our house, all different.

CROSS-EXAMINATION CONTINUES: MR RADICH

25 Q. So you had up to seven on our property at one time, is that what you're saying?

A. Yes, because some of the WWOOFers bought their partners and whether they're married or just partners, they came with a partner and you can't say no, I'll just have only you and not your partner, that's why they were all different numbers and so some were down in the cottage and some were up in our home.

30

Q. So we've got the house, four bedroom cottage, two bedroom, you and your mother up to seven international workers and all the dogs we spoke about yesterday, is that what you're telling us?

5 A. I'm telling you over that period of time, this is— it fluctuated and to infer that oh, so many people, yes if they came, as you— with the— both search warrants in the house, you would have seen the double beds. You will have seen everything that was in the house and this is what was there and I'm not going back on that and I'm not being pushed into a corner either.

10 Q. But one thing we can agree on perhaps is that when the SPCA interviewed you, they asked about these workers and you declined to name any, correct?

A. I did, yes, and why? Because that was their private time and they enjoy their privacy. We've had, with the invalid search warrant coming in on the 15 27th, 28th of March 2018—

Q. You're getting off topic—

A. Taking all our things and contacting people that have purchased puppies and interfering with their privacy and informing them saying we're doing all these— (inaudible 09:24:02), we knew nothing about it. No charges 20 were made but a big publicity stunt.

Q. So I guess—

A. So I've been asked, yes we have all their names, I have said what country, just there, and— but I'm not willing to divulge their private address because I was proud to give them such a wonderful time in New Zealand 25 and the SPCA talked to these people and questioned: "Do you know Mr Plowright? Do you know who I am?" . They said: "Yes", they were intimidated. They were, they had dogs in their hands and Mr Plowright told them to go and put the dogs away. It was none of his business but that's what he did so yes we are very careful. We like our international 30 students and we want to keep it that way.

0925

Q. So that's why you wouldn't, that's why you wouldn't —

A. That is why, yes because they have not been honest.

Q. Whatever the reason for that, the result of you not telling the SPCA about their names is that in terms of what you're telling us about how many there were, their role, we only now today, we have nothing more than your word on that, correct?

5 A. I know that is not correct Mr Radich. As you know Mr Radich, with the invalid search warrant on the 27th of March 2018, you received a phone call and email from Mr Chris Grenfell from Edmond Judd as a barrister from Edmond Judd in Te Awamutu and he said you have been in there, that search warrant isn't valid. He asked you to please, to keep all of the
10 documents that you've taken, we should also take in legal documents and preparations from what we had and he asked you to keep them under lock and key until this was sorted out. You promised in writing that you would to Mr Grenfell –

Q. Could you please –

15 A. – and I am answering, you promised in writing to Mr Grenfell you would keep it in a lock and key in your office and you didn't. The computers were cloned and the USB sticks were cloned immediately. It didn't wait. It was cloned immediately and you're saying that you don't know, yes it's been, you've been through everything so no I don't take that.

20 Q. I'm not sure how I'm supposed to respond there, what this is making me a witness in this matter. All I can your Honour is that none of that is accepted.

A. Then I will supply the let – is that right or wrong?

THE COURT:

25 Q. Ms Wallace, Ms Wallace, I didn't know before your evidence but now it's become apparent to me that the SPCA executed a search warrant at your address. I don't have any evidence before me about what was seized at that search warrant. You say that it was illegal, I take from that, that it turns out there was something wrong with the search warrant which
30 means that the prosecution is not able to use any evidence that they obtained or that may not be correct but it's not relevant to this trial.

A. Okay sorry.

Q. What's relevant to this trial is the evidence that the SPCA has produced, the photos, what the witnesses said and when you keep going off into a description of this search warrant and accusing Mr Radich of things. It's not helping your defence because it's not matters that I have to deal with.

5 I have to look at what state the puppies were in when the SPCA came and the dogs and whether they have proved their allegations about them. That's all I can look at. I'm not here to decide whether they should've executed a search warrant or what happened to that, whether it was legal or not, that's not my job. So can you just focus on what he's asking you,

10 which at the moment is about the number of international people that you had at the time who were helping you.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. In this trial Ms Wallace –

A. Yes.

15 Q. – we haven't heard any evidence and we're not going to hear anymore I take if I'm wrong then correct me, about the number of workers that were there and their role that kind of thing. We haven't got any evidence in this trial other than what you're telling us, that's correct?

A. There is evidence in your own photos where you were seeing a
20 WWOOFer is actually cleaning up the stables.

Q. Yes.

A. And this is in, I can't remember which page it was, but that is – there is proof because you are referring that there wasn't any –

Q. As I said earlier it's not in question that you did from time to time have
25 these people on the property assisting. What I'm querying is the extent of that which you say was very extensive two to seven people at all times, obviously those kind of numbers would provide a large amount of assistance in taking care of the dogs, and all I'm saying to you is there's no, there's going to be no evidence in this trial is there other than your
30 word in relation to that?

0930

A. I didn't really want to, um... divulge 'cos I only have to ask of each person, am I allowed to divulge their private details, the WWOOFers, and we are – I thought it's on the days, on the 13th of October and on the 18th of May, this is when these two incidents happened and that's what it's about. I
 5 can, um, if it's important – just on – just on – no – um, that's not correct, Mr Radich, and possibly you can't know. If you look at the body camera footage, I'm just thinking of one that's just come to mind on the 18th of May where Cody Taylor asks one of the WWOOFers and she was an agriculture – complete, had a degree in agriculture, and he asked her:
 10 "Are you a relative or a farm hand?" and she replied to him: "I'm helping out with the stock," and he said: "Cool." That's on your own, that's on the Auckland SPCA's own body camera footage that was supplied in the discovery. There are more, but...

Q. Okay, well –

15 A. If there should be more evidence, your Honour, and if you ask me to provide that evidence, I can provide all the names and addresses and telephone numbers, that's not a problem, but I've just tried to – actually tried to look after – maybe that's a good question that, yes, um, some of these WWOOFers can write and explain their experiences on the farm.

20 Q. Well, that might have been helpful but we don't have –

A. We received calendars –

Q. – that, do we?

A. We receive calendars from them, all their experiences, because one was
 (inaudible 09:32:06) and that was sent to all of the defence lawyers. We
 25 received boxes of sweets and chocolates from over in Europe but the calendar said: "Five minutes of fun every day," and this was the diversity of the farm, and it was all the different animals, the dogs, everything that was on the farm and this is how much they – we didn't ask them to do it, this is how much they thought of their experience and it was so valued
 30 that even the Danish agricultural government paid for their students to come down and work on a farm. These were the students that wanted to take back their pet calf and pet lamb. One wanted to take back a puppy. Um, so to infer that... they weren't there, no. I dispute that.

Q. Well, my proposition to you generally, and of course I don't expect you to accept it but I need to put it, is that the farm, in terms of the care of dogs, was woefully understaffed.

5 A. No. This is from – coming from someone that doesn't know German Shepherds. Our dogs – we proved that they were well trained, well socialised, well looked after in every respect. You cannot take a puppy, three-month-old puppy into a foreign environment. How the dogs reacted when the SPCA came with all – with so many people, we can have a look at their body camera footage. On the day that those dogs each, on the 10 13th of the 10th and on the 18th of May, how they were picked up, and you can see the good condition, how happy those dogs were, their characters, and you can only do that if they are well looked after, so no, I dispute that in its entirety.

15 Q. Did you use anyone else other than those people on the farm to train the dogs?

A. Yes.

Q. What were they used, what sort of training was done with other people?

A. Lead training, show training, um, fitness training, also to socialise, um, the puppies in parks or in – around malls, um, friends, family and trainers.

20 Q. A number of times in the interview you had with the SPCA you were very clear to stress that these were working dogs. I just want to understand what you mean by that, because I do understand, it came up in your evidence-in-chief that there are, in shows there are categories for what are called working dogs, and that's to do with the breed, correct?

25 0935

A. The breed is classified and always has been classified as a working dog. The German Shepherd breed originated to herd sheep, that's why it is called German Shepherd. That's translated from German into English, it's a German herding, sheep herding dog.

30 Q. Understood.

A. And as working dogs we have got a lot of emphasis on both sides, their intelligence, their workability and their showability, their anatomical

structure and bloodlines in one complete package and this is why these dogs are used for so many different areas.

Q. That's fine, it's a working breed, but it doesn't mean that these were in fact working dogs. They weren't doing work on the farm, were they?

5 A. Of course they were doing work on the farm. We use them for herding our cattle, our Angus cattle, with our sheep it depends on our dogs. Of course they were working dogs.

Q. Here's – who trained them?

10 A. Who trained them? My mother trained them; some were purchased trained. The world champion was brought over, she had Schutzhund three, which means that she had her obedience titles and (inaudible 09:36:20) protection and, yes, came from a farm.

Q. So who – when these dogs were needed to herd sheep or cattle, who would be the person yelling: "Get in behind," or something like that?

15 A. It's different with German Shepherds and one great example was Nala and she watched and herded actually all the SPCA people. She was always there, every step she was watching. They were trained, my mother was excellent in training.

20 Q. I'm suggesting to you that these were purely show dogs that served no working purpose.

A. Well I am saying clearly that, unfortunately in this respect, that is absolutely incorrect.

25 Q. Ms Wallace, you of course sat through the prosecution case in this and particularly the evidence of Inspector Plowright, Inspector Davis, Dr Beer, Dr Flint and they made a number of criticisms of the standard of animal husbandry on this property. What I want to ask you is, do you accept any shortcomings at all? Is there a single area where you go: "Yeah, you know, fair cop, I dropped the ball there," or is everything wrong?

30 A. I do not accept in any respect that the animal husbandry of Volkerson Kennels was – what was the word you used?

Q. Do you accept any shortcomings?

A. Any shortcomings? No. The animal husbandry was exemplary and that is revealed in the results that came out of Volkerson Kennels. This is why we ran on whole litters.

5 Q. So in this area you would ask the Court to prefer your evidence over, for example, the evidence of experienced animal behaviourists and vets? That's where we're at?

A. I'm very pleased you brought that up. Neither Jess Beer or Mrs Flint have ever bred a German Shepherd litter. They've got no idea from – about German Shepherds. Jess Beer didn't know whether it was a male or
10 female, she had to feel underneath. Didn't know the colours. Medical records it says: "German Shepherd, sable." We do not have sable dogs in our kennels. We've never had and never will have any. Mrs Flint, regarding behaviour, that might be – theoretically sounds very good, but when it comes to the practical German Shepherd behaviour we have
15 decades of experience of how German Shepherds are. I've had my experience in Germany and all through Europe and their training, so I certainly know the behaviour of German Shepherds, which Volkerson Kennels is relying on the imported bloodlines, with their trainability, their tracking, tracking is used, workability in every respect. So, to say that our
20 animal husbandry and behaviour, that we don't know what we're doing, it is disputed in its entirety because if they knew what they were doing, and we'll just take back, here's a very good example, Dr Jess Beer with Ritzer. Dr Jess Beer says with Ritzer on the body camera footage at 1310 from Lori Davis, and that's number three, four, it's the third, it's the third body
25 camera footage and Dr Jess Beer says: "She'll be, she'll be back up on her feet this afternoon and the sun would have gone down," and that explains, because this is something that really has bugged me over the whole time, she didn't feel that Ritzer was sick enough or injured enough or (inaudible 09:40:33) 'cos she didn't have, she said, there's no
30 lacerations. She did not examine that bitch until four days later and if that animal was so injured and needed immediate attention, it would have been done on the 13th but it wasn't and four days later, that bitch then has a strep bug, a deadly strep bug and shows the unhygienic conditions

unfortunately, or too many dogs coming to the SPCA, bringing diseases but that wasn't at our property, there were no— there was nothing so the deterioration from good health to a sad health in four days is sad. It cost her life.

5 Q. Is that a yes?

A. A yes to what (inaudible 09:41:24)?

Q. The question, do you recall the question?

A. You were saying that— yes, that is a yes, a definite yes. In this respect, on German Shepherds, their behaviour, yes.

10 Q. And matters veterinary as well, for example, the appropriate antibiotic treatment. You've criticised Dr Beer in that regard and you would ask the Court to prefer your evidence in terms of appropriate antibiotic treatment to that of Dr Beer, that's right isn't it?

A. I would prefer that the medical records from this SPCA that was supplied
15 or submitted as evidence to her Honour so she can see for herself and you can see the shortcomings in those medical records. What has happened to those, each one of those dogs and you can see the shortcomings from Dr Beer. X-raying our dogs for hips, pups four or five times. That's got nothing to do with her and you don't do that. Doing
20 DNA tests, what has that got to do with our dogs?

THE COURT:

Q. Ms Wallace, I am going to stop you again, I am sorry to keep doing this.

A. Sorry.

Q. But, and I can see that this is upsetting for you but you do need to focus
25 on the question that is being asked and give an answer to that question.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. I'll ask the question again.

A. Please.

Q. So you're asking the Court in this trial to prefer your evidence as to the
30 appropriate veterinary treatment, specifically antibiotics in relation to Ritzer. You're asking the Court to prefer your evidence about what was appropriate over that of Dr Beer?

A. I am asking the Court to see the black and white evidence that has been supplied. I want the truth out. I want the truth to shine. In the evidence, your own evidence shows how a bitch has (inaudible 09:43:17) for three months under veterinary care, purulent, bursting, abscesses and letting pups drink from it, is that good care? No it's appalling. If that had been a breeder, they would have been stopped in their tracks and that was the SPCA care Dr Jess Beer so I would like that evidence all to be in there.

Q. It's not up to me to make your case, you have had years to prepare your case, what you've put before the Court is up to you but I will ask the question one last time, just to see if we can get an answer. Are you asking the Court to prefer your evidence in relation to the appropriate veterinary care specifically antibiotic treatment of Ritzer over that of Dr Beer?

A. I would like evidence, the black and white evidence, yes. I don't believe that she has been well looked after, no. She should have been examined immediately and wasn't. She had a full examination on the 16th of October. No dog was examined when they were uplifted. Four dogs go to the pound and are examined on the 27th of October two weeks later after they had been in the pound. The others, all the others were examined on the 16th of October so we just wait a weekend. If dogs have been on antibiotics, that has stopped and we all know if you take— if you're on a course of antibiotics and you stop during that process, then it can explode and we don't know what's in the care in the hygienic environment or unhygienic environment in the SPCA and what diseases they have.

Q. I don't think I am going to get an answer so I will move on. You've also been critical in relation to Ritzer, since you've mentioned Ritzer.

0945

A. Yes.

Q. Of the conclusions drawn by Michael Hardcastle or the pathologist, correct?

A. No, I thought Michael Hardcastle, he is a pathologist and I thought he was, it was for me very heartbreaking to hear it.

Q. Specifically on the question of his opinion of how long that leg had been bound to cause the damage that it did. His evidence was quite clearly a few hours. Something in the region of hours, he said days unlikely, minutes unlikely, hours was where he saw that sitting—

5 A. You asked Mr Hardcastle—

Q. Can you let me finish?

A. Sorry, yes, certainly.

Q. Do you accept that evidence?

A. I accept Mr Hardcastle's, he said, you asked him: "Could it be minutes?"
10 and he couldn't reply to that. He did not say that it was hours.

Q. Well, can I read you the exact reply he said.

A. Yes, I would really appreciate that.

Q. From page 4, 5, 6, line 21 of the notes of evidence: "I think minutes would be unlikely. I think it's less likely because it does take, he would require
15 a period of time of sustained loss of blood flow to cause the cells to die. They can, because you know, I think the cells in the tendon, because it's a poorly infused organ and the cells in the tendon are used to having a low amount of blood supply so I think they would be able to tolerate a few minutes of strangulation," so, and then a few sentences later: "So I think
20 a few minutes is unlikely, I think a few days is unlikely too." Do you accept that evidence?

A. So, he says between a few minutes. He could not say, state an exact time and—

Q. Correct.

25 A. And that's exactly what he said and I accept that. That he could not (inaudible 09:47:02) an exact time what it could be. It could be from a few minutes to a few hours, that is what he said.

Q. No, he didn't say it could be from a few minutes to a few hours. What he said was his estimate was a few hours and in a few minutes was unlikely,
30 do you accept that evidence?

A. Mr Hardcastle's evidence I think was very good and he was very professional in what he did. This, we said from the whole commotion that

came onto this property, these people came onto the property with seven to 10 vehicles, I can't remember exactly.

THE COURT:

No, Ms Wallace, I have to stop you again, I am sorry but we're not going to make progress with this hearing. I have heard your evidence about what you say the SPCA did when they came onto the property but you are just being asked about Mr Hardcastle's evidence about how long he said Ritzer's leg had been bound so perhaps if you ask the question again, Mr Radich.

CROSS-EXAMINATION CONTINUES: MR RADICH

- 10 Q. Do you accept Mr Hardcastle's evidence that his best estimate of how long the leg had been bound for was a few hours?
- A. He said he couldn't say it exactly and I accept that. He could not give a defined time.
- Q. But he explained why it would be unlikely to have been just a few minutes, didn't he?
- 15 A. He explained— he made a very good explanation and that's why she should have been treated differently.
- Q. And do you accept the scientific basis that he gave in the passage I've read out for why it's unlikely to have been just a few minutes?
- 20 A. He explained about that but that wasn't what got into that. That was a bacteria, an infection into there that was flesh-eating so, I don't know. It's a very sad situation, an accident. What would have been good was the faeces that were there, that was fresh if that was examined and then it could've determined exactly the timeframes. I can't say a timeframe, he couldn't say a timeframe, the SPCA can't say a timeframe, yeah.
- 25 Q. But you are saying a timeframe, aren't you? You're saying it was a matter of minutes?
- A. I didn't say that. I said I cannot say a timeframe. Mr Hardcastle couldn't say an exact timeframe and the SPCA cannot say an exact timeframe.
- 30 Jess Beer put in her notes that she Googled it and thought it could be days.
- Q. You are getting off the topic again.

A. Sorry.

Q. I understand, and you can correct me if I'm wrong, I understood your position to be that Ritzer's leg had only been bound up like that for a few minutes, is that not what you're saying?

5 A. I wasn't there when it happened. All I know is what happened around her. I know she's a sensible bitch, that she wouldn't do that on her own under normal circumstances. They are trained to be on a lead and to relax and that's why this whole matter is very, very strange and that's what I said.

10 Q. But you have said, haven't you, I understood you would have been quite clear that you are saying her leg only got bound up because of the commotion when the SPCA came in and you rejected the possibility that it had been like that for longer, that's right isn't it?

A. When the SPCA came in and they came in around 20 past 11, that was
15 the first, I think, (inaudible 09:50:49) it could be quarter past 11, half past 11, round there, after 11am, into, onto the property and that's when the commotion started, yes. Where it was aggravated was when Mr Plowright was banging on the door. Mr Reece Heatley had come in previously into there so if the animal was distressed or tangled up, I'm sure Mr Heatley
20 would have said something, which I don't know, I can't speak for Mr Heatley and I can't speak for Ms Beer when she saw the bitch was tangled but didn't do anything.

Q. So I know, I just want to be clear so I understand what your case is. Are you accepting Mr Hardcastle's best estimate of the leg having been up,
25 been bound for many hours, for a few hours?

A. I don't believe it was a few hours because the faeces shows that it wasn't.

Q. And you, right so you conclude that from the faeces, you also conclude that, didn't you, I think I recall you, I don't have the reference for it but do I recall correctly that you made reference in your evidence along the lines
30 of, and like I say, I don't have the reference so if I'm getting words wrong then please correct me, that if it had been bound up for longer, for a few hours, then the hairs on their leg would have been rubbed off, is that correct?

A. Yes, yes. The indications of the bitch herself, she had no lacerations, there was no redness, there was no bruising and these are statements that Jess Beer says herself- excuse me- and it is something that just does not add up and that is why I have said what I have said based on the facts on her. Shepherds are smart and if she had just got herself just all tangled up just like that, she would have untangled herself. Yes, she would have had a different injury and she was weight-bearing afterwards.

Q. I want to leave the subject of Mr Hardcastle, I just want to be completely clear before I do. You were saying it wasn't a few hours, he says the best estimate is a few hours and you were asking the Court for the reasons you have explained, you don't need to give them again, to prefer your evidence on the pathology of these injuries over that of the pathologist?

A. The pathologist saw the dog two weeks later, not when it happened, two weeks later. More than two weeks later and a lot happened in those two weeks. She wasn't treated from the 18th to the 24th of October. Why wasn't she treated, why was she in their care and not being looked after? This is according to your own SPCA medical records. Then she's X-rayed on the 25th, Mr Plowright gives, he agrees that she can be X-rayed for her hips. Here you have a dog with a sore leg and all you can think about is X-raying its hips? Is for me, unbelievable. I then, the next day, oh well, she's a big dog we'll have to use (inaudible 09:54:24) and then we saw the photos but we didn't see all of this. This was, we were, we were denied the right for an independent vet to have a look at, according to the law, to have a look at our dogs and this has been denied and also with Ritzer and Mr Plowright put that our vet, Dr Mark (inaudible 09:54:44) came and saw her at the SPCA. That was not correct. He didn't even have the medical records or the photos.

0955

Q. Is that a yes? Do you recall the question?

A. Please say it again.

Q. You're asking the Court, in relation to the likely length of time that Ritzer's leg was bound by that rope, to prefer your evidence as to that time in

relation to the pathology of the injury, over that of the pathologist, Mr Hardcastle.

A. I'm not sure if that was brought up, whether Mr Hardcastle saw the medical records from Ritzer over the two and a half week period. He's just seen a dead animal that had blood coming out of her nose, the way she'd been euthanised, and couldn't find anything else wrong with her. I can't – I can't answer that.

Q. Well –

A. I have a different opinion, and –

10 Q. Okay, you have a different opinion to that of MR Hardcastle. Maybe we can just –

A. I have a different opinion and I'd just like that to be – I don't want to put it into a yes or no, I have a different opinion.

Q. Okay, that's fine, that's fine. I think we're completely clear on that.

15 A. Mhm.

Q. You mentioned just a few moments ago that Ritzer was weight-bearing.

A. Yes.

MR GARDINER ADDRESSES THE COURT (09:56:21)

LEGAL DISCUSSION – MR HARDCASTLE'S EVIDENCE

20 1000

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. You mentioned Ritzer being able to bear weight on the injured leg after she was freed from it, correct? Freed from the binding.

A. Yes, yes. She stretched out her leg, she put them both down then she put it back out again. She moved around. She was trying to get away from Mr – according to the body camera footage, trying to get away from Mr Heatley but you could also see her on – when those videos were shown on TV, that she was weight-bearing, she was wagging her tail. She showed her little happy character and she was walked out, she wasn't carried out which Jess Beer has confirmed and which was a good decision because that gets the circulation going in the leg, to walk her out

25

30

and to get her going, and as Jess Beer said, there were no lacerations, she will be weight-bearing and the swelling will go down. It wasn't obviously – in her opinion at that moment of time it wasn't a big issue because otherwise from her professional – from her professional responsibility she would have reacted differently and taken other actions, because she felt – because I do not believe that she would do that intentionally. She felt: "It's got time, we'll wait until Monday."

Q. Now as you know there's no video footage of Ritzer being walked out of the hay barn to the vehicle, but you gave evidence that Ritzer walked normally through that passage. Is that right?

A. Why isn't there any – why isn't there any body camera footage of Ritzer walking –

Q. Can you answer the –

A. – out of the –

Q. – question, please?

A. – out of the hay barn? Why is it, from all of the people, there is none?

Q. Would you like to answer the question?

A. Yes, I would like to.

Q. Please do then.

A. Ritzer was seen on the lead, on four feet. She even tried to stop going forward. She put her feet, her back feet back and pushed back. Are you saying this didn't happen?

Q. I'm asking you if you are – to confirm, what you're saying is that you say you saw Ritzer walking out of the barn in a normal fashion, bearing weight on that leg in a completely normal way?

1005

A. I said she was weight-bearing and I said to you it was on four feet. I said she put her breaks on. I think that those were my words, and then she was put into a vehicle. The beginning from the hay barn in the first 10, 15, 20 metres, I could not see because of the vehicle that was in front of it.

Q. Well, I'll read the words directly from your evidence and that might help just to understand whether you're saying the same thing now or whether you're changing.

A. Thank you.

5 Q. Page 715, line 22, or rather from line 20, so you're getting the question that was put as well: "Can you describe what you saw in relation to Ritzer being led out?" When, what, from the time that it came into view for you. And your answer: "All I can remember is she was on – she was walking normally. She wasn't limping. She put her brakes on." So, she was
10 walking normally and not limping, correct, from what you saw?

A. That's all I can remember, yes.

Q. Okay, but you've of course seen the video footage from a few moments before when she's in the shed, taken out of the gage, haven't you?

A. Yes, I have. Yes.

15 Q. And she's clearly got a problem with the back leg at that point, hasn't she?

A. At that moment, she stretches her leg, which is a normal reaction whether it is an animal or a person. They were stretched to get the, to get the circulation going. She bounces around. She walks out. She bounces around and turns around and tries to get away from Mr Heatley.

20 Q. But no obvious problem with the leg. Just a bit of a stretch. Is that what you're saying?

A. There was no obvious injury that was visually to see. That is what I am saying.

Q. Okay. I'd like to play the video for you.

25 A. Oh, lovely.

LEGAL DISCUSSION – TECHNICAL DIFFICULTIES/FULL VIDEO (10:07:18)

DVD PLAYED

WITNESS:

Why aren't we seeing all of it?

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Having seen that video, do you maintain that Ritzer was weight-bearing on the leg?

A. After that, yes, she was. Why aren't we seeing all of it?

5 Q. And do you maintain that shortly after that when you saw her led out of the shed, a portion for which there's no video footage, that she was walking normally with no limp?

A. She was walking normally is what I could see.

Q. With no limp?

10 A. I – no, I didn't see a limp. That's why I asked. What is wrong with her?

Q. What I'm suggesting to you is that having seen that video, that is a dog with obviously a problem. You don't need an expert to see that is a dog with a problem on that back right-hand leg and it's just not true that you saw her walking normally without a limp moments after that.

15 1010

A. Mr Radich, that dog, if you played – and if – there must be a reason why there is no more body camera footage after that.

Q. That's not body camera footage.

A. Well it's from – then from Mr Plowright's telephone.

20 Q. Correct.

A. Right. Why isn't there any? Because that would show that what I'm saying is correct. Why wasn't that longer, the full footage? It wasn't.

Q. That's the full length of the video clip on the phone.

A. There's enough body camera footage on it.

25 **THE COURT ADDRESSES THE WITNESS – ANSWER THE QUESTION**
(10:10:41)

WITNESS:

The bitch, Ritzer, was weight-bearing. You could see several times on that little body – that phone video. You could see how she put her weight on her – on
30 that foot. You could see how she sat on that. You could see that she was adjusting her weight and getting the circulation into her legs. That is a normal

reaction and if it was any other then she would have been carried out. She would not have been walked out.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. And I'll ask the question again.

5 A. Yes.

Q. But can you answer it, or if you don't, that's fine –

A. Yes.

Q. – I'll move on –

A. Yes.

10 Q. – whether you answer it or not, but I'm suggesting to you that it's simply not true that moments after that video clip was filmed, a video clip which has what I'm suggesting to you is an obvious problem with the back leg, it's not true that you saw Ritzer walking normally without a limp.

A. I dispute what you are saying, your suggestion.

15 Q. All right, we can –

A. Move on.

Q. – move on from that.

A. Mhm.

20 Q. And we will come back to Ritzer in due course, but just to reiterate, you accept no shortcomings whatsoever in relation to the – in relation to Ritzer and the situation that gave rise to that?

A. No.

Q. Exemplary care of a dog, to use your word.

A. You could see she was in beautiful condition.

25 Q. A pretty big but there, but for the leg. I mean –

A. Accidents happen. Obviously with that sort of commotion going on something can happen. I will give you that, yes.

Q. But it's an accident –

A. But how she's been looked after in the care, that she loses her life? No.

30 Q. But it's an accident that wouldn't have happened if she hadn't been left tethered and unattended.

A. No, I don't agree there. The dogs are trained to be tethered for emergencies. If we're out on the farm and something happens we have to be able to clip them onto a fence and go and have a look at that emergency. This is what they're trained for and she was trained. That's why this whole situation doesn't add up. Coming in from behind the back doors of the hay barn, making a big commotion at the front doors to add time. If – Jess Beer walking over to her on the body camera footage and then walking back to Pirelli. If she saw an animal in distress you would immediately attend to that and not try and – those people were outside the hay barn not just minutes beforehand. They were sitting on the silage bales, that why it would have been good for the whole body camera footage to have been shown.

Q. Had Ritzer not been tethered and unattended, that would never have happened? That – I mean that doesn't seem like a difficult proposition to accept? That's obvious, isn't it?

A. I don't know if that was staged. I don't know anything about that. All we know is we have a dog that has her leg in a very unusual, highly unusual position, that her leg is right up here by her head and ear. I cannot understand how that can happen because the logic with the lead and that leg – the whole just does not make sense and this is something that I have been trying to work out over the whole time.

Q. It's a conspiracy is what you're saying?

A. No. Don't put words into my mouth. I've never used the word conspiracy. Those are your words, okay?

Q. Well okay, you're saying you think there's a – you're suggesting the possibility that that whole thing with Ritzer, the injury to her leg and everything, was staged?

A. I don't know. I'm trying to find answers. There was fresh faeces there that she could not have done with her leg up there like that. So, how did that fresh faeces get there? Those were – came from Ritzer. One. Not a whole lot of faeces, just one fresh faeces.

1015

Q. So you say –

A. And then we see a dog in that situation, and the immediate reaction is to help, to massage that leg, to get the circulation going, walk around and keep walking around and then walk around at intervals every hour. That's what we would have done, but it took a different – a different path, a very sad path.

5

Q. You say you're trying to find answers. I'm suggesting to you that there's a screamingly obvious answer and that answer is that Ritzer was left unattended, got her leg – tethered in the cage, unattended, got her leg wrapped up in the rope and couldn't undo it until the SPCA people got there. Is that not just the most obvious thing in the world?

10

A. If that's what you would like to believe but I dispute that because if the SPCA hadn't come, this bitch would have been tended to because this bitch was going with me, with a friend up to the Bay of Islands so yes, I do dispute that.

15

Q. You're not seriously suggesting you were going to take her to a show that day, are you?

A. Yes, I was.

Q. In that condition?

A. I didn't know she was in that condition and that's why I'm saying, the two hours that they were there, this was – this was taped at, if I remember correctly, at 1.07 or 1.08 in the afternoon. They arrived after 11 and I came back at about 20 past 11 because I was at the vet's picking up various things and I had Monty ready and I was taking a team and I was getting them all ready all afternoon and then I would have driven off, so yes, it would have been totally different. And there wouldn't have been the commotion.

20

25

Q. The last time you'd seen Ritzer before that day, before that video clip that we've seen there, was the night before, is that right?

A. That's correct.

30

Q. And had you tied Ritzer up at that time?

A. I hadn't put her there, no.

Q. Where had you left her and in what state?

A. I'm sorry, I – I cannot answer that because I don't know. It's... five years ago.

Q. Well, you've got an extremely good memory for some things –

5 A. Some things, yes, because it hurts me, it pains me to see what's happened. Ritzer, yes, she would have been – Ritzer was on the – good that you brought that to my attention because I had a mental block then, sorry. Ritzer was on the – in the cattle yards. She'd been trained, been fed, and, um, that was the resting place, yes. It was dry, it was, um, yeah, it was – a lot happening, very interesting area for her, so yes, that's where
10 she was the day before. Your own – the SPCA's own photos show that.

Q. And you'd seen her the night before in the hay barn, correct?

A. Yes.

Q. And you were asked about that in the interview with the SPCA as to why she was tethered and you explained that was, what, so she wouldn't dig
15 out?

A. That's right.

Q. So you'd left her tethered the night before?

A. I had left her tethered. I'd left her in the hay barn, yes.

Q. Tethered in the same position that we see her in there?

20 A. The same position? No, she wasn't in that position.

Q. Where had you left her tethered?

A. She was not – you're saying in the same position and if I understand you correctly, that would be with the lead wrapped round her leg.

Q. No, sorry, the same place.

25 A. That's different. She was in the same place, yes.

Q. Okay. So she was in the same place and tethered in the same way, correct?

A. I didn't see when she was taken from there. I wasn't there.

Q. But you've seen the photos in the book. You can see –

30 A. I've seen the photos in the book and all I'm seeing is a – would you like to direct me to a particular photo?

Q. Sure.

A. Thank you.

Q. Crown exhibit 1, pages 79, probably page 80 is the best.

A. (**inaudible** 10:19:20) 79. Yes, well, we did see that she was sitting up when we arrived. Eighty –

5 Q. Right, we can see on page 80, we can see clearly the rope and where it's tied to the cage, can't we?

A. We can see it going upwards, yes. On page 79 we can see that it's attached to the pipe.

Q. Yes. Is that where you had tied her the night before?

A. I didn't tie her there.

10 1020

Q. Tethered?

A. And I said that, I didn't tether her there, she—

Q. Okay, well this is what I am trying to understand. You left her the night before tied up, right?

15 A. Yes.

Q. But are you saying that she had been moved in the interim and tied up somewhere else or was she in the place that you had tied her up, I am just trying to understand that?

A. I gave her water on the evening before.

20 Q. I didn't ask anything about the water.

A. No, no, I am trying to recollect going back to the evening before, I gave her water and Pirelli water and could be, I can't say exactly, I don't remember.

Q. Okay.

25 A. I believe so, could be, I don't know.

Q. You are not suggesting, are you, so I'm entirely clear, you are not suggesting somebody has come and moved her in the interim?

A. I'm not suggesting anything, I am just saying I don't know, that's all.

30 Q. What I'd suggest to you is that manner of tethering in that cage with a rope being left unattended created the very risk that ultimately caused Ritzer's death.

A. And I dispute that totally because if she had been treated after that and correctly and massaged and walked around and not kept in an unhygienic

environment where there are a lot of diseases, that would not have happened. If she had been treated medically, correctly, but not– having no, not even being visited from a vet from the 18th according to your, to the SPCA's own medical records, to the 24th, that's six days so they
 5 looked at her at the 16th, she had a full examination, on the 17th, they had another look on the 18th, I think the 17th wasn't, I'm not sure, whether she was inspected by a vet, I would have to look at the medical records. On the 18th, definitely and then there wasn't any, she wasn't looked after or wasn't treated by any vet from the 18th to the 24th and for me, that is very,
 10 either they thought she's healing very well although they knew it was, how do they call it, malodorous, it had an–

Q. Malodorous?

A. It had an infection and to have infection purulent, that is an unhygienic environment. She did not have any diseases or any broken skin or
 15 anything like that. That, this came through the SPCA lack of care.

Q. So again, that's something where you're asking us to prefer– or the Court to prefer your opinion about what is, to use your phrase, medically correct in terms of treatment as opposed to the attending vet?

A. Yes, these are facts, facts based on the medical records supplied the
 20 following year from Ritzer. Not straightaway, the following year. We just received a phone call. We're going to have to euthanise her.

Q. But you haven't, well actually, I need to be clear on that, you were given your– the opportunity for your vet to converse with the attending vet in relation to the question of euthanasia, weren't you?

A. Yes, and I rang our vet immediately who is absolutely super and we have
 25 great faith and that we have used 20, 30 years and he was contacted, he rang Jess Beer. Jess Beer promised him that she would send him all of the medical records, email it through to him and the photos. He waited and waited and waited. We kept calling him– have you received them?
 30 No. Have you received them? No. They did not come. We found in the interview, Mr Plowright instructed Jess Beer not to send them. He wasn't allowed to go there, we weren't allowed to come in and see her. We

weren't allowed to do anything. We weren't allowed– I'm going to have to stop. Could I have a five minute break please?

THE COURT ADDRESSES WITNESS – ADJOURNMENT(10:25:06)

COURT ADJOURNS: 10.25 AM

COURT RESUMES: 10.31 AM**CROSS-EXAMINATION CONTINUES: MR RADICH**

5 Q. Ms Wallace, you've of course given in some detail your views on the adequacy or otherwise of the medical treatment that Ritzer received. As part of your defence case, will we be hearing any veterinary or otherwise expert evidence in relation to the standards of that treatment?

A. Could you repeat that question please?

Q. You've given us your opinion about the adequacy or inadequacy of the medical treatment that Ritzer received.

10 A. Yes.

Q. Will we be hearing any veterinary expert evidence in relation to that as part of your defence case?

A. We have two veterinarians that will be giving evidence, which you know of, yes.

15 Q. Neither of them have been – have had their evidence briefed in relation to this point about Ritzer, have they?

A. I don't do that. I don't know.

Q. Okay.

A. I've got no idea.

20 Q. Okay. So –

A. All I know is with, with Ritzer when that happened that this beautiful girl, I remember it like it's happening right now, we received a phone call that she should be euthanised and did we want to get an independent vet? We said: "Of course we do," and the elementary facts were not given to our vet to make an independent view, which we had a legal right to, but it was said in Mr Plowright's statement that our vet visited the SPCA. He told us he hasn't received any and Mr Stellman (inaudible 10:33:37) can confirm when this – when the email came through from Jess Beer, it was about six weeks later and with the photos and her medical records.

25 30 Q. With respect, none of this is to do with the question I asked. So, can we move on?

A. Move on.

Q. Thank you. So, we've spoken about Ritzer and you accept no shortcomings whatsoever in relation to Ritzer. I want to turn now to what I'm going to suggest to you is the other most striking example of where standards were not met, namely Debbie. Can I ask you to turn to page 5 68 of Crown exhibit 1 please – prosecution exhibit 1 please.

WITNESS REFERRED TO PROSECUTION EXHIBIT 1

A. Yes, I have page 68 in front of me.

Q. Okay. Now, the first thing I want to ask you about is the light in this room because you've made it very clear that you take exception to the suggestion that this room was dark and you've referred already in 10 cross-examination to the clear panelling on top of the roof which provided a degree of natural light. So, you don't accept the word dark. Do you accept the word dim?

A. There's natural lights. We – these are working buildings. People work in 15 these buildings, whether it's the deer shed, the utility shed, the implement shed, the – all of these, and they have to be – for health and safety, they have to be natural light, and as you can see if you look down at the second photo, you can see the natural light there in this room. This is a dark picture. We had the same picture taken off the body camera footage from 20 the woolshed. Depending how it's portrayed, it can be portrayed dark and just take a natural one with nothing done, it's as light as anything, so..

Q. I mean, you can see that the person in the video, in the still in the top photo on page 68 is using a torch –

A. Yes, he is.

25 Q. – into the crate, so we certainly wouldn't say it was well-lit, would we?

A. It was daylight.

Q. Well, it's daylight outside.

A. And it was daylight inside. The clear light goes over the whole roof of it. We work in there every day. We don't turn any lights on during the day. 30 At night, yes, no problem. This is where the contractor was going in and out of all the time. He didn't have a torch. He didn't need a torch. Funny that.

Q. What do you mean by, "funny that"?

A. Exactly. There was daylight in there. It is a normal – you could call this dim in here.

Q. Well, if somebody was in here using a torch, it would be most unusual, wouldn't it?

5 A. For, for, for effect. The same thing as here, I'm still standing there. There's the daylight. You can see that, and if you look at the top of that freezer there, there's plenty of light there. It depends what you're trying to – what situation you're trying to portray.

Q. Inside the crate, of course, there's a hard top on top of the crate though.

10 A. That's correct. It's a –

Q. So, the dog inside the crate is not bathed in the same light that the cloth on top of the freezer is. Correct?

A. That is very correct, yes.

Q. Okay, so you say the use of the torch was just "for effect"?

15 A. That's what I'm saying, yes.

Q. You'd never taken the SPCA inspectors into this room previously, had you?

A. I don't believe so, no.

Q. And on this occasion, you only opened it up for them after you were
20 instructed to unlock the door. Correct?

A. I was instructed by the police to keep away. Then, Mr Plowright came and asked would I open that up. I was not asked. He was doing everything himself. I offered to show him every dog and bring them out on a lead. He did not want that.

25 Q. And you've heard Dr Beer's evidence that the crate in question was too small for a dog of Debbie's size. You would ask the Court to reject that evidence presumably?

A. Absolutely, because this crate was used to fly a German Shepard, which was according to the Ministry of Primary Industries and IATA dimensions
30 for a German Shepard. That means they can stand up, turn around, lie down comfortably and they can be in that crate for at least 48 hours because they are sealed, so that is absolutely incorrect.

Q. This – Debbie wasn't flying at this time, was she?

A. No. Debbie was being supervised because we thought that Debbie could be – she started to have a discharge and she was being – we wanted her in a very controlled area. There was newspaper down. She'd been put in there so that we could go in every hour and see what is happening.

5 She was given that morning, and that was told to Ms Beer, given antibiotics because we thought she was – she had it morning and night actually, 500 milligrams, and Debbie had been exercised. She had been fed. She had been watered and the crate was clean otherwise, which was confirmed by the SPCA, and I –

10 Q. I'll pause you there. Are you saying the SPCA confirmed that the crate was clean? Did I hear you correctly?

A. Yes, you did hear me correctly. Jess Beer even stated that this crate was clean, and that would be good then if you have any doubt to have a look at the body camera footage.

15 1040

Q. Well can I put to you a couple of extracts from the evidence?

A. Yes.

Q. First of all, Inspector Plowright saying that the dog had been lying in her own faeces and this was in a – this was all clumped in – sorry: "Faecal matter and all that clumped in, big knots of dirt and all that sort of thing. All clogged up dirt and faeces and that sort of thing." That's from page 54 of the notes of evidence. That's not suggesting the crate was clean, is it?

20

A. That is suggesting that what Mr Plowright there, said there, was absolutely a lie. Their own body camera footage shows Debbie's clean coat and the condition she was and if we'd like to refer to, I'm not sure what the booklet is that Mr Gardiner submitted, there is a photo of Debbie and you can see her coat quite clearly and that is taken out of the implement shed and been put into the vehicle. So, if you wouldn't mind, may I go over and –

25

30 Q. Go for it.

A. I'll just –

Q. Sorry, you don't have it there? Sorry.

- A. No, I don't. Debbie is on the first page, the lower page. You can see this is a dog that they said was underweight. As you can see she's on the scale of just about being obese, but she was in whelp. I'll just take my, my glasses are fogging up. One moment, please. You can see that she's
- 5 still shedding a little bit of her wire coat, but you can see from there what Mr Plowright said, full of faeces, this girl was being combed out. Her winter coat was being combed out daily by my mother and a Japanese WWOOFer, one on each side. Because she's a wire coat it's a very dense coat with a very strong undercoat, just like polar bears have an
- 10 undercoat so that they don't – that they can swim in freezing conditions. They don't get cold, that's what an undercoat does, it keeps the temperature correct, but you can see here very clearly her coat, not big clumps and faeces and – like a lot of the lies that have been forthcoming.
- Q. So you're quite clear, you're saying Mr Plowright was – is just flat out lying about –
- 15 A. About Debbie's coat?
- Q. About her having faecal matter in her coat.
- A. Absolutely.
- Q. And –
- 20 A. And I know because I personally put the newspaper in her crate that morning.
- Q. Is – was Dr Beer lying as well?
- A. Dr Beer? She said this bitch that you can see in the bottom here was underweight.
- 25 Q. We're not talking about her weight.
- A. And you asked: "Was she lying?" That is a complete lie. She weighed 30 and – 30.5 kilos when she was taken, and that's supposed to be underweight?
- Q. Can I ask about the – can I just stay focused on the coat for now?
- 30 A. Yes, yes.
- Q. Because you've said that Inspector Plowright is just flat out lying about there being faecal matter in the coat. Are you saying Dr Beer is lying about the same thing?

A. Did Dr Beer say there was faecal matter in her coat?

Q. Yes.

A. All I can say is what Dr – what I know. Could you please read what Dr Beer said, please?

5 Q. Sure, this is – I'll read you a couple of parts from pages 348 to 349 of the
evid – of the notes of evidence. She described, for a start, this being “a
really sad one,” when referred to the photos of Debbie. She said that:
“The crate was too small for a dog of her size. She was hidden amongst
all this other junk. Quite a depressing place for a dog to be in,” and then
10 as she goes on to speak about the coat she says: “Her coat was pretty
hideous,” and she also says: “There was a combination of really bad skin,
matted, dirt, faeces, dust, really sore, pussey ear and then obviously that
pregnancy as well which adds further burden to her body.” Was she
lying?

15 1045

A. I'm very pleased that you read it out. Dr Beer said that this girl was
matted, you can see right there that she wasn't matted. Dr Beer said a
puppy had a matted coat, Casper, Monty.

Q. I'm not asking about Casper, can you please stay focused?

20 A. Well, these are all statements that Dr Beer has said, which were not true.

THE COURT:

Well Ms Wallace, just answer the question in relation to Debbie please.

CROSS-EXAMINATION CONTINUES: MR RADICH

A. Debbie did not have a matted coat and did not have faecal matter
25 because she was in and out of our home, we wouldn't have a dog going
in with faeces in its coat. In and out, no, she was being combed, she was
being stripped out every day by my mother and this Japanese girl and
she wouldn't touch a dog that had faeces, she was so meticulous. So, I
dispute that totally and I think it's, words are very patient but this photo
30 shows exactly that is not correct.

Q. So, to be fair, while you're saying Mr Plowright is lying with Dr Beer you're
just saying: “Well, she's wrong,” was that a fair characterisation?

A. That's a fair characterisation. To take a treated dog, yes she was receiving antibiotics, Dr – this was shared with Dr Beer with her ear and she told that, and that's in the body camera footage, to Mr Plowright who just laughed: "Oh they might have something there in the house." Why
5 wasn't the other dog taken? Same size, long coat, exactly the same. It wasn't because she didn't have – she wasn't Debbie.

Q. This is this part of the – are you alluding to the conspiracy to get the best breeding stock?

A. I'm not – those are your words.

10 Q. No, no, but I'm wondering what, you tell me what you're meaning there.

A. Um, there was no reason –

Q. If she was taken.

A. – this was a healthy dog, to take Debbie from her crate. The crate was of a standard size, she was healthy, she was being treated for her ear,
15 she could not say there was pus in the ear because she didn't look inside the ear because she did not have an otoscope, which she said on the body camera footage: "I don't have an otoscope."

Q. Well, she did say that there was pus in the ear, the fact that she was able to say that without an otoscope, doesn't that perhaps, might one say that
20 actually speaks to the severity of the level of infection that she didn't *need* an otoscope to see the pus?

A. I don't believe there was pus in it because if there was pus in it, because her ears are cleaned out and they they're given the eardrops, so is the pus the eardrops that have been put in her ears? I don't know, she didn't
25 use the correct medical, you cannot tell and it's the same with Desney, and she says it's more likely to be allergies but we make – we change things. If you look at the body camera footage it says what she said at that time, which I think is very important and I think it's relevant for this case. I think it should be shown.

30 Q. So Dr Beer spoke about the coat being matted.

A. Mhm.

Q. With faeces and the dog having a pussey ear. Those are not the sort of things an experienced person of Dr Beer's nature, could be mistaken about, are they?

5 A. Dr Beer's been mistaken just about on every single dog of ours saying that they had moderate to severe hip dysplasia when they do not have hip dysplasia. She has said that they have matted coats, they couldn't mat, they didn't even have an adult coat but there's been so many things that have been incorrect.

Q. I'd suggest to you that any coat will mat if faeces are rubbed into it.

10 A. Where are they? Where is the faeces? That can be – that photo can be it's from their own body camera footage, that can be blown up.

Q. There's evidence from Dr Beer and Inspector Plowright –

A. Where is the evidence?

Q. – that are –

15 A. Where is the photos? Where is the evidence that it is there? There isn't any, and I'm not going on what's said because what's been said, just like if we look at the body camera footage from Mr Plowright arriving on the 18th at 1.15 saying that: "I've just come from the neighbours, I'm arriving and Barbara and Janine's property and I have seen six dogs from the neighbour's property." That was a complete lie, that was all for the camera and then 15 minutes later at 1.26 says: "Ah," and shows Cody Taylor, Lori Davis the photos where the dogs are, the buckets and the animals. You can only do that if you're right there. So, what he said to begin with was not truthful and not being truthful and putting in that information. Not being truthful to the Court, to the judge, to all of us. We want the truth.

1050

Q. This dog was, and there are some component parts to this proposition so please wait until the end. This dog was in a crate, in a locked room, in a shed about 25 metres at least from the house but you say the dog had been put there for monitoring and to be supervised, is that right?

30

A. Yes. She was, because she was being treated. We needed to know what was happening. She couldn't be loose because then you could not see.

We did not know if she was, pardon me, starting to abort her puppies, we had no idea and so she was kept in a confined area and she was kept like that so that we can do that. So that she could be taken out on lead, examined, on a regular basis, all day everyday. On that day, yes, so to try and put any, you could see how healthy she was because she could not have conceived 11 puppies if she wasn't healthy. She wouldn't have that sort of coat if she wasn't healthy. She wouldn't weigh 30 and a half kilos if she wasn't healthy. This was important and this is why we kept her there.

10 Q. This was a dog with an ear infection, correct?

A. Yes.

Q. This was a dog you— about whom you've just expressed potential concerns about her aborting, is that correct?

15 A. We didn't know, we weren't, we did not know what was happening with her. We did not know so we took precautions because the health of the dog and her well-being is for us, the most important.

Q. Why not put her in the house?

A. Put her in the house?

Q. Yes?

20 A. And if she is aborting—

Q. Well, if this—

A. She had been in and out of the house. My mother thought that was the best place for her and that's where she was.

25 Q. If she had aborted in that situation in that shed, in that locked room, in that shed some 25 metres at least from the house, you wouldn't have known.

30 A. Mr Radich, we treated her with antibiotics to make sure. We had her confined in that crate to be supervised. This is legal. This is a normal practice and we are looking after her. She wasn't looked after in the care of SPCA, no, according to the medical records so please don't try and say that we did not look after her. She was in the best of health.

THE COURT:

Q. Ms Wallace, try not to argue with Mr Radich. He has got to put the SPCA case to you and that is the allegation.

A. Okay, sorry.

5 Q. So, it is not going to help if, to have an argument, just focus on the question and if you disagree with them, that's fine, just tell him that you don't agree with him but try not to get into an argument.

A. I'll get better, okay, sorry, could you say that again?

CROSS-EXAMINATION CONTINUES: MR RADICH

10 Q. I'll phrase it slightly differently.

A. Yes, please.

Q. What I'm saying is that if you were as concerned about the ongoing monitoring and supervision of this dog, as you say you were, taking into account her pregnancy, her ear infection and such, this was not a good
15 position for you to be putting her in. She would have been much better off in the house.

A. We have a lot of animals to look after and we have— she had been tended to early that morning. She had been put there while other things were being taken care of. We were taking precautionary measures.

20 Q. I appreciate that—

A. And that is why she was there and – that's why she was there.

Q. I appreciate that you couldn't have all the dogs in the house at any one time, but wouldn't a pregnant dog with an ear infection be your highest priority in terms of hands-on care?

25 A. She's at the beginning of her pregnancy and it was too early to have her scanned which we would have done a week later because you can only scan for pregnancy between the 4th and the 7th week. She was too early. We believed that she was pregnant, we hoped that she was pregnant. We were looking after her. Yes, you're quite right. We should have had
30 Debbie and Desney inside the house so they would have been protected.

1055

Q. So why didn't you?

A. Because at that point of time we had her in the crate protected – I mean protected against being taken by the SPCA. We had no idea what was happening, that's what I was referring to.

Q. Oh, okay.

5 A. Mhm.

Q. Now we're getting to the nub of it.

A. Mhm.

Q. You put her there to, quote, protect her –

A. No.

10 Q. – against the –

A. That's not what I said.

Q. – risk of being taken by the SPCA –

A. That is not what I said.

Q. Isn't it?

15 A. I said, looking back what you just said, you said we should have had her in the house and I'm saying all we have been through I wish dearly, because we had waited so long for this litter, I wish dearly that we had her in our home because then she still would be with us, she would still be alive and she would have had the best of care. That's what I'm saying,
20 I have nothing, nothing – I did not say anything about the implement shed or the utility. She was just there being monitored.

Q. I'd suggest to you, you were hiding her there from the SPCA because you knew they had concerns about dog numbers and she was pregnant and because she had an ear infection which you knew about.

25 A. I dispute and disagree with that entirely. We had no idea that the SPCA was coming. We were treating our girl. Why would we not look after one of our main girls? It does not make sense and we're – what we are doing with her during the day, that is our business. We had no idea about the SPCA. And about numbers? All our dogs, our numbers, were registered
30 with the Council, so it's not about – the SPCA had the right under the Act to uplift dogs that are injured or being abused or whatever, but not healthy dogs. So what happened here was not correct and I disagree with that entirely. And hiding? We don't need to hide dogs. You can't hide dogs.

They can hear everyone coming. They will talk and that's what they're supposed to do.

Q. I'm suggesting to you that this was a dog that was sick with an ear infection, pregnant, in a crate that Dr Beer says was too small for her, in
5 filthy conditions, and I'm saying that's an absolute – I'm putting to you that that's an absolute wretched condition for any sentient creature to be housed.

A. Those are very strong words that you have just said, and I dispute that and disagree with that in its entirety. Debbie, Debbie, we had changed
10 their diets because we put them on a special diet when they get pregnant, so they're getting all the nutrients, reacted. The – Dr Beer couldn't say that that is an infection or a disease. We were treating her with antibiotics. She did not take a sample to put under a microscope and have a look: "What is it? Is it an allergy? Is it a reaction? That is not a disease." And
15 to say that, what you've just said, it is absolutely disgusting.

Q. So you accept –

A. I'm absolutely, absolutely – there are no words.

Q. Just doing my job, Ms Wallace.

A. Okay, fine. Good.

20 Q. You accept no shortcomings in relation to Debbie, correct?

A. That is correct.

Q. You'd do it all again?

A. The only difference is she was treated correctly.

Q. So you'd have no qualms about treating and housing and caring for a dog
25 in exactly that same way again in the future? Nothing wrong at all with that, is that what you're saying?

A. I'm saying having a dog that we are monitoring on a regular basis in a large transport crate that is certified by IATA and MPI is acceptable. She was in a clean crate. If she was not in a clean crate there would have
30 been photos, because that would have been very good evidence and that's certainly what SPCA would have been looking for.

Q. Okay. I'm going to move on to what I hope will be – it's a slightly more mechanical part of the cross-examination and that – but I need to do it.

We need to work through the charges and the photo booklet so can I ask you to have photo booklet 1 in front of you?

1100

WITNESS REFERRED TO PHOTO BOOKLET 1

5 A. Yes, I have that.

Q. And I don't propose to go through every single photo in this photo booklet. We've heard about it at some length but just to confirm on page 1 of the photo booklet, you say those conditions in which those dogs were housed and the top photo on page 2, that was just a temporary puppy enclosure, that wasn't where they lived?

10

A. We're talking about the charges, is that correct?

Q. I need to go through the photo booklet as a whole.

A. The photo booklet, and so we're not talking about the charges?

Q. I'll get to those charges. Can I ask you to look at pages 1 and 2 of the photo booklet:?

15

A. Certainly. I have page 1 in front of me.

Q. Now that's the, what's being called the dog pens in photo booklet also the puppy enclosure basically, that's right, and we also see it on page 2, correct?

20 A. Page 2, yes.

Q. And that was just temporary accommodation for the dogs, they didn't sleep there, did they?

A. Sorry, that was an exercise pen and these pups were taken on a lead from the stables and taken there by WWOOFers and put there one by one.

25

Q. Where did those pups sleep at night?

A. In the stables.

Q. In the stables?

A. Mhm.

30 Q. The deer stables?

A. Yes, well they're actually called stables but part of the deer shed.

Q. I may have misunderstood but I thought, I thought you'd said earlier that the deer stables were only temporary. No dog was kept there other than temporarily?

5 A. It's temporary, yes, but those – the stables, could you have a look at what I said please, and look at the evidence.

Q. Just tell me if this is correct. I understood you to have said that no dogs were housed other than temporarily in the deer shed stables. The deer shed, the deer shed stables?

A. Deer shed is something different to the stables.

10 Q. Okay, so these—?

A. Okay, and the stables were for larger puppies which, every time the SPCA came, they saw.

Q. So those are dogs that would have gone to the deer shed at night to sleep there?

15 A. Yes.

Q. Bottom of page—

A. And there's the, that's where they usually were, unless one of them was one of the pets from the WWOOFers.

Q. Bottom of the page—

20 A. They chose their own.

Q. Bottom of page two we see some dogs tethered to a fence, where would those dogs have slept at night?

A. Inside.

Q. Inside the house?

25 A. Yes.

Q. Top of page 3, we see two more dogs tethered to a fence, where would those dogs have slept at night?

A. Inside.

30 Q. So this, this is not permanent accommodation or it's not somewhere they'd sleep over night?

A. This is not permanent accommodation, no, this is— they're just tethered there, this puppies just had some special food, extra calcium, eggs, what

it needs and it has an adult (inaudible 11:03:32) so it's being taught to be able to respect and relax on a lead. They don't live there.

Q. And do I remember correctly that your explanation for that area of grass being particularly worn is that Kikuyu grass is a particularly shallow rooted grass?

A. Yeah, they're air roots, yes.

Q. Sorry?

A. Yes, they are air roots. It just travels along the top, yes.

Q. See, I don't claim to be an expert on types of grass but I want to put to you a proposition that if one were to google the question: "How deep do Kikuyu roots grow?", the very first hit you'll get from the Department of Primary Industries, an author called Steve Clark includes the sentence that they, that it "has a deep root system."

A. Well, all I can say is that (inaudible 11:04:21) just goes right over, suffocates all the grass, and goes right over the top of the grass and we do not like it because it's not good nutritional grass and it's not a good lawn. This is part of the lawn.

Q. The bottom photo of course, we can see dogs in the double dog pen, and that was their home at night, was it?

A. Yes, that, behind that double pen, there's a house. A wooden house.

Q. On page 4, we see two photos from the interior of the—showing the interior of the double dog pen and you gave evidence earlier that that pen had been cleaned that morning?

1105

A. Yes, as you can see, one has gone to the toilet, and that's – if you go back to page 3, on the right-hand side, you can see that she has gone to the toilet. Whereas the other one on the left-hand side, has. This is highly magnified. This is beef. This is – as you can see from her coat or underneath, everything's clean and she's gone to the toilet. It's a natural, natural, physical thing that they do.

Q. Now, in that top photo, we can actually – we can see what I'm suggesting to you is a layer of filth which in some parts, the dog's claws have scratched through to reveal a bit of the natural colour underneath, but we

can see in that top photo, not just faecal matter in some places but an actual layer of filth.

A. Mr Radich, and yeah, okay, you're doing your job. No. These wood is stained and this is damp. I don't know whether that's – whether the water, whether what she's been doing there. I do not know, but no, it is not filth, and you don't wash one – clean one side and not the other. Both sides are cleaned. So, if you turn back to page 3, you will see that.

Q. On page 5, we see one of these puppy pens up the top. Correct?

A. Yes, you see a portable puppy pen, yes.

10 Q. And the dogs in that, where would they have slept at night?

A. Inside.

Q. Inside the house?

A. Yes.

15 Q. We can see in that photo up the top as well that one of the water bowls is overturned. I just want to ask you some general questions in relation to overturned water bowls and I'll do that now since – to avoid repeating myself later every time we come to one, but it is possible, isn't it, to get water bowls that dogs will not overturn?

20 A. There's all different shapes and sizes of water bowls. This is a stainless-steel puppy bowl. They played with it. They're allowed to play. They're allowed to have that freedom.

Q. Well –

A. And it just gets – they are not dehydrated. They are not unhealthy. They're healthy –

25 **THE COURT:**

Q. Ms Wallace, can you just focus on the question and answer the question?

A. There's all different types of containers.

CROSS-EXAMINATION CONTINUES: MR RADICH

30 Q. And what I'm saying to you is there is something – which in fairness, we've seen some in other photos. We see some of the concrete water bowls which are too heavy for a dog, let alone a puppy, to turn over, and you can also get more specialised designs of dog bowls, can't you, where the

bowl itself is essentially moulded into a platform that the dog has to stand on to get close to the liquid, meaning it can't be tipped over?

A. I haven't seen that. I don't know that. All I can say is what we have. We have a variety of different water containers. These are puppies. This is only put out there while everything's been cleaned, that they're out in the fresh air, which is important, and they've got a little bit of room to move, there's water, been fed and in the meantime, their little house is being – or their room is being cleaned.

Q. What I'm suggesting to you is that the bowls that have protections against tipping over cost a bit more. Would you agree with that?

A. I've got no idea because I don't know what bowls you're talking about. These stainless-steel bowls, they have their price. I couldn't tell you what the price of those are either.

Q. Well, the concrete bowls, for example –

A. But they're not going to be a concrete bowl for baby puppies. We don't do that.

Q. Well, what I'm suggesting to you is that there are the non-tip-overable [sic], bad grammar, I know, bowls are going to cost something of regions \$25–\$40. Whereas a bowl like this, you could get from The Warehouse for a couple of dollars.

A. I'm sorry, I can't answer that because a) don't use The Warehouse and I don't know what they have for bowls and b) I don't know about the other. Haven't seen it. Don't know, so I can't say either way. If you're suggesting that we use inferior –

Q. That is what I'm suggesting, yes.

A. If you're suggesting that, well, I disagree and dispute that.

Q. Now, I'm suggesting that you've minimised your costs at the expense of the dogs having frequent access to water.

A. I disagree.

1110

Q. On page 6, we have a clear area of disagreement between you and Mr Plowright, don't we? Because he described what we see there as faecal build up and that it "reeks of thick faeces", page 14 of the notes of

evidence, and you say: "That's not faeces at all." This is a situation where you're not saying: "Oh, yes, there's been some faeces here, but that happens from time to time and you clean it out." You're saying he doesn't know what faeces are?

- 5 A. No. First of all, faeces, faeces smell when it's fresh and he said it reeked. No, I disagree entirely. I explained what this is. You've already got those notes, so I don't need to explain it again.

Q. Then we go onto page 7, the puppy shed.

A. Page 7? Yes.

- 10 Q. And do I understand correctly that this not a situation that you were saying this is not just a temporary place for these dogs, they were kept there, that was where they slept, correct?

A. These puppies are, yeah, seven, eight weeks old. This shed was commissioned to be built. It's a little puppy shed made out of Canadian cedar shingles, but it has a great airflow, it has a big window. We had a little puppy bed and there was dividers so that you could open the door and the fresh air could go in so it was a good circulation and the larger puppies went in there from, yeah, about seven or eight weeks old.

Q. You speak about great airflow –

20 A. Mmm.

Q. – we can see a window on it, the top photo of page 7, but it appears that window's closed or close to closed.

A. It's close to closed. That's well-spotted, Mr Radich, because we had had a storm as you can see. Everything's in mud. To the left-hand part of the photo you can see all the mud there and that's so that the wind doesn't, or the rain doesn't, drive into where the puppies are.

Q. So how do you rec –

A. As soon as, as soon as the day is sensible or daylight – not daylight, a sunny day, or it's opened up when there's no worry about that and it was closed from the inside so it was ajar so that no one could just help themselves and take out a puppy.

Q. So we can see the – that's time-stamped that top –

A. Yes.

Q. – photo on page 7 and 34 minutes past one –

A. Mhm.

Q. – and it was a clear day by that time, wasn't it? But the window is still closed.

5 A. Yes, we had just, we had just come back because on that day my mother – we had a medical emergency and before we went, we closed the window and that was explained.

Q. So who was taking care of the dogs in your absence?

A. Who was there? My sister was there. The farm is never left alone, there's
10 always someone there 24/7.

Q. You've told us your sister has no role in relation to the dogs.

A. You asked who was there; I was answering your question.

Q. Who was taking care of the dogs in your absence?

A. I couldn't say that. My sister was there, there would have been someone
15 else there. I don't know.

Q. There was no one, was there?

A. I do not know. My sister was there and my sister act – no, there was my
sister there at that time. Because my sister showed Ms Davis and
Mr Plowright around and they had actually the audacity to say that she
20 was handicapped or, the words were –

THE COURT ADDRESSES WITNESS – STICK TO QUESTION (11:13:49)

WITNESS:

Go on, Mr Radich.

CROSS-EXAMINATION CONTINUES: MR RADICH

25 Q. At the top of page 8 –

A. Mhm.

Q. – I'm suggesting to you that they – that's the floor of the puppy shed, isn't
it?

A. That's the floor of the puppy shed, yes.

30 Q. And I'm suggesting to you it's in an utterly filthy condition.

A. No, it's not in an utterly filthy condition. This is what happens when you have 10 little puppies and 10 little puppies that go to the toilet. This had all been cleaned out, they had been fed, they had been exercised, a little run around and then put back in the puppy shed while we were not there and you can see the faeces there and you can see some haven't – on the right-hand side you can see that this is from the dry food. You can see the other is from the meat. There's all different types of faeces there. You can see, if you look up to the, up to the higher part of the photo on the right-hand side, you can see that paper is pristine. This was clean paper put in there that morning and this is what puppies do. It's just like a child, a baby, it can explode. Is that mother not looking after it? It's natural.

1115

Q. Mr Plowright said, in his words: "It hummed in there. It stunk." Do you accept that?

A. I don't accept what Mr Plowright is saying is true, but Mr Plowright did say that.

Q. So you're saying it didn't smell bad?

A. Smell is a personal, um, a personal... feeling, sense, a sense of smell. Like if someone doesn't have cats or dogs and they go into someone's house that does have, they would think in the first moment: "Oh, this smells, this stinks," because they're not used to that smell of a dog or a cat, but what Mr Plowright thinks – if there was a problem, don't worry, they would have been very methodical and have used their, um, little gadgets to analyse it. That was cleaned out.

Q. All right, now...

A. And actually, if we turn back to page 7 where I'm standing opening up the door here, with – you see just underneath my right arm? There is the container where the papers were put that was cleaned out that morning, and I can see there's still utensils there just in front of it.

Q. Did you clean it out that morning?

A. Yes, I did.

Q. What time?

A. Well, we had the emergency, so I would have, um... I can't give you an exact time. We received the call 12, 11, 10... probably around about – I'm just guessing here. Round about 8 o'clock. Half past eight, because the puppies were outside.

5 Q. Okay, so the waste that we can see having accumulated in the top, on the top of page 8, that's waste accumulated over a few hours?

A. Yes, it is. Yes.

Q. And that's because, as you say, puppies can't control themselves in that way and so they're just going to go when and where they need to go?

10 A. Puppies, they're only babies. They cannot control when they – they don't run round with nappies. They go to the toilet when they have that, um, inclination to go to the toilet.

Q. So you had a lot of puppies in the house. It must have been a real job keeping the house clean with a large number of puppies just going to the toilet everywhere all the time. If that's a few hours of faecal build-up there, 15 what was the house like?

A. If we could go back to – if you go back to page 7, what was the house – are you trying to infer that our house stunk?

Q. I'm suggesting to you that you weren't having the dogs in the house as 20 you say you were.

A. Oh, well, the – that is – well, your suggestion I take on board and I disagree entirely and with another search warrant that was undertaken, Mr Plowright actually saw the puppies in the maternity room and in the first room. Each one of them. One was Zena's, yes, one was Zena's 25 seven puppies and they were seven weeks old to the day –

Q. Just to be clear, you're talking about a situation months and months after this, aren't you?

A. You are saying that we did not have puppies. You just inferred that we did not have puppies in our house.

30 Q. I'm suggesting to you that you didn't have –

A. You're suggesting.

Q. – the number of puppies in the house that your evidence necessitates you having in the house.

A. I am disagreeing with you.

Q. Okay.

5 A. I explained the reason why we had, especially at that time, why we had so many dogs in the house at night was because of the armed home invasion and when you are nearly murdered and left for dead, you have a different sense of security, even though everything was locked. And if you have a look at page 7, which is the puppies that were taken photos of, the puppy shed, you'll see that there it is, dry. Where the photos, where it's been highlighted, it's the same puppy shed. It's on the
10 right-hand side of the wall.

Q. Okay.

A. And the photo that's on page eight is the left-hand side of the wall.

Q. On page 9 –

A. Yes?

15 Q. – at the top we see a dog secured with a choke chain, correct?

A. I can't see the chain but she's on a lead, yes.

1120

Q. And Mr Plowright gave evidence that that was a choke chain, page 16, line 29 of the note of evidence, do you accept that evidence?

20 A. I'm looking at the bitch just there, the photo that you have there, she is on a lead, I'm assuming but I can't say 100% that she had a neck collar on but she's definitely got a Royal Canin lead on her.

Q. What we can perhaps agree on in the generalities is that you don't consider there to be any issue about a dog being tethered and left with a
25 choke chain on.

A. No I don't.

Q. So again, this is an area where you disagree with Dr Beer, correct?

A. Absolutely.

Q. You recall – you recall her evidence about that being a very significant risk and dangerous, in her view, is that this is another situation where you just asked the court to prefer your evidence over hers, is that fair?
30

A. This is a situation where you can see exactly from that photo, that photo says everything. That photo shows you a mature dog, relaxed on a lead,

respecting it, watching her environment, she's lying down, there's no stress, relaxed, happy but very attentive, how she should be and she was tied there temporarily so that our contractor could go in and out of the utility shed.

5 Q. Bottom photo on page 9 we're seeing the deer shed stables from the rear, correct?

A. Yes, that's correct.

Q. And there were some puppies in each of these stables, three on the left and four on the right, is that correct?

10 A. This is what's written here, there are no photos of the three and the four but I think –

Q. But you've seen all the footage –

A. – I think –

Q. – you've seen all the photos.

15 A. – yes, you've got there with three but we didn't see any four, there is no other photo. So, I'm just going on what you're showing me here in your evidence.

Q. Was that where these puppies lived?

A. Overnighted?

20 Q. Yes.

A. Where they overnighted? Yes. It's a big area, about three and a half meters by three and a half meters and five meters high.

Q. Let's take a look at that area then we can see it and the indoor area, the top photo on page 10, correct?

25 A. Yes, that's correct, that's part of the area.

Q. And you say those are acceptable conditions for dogs to be in overnight?

A. That's the result of being overnight, these have been cleaned, you can see the newspaper there, puppies play with paper, that is normal.

30 Q. But that's not just playing with paper, that's an area that's got an abundant quantity of faeces there, hasn't it?

A. Has it got an abundant?

Q. Yes, that's what I'm suggesting to you. I'm saying, what we're looking at, there –

A. Yes.

Q. – is a lot of faeces on the floor, are you saying it's just ripped up paper?

5 A. The puppies, as you saw, as you go back to page 1, the puppies had been, some of the puppies had been taken out and put into their exercise (inaudible 11:223:14). So this is a process. Overnight, this is the newspapers put down that night, they are fed, they were given water, they were given bones to chew on during the night, to keep them occupied and then they're taken out in the morning and they go for their walks. You can see the dish on page 10 down the bottom on the left-hand side.

10 Q. Yes, without water.

A. A stainless steel dish.

Q. Without water we should note, correct?

A. I said that is a dish I didn't say whether that's water or food, it's a food dish.

15 Q. We can see it's empty, can't we?

A. It's a food dish, of course it'll be empty. Puppies will eat food immediately.

Q. But we can also see them in that photo, bones as well, correct?

15 A. You can see bones that they have gnawed on and you can see the eyes of these puppies that are clear, healthy, there are no – if it was like you are trying to depict those eyes would be weeping but they are not, they do not have eye infections so that goes to show that the puppies are healthy and that condition that you're trying to infer that this is, use your own words, and where's the other side?

Q. I'm just asking you to look at this photo for the moment.

25 A. Yes, I'm just looking at that photo and I've said exactly what it is.

Q. Do you accept that they are filthy conditions with lots of faeces on the floor?

30 A. I can't see the lots of faeces because my glasses, it's not an excuse or anything like that, I can only say that it's to be cleaned out, that the pups have been taken down to the main exercise area and it's going to be cleaned out and, as you can see, if we go back to page 9, this is before they've gone and it had been cleaned out once, down the bottom, that's the stables, there are the – there are the containers.

1125

Q. So are you saying that photo up the top of page 10, that area we see there, that had been cleaned out already that day?

5 A. Well, going on the containers that you have just, that were photographed, it would have been done early in the morning, I don't know but usually this is what— this has been taken out of the stables and cleaned. Here is, for me, needs to be cleaned out, which it would be.

Q. And do you accept that we've got, that we've got bones there amongst the faecal matter on the floor?

10 A. I'd said that there are bones lying there, yes, there are bones lying there yes, there are bones lying there. They have eaten what they wanted to eat. When they eat meat, because they are having a varied diet, meat, especially beef goes through them very quickly because they are just learning. Their whole digestive system is learning to digest that as they
15 can't take any fat until they are three months old. It just goes through them and then they get like, diarrhoea. They have been on puppy food, as you can see the brown colour, the lighter brown colour and the beef is the darker colour, it's the blood in the meat. But you can see these bones have all been the— meat has been eaten off them.

20 Q. So my question was whether you accept there are bones on the floor —

A. Yes, there are.

Q. — with the faecal matter and you've addressed the bones question —

A. Yes.

Q. — but are you accepting that there's a whole lot of faeces around?

25 A. There are— I can see there's faecal matter there.

Q. A lot?

A. Puppies do that, that is puppies.

Q. I am suggesting to you that there is so much here that it is just implausible for you to say that this had been cleaned out this morning.

30 A. Sorry, the evidence, your own evidence shows that is not correct.

Q. Well, would you like to look at the video clip?

A. With the puppies, it is a gradual process of cleaning. They can't all be done at once. It's one after the other so it's coming from the house

through to the puppy shed, through to the kennels, going through gradually so I cannot say in 2017 when that, what time that was cleaned out because we had a medical emergency then and we went straight to the doctors and that was the most important. A human life is most
5 important.

Q. Let's take a look at the video clip taken at the time, then, shall we?

A. Good, thank you.

VIDEO CLIP PLAYED

CROSS-EXAMINATION CONTINUES: MR RADICH

10 Q. But you say nothing wrong with that, right?

A. I'm saying, when puppies are overnighing in an enclosed area, you're going to have a mess. Any breeder will tell you that.

Q. So, they were sleeping in that?

A. Any breeder will tell you puppies make a mess and on a regular basis. It
15 was clean when they went in there.

Q. Yes, everybody knows, yes, puppies make a mess. The question is what you do about it and what I'm suggesting to you is that a properly cleaned-out establishment with proper airflow would not look and smell like that did in the evidence we've heard and seen.

20 A. I'm saying with smell, that you can see that is not correct. On the health of the puppies, those puppies were healthy, you could see from their coats. They're lovely shiny puppy coats. Their eyes, their ears, their nose and the way they were talking. Yes, puppies make a mess, when they went in there, that was clean and we had to, we had the medical
25 emergency and that's what we did. The little puppies were done. I don't know what— about these ones but the little puppies were done, the others were put down in the exercise pens and it does, when they're cleaned out, that's— that's our time schedule but we—

Q. Do you agree that it's good practice to have a separate area for the dogs
30 to sleep so they don't have to sleep amongst their own waste?

A. These puppies had a separate area and the puppies are given a run before they go in there at night.

Q. Where was the separate area to sleep?

A. It's a— it's a bedded area and I'm sure there are photos of it somewhere but I will look in a moment but these puppies wouldn't use it and they were using it to go to the toilet which we didn't want so this is—

5 Q. So they were sleeping on the floor that we've just seen in that video clip, that was their night-time home?

A. You're seeing a moment in time when this is not clean. And I'm not saying this is how it is because their coats show that it's not when they were put in there and this is when they were put in there, they were clean.

10 **THE COURT ADDRESSES MR RADICH – CONVENIENT TIME(11:31:13)**

COURT ADJOURNS: 11.31 AM

COURT RESUMES: 11.51 AM**CROSS-EXAMINATION CONTINUES: MR RADICH**

Q. We'll resume again, if we may, on page 11.

A. Eleven?

5 Q. Where we see photos of dogs inside the woolshed. Correct?

A. That's correct, yes.

Q. But you say this was not their permanent home.

A. Correct.

Q. So, where did these dogs overnight, where was their home?

10 A. These dogs were put in there because of the weather and we were – that's where we had them for that moment in time.

Q. Where did they live? Where was their home? Where was their bed?

A. What dogs have we got here? We've got Desney. That's Desney. Important with the woolshed. So, we're going back to the wool. This is
15 where they were at that point in time, yes. Can't see anymore than that.

Q. No, but you can because you've told us yes, they're there at that moment of time when the photo was taken. That's self-evident, but you've also told us that they weren't there other than temporarily. So, where were they – where was their more permanent home? Where were they going?

20 A. It depended. It depended whether – which dogs they were, which ones were being trained. I think one was Serena. She's around the house normally. It depends on which dogs they were. Depends which ones have been trained, which ones were going to shows, which ones were being socialised and going out with friends. They were all different.

25 Q. Suggest to you, and I'm going to tell you this a number of times –

A. Yes, you can.

Q. – that the woolshed was not just a temporary accommodation. That was somewhere where they would stay for days on end.

A. The woolshed is a place where people work in and they work in, whether
30 it was 2017, '18 until today and many years before that. So, the area was a good spacious area if you're implying that that is not a good place to

have dogs, but to say that they were – it was a temporary situation, full stop.

Q. I am saying that that's not a suitable place for a dog.

A. Why?

5 Q. Because for the reasons that the witnesses have raised. For example, the updraft and constant breeze that is coming through. There's no bedding there, nowhere for a dog to sleep without a draft, is there?

10 A. These are working dogs and a draft, sorry, we don't take that. These dogs – it was a very spacious area, well ventilated, warm and dry, good enough for people to work in and large animals. So, from the environment itself, it is a healthy environment. It is a good environment. It's an environment that has been built for purpose. You could even have a master bake-off. New Zealand's Master Bake-Off was held in a woolshed. It was changed around, but it was in a woolshed.

15 Q. Not this woolshed.

A. No, not this woolshed. That was a very smart remark, but with the ventilation coming in from the bottom, none of these dogs were sick and our bedding, we take out in the morning and they're washed, and if they can't be washed, then they are disposed of, and we go through
20 truckloads.

Q. Tell us about the bedding that you'd take out in the mornings.

A. We have – for all different dogs, all different sizes, we have duvets, we have dog beds, we have –

Q. In the woolshed?

25 A. In all of our kennels.

Q. Are you saying the woolshed is a kennel? I'm asking about the woolshed.

A. No. I'm talking about in general. In the woolshed, okay, woolshed, yes, you saw that was puppies 'cos that had just been taken out.

30 Q. So, you're saying there was bedding in the woolshed for dogs to sleep if they wanted to?

A. Not all the dogs would sleep in the woolshed. It depends on the dogs that were there.

Q. So, the dogs were overnighting there. Is that what you're saying?

A. They may have.

Q. Okay, so we're making progress there because you'd said previously that this was only a temporary thing where they'd stay –

A. It is temporary, yes.

5 Q. And you clarified the very first thing you said in your evidence was it's temporary. Did not include overnighting. It was just for a few hours.

A. You were showing me with tethered dogs. You were talking about tethered dogs and –

Q. Before I showed you a single picture?

10 A. Yes, you were talking about tethered dogs. That was your first question if I remember correctly, or am I – could you please read me your first question?

Q. I asked you about – okay.

A. I'm pretty sure it was about tethering. Maybe I'm remembering wrong.

15 Q. Okay. My general – my question if I recall was about your understanding of the meaning of temporary in relation to the tethering and housing of dogs, but we'll confirm that.

A. See, it was about tethering. Okay, fine. These are large areas where they were where they could run around in, just like the puppy areas that
20 had been raining for the last few days, so they had wet feet when they go in, and when they're changing diets, they do get, a little bit of their number twos was loose, but none of those puppies were sick, had coccidia or giardia or anything like that. We didn't have any diseases.

MR RADICH ADDRESSES THE COURT – FINDING FIRST QUESTION

25 (11:58:04)

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Here's the question, Ms Wallace, the very first question.

A. Yes.

30 Q. "Ms Wallace, in your evidence, you've used the words temporary and probably temporarily a number of times. Just as a preliminary point, can you – can I get you to explain what you mean by temporarily or temporary in relation to the housing and tethering of dogs?" Housing and tethering.

A. Sorry, I just remembered the tethering, so yes, it was correct.

Q. So, and you confirmed that temporary just meant hours, not days.

A. Temporary is temporary.

Q. That's a meaningless sentence.

5 A. It's not a meaningless sentence.

Q. It's a meaning –

A. It's either a permanent or a temporary. It's not meaningless. When you're talking about tethering, they can't go round with their little kennels when it's just put there for a moment in time.

10 Q. So, are you now saying that dogs would overnight in the woolshed?

A. I'm not saying anything.

Q. Well, you have to.

THE COURT:

Q. Please answer the question, Ms Wallace.

15 A. Yes.

Q. He's asked you whether you're saying now that dogs would stay overnight in the woolshed. It just needs a yes or a no.

1200

A. I'll say sometimes.

20 CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Sometimes? Okay. Tell us more about that, how often?

A. I can't because I'm – sometimes. That's it. While the new kennels were being built. We don't need the – you don't need the woolshed or the other sheds.

25 Q. Excuse me, your Honour, I'll just take a moment –

A. These are buildings where they are firm, dry, plenty of light, plenty of ventilation.

Q. Okay, I asked you a question –

A. Mhm.

30 Q. – and this was page 811 of the notes of evidence. I said: "Every time you've said in your evidence that a dog was in a place, particular place temporarily, you're not meaning overnight, are you? You're talking, as

you say, a moment in time, minutes, maybe hours, but not longer than that,” and you said: “No,” and I said: “All right. Thank you for clarifying that.” Are you now saying that they did sometimes sleep overnight in the woolshed?

5 A. In the woolshed, but I was – when I said that answer was referring to the tethering. That’s what I thought you were – that’s why I came back with the tethering. So, yes, if they overnight – sometimes overnighed in the woolshed, but it was always different, always changing.

10 Q. And no bedding in the woolshed, we can’t see any bedding in the woolshed at any point, can we?

A. You wouldn’t see any bedding anywhere during the day, because it’s taken out in the morning.

Q. So these dogs just have to sleep there at night on the woolshed, that slatted floor with the draft up from underneath?

15 A. There is no draft. This is a special – it’s specially to have good ventilation. These are not little chihuahuas that need a little coat on, or crossbreds that need a little coat on because they have – they feel they haven’t got their natural undercoat and topcoat. This is about health.

Q. Well let’s take a look at the cattle yards then –

20 A. Yes, certainly.

Q. – page 12.

A. Page 12? Yes.

Q. So I previously understood your evidence to be the dogs didn’t overnight in the cattle yards either.

25 A. No.

Q. Are you changing that or –

A. No, I’m not changing that.

Q. – are you staying the same? Okay. So on page 12 we can see two dogs, both of them standing on significant build-up of animal waste, can’t we?

30 A. No, you’re seeing two animals sitting, looking and both animals, both dogs are watching attentively and this – we explained, I’ve explained that I don’t know how many times that there had been cattle through there and they were – the cattle and their hay, and that’s what they’re sitting on. So...

Q. I mean it's not a trick question. Is that a yes, they are sitting there on animal waste, aren't they?

A. Partially.

Q. And you don't consider that to be any sort of a problem?

5 A. No, they're used to it. They're used to being out in the paddocks. They'll sit wherever they want to, they don't have to sit there. This little girl up the top there, she could go around the other side where there's nothing. If you look up on page 12 and you can see a little silver ball on the other side, that's where she's put, she has turned herself around to look at the person that's taking the photos. That is clean there.

10 Q. And on page –

A. It's wet.

Q. On the next –

15 A. And this is the other one here. It's come from the other side. You can see where he's been walking around. They have got through into that part because someone's there. So if you take page 12, the second one, you can see where it's been on the other side of the rails and that wasn't in any animal waste.

Q. On page 13 –

20 A. Yes.

Q. – top photo –

A. Yes.

Q. – we see a smaller dog again –

A. Puppy.

25 Q. – standing, standing in animal waste.

A. You can see it's wet. We can see there's something there and looking, yes.

1205

30 Q. And that was a dog that you described in your evidence as "looking healthy", does the–?

A. It's a healthy puppy, yes. If these puppies weren't healthy, they would have every disease and they had nothing. We've never ever had any

diseases because they are healthy puppies. We put a lot of time into, best nutrition and you can see immediately that that puppy is healthy.

Q. And the same with the bottom?

A. Yes.

5 Q. I'd suggest, even worse: dog tethered in animal waste there, correct?

A. Well, no, this Elite and what's underneath here is soil which he's jumping out on so no, you can see it if you take the next photo, page 14.

Q. Yes, we can see the top photo–

A. See, he's playing with the bowl?

10 Q. The top photo on page 14?

A. Yes.

Q. A tether that again, Mr Plowright described as a choke chain there but you have got no issue with that, correct?

15 A. I've got no issue, I can see it's a lead, I can't see what it's on because they're all different, each– each dog is different.

Q. And Mr Plowright described that so you're saying that that's not actually a dog standing in animal waste?

A. No.

20 Q. I need to put to you Mr Plowright's evidence was that there was no bedding, filthy, faeces and urine?

25 A. Sounds good but I dispute it because this puppy was put there, underneath here you can see the hay on the, where the photo's been cut off, where it's dry. Yes, he's playing with water, making it wet, whatever, the cattle had been through, yes, but where that pup was, go back there, there was no faeces.

Q. No faeces?

A. If you go back where the pup was put, look at the area to the left.

Q. All right, we move on. An area of disagreement with you and Mr Plowright but that's okay, we move on?

30 A. Yes, I have an – yes.

Q. Not a great deal more to add on the bottom one except that we see another dog tethered there in the cattle yards and similarly the top of page 15, correct?

A. Page 15, the top one is back to the same one you had on page 12.

Q. And what I'm suggesting to you is that these dogs we've seen in these situations were not there in a temporary sense, in the sense that you mean it, but you didn't have adequate housing for them and this was essentially their long term home.

5

A. Well, that's what you're saying and that's your interpretation which you are most entitled to. No, it's not their long-term home because one is Monty and one is Elite and they were inside.

Q. So we can add—

10

A. At night.

Q. So we can add all those dogs in the cattle yards to the ones that you say would come inside at night?

A. I just said to— please don't put words into my mouth— I just said the pups there was Elite and Monty and they would sleep inside the house. Monty actually, when he's not with a friend, when he's here for training and he sleeps at the friend's house, they did not sleep there.

15

Q. What about the other dogs?

A. The other two from page 12?

Q. Yes, any other dogs in the cattle yards, where would they sleep?

20

A. You can see they're on leads. If we take the top one up there, number 12, she's on a leather lead.

Q. With respect, not remotely the question I asked. I'm asking about where these dogs were housed if you say they weren't actually being housed in the cattle yards?

25

A. I was a— they could be running around on the lawn, they could be on the deck, they could be running around the kennels and—

Q. At night?

A. At night, yes, because we've had problems and I've explained that and we still have dogs running around at night.

30

Q. So where would the dogs sleep?

A. They have a house to sleep.

Q. This is what I'm getting to. Are you saying these are the dogs that would sleep, these are— more dogs that we can add (inaudible 12:09:23) would sleep in the main house?

A. It's not— pardon.

5 Q. That would sleep in the main house?

A. I have said, right to begin with, there was on the 27th, 28th of July, there were nine adults. Do you remember that?

Q. Would you just answer the question?

A. That's the question— that's the answer. There were nine adults and they
10 were puppies. We have two houses, a cottage and a main house.

Q. On page 16?

A. Yes.

Q. We see the, a part of the old runs, correct?

A. Yes, that's correct.

15 Q. And these, this was the, essentially permanent accommodation for these dogs, correct? That was where they'd sleep at night.

1210

A. Yes, at the back of these photos, because you've said they have no shelter, is a large wooden panel, all MPI compliant.

20 Q. And just in relation to those old runs, they don't, to be clear, they don't exist anymore, they were replaced by the new kennel block, correct?

A. That's correct, yes.

Q. And we established, I think yesterday, the number of individual kennels and the old kennel run, correct? Which was, I don't want to put words in
25 your mouth because you criticise me for doing that, so how many again was it in the old run?

A. We established that there were, in this block, and the other blocks around there, there were 11 kennels with houses.

Q. So the new kennel block is 16, correct?

30 A. Sixteen, that's correct, the new kennels are, these were two meters long plus their house, the new kennels are six meters long.

Q. So the new kennels had increased your holding capacity by five, would that be right?

A. It depends how many we put in each kennel.

Q. And you've told us that generally you prefer to just put one.

A. It depends on the dogs, yes, I like one in each kennel and it depends whether it's pups or youngsters or...

5 Q. Assuming one to a kennel, the new kennel run has added five to your holding capacity, correct?

A. A minimum of five.

Q. On page 17.

A. Yes.

10 Q. We see the dog who identifies as being Paris, is that correct?

A. That is correct.

Q. And you made a comment in relation to this photo: "You can see the kennels are clean." Are you really saying that?

1212

15 A. This is discoloured concrete and this had been hosed out and it is wet.

Q. Now, you—

A. So—

Q. You made quite a deal in relation to some of the other photos that netting was clean and that, attributed some significance to that. I mean this
20 netting isn't clean, is it?

A. Because it wasn't water blasted because the water blaster was broken and we explained on the 28th. We liked to have the netting absolutely spotless and this is why you can see the water blaster on page 18 waiting a part and so it's only been hosed out and not water blasted out, that's
25 the difference and if we go back to page 16, you can see at the bottom page 15, that's the same photo that you're looking at on page 17, just from a different perspective.

Q. Okay, on pages 18 and 19, we're seeing some more areas around the old runs, correct?

30 A. 18 and 19, that is correct, yes.

Q. And you don't accept that that area was filthy and smelly?

A. Filthy and smelly, it was, it had been hosed out, everything had been picked up, it had been hosed out. It wasn't water blasted, we had

discoloured concrete, yes, and this is where we agreed that we would build new kennels. Where you see on page 19, here we have, we had a person that had a vehicle that went over the top of his concrete, it's like a tank for the (inaudible 12:13:54) tank for the waste. Waste, and broke it and this is why there are pallets put on top of it so no one falls in so there was no accidents. We had called various businesses to come and with their tanks to withdraw the waste.

Q. Now on page 20, we see the notice and I don't propose to take you through that all again but I guess we could say in summary, couldn't we, that you say that every single one of the SPCA's concerns were misplaced?

A. We listened to what the SPCA said, we agreed that our kennels weren't—knew they were old kennels. They were MPI compliant. All of them were MPI compliant and according to the Code of Welfare, yes they were all compliant and we agreed that we would work with them and build new kennels by the 31st of the 12th which we did.

1215

Q. But what about their other concerns? The ke – increasing your holding capacity by five kennels is one thing, but what about all there other concerns?

A. The kennels –

Q. You're saying there was no validity whatsoever to them. Is that right?

A. They put down daily cleaning of the kennels, the kennels are cleaned daily. If they weren't cleaned daily you would be up to your hip in waste.

They are cleaned daily. Shelter, they all had adequate numbers, they had their numbers there and they said –

THE COURT:

Q. Ms Wallace, can you answer his question directly?

A. Yes.

Q. He's saying all of those things that the SPCA required you to comply with, those concerns, were they misplaced? So I think you're saying that they were.

A. I'm saying, yes they –

Q. But you could –

A. We didn't agree –

Q. – just answer with –

5 A. – with them, but we decided to –

Q. All right.

A. – do whatever it takes to make it a success story.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Then we go to the visit on the 4th of August, one week later on page 21.

10 Q. Correct?

A. Yes.

Q. And we see on the first two pages, we're looking at there pages 21 and 22.

A. Yes.

15 Q. We see the puppy shed, correct?

A. That's correct.

Q. And you've – looking particularly at that photo on page 22.

A. Yes.

Q. For example, this is an area where you say the puppies would overnight.

20 Q. This was their home, wasn't it?

A. This is where they overnighted, yes.

Q. And you've said that there was a bed here and you've referred to it being against the wall. I wasn't at all clear on that.

A. Okay.

25 Q. Is that – we can see that on page – the bottom photo on page 22.

A. That's correct, yes.

Q. Where? How, or rather – how – I think you identified –

A. I have identified it.

Q. – where it was in your evidence.

30 A. Do you want to have a look at this photo where it's identified, the –

Q. Yes, certainly. You pointed to it there.

A. Yes.

Q. But I want to understand how that – how you're saying that works. Is that something like it was on a hinge that folded down or what?

A. It was hung up and then at night it's put down, bedding put in it and then put back up again.

5 Q. So there's no bedding in that, is there? Because what we're looking at there, all we're looking at there is the bottom end of a hollow wooden rectangle, correct?

A. Correct, yes.

10 Q. So you're saying you take that off the wall, lie it down on top of whatever was on the ground there and then put bedding on top, is that right?

A. That's right, yes.

Q. And where is that bedding? We haven't seen that, have we?

A. It doesn't stay with them, no. It comes out and gets washed.

Q. But we've certainly not seen any of that in any of the photos, have we?

15 A. What, the washing?

Q. The bed that you say was going here.

A. That bed has always been there, from the first time to the last time and it's still in there.

20 Q. I'm not wanting to quibble at the meaning of a bed, but we might at best see a hollow wooden frame in the photo there, but we're not seeing any bed, are we?

A. If it's hanging up you're not going to see a bed, no.

Q. And so that would just be laid down on top of the floor there?

25 A. That would be laid down. It's all cleaned out at night, they get fresh newspaper, it's laid down on the newspaper and then the duvet or the blanket or the bed is put into there, and that's – if they want to they can go in and sleep in it. That's why if you look at the newspaper you'll see.

Q. You'll see? Looking at the newspaper I suggest that what we see there is what Mr Plowright described as being filthy conditions and smelly.

30 A. No because if you look at it closely, they had been out. All of these puppies have been out. If this was filthy conditions we would have – puppies are babies. We would have sick puppies and we did not have that and these puppies are then – they are health checked and vaccinated

and if they were unhealthy that would come up immediately. We just would not have that.

Q. On page 23 at the top there we see just another example of a dog in the cattle yards, correct?

5 A. Yes.

Q. Tethered there.

A. Yes.

Q. And you say, well, this was not this dog's permanent home, correct?

A. That's correct.

10 Q. So where were that dog and the other four dog – or the other three dogs referred to at the top of that photo? Where were they overnight?

A. It depends. This is Regina and she would have been together with – she was the long coat, she would've been together with either Renata or Ritzer. Ritzer.

15 1220

Q. In the house?

A. They're two sisters, no, they're two sisters.

Q. Yeah, sorry–

A. If I'm training–

20 Q. My question was: "In the house?" and your answer was: "Two sisters", I don't understand the connection, were these dogs going to the house at night?

A. These– this long-coated girl here, she would've, she was in training 'cos we just started to show her. As you can see, she's been out in the paddock, she's had a good run around and Ritzer, she would have been
25 into a kennel.

THE COURT:

Q. Ms Wallace, Ms Wallace, please answer the question. Where did she spend her nights?

30 A. In the kennel, with her sister.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Which kennel?

A. In the old kennels.

Q. She would go to the old kennel blocks?

A. Yes. That's Regina.

Q. On page 24?

5 A. Yes?

Q. We see the deer shed stable, correct?

A. Yes, that's correct.

Q. And this is the 4th of August. This is the occasion we spoke about yesterday where you walked past and told the SPCA inspectors there were no animals in there, correct?

A. This is the stables, the deer shed is at the front.

Q. So, you didn't tell them there were no animals in here, is that what you're saying?

A. You're talking about the shed stables, the photos that are in front of us on page 24, is that correct?

Q. Yes.

A. Okay, well you can see the animal.

Q. And you can— I can.

A. Yes.

20 Q. And you're saying you did nothing to hide their whereabouts from the SPCA?

A. No, no you can't hide dogs. German Shepherds are alert. They say it themselves, you could hear barking from wherever. That's typical German Shepherds. After we had a look at that, I took them over to the wool shed and then Mr Plowright said something, and I took them immediately back there. I wasn't thinking of that.

Q. The bottom photo on page 24, we see the interior and the conditions in which these dogs were kept. This was an area that you described as a "beautiful place" and on another occasion "natural" and "quiet." I understand that beauty is in the eye of the beholder but can you explain to us what is beautiful and natural about that image we see at the bottom of page 24?

- A. Yes, we had, we were using newspapers because the newspapers were recommended by and that's what (inaudible 12:22:43) were using so we thought that was the best. Mr Plowright at that point in time said: "You might want to try using shavings." We'd never done that. Why do I say
- 5 it's a nice environment? Because it is very large and very spacious. It has a good airflow, the height of the ceilings is high. This was a brand new building and it is well sealed off. You can open up the doors, so this, and the window on the side so they could hear what was happening, see what was happening if we had the other door open, just the boards across
- 10 and there's trees there, the deer were there and sometimes in that paddock around the deer shed, a sheep or calves or goats or any other animals so for me, it was a very nice peaceful area.
- Q. It's filthy, isn't it?
- A. No, you're looking at wet concrete. This has been cleaned. Now, if this
- 15 has been cleaned, what is wrong with that? This happens every day.
- Q. So when Mr Plowright says that was just filthy and sticking faecal matter, urine, he's just making that up again, is he?
- A. You're putting words into Mr Plowright's— what you're saying, I just disagree with what you're saying.
- 20 Q. You talked about there being trees and calves and that sort of thing?
- A. Mhm. You can see the branches leaning over, you can see the shade from the trees on page 24.
- Q. Yes, but when those deer shed doors are closed as they were when the SPCA inspectors arrived this day, they're getting no view whatsoever, are
- 25 they?
- A. The puppies?
- Q. Yeah?
- A. The puppies are usually taken down to their exercise pens. That's why one is empty and one is – still has three puppies.
- 30 Q. But when they are in here?
- A. At night, yeah.
- Q. What I'm suggesting to you it's— it's essentially a prison cell with no view?

A. Don't start that. That's— you might be used to prison cells but we are not. Our pups have so much freedom. It is a huge paddock which they are running around in. Puppies need quiet time to rest, to digest but the freedom that our puppies have and the socialisation that our puppies have is absolutely exemplary. That's why they have such wonderful characters. As your video showed, they were lovely puppies. Lovely character, healthy, shiny coats, no diseases, no nothing so to call that a com— I've never been in a prison cell so I wouldn't know what one looks like except what you see on TV. I've got absolutely no idea. This is a stable for horses and this is very large. Not many people or breeders anywhere would have that room and space and solid areas for the puppies to be in.

Q. But you see, you made an interesting point there. You said that this is a stable for horses?

A. Mm.

Q. Because horses can, that's why they have those double doors, the ones that sort of open halfway up right, so that you can have the bottom one closed so the horse is confined in there but it can look out and it has some visual stimulation. The puppies don't have that when they're in there like that, do they?

A. That's— this is their quiet time. Horses, yes, that, if it is open, they can put their head out just like when this is open, we have boards where this lower door is, we have boards going up so you can see with your photo on page 21, these puppies have got their little paws up on the boards. It's not the lower door, it's the interior of the stables where there is boards so that they can open up, look out and this is what you're seeing there.

Q. On page 25?

A. I can go back to page 22, that's the other puppy shed, sorry, yes.

Q. On page 25?

A. Yes.

Q. We've seen some food on that floor, correct?

A. You're seeing the remaining from page 24, the remaining beef bones, yes, that is correct.

Q. And that picture, does that depict what you would describe as “exemplary conditions”?

A. This has been cleaned out, these bones were given to them the night before to gnaw. It was clean when they went in there. Puppies make a mess but it’s been cleaned out.

Q. And it’s just what, bad luck that the SPCA inspectors always seem to come around at a time when these areas were uncleaned?

A. Hold on, if you go back to 24, you are seeing it is in the process of being cleaned out. There’s no— we don’t know when anyone’s, when the SPCA’s going to come or not come. We’ve got no idea. This was a process that was happening, the cleaning, every time the SPCA came, (inaudible 12:27:55) if I remember correctly, kennels or (inaudible 12:27:58) were being cleaned.

Q. On page 25, the bottom photo, we see another dog tethered to a fence?

A. Yes, on a lead.

Q. Where would that dog sleep at night?

A. Inside, still sleeps inside.

Q. On page 26, the top photo?

A. Yes.

Q. We see some more dogs tethered to a fence?

A. Puppies.

Q. Where would those dogs sleep at night?

A. Those puppies are (inaudible 12:28:22) and they are inside.

Q. And the bottom photo, there was a dog in the crate, not particularly clear from the photo but Mr Plowright did give evidence that that crate contained a dog?

A. Mhm.

Q. And he said it was a dog that was living in its own faeces there inside the crate, do you accept that?

A. These— these crates, this bitch was on heat, the crate was clean when she went in there. Not the dust on the outside, but, because it is quite dusty and she was on newspaper. If you look on page 27, it’s all on the same, the same, it’s all there but you can see the crate that you’re talking

about, it's in the background there and newspapers were put down and here you can see from sweating and the wet, the tray from the empty crate at the top is (inaudible 12:29:24) pushed out.

5 Q. Do you accept the truth of the statement though that that dog had defecated in that travel crate?

A. It could have defecated. This is a normal reaction when strangers come into their own area.

10 Q. Now, you heard the evidence of course of Inspector Plowright and others about dogs in general preferring to defecate somewhere else other than where they are housed and i– you responded to that, and I understand in general, you don't agree with that, you said it's a preference for each dog, right?

1230

15 A. Dogs are different. Dogs have different personalities, different characters. We have one girl and it doesn't matter how much she's exercised and what she does, but she decides she's gonna go in that place. It's not where we want her to go, and each dog is different. You have some dogs, they can hold it and whether that's overnight or during the day or whatever, and you have other dogs, I can transport them in a clean car and they go and that's not what I want. So, each dog is different. 20 Do they go in the same place? Yes. Some we've trained – we've tried to train them. Some, you just cannot train them to go to the toilet where we would like them to go to the toilet. They can go in their beds. They just decide themselves, unfortunately, and it's a natural process, yes.

25 Q. But what I'm suggesting to you is that if a dog, and this was essentially the evidence that came at the start of the prosecuting case, that if a dog is being let out of its kennel or crate or whatever at proper regular intervals, it will prefer to defecate somewhere other than where it's living and sleeping. Do you agree with that as a general proposition, 30 understanding that there might be some exceptions?

A. We have – I have dogs. We have dogs that are let out, have a great run, their kennel's cleaned, just taken the new 16 kennels, by the time we come back to the number 1 and she's in the first kennel, whether she's

had a run or not, she's not interested, that's where she thinks she's going to go. That's what I mean. It's not how we want. She decided even though she's had a run, maybe you've gone out, it's the digestive system, the metabolism, how they – when they go to the toilet, and some are excellent, they'll never go in their kennel, never. It's just – or if I let them out in a paddock, it'll go back to the same place where it went the day before. It's got the whole paddock to go in. It's not on a lead. It's running loose. It'll go back there. They sniff it out and find their place where they want to be.

10 Q. Okay, I'll ask the question again. I'll be grateful if you could answer it this time. Do you agree with the general proposition, understanding that there will be occasional exceptions, that dogs will usually prefer to defecate somewhere other than where they live and sleep?

A. It would be lovely if they were all like that. I agree in part, yes.

15 Q. Sorry, what was the first part of your answer there? I didn't catch that.

A. I said I would love all dogs to do that. I only agree in part. Some do, some don't.

Q. So, not to labour the point, but do you accept the evidence you've heard or disagree with the evidence you've heard that dogs will generally prefer to defecate somewhere other than where they live and sleep?

20 A. I can only say about our dogs. I can't say in general, other dogs. I can only talk about our dogs because I don't know what other dogs do and our dogs some will, some won't, and I can't change that. That's how it is.

Q. Would you agree that you seem to have quite a large proportion of dogs that seem to prefer to defecate where they live and sleep? Because you see it a lot in these photos, don't we?

25 A. It depends how many times they're going and it depends what they've been fed. It depends how they've been trained. They're all on different diets. You see a lot in the photos. If we take photo 30, that's just been water-blasted out. Someone's come. That's a natural instinct. If you go to a vet, even though you've given your dog a run, it's gone to the toilet. Could still go to the toilet in there, and why? It's – could be it's just a reaction that dogs have.

30

Q. On page 27, we can see – are we still in the garage here for these two photos?

A. This is in the garage, yes.

Q. And we can see another dog in a cage there in the bottom photo.

5 Correct?

A. That's correct.

Q. Why was that dog in a cage?

A. She's come on heat.

10 Q. And do you accept there were any concerns about the general level of hygiene in that condition, in that area?

A. When they're on heat, they're very, very sensitive, so the hygiene has to be good because otherwise, they would have infections, and here at this moment, you can see that the – I think the tray underneath is wet.

THE COURT:

15 Q. Sorry, are we on page 27?

A. Twenty-seven, yes. I think the lower photo. That's correct, Mr Radich?

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Yes.

20 A. This bitch is on heat and this is for her protection and so that nothing happens to her. These crates are cleaned out morning and night if necessary. It depends, but at least once a day.

Q. Well, I'd suggest to you that these dogs in these crates were in, again, filthy conditions, but you don't accept that, do you?

25 A. No. The actual evidence shows that this is not correct because if they were in filthy conditions, the dogs would be sick. They would be showing. We could see how our dogs were when they were placed in the SPCA care, our healthy dogs, and the myriad of diseases that they got, which we've never had. That's not from our place. It's from their place, but they have never been exposed to that, and if they were in unhealthy conditions, they would be sick. They would.

30

Q. Will we hear any veterinary evidence on that point as part of your case?

A. Oh, there's plenty, yes.

Q. Okay, who's going to tell us that?

A. I think you have to ask Mr Gardiner. He's doing all that.

Q. Page 28, top photo, we see another filthy crate, don't we?

5 A. A crate that's not being used, yes. It should've been on the foam. It was just there. Hasn't been – that hadn't been done just yet.

Q. In the bottom photo, we see a – we see the single kennel that we've seen previously. Correct?

A. That's correct.

10 Q. And can we see in the bottom of that, what you say was the remnants of calf hide. Is that correct?

A. Yes. The hair from the calf. They chew up the bones 'cos they're very soft bones and the hide and that is the remnants of that.

Q. So, again, that's something Mr Plowright's just got wrong when he says that there was faecal matter there, build-up?

15 A. There's no build-up because you'd see the build-up. Where is the build-up?

Q. Well –

20 A. A build-up is a build-up of faeces and that is not correct, and if you look at the grating of that kennel, it is all clean. If you look at the Kikuyu grass that's growing to the left and to the right of it, that's your Kikuyu area.

Q. Well, I'm sorry, what does the grass have to do with the cleanliness or otherwise of the inside of the kennel?

A. You've got here, a moment in time when this dog has gone to the toilet. It is a natural reaction, but there is no build-up of faeces here.

25 Q. So, you say it's a natural reaction and not a consequence of the dog not being let out frequently enough to toilet?

30 A. No. When they eat bones and beef, it takes two to three days to digest. Some are quicker, some are slow, depending on the exercise, and then they also receive Royal Canin 4800 and that's on a daily basis. So, when they go to the toilet, it could be something – because they've been fed every day, there can be a build-up. These dogs are exercised and taken everywhere. That was a dog that was – yeah, that was Ace, yeah.

Q. Okay, I don't propose to put anything to you anything more in relation to page 29. I think we've covered that, so we'll go to page 30 which I'll suggest to you shows, again, filthy faeces-smeared kennels.

5 A. Right. You've put that to me. My answer is, have a good look. If you look on the left and the right and the grating and look at the concrete, it is wet. It has just been cleaned out. If you loo at the bed behind it, the wooden bed, you can see that is clean. If you look at the dog's feet and the dog itself, you can see it is clean. If you look at the piping around it, it is clean. It has gone to the toilet in the middle of that photo. It is a
10 yellowish colour, which is the colours when they've just gone to the toilet before it oxidises and turns white, but because you've got on the other page, you think: "Oh, well white faeces, that can only be old faeces", no, it's not, it's the consist – it is what it's derived from and that's from bones, it just turns yellow first or light yellow, mustard colour and then white with
15 the air.

1240

Q. And you would say, would you, that the faecal deposits that we see there are a consequence of those dogs preferring to defecate in their kennel and not a consequence of them not having been let out sufficiently often
20 to toilet?

A. Every dog, when a kennel is cleaned the kennel isn't cleaned with a dog inside, the kennel is cleaned, the dog is running loose and can run anywhere it would like to in that area of the kennels, which is quite a large area in the orchard, so it had plenty of area to run around in. Size, um, it
25 would be probably half an acre.

Q. Didn't ask you anything about size, didn't ask you –

A. But the dog is running around free and can go to the toilet wherever it wants to but strangers have come into her area.

Q. So it's a consequence again, it's the SPCA being there that's caused this?

30 A. It's a natural reaction, she's gone to the toilet, she's gone to the toilet once, this has been cleaned. And the evidence shows that it is clean.

Q. Well that's a matter for her Honour but that takes us –

A. Yes.

Q. – in any case, to page 31 again.

A. Yes.

Q. I won't take you through that I'll simply put the proposition to you that you didn't accept the validity of any of the SPCA's concerns, did you?

5 A. I disagree.

Q. Which concerns did you accept?

A. We sat together and in the meantime in that week we'd been organising and trying to plan for new kennels and have a new kennel complex built. I have received, we have not received one non-compliance notice from
10 the SPCA, so if we didn't comply with these AWSs they had the legal enforcement right –

THE COURT:

Q. Ms Wallace, can you answer the question?

A. I can't read it to be really honest, your Honour, with my glasses.

15 **THE COURT:**

Well perhaps Mr Radich, you should read each point and ask her whether she takes issue with that.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. All right, they say firstly: "All dogs living areas listed below to be fully
20 cleaned and disinfected immediately and cleaned on a regular basis," and then they bullet point: crates and garage; puppy shed 1, 2 and 3; wool shed; yard; all kennel runs at property. Now what they're saying there, aren't they, is that those areas were not being properly cleaned and that they wanted you to lift your game but you say your game didn't need any
25 lifting, right?

A. I said, here, you're saying about being cleaned on a daily basis, being disinfected immediately. I tried out the disinfectants that Ms Davis recommended and it was not good for the welfare and the health of our dogs, they reacted to that. So this is where I go in and find out from
30 professional cleaning companies, what can we do, we don't understand, the kennels are being water blasted out and these people are saying it

smells of urine, but there isn't any there and they explained to me if you take an infrared light and you go into toilets you'll see that the urine –

THE COURT:

Q. Okay, but Ms Wallace, the question was –

5 A. Was.

Q. – whether you accepted the validity of their concerns, so he's saying to you: "Did you accept their concern that these areas weren't being cleaned properly?"

A. No I didn't, I took it on board.

10 Q. Okay, that's all he's asking you, okay.

A. Okay, sorry.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. And then they also say: "To ensure dogs have access to adequate shelter immediately," but you would say the dogs already all had adequate shelter so you didn't accept there was any legitimate concern there, is that correct?

15

A. I made sure that our dogs all had shelter.

Q. So that's a yes? You didn't accept the validity of their concern, correct?

A. I took it on board but all our dogs had shelter, so yes.

20 Q. Going forward to the 11th of August.

A. Yes.

Q. We see a puppy pen in the top photo, correct?

A. That's right.

Q. And we see a dog tethered in the utility shed at the bottom, correct?

25 A. That's correct.

Q. Now that wasn't that dog's, the dogs in the puppy pen up the top where would they stay at night?

1245

A. Those puppies stay in the puppy shed, which is on page... um... page, excuse me, 21 and 22. This is in front of the picket fence and the houses, they're there, picket fence and the main house.

30

Q. And the dog at the bottom on page 38, where would that dog stay at night?

5 A. She runs loose in the implement shed. She was only tied up there because of our, um, contractor going in and out and getting equipment out of the implement shed, and it's the same dog that's on page 9.

Q. The implement shed is where Debbie was later found, correct?

A. Well, we call it the implement shed. You call it utility shed. She's running loose there with Hobby.

10 Q. So I just want to be clear, you're talking about the broader – the implement shed is basically, is the locked room inside the utility shed, correct?

A. No. No, the util – you've caught – yes, so you have called it that here in the proceedings, that the implement shed is where all the equipment is. What I'm referring to here, 'cos we call the whole thing an implement shed, I'm referring to your terminology. She's in the utility shed which is
15 on page 39. You can see she runs around with Hobby, but as she took a dislike to the contractor when he was going in and out, we had to tether her.

Q. Okay, and so on top of page 39 we see a dog running loose in that utility shed area, correct?

20 A. That's right.

Q. And that was this dog's overnighting home, wasn't it?

A. Yes.

Q. Was there any bed for that dog to sleep in?

A. Yes, there are wooden, um, pallets.

25 Q. Is a wooden pallet a good bed?

A. A wooden pallet, well, we'll put carpet over it, we'll put bedding over the top of it and the dogs have the greatest pleasure in ripping it all up. This is what they want and yeah, they're happy.

Q. Won't a well-trained dog not rip up its bed?

30 A. Every dog's different. Every German Shepherd is different, every character is different. This is a game. It's like what we're experiencing.

Q. So these dogs who had a predilection for ripping up their beds, your response to that would be to give them no soft bedding and say: "You sleep on a wooden pallet"?

5 A. No, that's not what I said. These dogs were given – purchased beds that were probably perhaps a metre, a metre and probably about 10 centimetres high, and that bed, I don't know what's inside of the bedding because they're imported from China and I don't know whether it's something in there that they're trying to get at, um, these are put down and they just rip them apart as if it was nothing.

10 Q. Okay, bottom photo on page 39, we're seeing some puppies confined in a cage, aren't we?

A. Yes, we are.

Q. Why were they in there?

A. Because they were de-sexed.

15 Q. Sorry?

A. They were de-sexed, if I remember correctly.

Q. Why does that mean they had to be confined to a cage like that?

20 A. Because we were recommended by our doctors, our vets to confine them so that they're not running, um, they're not galloping or it doesn't open up the, um, where they've been operated on, just to keep them confined for a couple of days until they're – until that healing process starts. It's a big thing to be – it was a trial that we did with the vets having them de-sexed as pets at a young age.

Q. On page 40 –

25 A. Mhm?

Q. – we see another image of a crate inside the garage, nothing more I need to question you about that, I don't think, and the bottom photo we see two dogs tethered on the deck. Was that their regular home?

30 A. No, these are show leads. We're not going to – you've got an adult and a puppy. She's there to teach him to – so that they're relaxed, quiet, and we have people here, so yes.

Q. Okay, so where would those dogs sleep at night?

A. Oh, the pup would be inside. This girl would be running loose.

1250

Q. When you say "running loose at night", dogs still need to lie down somewhere to sleep.

A. Yes, they do.

5 Q. So where would they sleep?

A. The dog would sleep on, if she wanted to, either out on the lawn or on the deck. The deck is covered.

Q. On page 41?

A. Yes.

10 Q. We see one of the old runs again, don't we?

A. We do, we can see that—

Q. And we can see a wooden pallet in there?

A. That's correct.

Q. Something you described in your evidence as a "natural bed", correct?

15 A. Yes, that's correct.

Q. What do you mean by that, what does, what do you mean by "natural" in this case?

A. It is solid wood, that's what I mean by natural. It's nothing artificial.

Q. But in nature, a dog is never going to sleep on solid wood, is it?

20 A. I don't know. A dog could sleep on wood, it depends where it is in nature. We have a very natural environment and this on wood is— none of our dogs had any calluses on their elbows or hocks or any, any anything, no. We've had, we had them all carpeted, it didn't work and that's what they liked, it's the same one from the fourth, same dog, same (inaudible
25 12:51:36).

Q. And did you try to train them not to rip up their beds so that they would learn and so that they'd have somewhere more comfortable to sleep?

A. All these dogs start their lives off inside our home and so they have every luxury that you can imagine. They have their blankets, their toys, their
30 beds. Each dog is different.

Q. What I'm suggesting to you is that the dog we're looking at there on page 41 on an unsealed concrete floor with a palette, a wooden palette

in the corner, that it's extremely generous to characterise that as having ever luxury you can imagine, is that fair comment?

A. What did I just say? I said their lives start off in our home.

5 Q. So when they're moved to the old runs, then they don't have every luxury you could imagine?

A. This, this here is an adult bitch. It's not a puppy, it's an adult and she's— they're in here, this is on the 11th of August where we are in preparation in building the kennels, the new kennels but we still have wooden palettes. We have wooden beds for the dogs because that's what they like.

10 Q. We see there on page 42 again and page 43?

A. Yes, same one, yes.

Q. Again, we're seeing more of the old runs, correct?

A. Yes, that's correct.

15 Q. And in the bottom photo of page 43?

A. 43, yes?

Q. We're seeing— that tarpaulin, was that used for shelter

A. There was— it had Colorsteel iron on top but if there was a storm, because this was in winter, we would just drape the— it's a house tarpaulin, we would drape it over the front of it and just, so they were protected from that.

20 Q. We see the deer shed stables on pages 44 and 45, correct?

A. Yes, that's correct.

Q. And what you say is the bed there for those dogs it that slightly enclosed off area in the corner?

25 A. That's correct, yes.

Q. Which is just newspaper on concrete, correct?

A. It looks like it there, this is during the day, during the day.

Q. And these are puppies, correct?

30 A. These are puppies, yes, that's correct.

Q. Would you think that for puppies fits the definition of "every luxury you could imagine"?

A. They have a good little home.

Q. Newspaper on concrete?

A. I just – every luxury when they start off their lives ‘cos you were asking about how do they react. This is more than compliant and exceeds the Code of Welfare, Mr Radich.

5 Q. That’s why we’re here. That’s a matter for her Honour. Page 45?

A. Yes.

Q. I don’t need to dwell on?

A. No.

10 Q. And then that takes us to the notice which again, just suffices to say again, you don’t agree that the– any concerns of the SPCA in regard to the housing of the dogs or the tethering or anything like that, the general cleanliness, none of those concerns were legitimate in your mind?

1255

A. You can see that’s just been cleaned out.

15 Q. Could you just answer the question?

A. The question? No, I don’t agree.

Q. Okay. What I’m suggesting to you is that because you didn’t agree that there was anything wrong, it’s not very surprising that the SPCA didn’t see any meaningful improvement from one visit to the next because in
20 your mind on day one, their first visit, there was no problem.

A. Mr Radich, I disagree and dispute what you have just said.

Q. Okay, why do you disagree?

A. Because that is not correct.

Q. Which part of it is not correct?

25 A. Your suggestion.

Q. Let’s unpack this then. I’m suggesting to you that –

A. Yes.

Q. – there was no meaningful change in the way you took care of the dogs between the first visit, the second visit and the third visit, because you
30 didn’t think there was anything wrong with the way you were taking care of the dogs. Do you agree with that?

A. What I thought when I received these, I’ll just take my glasses off, the dogs were well looked after. We were given suggestions and advice from

the SPCA. These are people that do not have much to do with purebred German Shepherds. It is a different dog to the dogs that they are dealing with day in and day out. Everything that they said we tried to implement, and the disinfectant was a classic example, because what that did to the dogs' feet, it burnt their feet, the pads, because they weren't used to that type of disinfectant. It was not the right thing. Or, the sealing of the new concrete. It might work in a housed environment like the SPCA where it is; I've never seen it or been inside of it, but for our dogs that are active it is not the right thing, but a decision – a suggestion was made, we tried to implement it. Do I agree with it? We tried it out. No.

MR RADICH ADDRESSES THE COURT – TIMING (12:57:25)

COURT ADJOURNS: 12.58 PM

COURT RESUMES: 2.02 PM

THE COURT ADDRESSES COUNSEL – HOUSEKEEPING (14:02:21)

CROSS-EXAMINATION CONTINUES: MR RADICH

5 Q. Before we get back into it fully Ms Wallace, I just wanted to refer to one matter, a discrete matter that concerns your evidence in relation to where the dogs were held temporarily or overnight in the wool shed and you said, when I raised this matter earlier, that earlier in your evidence you'd understood my question about temporarily, temporarily only to relate to tethered dogs, is that correct?

10 A. That's how I understood it, yes. That's what – I cannot remember you asking me what I answered so, um.

Q. Just refer to page 822, line 24 of the note of evidence where I asked you: "Okay, and then the wool shed, of course, we've seen a lot of photos of dogs in the wool shed but that wasn't anything other than a temporary measure," and your answer: "That was only a temporary measure."

15 A. Mhm.

Q. That answer, coupled with your earlier explanation that, in your mind, temporary does not mean overnighting, days, I'm suggesting that you have changed your evidence in a meaningful way in relation to the dogs in the wool shed, what do you say to that?

20 A. What I say to that is temporary, as I mentioned it the very first time, temporary, it was a temporary alternative until the new kennels were completed and this, I said, sometimes they overnighted in the wool shed, that is correct. The wool shed is a warm, dry, spacious, well ventilated area for them to be in and it is compliant to Work and Safety and MPI, so we have other animals in there, depends what's happening when it is, yes. And since then, no, we haven't had any animals, any dogs in the wool shed.

25 Q. So *temporary*, your meaning of temporary in relation to the wool shed means temporary until the new kennels were built, is that right?

30 A. Temporary for me, I'd like to divide it into two, temporary means, for example, when we were talking about the tethering, that was that moment

in time, which I said, temporary that the kennels, the wool shed, that was used occasionally, if we needed it with various dogs rotating around and, as I said, they had overnighted sometimes in the wool shed, yes.

Q. All right, let's go back to the photo booklet if we may, page 47.

5 A. Mhm. On the 12th of the tenth?

Q. Yes.

A. Yes.

MR RADICH ADDRESSES THE COURT – PUT THE CHARGES (14:06:33)

LEGAL DISCUSSION (14:03:20)

10 1410

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Thank you, Ms Wallace. On page 47 –

A. Yes.

15 Q. – we see the dog in the top photo to which charge one relates, namely Anelly. Correct?

A. That is correct.

20 Q. And we heard evidence from Mr Plowright that in his view this dog was tethered on an unsatisfactorily short lead, which he also noted was a check chain. Do you accept that this was a dog tethered on a check chain?

A. I can't see if from here, but she was tethered and the minimum would have been one metre 47.

Q. Okay.

25 A. One metre and 47 centimetres so it was a – she was doing her duty guarding.

Q. Was that her home?

A. No.

Q. Where was she –

A. She ran loose –

30 Q. Where was usually living?

- A. – in that whole area. She was only confined on a tether that moment of time so that the (inaudible 14:11:05) could go in and out.
- Q. Was that a regular place for she or other dogs to be tethered?
- A. No, no.
- 5 Q. So this was purely a one off?
- A. It wasn't a regular place for anyone to be tethered. It was only Hobby and Anelly in that area.
- Q. Now we had plenty of discussion there about the white faecal –
- A. Yes.
- 10 Q. – matter we can see there, correct?
- A. Yes.
- Q. But what I'm suggesting to you is that the brown, the darker brown area around the dog and encompassing the white faecal matter, is a build up of dog hair and filth. Do you accept that?
- 15 A. No, I don't accept that.
- Q. What do you say it is?
- A. I've explained previously what it is.
- Q. Calf hair, is that correct?
- A. Calf hair. You can see some straw there. The white faeces from the was
- 20 – I think I saw somewhere something back with blood. There's a change of colour there but I do not – how you word it I do not accept that at all.
- Q. Definitely not –
- A. Definitely not.
- Q. – a build up of filth and dog hair –
- 25 A. No.
- Q. – from a dog having been there for a prolonged period?
- A. I decline or dispute or disagree with that entirely.
- Q. Could you – maybe just keep your finger on that page, because of course we'll come back to it on page 47 –
- 30 A. Mhm.
- Q. – but could you also go to page 65?
- A. 65? Yes.

- Q. Now what we're seeing on page 65 are photos taken the next day, the 13th of October. That's the same area, isn't it?
- A. That's a very good photo. You can see where she was, and you can what's here.
- 5 Q. Could you answer the question?
- A. Sorry.
- Q. That's the same area?
- A. That's part of the area.
- Q. Because, look, if we – we can sort of get it – orient ourselves, can't we, by that yellow Waste-Not Stock Feeders sign, which –
- 10 A. Waste-Not –
- Q. – we can see?
- A. Yes, yes, yes.
- Q. Which we can see –
- 15 A. That's right.
- Q. – in its entirety on page 47 and then we can see it in the top left-hand corner of the photo at the top of page 65, correct?
- A. That's correct.
- Q. And what we can see in the photos taken on the 13th is that the white faecal matter has been removed, correct?
- 20 A. That is correct.
- Q. But we can also see, particularly that bottom photo on page 65, that there is a very clear build up of filth and dog hair.
- A. No, it's not of filth and dog hair. If we go back to page 47 to get everything into perspective and take – and put it side by side with page 65, you will see where that water trough was there's a little chain hanging down on page 65. Right?
- 25 Q. Yes.
- A. If you take page 47 you will see that little red circular whatever hanging on a chain and a little bit of chain hanging down.
- 30 Q. Yes.
- A. And that is the same chain. So what was here looks like a wooden frame, I don't know, whatever, here with the wheelbarrow, I don't know, this is

highly magnified. This looks like blood and calf hair, I don't know, but it is certainly not dog faeces and filth.

Q. No, come on, calf hair, if we're talking about calf hair, unless we're talking about a long-haired breed uncommon to New Zealand, calf hair is only a matter of a centimetre or two long typically, isn't it?

5 1415

A. Centimetre. We're in winter. This has, this has just come out of winter and the calves can have up to three, four, five centimetre long hair.

Q. What we're looking at in the photo on page 65 –

10 A. Yes?

Q. – is much longer hair than would be consistent with calf hair, that's what I'm putting to you?

A. Sorry, I don't see that. I don't see five, six, seven, eight, 10 centimetre long hair. This is a short– this is a short-coat German Shepherd and you are stating that she has been there for a long period of time and– which I dispute. This is a short-coat German Shepherd. She doesn't have long hair. Her hair would be maximum two centimetres, maximum.

Q. Well, you have told us that she was only tethered there as a one-off.

A. Yes, I said temporary, yes, at that point of time, she was guarding.

20 Q. And what do you mean by temporary in this context, is it until the–

A. What I meant–

Q. Until the new kennels are built or a few hours?

A. No, no. When the contractor comes in the morning, these dogs are running loose all around the utility shed. That's the open side of the utility shed. It was approximately six metres, seven metres wide, I think six deep and they can go anywhere they like in that area. Wherever they like. When the fencing contractor comes and he wants to go into the shed, she was given a– she was just tied there temporarily to guard it and given a bone to chew on to keep her occupied and the furthest distance away from the door entering the implement shed where the equipment is held and that was temporary. We've got the photos here where you can see she's been– same utility shed where she has been, (inaudible 14:17:05) page 9, same dog, same utility shed. Above, the photo above,

30

outside utility shed. It's the same dog and this is the reason why she's temporarily tethered there. (inaudible 14:17:26) can go in and out. He has different hours, whatever he's doing. Once he's got what he needs, then we can let her off and she can just run 'round however she wants to.

5 Q. None of which answered the question. I'll phrase it in a different way. How long was that dog there that day?

A. Whenever he started. The contractor.

Q. That's the best you can do?

A. He starts early in the morning, has different hours. I can't remember if he
10 stayed the night on the property or whether he came, I don't know what, the date on the 12th is a Thursday so he probably would've still been on the property so he would have had an early start so it would have been that morning of the 12th of October.

Q. So you're telling us that what we can see on page 65 is an accumulation
15 from just a few hours that day on the 12th of October?

A. 65? Where the dog was, which is up here and if I remember rightly, you said Mr— no, I'd said it's— she was on a short tether, couldn't get to that length. That's a good two metres away from where she was tethered.

Q. Can I ask you again?

20 A. Yes. I dispute it. I disagree.

Q. I am just trying to understand your evidence, I'm not putting a proposition to you. I am saying, are you saying that what we're seeing there on page 65 in terms of the hair and whatever else is on the concrete there, that accumulated from the dog being there for just a few hours on the 12th of
25 October?

A. The lower photo is highly magnified.

Q. Will you please answer the question?

A. And you've asked— the answer is, to the question, this dog was tethered at the front there and she was tethered there where you can see that
30 white spot for a few hours that day. What's— here, I have got no idea.

Q. What I am suggesting to you is that that photo suggests strongly that that dog had been there for much longer than you are letting on.

A. Well, I dispute that.

Q. That's all right, we'll move on.

A. Good.

1420

5 Q. And it's of course the prosecution case as well that this dog had nothing in the way of behavioural enrichment, but you don't accept that, do you?

A. I certainly don't accept that. Would you like me to – I don't need to go into that, do I?

Q. No.

A. No. Okay.

10 Q. And that is essentially the same. I don't need to put the passages of the behaviouralist's evidence to you again. You've already commented in relation to that.

A. I have, yes. Thank you.

15 Q. Okay, and that goes for a number of the dogs to which we'll come and so I won't repeat that. The bottom photo on page 47.

A. Yes.

Q. I'm putting to you that this was a dog secured by a short choke chain in a way that posed a risk to that dog's health.

20 A. I dispute that in its entirety. He's on a good length of lead, one metre, 47. They are manufactured by the Royal Canin, and the choke he's on – a choke chain, none of our dogs were in any risk of being hurt. His neck was not hurt, the hair, everything on that. He is relaxed, happy and respects what he's on. That is part of his training.

25 Q. So, you reject the evidence of Dr Beer that choke chains are not satisfactory for tethering?

A. I do.

Q. And that dog, we can see, had no water in its bowl. You accept that?

A. I can see there's water around the outside of it. It had water in its bowl. The dog was not – the puppy was not dehydrated.

30 Q. Do you understand the difference between not having access to water and being dehydrated? You understand that they're not the same thing?

A. The puppy – yes, the puppy had access to water. It does not have to have water in front of it 24/7 according to the code of welfare. It has to

be well-hydrated and it has to have frequent access to water. Not no access, frequent access.

Q. Now, that – we can at least agree that that dog had no shelter. Correct?

5 A. That dog doesn't live there. It's been trained and it is just been put there for a moment in time.

Q. Would you care to answer the question? Can we agree that that dog had no shelter?

A. There is no kennel there, no, and no shelter, it doesn't need to have shelter according to the code of welfare.

10 Q. Well, that depends on how long the dog is there, doesn't it?

A. It does.

Q. And so the next step to that is for me to put to you that that dog had been there for longer than you are suggest – than you are letting on.

A. I disagree. It certainly wasn't. It's disputed.

15 Q. And that the worn ground around it demonstrates that.

A. No, that is not correct. The worn ground around it is from my dear sister who likes to, along all the fence lines, make sure there is no grass growing because she likes to see her fence, and no.

Q. We can see some bricks have been put under the fence there.

20 A. So, the –

Q. Can you just say, do you confirm that there is some bricks under the fence?

A. Yes, I could see those, yes. Heaps of concrete.

25 Q. Now, that is because a dog has been digging under the fence there and that's to stop him getting through, isn't it?

A. No. That's actually so that the quad bike can go open up the gate and go through.

Q. It's nothing to do with the holes we can see that the bricks are in. They're not caused by a dog. Is that what you're saying?

30 A. They've been caused by various things.

Q. A dog?

A. A dog can, yes, but it's not just solely, no.

Q. Now, we know you've told us of course these German Shepherds that they're good jumpers, aren't they? They're good athletes as dogs.

A. They – yes, they are.

Q. Tell me, what would happen to that dog, bottom photo of page 47.

5 A. Forty-seven, yes.

Q. If he jumped up and got his lead right up at the point close to his neck, hooked over one of the pickets on that picket fence?

A. First of all, it is a puppy, and puppies do not jump because their joints and especially at this young age, are not fused, and this would be very detrimental to any puppy to be encouraged to jump. I said an adult can jump and we train them after they're 12 months to jump, but not puppies. Puppies it's not good for them to go up steps, it's all done gradually.

1425

Q. Are you saying that dog would – I mean he's – his head is sort of halfway up the height of the fence. Are you saying he would have been able to –

15 A. No.

Q. – get his head up –

A. No.

Q. – high enough for that leash –

20 A. No.

Q. – to be hooked around –

A. No.

Q. – one of those posts?

A. No. No.

25 Q. I mean we can see paw marks on the picket fence, can't we?

A. Yeah, from adults.

Q. So what I'd –

A. Not from puppies.

Q. What I'd suggest to you is this is an example of the risks that choke chains pose, because if that happened, he leapt up, he'd hang himself, wouldn't he?

30 A. We have never had a dog that's hung itself. No, I'm sorry. I dispute that. You're just trying to latch onto anything that you can find. This puppy was

tethered there short-term on a satisfactory lead and, no, I'm not going into eventualities. If I walk across the road I could be run over, that could happen.

5 Q. It could happen, but good animal husbandry involves management and reduction of risks, doesn't it?

A. Exactly and this is why they are trained to respect and to relax on a lead. They know this is their quiet time and just to sit there and lie there and watch what's going on, which it did, even though there are strangers in front of him. He did very well for a puppy, very well.

10 Q. Not to put too fine a point on it, but that didn't work out that way with Ritzer, did it?

A. No, because we didn't have anyone bashing against a door with a concrete block 10 times. We didn't have a whole crusade of vehicles driving down there, all these strange people in her area trying to open up the doors. No.

15 Q. It's all the SPCA's fault and not your fault one shred, right?

A. Well you can see here the puppy is very calm, collected and relaxed.

Q. On page 48 –

A. Yes.

20 Q. – we have photos that relate to charge three, three German Shepherd dogs housed in crates in the garage. We've heard evidence that the conditions in those crates, those crates were unhygienic, involving faeces and urine within the crate. You don't accept that?

A. I don't accept that, no. You can see the clean newspaper there, and just look at the photo down at the bottom, it's all roughed up, yes, but no.

25 Q. And these dogs also didn't have access to water?

A. They didn't have water in their crates. They go – when they're taken out of their crates and exercised, they had water. They were hydrated and they had frequent access to water because they were frequently exercised.

30 Q. And I – and as with the others, no behavioural enrichment there; we needn't repeat that. Onto charge four on page 49 –

A. 49.

Q. – the bottom photo.

A. Mhm.

Q. This dog, I'm suggesting to you, did not have adequate shelter and you do not accept that obviously?

5 A. I do not accept that, not at all.

Q. Okay and how long do you say that dog was there?

A. The SPCA people came. Ann was mowing the lawn. They could not – she had been taken out of the laundry while that was being cleaned and that's so that she doesn't fight with the others, because she is a fighter,
10 and that nothing happens. We will note too here that all of these dogs, not one person of the SPCA, the Council, anyone else, was bitten, because our dogs are well-trained and well socialised.

Q. There are no allegations of aggression involved in this case.

A. Thank goodness.

15 Q. On page 50 –

A. 50, yes?

Q. – relating to charge five.

A. Charge five? Yes.

Q. The bottom photo, Mr Plowright gave evidence he did not, he – it says in
20 the charge that there was faecal build up alleged, but Mr Plowright conceded that that wasn't apparent from the photo, so I don't wish to cover that –

A. Right.

Q. – but I will cover the fact that that dog had no shelter.

25 A. That dog was temporarily, it was a moment in time, temporarily tethered to there, to that little piece of pipe while I gave Drontal tablets to the other three in the old runs. This puppy accompanying wherever I was walking around. That's part of his training.

1430

30 Q. And so, he was just there while you gave some other dogs tablets?

A. That's correct.

Q. So are we even talking about minutes rather than hours?

A. How long I need to do that with the dogs.

Q. Well, yes, I am asking you how long it is?

A. It depends on the dog and it depends of anything else. I remember having Drontal– three Drontal tablets for those three dogs and taking him–

5 Q. But you can't tell us whether that's something that would take minutes or hours?

A. It wouldn't take hours, no.

Q. Thank you. So, in minutes, he's caused that wear on the ground, is that what you're saying?

10 A. This is just– he was just put there and we do that if I am going in there frequently, I don't want him, with the adults, I don't want any fights, I don't want him being, how do you call it, I don't want him having any experiences that could have an influence on his little character, his little personality so that's where he's kept put, put there at that moment of time while I did that and came back.

15 Q. Okay, I will ask the question again–

A. I'm not saying that the other dogs haven't been there. I'm not saying that.

Q. Okay, so that wear on the ground, you're saying it could have been caused by other dogs that you have tied up there?

A. You can see it is wet ground.

20 Q. Could you just answer the question honestly?

A. It could be.

Q. Thank you. His water bowl was tipped over, you accept that?

A. Yes, I do.

25 Q. And you accept that if he'd had a different variety of water bowl, then it wouldn't have been tipped over?

A. No, I don't accept that. These bowls that you referring to and saying that– inferring that they were cheap. That bowl there that you're looking at cost \$20 and it doesn't come from the Warehouse.

Q. On page 51?

30 A. Yes, that is the same dog.

Q. We are seeing some more photos of that dog correct, page 52?

A. Mhm.

Q. We're seeing some dogs in the old runs, charge relating to three German Shepherds housed in the old runs with unhygienic conditions including faecal build up. I am suggesting to you there is obvious filth and faecal build up there in those photos?

5 A. And I am saying to you, Mr Radich, that is not correct. There is, you can see that they have gone to the toilet and that the concrete is damp and you can see the different discolourations through the concrete and the different levels of concrete but you can see, if you look at the water bowls, which I have already said, are very clear, the piping, the netting, the
10 boards are clean. As with the house, if you look at page 52 at the back there where the sun is shining onto their house so if that had been how you are inferring, that would not be like that so I dispute your charge.

Q. Well, I want to put to you what Mr Plowright said in relation to that, that there was incredible faecal build up and he described, this is a phrase I
15 never thought I'd use, let alone in Court, that there had been "poo-skating" and that's what we can see, top photo on page 53, isn't it, the smear—

A. We were just on 52, now you're on 53?

Q. 53, it's the same area?

A. Right, that is the same area.

20 Q. Page 53, the top photo, we can see the smearing where the dogs have been, to use Mr Plowright's turn of phrase, "poo-skating"?

A. Right, I do not want to use Mr Plowright's terminology just like he said it was fantasy and everything else. You can see here up the top one to the right, there is a skid mark there. These German Shepherds are very
25 active and we have now strangers coming into their home environment and they are moving, they— as you can see down below, there is another photo where he is jumping up with his, he's standing on his back feet and with his front feet right up the top, you can see that both dogs were clean underneath. We can—

30 Q. But standing amongst faecal filth?

A. Pardon?

Q. But standing amongst faecal filth?

A. No, not faecal filth. He had gone to the toilet, yes. It was clean and as we, and as we said with the water-blaster there, it hadn't been water blasted out, which was done, which we saw the next day and to have used the same dogs and given two charges or three charges or how many charges, we'll come to that.

5

1435

Q. You mentioned the water in relation to these dogs as well?

A. Mhm, yes.

Q. Looking at page 52?

10

A. 52.

Q. That bowl, Mr Plowright described as having nothing more in it than "green dregs."

A. Well, he has got a very good vocabulary and very descriptive vocabulary.

Q. But it's the truth, isn't it?

15

A. No, it's not the truth. You can see the green around the outside of the concrete bowl. This is (inaudible 14:35:36) that comes into here. The dogs that house the— if it was as Mr Plowright describes, we would not have healthy dogs.

Q. So this is just more lies from Mr Plowright?

20

A. Stop trying to put words into my mouth. You asked me a question, I answered it.

Q. Well, you're saying Mr Plowright's wrong, aren't you?

A. I am describing what's in here.

THE COURT:

25

Q. Right, Mr Radich is asking you a question.

A. Yes.

Q. If and logically—

A. I disagree.

Q. He is either wrong or lying, so he's asking you to comment.

30

A. Right, okay. We put fresh water in the bowls every day. They play with them, they put their feet in them.

Q. Right, but Mr Radich is asking for a comment on why Mr Plowright would say this.

A. He said so many things that aren't correct. Why would he say it? Because he is trying to create a situation. I see very little water left in there. Why, I don't know whether they've trampled it out, I don't know, but every day, new water goes into their bowls. It is bore water, it is not town water. So it is not chlorinated or treated in any way. It's straight as it comes out of the bore.

CROSS-EXAMINATION CONTINUES: MR RADICH

10 Q. I am putting a proposition to you now that that water had not been cleaned that morning, because if it had been, it wouldn't have been just green dregs.

A. The water containers were filled that morning with fresh bore water. It wasn't water blasted out, no, because at that time, we had the problems with the water-blaster because the water-blaster hose had burst.

15 Q. Still on charge 6, if we look at page 54?

A. Six, 54, yes.

Q. The bottom photo in particular, we can see significant faecal build up there, can't we?

20 A. No, we—

Q. Not just one poo that's been smeared around but there's a lot there?

A. We have a large animal which can go to the toilet six to seven times in 24 hours and to say that's significant, no it's not. If you look at the board on the left-hand, you can see that it's clean down to the ground. We have discoloured concrete, yes. We have uneven concrete, yes. The netting in front of is clean, there is, we can see there is in the middle of it, and to the side on the right, remnants of faecal matter, number twos, yes.

25 Q. So you're saying that in these photos, what we're looking at, we're seeing some faeces but for the most part, you're saying we're looking at concrete discolouration, is that what you're saying?

30

A. Discoloured concrete, there's broken concrete, you can see if we go up to the top of the upper photo, you can see that is water on the concrete, the darker colour there in the middle, the upper middle part.

Q. If we go back to page 41 though?

5 A. 41?

Q. To look at the old runs the day before?

A. 41. That's not the same runs.

Q. It's the same, it's the same—

A. No.

10 Q. The old runs, no, I'm not saying it's the same in general?

A. They are the old kennels but they are not the old runs that you're referring to in page 53 or 54, no, it's different concrete.

Q. Let's move on. Page 55?

A. 55, yes?

15 Q. Charge 7?

A. Yes.

Q. You say that's Ritzer in the top photo, correct?

A. Yes.

20 Q. And I'm suggesting to you that that dog was tethered unsatisfactorily on a short lead which Mr Plowright also said was a choke chain, do you accept that?

1440

25 A. Most probably but I don't accept that she's tethered unsatisfactory on a short lead, no, that is a two metre long bar which the lead can move along backwards and forwards and the lead itself is one metre and 47 centimetres long plus the neck collar.

Q. But you say she was just there temporarily, like all the other dogs here, you say they weren't kept other than temporarily, in the cattle yards?

A. Your evidence shows right the next day.

30 Q. I'm sorry, that doesn't answer the question.

A. No, she was not kept there.

Q. We can see however, can't we, what Mr Plowright described as basically, the sweeping away of some of the debris from the dog having been there for what I'd suggest is a prolonged period of time, do you accept that?

A. No I don't.

5 Q. If you go over the page, we're still relating to charges seven and 43, we're in the cattle yard.

A. So charges seven?

Q. Yes.

A. That can't be right.

10 Q. Sorry my apologies, no you're quite right, my apologies. So if we go then to or look at page 56, are you saying there is anything wrong with those, the conditions in which those dogs were housed, do you acknowledge anything wrong with those?

A. We have three dogs tethered there.

15 Q. I think we can move on from that in any case. We see another photo of the cattle yards on page 57 but if we go forward to the next matter that concerns a charge, it's the four adults housed in the deer shed, page 59.

A. Fifty-nine.

20 Q. And we see one of those dogs in the book, page 59 but Mr Plowright gave evidence of there being another three housed in the compartments there, do you accept that there were three in little cubicles there as well?

A. I accept that there was three other dogs, I do not accept that they were little cubicles, because they weren't little cubicles, they were very spacious areas.

25 Q. They were areas with no outlook, they were four solid walls, correct, on all sides?

A. The four solid walls did not go down to the ground.

Q. We can see, certainly on page 59 we can see it going down to the ground, can't we?

30 A. No, you're looking at the totally, you're looking at –

Q. She was one of the dogs.

A. She's one of the dogs, this is Image. And you can see she's in perfect condition and you can see she is healthy but this is the, if we go back to,

so that we get an idea, oh yes, page 58 please. That double door you see with the four crosses.

Q. Yes.

A. Down in the middle of that.

5 Q. Yes.

A. That's what's behind her there.

Q. Right.

A. And where the other dogs there, the three cubicles, if you take the – on page 58 if you take the deer shed and you take the, what do we call it, 10 um, the top, highest part of the roof so where it halves the deer shed, the left-hand side, right down and at the end, the whole width, that's where the three dogs were. You can see there's, on that page 58, you can see to the left of the door, one door. Then around the other side there is another door, an outdoor area which is enclosed, then we go to – none of 15 these dogs have been identified by the way, then the next one has two doors and then the third one, which has the whole width of the deer shed. She has two or three doors, one at the front of it, one at the side and one at the back, which goes out into an open area and that's how it is created. So they have both and to say that they're in small cubicles, 20 no.

Q. None of that space matters if the dog is tethered though, does it?

1445

A. She was tethered there to get used to the other dogs. She was put there that day so that she does not fight underneath because if we take photos 25 – I'm not sure, one moment, I'll just have a look and see if there are any other photos in here of the interior of the deer shed. Maybe that was where the... It might be the page is wrong. She was there so she could get used to the other three dogs because that's – the other three dogs are not normally the ones that are kept in her company because dogs 30 have friends and they have dislikes. So, she was put on a long chain, two-metre long chain so that she couldn't get to or try and bite or fight with the dogs that were in there because they had a gap from the concrete floor to the start of their walling, which I think went up two-metres high,

and she could easily get her head under there and we didn't want any accidents, and she was accom – she was getting used to that. The next morning when they'd came, where did they find her? She was running loose in the deer shed which they let out and said how sweet she was.

5 That's the same Image

Q. One of the other dogs was also tethered. Correct? One of the other four dogs in this area.

A. No. There was only Image.

Q. Are you sure about that?

10 A. Yes, I am.

Q. I'll just – if I could –

A. There's no evidence. There's no photos. There's no anything. The only – Image was there. There's nothing to tether them to. It's not possible.

Q. Okay, can I just take a moment if I may?

15 A. Certainly.

Q. All right, so I'm – I'll just cut to the chase and we can move on. I'm suggesting to you that Image was tethered in an unsatisfactory way on a short lead. You don't accept that?

A. No.

20 Q. That the conditions were unhygienic with abundant faeces built – fecal build-up.

A. Nope.

Q. And these dogs had no behavioural enrichment, as with the others.

A. That has been answered, yes.

25 Q. Okay. On to charge 9. Could you go to page 62 please?

A. Sixty-two, yes.

Q. I'm suggesting to you that the dogs that we are talking about here, five German Shepherd puppies in the shed were in unhygienic conditions with faeces around them. You accept that?

30 A. No, I don't.

Q. Inadequate access to water.

A. No, I don't. They had a very large water container.

Q. And of course, no behavioural enrichment when needing cover?

A. Done that.

Q. All right, on to page 64.

A. Page 64.

Q. As we move to the 13th of October.

5 A. Right. That would be charge 10.

Q. Charge 10, yes. That's Monty that we see in that picture. Correct?

A. That is Monty, yes.

Q. Where was Monty being housed?

A. Monty lives inside.

10 Q. In the main house?

A. Yes, in the main house. He was in the footage and he's also in a friend's house, and you say here that Janine Anne Wallace between the 28th of July and the 13th of October –

Q. Oh, we're not getting back to this dates thing again, we are?

15 A. I've just read that now. Okay. I dispute it, yes. Tethered, unsatisfactory, no.

Q. See, Mr Plowright said it's quite absolutely reckless to be using a choke chain on a puppy. Do you accept that?

A. No, I don't accept that. Don't know how he treats his puppies, but our
20 puppies are taught to respect and to relax on a lead. A lead is not a – not used to hurt or reprimand or anything like that on a puppy. They are taught to just respect and go on that.

1450

Q. And the dog we can see in that photo we can at least agree had no water
25 in that bowl, correct?

A. You can see how the water's dripped out of it. He'd been put there only minutes before I went to the vet's and I've answered all that.

Q. Okay, so –

A. And there's no change to what I have said on that.

30 Q. So obviously if he's been there only minutes before then the no shelter allegation would fall away, but I'm suggesting to you that he's been tethered there for significantly longer than that.

A. Well your own photos show from the 12th that was Casper that was on that fence, in a different place on that fence –

Q. Correct.

A. – and if we go back to – where's number 12?

5 Q. That's correct. There's no issue there. It was Casper in the same spot –

A. Page 47 –

Q. – the day before.

A. – and that was the day before.

Q. Absolutely.

10 A. And this puppy Monty had just been washed and groomed to go to a show up in Bay of Islands. So to your comment, no, he wasn't there a lengthy period of time.

Q. And this is the dog that you got quite emotional about when you were giving evidence, correct?

15 A. Yes, it is, because to think that this dog was in the care of the SPCA in the first three weeks it had three homes, how it had been treated, it had mats, it had been so well looked after. Yes, I did get very emotional about it because this has been a puppy that has been shown everywhere since he was three months old, on a lead with this neck collar, and a puppy that
20 I could give to anyone. Any child could take him and he was just perfect, how he should be, how he was trained. Yes, I did get very emotional.

Q. After he was seized did you at any stage ask the SPCA if you could go and visit him?

25 A. We asked if we could go and visit our dogs and we were told that certainly would not be happening, those were the words.

Q. I suggest to you that is not true at all.

A. It's in writing from Mr Greg Reid.

Q. And have you, since Monty's been re-homed, have you made any enquiries about visiting him in his new home?

30 A. I saw all the foster – when I made enquiries I was told that that wasn't – that information wasn't divulged and when I read the medical records on Monty and how he had been treated... Yeah. I've got no more comments.

Q. Okay. Charges 11, 12, 13 and 14 relate to the dogs in the bottom photo on page 64.

A. Yes.

5 Q. Understanding that the no shelter part is not pursued, you accept – do – your position is that all of these dogs were of a satisfactory weight, is that correct?

10 A. Absolutely. That two of these dogs were put into the Pukekohe pound for two weeks, that they were all of good – of correct weight for their height and for their age and to say that they had inadequate nutrition, they had the best of nutrition and that is a partial raw diet with beef and with Royal Canin 4800. They did not have a matted coat, short coats can't mat and we saw the photos of their coats on the 12th in the same kennels.

Q. I suggest to you that Dolly did have a matted coat and that –

15 A. Dolly is a long coat and if we look page – where is it? Page 53 we see that is the underneath from Mafia. Page 52 in the middle, not the right-hand side, in the middle, is Dolly and you can see the undercoat, her back legs where she's got longer tufts, it is clean and her coat – and I don't see – the photo's been taken out of Astro, but I think it's in here somewhere or one of the photos.

20 Q. And the 13th, Dolly had a matted coat, as did Astro –

A. Right.

Q. – as did Mafia and you've heard the SPCA evidence in relation to that and I'm suggesting to you they're not just making that up.

1455

25 A. This is why I would like the body camera footage shown or that the Judge can see it, doesn't have to be in Court, she can take her time and just have a look at it. That the body camera footage of all dogs that were taken on the 13th of October is, how do you say it, presented or given so that the Judge can have a look and she can make her own opinion because that is not correct. Astro has such a short coat, it could never
30 mat. Short coats do not mat. They have an undercoat, they shed their undercoat, they shed their coats, summer coat, a winter coat or if they

change in their nutrition but they were not matted and the photos, your own photos show that quite clearly.

Q. Well, I'm suggesting to you that they were matted but we can move on to that, you've commented on that?

5 A. Yes.

Q. And I'm suggesting to you that all three of these dogs were underweight as well?

A. All three were not underweight, and if I remember correctly, going on the medical, the SPCA– Auckland SPCA records, Astro was in their care, I
10 think six weeks, seven weeks and I think he put on 100 grams. When they weighed him on the 27th– that's two weeks and the same with Mafia– two weeks after he had been seized, in my opinion, unlawfully.

Q. Well–

A. And you're saying he's matted. I'm saying look at the body camera
15 footage because that shows it very clearly.

Q. Mafia and Dolly both had ear infections, didn't they?

A. They were being treated with an antibiotic, anti-inflammatory ear drops, yes.

Q. I am suggesting to you that those, so that is a yes, they did have ear
20 infections, didn't they?

A. It is a yes, that she was being treated, Dolly, yes.

Q. I am suggesting to you and I am referring to the general evidence of Jess Beer to support an inference that you are not telling the truth when you say you were treating these dogs for their ear infections in any way
25 that was going to satisfactorily deal with it.

A. I am disputing it in its total entirety. If you take Mafia, just now, that Mafia had an ear infection on your particulars, there's nothing about an ear infection, he was two weeks in the pound and if he had an ear infection on the 13th as you were inferring to, then it should've been treated, not
30 put in a pound for two weeks just to let it flourish but if I remember reading the medical records correctly, Jess Beer said he had, after she gave him a full examination on the 27th of October that he had an ear infection, I think it was the left ear, it was in one ear and it was treated, and it he was

treated, not the one ear that she said had an infection but the other ear so what is correct? Did she leave the dog without, if she thought that this dog had an ear infection and didn't treat it for two weeks, is that negligence? I treated and put DermOtic eardrops in these dogs' ears and I would— full stop.

Q. Go forward to page 66 if we may?

A. 66, yes.

Q. Top photo relates to charge 16, that's the dog, Casper?

A. Yes.

10 Q. And I put to you again, similar question, I'm sure we'll get a similar answer to that. Lead is unacceptably short for a dog that is being tethered there unattended?

A. This puppy was put there, it is not short. It is one metre and 47 centimetres long. It is on— it can move along a two metre long steel pipe.

Q. We can see, can't we, the water bowl was overturned there again?

A. Yes, it has been overturned.

Q. Now, just to the right to the water bowl?

A. Left right, yes.

20 Q. In that picture, there's a darkened area, which, if I recall correctly, was put to Mr Plowright that might have been discolouration or fragmentation of the concrete. That's— is that what you're saying?

A. No, I wouldn't say that, no.

Q. Because that's dog waste, isn't it?

25 A. Where are you talking about, are you (inaudible 14:59:44)?

Q. Just to the right of the overturned water bowl, top photo, page 66?

A. Directly under the, here, this is what you're talking about?

Q. Yes, to the right—

A. No, th—

30 Q. —of the water bowl?

A. Right, well all you can see is water. It's damp but it's certainly not...

1500

Q. I'd suggest that is solid, organic canine waste.

- A. This here?
- Q. Yes.
- A. Up here? That bit there?
- Q. That's right.
- 5 A. Oh, definitely not. Definitely not.
- Q. That's just water in your opinion?
- A. Well, we can take the same photo –
- Q. What about the other areas? Are they wa – are dark areas?
- A. We'll just take the same photo. We'll just clarify this please first. The
- 10 same photo –
- Q. From the day before?
- A. Mhm.
- Q. We can certainly do that. That is page 55.
- A. Twenty-five?
- 15 Q. Fifty-five.
- A. Fifty-five? Did you say 55?
- Q. Fifty-five, yes.
- A. Fifty-five, and if we put it next to that photo there.
- Q. We can see there's none of that the day before, is there?
- 20 A. Exactly. She's got a bone there, no, and you can see that is just water as it's certainly not faeces.
- Q. Well, I'd suggest –
- A. And if a puppy – I remember that Jess Beer saying that he urinated when he saw all these crowd of people come into him. He was a baby.
- 25 Q. And I would suggest to you, a baby that was not being looked after satisfactorily.
- A. And I would decline that totally. You've put here, "inadequate shelter". I walked there yesterday because I thought, you know, this is not correct because it's totally roofed over and it is one and a half metres over his
- 30 top from that crush area. So, if that's not shelter, I don't know what is.
- Q. I think this comes down to how long the dog was there because –
- A. Oh, he was only there for a short time because he was trained and fed. He was a spoilt little baby.

Q. You've accept that wouldn't be a satisfactory situation for a dog to be left overnight?

A. Doesn't live there, no, and I accept – no.

THE COURT:

5 Q. Can you answer the question?

A. I said no.

Q. So, you do accept it would be unsatisfactory for a dog to be there overnight?

A. We don't have a dog there.

10 Q. No, no. Can you answer the question?

A. No, no.

Q. So, are you agreeing that it would be unsatisfactory for the dog, Casper, that we see on page 66 to be left there overnight?

A. Yes. That would be unsatisfactory, yes.

15 Q. Right, thank you.

A. Yes.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. So, where did he live at night?

A. He was a spoilt little baby. Casper was usually with one of the (inaudible
20 15:02:36). Casper lived inside.

Q. Inside in the house or the cottage?

A. Oh, both. Depends who there was – he had his little favourite and she took him everywhere. And you say here, "inadequate nutrition", that the dog was underweight. He certainly wasn't underweight.

25 Q. Where does it say that, sorry?

A. Page 17. Oh, sorry, I've got – sorry, I've slipped. That's my mistake, sorry, 16. Right, and I've turned the page and was just reading the particulars, sorry.

Q. Page – well, let's – while we're there, 17 relates to Zeta. Zeta, bottom of
30 the page, page 66.

A. Yes.

Q. You reject Dr Beer's conclusions in relation to that dog being underweight.

A. Absolutely. Zeta was a very small girl. She – height was around about 56 centimetres at her wither, very feminine girl. Her weight, I think, if I remember rightly, I'm just guessing now, I think 27, 26, 27 kilos. I think 27. She was of good weight. I think she was round about 27. It would even be a little bit more, but for her height and she was of correct weight. You've got here, "no shelter," and that is totally incorrect.

Q. What, that that's – for the record, that's –

A. Page 17.

Q. Yes, that's one that we've –

10 A. Oh, you've taken it out? Great. Fine.

Q. We're not pursuing.

A. I'm just looking at this here. Sorry.

Q. Okay, so and you also reject the prosecution evidence about this dog having a matted coat, don't you?

15 A. She was losing her coat, her winter coat, and it sheds out and comes out in clips, but she wasn't matted.

Q. On page 67.

A. Sixty-seven, yes. There, you see what good condition she is and you can see little light-coloured tufts coming out. Those are not matts. Those are – that is the undercoat, the dead undercoat coming out.

20 Q. So, do you think they have perhaps – the SPCA inspector perhaps mistaken what they've called matting usually in relation to this dog and others, usually in relation to faecal matter is just them not understanding the moulting processes of the dog?

25 1505

A. I don't think they understood the matting processes of a dog, or matting because when you say like a little puppy like Casper, if you looked at that photo and saying he was matted, had a matted coat, that's what Dr Jess Beer said, you can see you can see clearly that that is not the case, that's just his new coat coming through and there's still a little bit of puppy coat, it's the first time.

30

THE COURT:

Q. Could you answer the question though please Ms Wallace, are they mistaken?

A. They are mistaken, yes, they don't understand the dimension of it, yes.

5 CROSS-EXAMINATION CONTINUES: MR RADICH

Q. And just to be clear, your evidence in relation to Zeta, charge 17, who we see her at the top of page 67, correct? In relation to her weight Dr Beer gave her two out of nine on the Purina scale but you described her in your evidence as being a little bit heavy in condition.

10 A. You can see very clearly in that photo she's certainly not a two out of nine, but that's Dr Beer's, whatever she's said, it is incorrect, she weighs, you can see from the photos she is a little bit heavy, I think she – it was 27 or 28, for her size.

Q. But you would have been very comfortable if you thought she was a bit
15 heavy with this dog that Dr Beer has rated two out of nine on the Purina scale –

A. All I can say is Dr –

Q. – this dog losing a bit of weight wouldn't have been problematic?

A. She was put into the pound for two weeks so if she had a kilo less and
20 trained but we don't just lose weight we train them and turn that excess weight into muscle, to firm dry muscle, so it's not a matter of feed it's a matter of training.

Q. Page 68 and 69 we see the situation with Debbie that we've already covered, that involved charges 18 and 19, I don't propose to put the case
25 again to you there, I think that's been done adequately.

A. Mhm.

Q. But I would say that you accept, don't you, that she had an ear infection?

A. I accepted that we were treating her, yes, yes.

Q. And you say you were treating her adequately for that?

30 A. Absolutely, she was being given, morning and night, antibiotics, and she was being treated with ear drops, yes.

Q. If you go onto page 70.

A. You've got here that she – oh no sorry, yes, 70, 20.

Q. Where we see the deer shed, correct?

A. So we're onto charge 20, is that correct?

Q. Yes.

5 A. Okay.

Q. Where we're dealing with Paris who was in one of these cubicles in the deer shed, correct?

A. That is correct, that is the far cubicle that takes up a width of the deer shed.

10 Q. Had Paris been there overnight or just that day?

A. Sorry, what page are we on now?

Q. Sorry, bottom photo on page 70, you don't, it's the photo labelled "Paris" but we don't see her very clearly but it's also the dog on the next page, page 71.

15 A. Yes. I'm sorry, I can't answer that, I don't know. All I know is that the deer shed was water blasted that morning, um, so I'm sorry about that.

Q. Just to be clear, what I'm asking you is, was Paris being housed overnight there?

20 A. That's what I said, I cannot give you the answer, I do not know. All I know is that the deer shed was water blasted that morning, she had been outside, she was brought in.

Q. She might have been there overnight?

A. She might have been but I can't say with 100% certainty but she's not a fighter.

25 Q. But I thought you told us earlier in your evidence that dogs were not housed, other than temporarily, in the deer shed?

30 A. That's what I said, you asked me and I said: "No," but you keep trying to come back and trying to change it, I don't know. This was water blasted that morning because I did it personally. And with your charges you said, "Inadequate nutrition, dog underweight." If we look at page 71 you can see she is being marched out and you can just see a slight waistline up the top going along her backline and you can see that she is in good

condition and matted coat, you can see there's tufts coming out from her winter coat.

1510

5 Q. Again, there's – what we're dealing with here is the difference of your interpretation as opposed to that of Dr Beer, correct? You're rejecting Dr Beer's evidence that this dog was underweight and had a matted coat?

A. Yes, I am.

Q. Okay. Did that dog – there was no bedding in there, was there?

A. I wasn't there when they took her out.

10 Q. Did you have bedding for dogs in the cubicles?

A. When dogs were – we had bedding, but I don't know what was there on that day. There wouldn't have been any in the morning because it had been water blasted, because any bedding is taken out, but I can't say that.

15 Q. Okay. Onto page 72.

A. 72? Yes.

Q. Now we're dealing here with – again, some dogs in the woolshed, correct?

20 A. You see two photos of the woolshed, yes. One enlarged, one magnified and that is the larger picture at the far end.

Q. And we can see some faecal matter on the floor there?

A. You can see one faecal matter on the floor there, yes.

25 Q. And we can see one empty water bowl or one empty bowl, whether it's water or something else, empty apart from bird poo and one overturned container as well?

A. One stainless steel bucket, yes, 12 litre bucket has overturned. Yes.

Q. Then we go over the page to page 73.

A. Yes.

Q. Relating to charges 21, 22, Desney.

30 A. 21, 22.

Q. You reject evidence of Desney having a matted coat?

A. Yes, I do.

Q. And what do you say in relation to her having skin and ear infections? Do you accept that she had skin and ear infections?

A. Debbie had a change of food and she reacted. She had an allergic reaction to the new food that we were giving her and the ear reaction we believe was allergies and – but she was being treated with DermOtic ear drops, which is an antibiotic and anti-inflammatory ear drop.

MS STOIKOFF:

I'm sorry for the interruption. Did the witness say Desney or Debbie?

MR RADICH:

10 I think she said Debbie, but I think we're all understood.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. You're talking about Desney?

A. No, Desney. Sorry.

Q. And I'm simply going to suggest to you that you weren't giving Desney proper medical treatment in relation to those skin and ear infections.

A. I reject your suggestion.

Q. We have on page 74 the three puppies in there, Elite, Puppy and Emma, relating to charges 23, 24 and 25. They're all identical; I'll deal with them as a group. The concern there of the allegation is the housing there which Jess Beer spoke about as containing a risk of injury and you don't accept that, correct?

A. I don't accept that at all, no. This is where people work and they have been MPI improved and, no, I do not accept that at all.

Q. Sorry, when you they've been MPI approved you –

25 A. These are –

Q. Can you let me finish the question?

A. Sorry, yes. Sorry.

Q. You're not suggesting they've been MPI approved for the housing of dogs, are you?

30 A. I've already explained that, that MPI do not have any documents for kennels.

Q. So –

A. They do not have any form – this is a woolshed and this woolshed has been, like the other work places, whether it's a deer shed or whether it's the cattle yards, all of these building are used and worked by people that it has to be a WorkSafe environment and – which the yards, the deer shed, MPI contracted people use.

Q. Okay, so I'm –

A. And it is safe health –

Q. – just curious as to what – I just want to understand why you're making this comment that it's been MPI approved when whatever you're talking about there doesn't relate to the housing of dogs, which is what we're talking about here, right?

1515

A. So, you're saying if it's good enough for people, it's not good enough for dogs?

Q. I'm saying that –would you just answer the question?

A. Would you like to say the question again please?

Q. I'm trying to understand and I am hoping you can shed some light on this and while you keep saying it's MPI approved as though that's something relevant, when we're talking here about the housing of dogs and not– that is not something that as you say, MPI approves or rejects.

A. You say on your charges "Unsafely housed" which I reject. We have, if you're saying, the SPCA housed the dogs safely then we have one of the dogs that was taken from (inaudible 15:15:50).

25 **THE COURT:**

Q. Ms Wallace, can you answer his question please?

A. No.

Q. He is asking you why you have said that it's MPI approved?

A. Because we've had all these officials over the years go through all our buildings or they're appointed contractors, whether it's to–

Q. Okay, but he was asking you why you were saying that when we're talking about dogs?

A. Because this is a multi-purpose shed. It is an area that has been well-used over the decades and, it's been regarded as a safe environment.

CROSS-EXAMINATION CONTINUES: MR RADICH

5 Q. You're not suggesting anybody from MPI has come through and said: "Yep, this is a good place to house dogs"?

A. I've never asked anyone. I asked them to come down and see the new kennels and they said they couldn't, wouldn't.

10 Q. So again, I'd suggest you therefore, the fact that you keep saying this is MPI approved is completely irrelevant.

A. Okay.

Q. This was, you've said, a purpose-built building, correct?

A. I wasn't around when it was built, but yes, it's a woolshed. A three bay woolshed, yes.

15 Q. And it's built for the purpose of shearing sheep, correct?

A. It was built originally for shearing sheep, yes.

Q. And when one is shearing sheep, they generally come through and then leave again. This is not somewhere where even sheep would be housed on a long-term basis, is it?

20 A. This is an area where the sheep overnighted, it depends how many sheep are being shorn and prepared for shearing so I have nothing to do with it, how long they're in there, how long they're not in there but it is an area where— they're holding pens where the sheep are there for periods of time or when we're trying to mother up a mother sheep and her newborn, they are put in there until that bond is created.

25 Q. So, what I'm saying is that this is a building that was built for the temporary housing of sheep, not the longer term housing of dogs.

A. People live in wool sheds, so a wool shed is a very— it's a strong building, okay, this is an older building yes, but people live in wool sheds. People work in wool sheds.

30 Q. Go over to page 75?

A. 75, yes.

Q. The bottom photo particular, the particular, we're looking at what you described as organic waste of all different animals, correct?

A. Yes, yes.

Q. And you said that built up over many, many years, correct?

5 A. That's correct.

Q. And this is what those dogs that are being housed in the woolshed are on top of, that's what's immediately beneath them, is it?

A. Two metres.

10 Q. With no solid floor underneath them, just the slats and that updraught that Mr Plowright referred to?

A. That updraft, first of all, would have to occur. They were all in the woolshed, it was a very warm, dry environment and that's how it's constructed, worldwide.

Q. In relation to the slats –

15 A. Yes.

Q. – you reject the suggestion that slats of that nature, were those gaps fine for those sheep with their cloven hooves but not fine for dogs, let alone puppies running around?

1520

20 A. No, I don't accept that. I don't accept that at all. You can go out and buy a new kennel and have the same slats, wooden slats, and it is normed and it is specifically built, normed, so it doesn't hurt their feet, and there was not one puppy or adult or any dog that had injured feet when they came on the 13th or at any time.

25 Q. But I suppose we're talking about the risk here, and you don't accept that there's an unacceptable level of risk to that, the kind of risk that Dr Beer spoke about.

A. No, I don't accept that. No.

Q. Go forward to page 76.

30 A. Seventy-six, yes.

Q. Which is Danny, relating to charge 27.

A. Twenty-seven.

Q. This doesn't tell us a great deal that photo in relation to the charge here. That was the area where Danny lived. Correct?

A. That is correct, yes.

Q. And Danny did have an ear infection.

5 A. He has – Danny had very wide, wide – the base of the ear was very wide. Lovely big ears, but very wide at the bottom. An ear infection can be an allergy, it can be a grass helm, it can be dust going in, it can be – there's so many things, and this is why it is important to have an otoscope so you can take – have a look, see what it is, take a sample, have a look at a
10 microscope so it can be treated correctly.

Q. And is that what you've done in relation to Danny?

A. Danny, I gave DermOtic eardrops to, which I received – I didn't have a look under – if you're asking did I have a look under a microscope, no.

15 Q. Can I – what I'm saying is you've just told us that this is why it's important in relation to the diagnosis and treatment of an ear infection, it's important to have an otoscope to look under something under a microscope and then decide what should be done because there can be a number of different things. So, what I'm asking you is if that happened in relation to Danny.

20 A. These were the statement from Jess Beer that he had an ear infection without an otoscope, without having a look, and this is your charge against me, an untreated ear infection. I have answered that question that this dog was treated and he was treated with DermOtic eardrops and that would've been in his blood system.

25 Q. Would you care to answer the question, or shall I just move on?

A. I think I've answered it sufficiently.

Q. Well, no, you haven't. You've said that the correct way to diagnose and treat an ear infection is with an –

A. As a vet –

30 Q. Let me finish – is with an otoscope and a microscope because there could be many causes and that's the way that you can correctly diagnose it. So, did that happen with Danny?

A. Did that happen with Danny? This is before the 13th?

Q. Mhm.

A. I would have to have a look at the medical records.

Q. You're the one who's saying you were treating this ear infection –

A. I was treating this, yes, and I said how I've treated it –

5 Q. And you've told us that the correct way to diagnose and treat it is with an otoscope and a microscope, but that – you hadn't done that. You hadn't lived up to the very standard that you're saying should be adhered to.

A. As a vet, and as a vet – if I take a child and a child falls over and hurts – grazed its knee, I'm not gonna rush it off to a – to the hospital. It would
10 be iodine or something and a plaster put over the top. That is a comparison. Danny, you said here, "an untreated ear infection." I dispute that. That is not correct, and I'm saying because this statement was made by Dr Jess Beer, she made that statement on the 13th and said that he had an untreated ear infection. She did not look into his ear with an
15 otoscope. She could not tell if he had an infection or not.

Q. But he did have an ear infection. You accept that.

A. I accept I was treating him, yes, because you had here, "untreated ear infection."

Q. Did you take Danny to the vet at any stage –

20 A. And I said I would have to have a look at the veterinary records.

Q. Well –

OBJECTION: MR GARDINER (15:24:35)

LEGAL DISCUSSION – SPCA CLINICAL RECORDS (15:24:44)

1525

25 **CROSS-EXAMINATION CONTINUES: MR RADICH**

Q. So you can't tell us whether you'd taken Danny to the vet to get treatment or to get a diagnosis and treatment for that ear infection, you're not sure?

A. I'm not sure, if we see any signs of any dogs that could, feeling a bit sensitive around their ears we flush them out and we apply ear drops,
30 and his ears would have been flushed out, Danny wasn't, didn't have a full examination until four days later and then SPCA came.

Q. What about the dogs we've already covered –

A. Yes.

Q. – in relation to ear infections. First charge 22, Desney, had you ever taken Desney to the vet for this ear infection?

5 A. Desney had been to the vets, um, but without having any records there I can't – it's five years, I can't say when. We always have eardrops on hand because shepherds do have large ears and in summer, this is spring, it is a normal occurrence just like, as people we get wax in our ears or we can get something in our ears and we clean our ears and that's
10 what I do with the dogs.

Q. Had you taken Debbie, charge 19, untreated ear infection. Had you taken Debbie to the vet for that ear infection?

A. For that ear infection – I'd have to look at the records, I don't think so, I don't know I'd have to have a look at the medical evidence.

15 Q. Mafia, charge 15, untreated ear infection. Had you taken Mafia to the vet for that ear infection?

A. Mafia was at the vets, that's a very good one, Mafia was at the vets probably not even three weeks prior. He had a health check and at that point of time he was 100%, with the changes of weather that can happen,
20 Mafia was had a health check, taken in a vets, I do remember that quite precisely because Mafia was X-rayed and, what else, was X-rayed.

THE COURT:

Q. Okay, but can you answer Mr Radich's question, he asked you if you'd taken Mafia to the vet for the ear infection?

25 A. For the infection, no.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Dolly, charge 13, untreated ear infection, had you taken Dolly to the vet for the ear infection?

A. I don't believe so.

30 Q. But yet you're very critical of the SPCA to diagnose an ear infection without the use of an otoscope but you have no trouble diagnosing and

deciding the proper treatment for an ear infection without an otoscope.
How does that work?

5 A. I do not have an otoscope and if I see, I know my dogs, I've had them since they were born, then and an ear infection or light ear infection can be an occurrence, it's something natural, something normal. If there is a serious ear infection of course we take them to the vet to be examined but Mrs Beer, who is a vet, said that they had a serious ear infection and if it was serious then why wasn't it treated on the 13th and not until the 16th to have a full examination? It's a contradiction in itself.

10 Q. Pages 77 and 78 we've seen –

A. Seventy seven and 78.

Q. – we see Pirelli in the –

A. Yes.

Q. – in the hay barn, correct?

15 A. What charge is that?

Q. Twenty eight.

A. Twenty eight? Right, yes, that is Pirelli.

1530

20 Q. Right. I suggest to you that Pirelli was tethered unsatisfactorily there, particularly in relation to a short lead. You presumably reject that?

A. I do.

Q. Pirelli had no access to water on account of the water bowl having been knocked over, correct?

A. Well, if the bowl is knocked over. But he did have access to water, yes.

25 Q. Before it was knocked over?

A. Before it was knocked over, yes.

Q. Okay and –

A. You wouldn't put an empty water bowl there.

Q. – you reject Dr Beer's evidence that this dog was underweight?

30 A. Yes, I do reject that. He was of correct weight for his age and size, according to the (inaudible 15:30:58) standards for the German Shepherd breed dog.

Q. You understand we're dealing here with the Code of Welfare for Dogs? There's not a separate Code of Welfare for German Shepherds?

A. I understand we're dealing with the Code of Welfare, yes.

Q. And that German Shepherds aren't judged by a different standard?

5 A. The German Shepherds are not judged by a different standard? We have our standards and our rules and regulations which we have to adhere to, and these are not house pets that are a Labrador. A Labrador has a different shape and form, or, a Whippet, and that is – the dog was – inadequate nutrition I reject, the dog was not underweight.

10 Q. Okay.

A. And the photos, you can see here the way – you can see of his weight there. You can see – and the weight that was, which he was weighed when he – it would have been on the 16th I would say, I can't remember, you'll have to look at the Auckland SPCA medical records.

15 Q. Okay, well let's move on because we're at Ritzer and I've traversed Ritzer I think relatively thoroughly with you, but I have focused very much on the tethering, but I need to note also that Ritzer didn't have access to water.

A. She had a water bowl there, which is in one of the photos.

Q. Ritzer – but it was overturned?

20 A. It was overturned, yes.

Q. That Ritzer was –

A. On page 18.

Q. – living amongst her own faeces.

25 A. It wasn't unhygienic conditions. You can see there is one set of fresh faeces there, so living – the statement, "living in her own faeces," that's a little bit farfetched.

Q. Just in relation to Ritzer, you commented, I recall, earlier in your evidence about Ritzer's body weight –

A. Yes.

30 Q. – at the time Ritzer was euthanised, being – and it was rated by Mr Hardcastle three out of five on the body condition score, which is in the idea range. Correct?

A. That's correct.

Q. And you seem to be suggesting, I interpreted when you covered that earlier in your evidence, that this was a signal of Ritzer's good health and the condition that you had kept her in?

A. Ritzer was in perfect health and perfect condition.

5 Q. Could I –

A. I think her weight when she first entered the SPCA, I'm just going on my memory, was around about 27.6. Could be 28, I'm not quite sure, and for the – reading those medical records and the stress that she's gone through, she's not in her home, she's not with people – surrounded by people that she knows. The stress to her would have been immense.

10

Q. I try –

A. I see she's put on weight, one kilo or two kilos. I just don't know the exact weight there, but that could also be the medication. I don't know, but she was in good condition because if she wasn't when she went in she would have dropped that weight and it would have gone down to whatever.

15

Q. Well, let's clear that up, shall we? Can I just – can we distribute this document to the – one for the witness, one for her Honour.

A. You can also see how good she is on page 83, her weight and her condition. Oh, there it is, thank you.

20 1535

Q. Okay, now I just want to take you to a couple of parts of these, these are the clinical records–

A. Just one moment please. Right, thank you for that.

Q. These are the clinical records in relation to Ritzer, correct?

25 A. Yes, with–

Q. Now, can I direct you first of all on page 2 to an entry four lines down, 13th of October?

A. Mhm.

Q. The day she was seized, weight 27.4 kilograms?

30 A. Perfect weight.

Q. We go over the page to the 16th of October on page 3?

A. Mhm.

- Q. And we go about a quarter of the way down the page, we can see weight, 29 kilograms?
- A. Correct.
- Q. So, she's put on 1.6 kilograms?
- 5 A. 'Cos she's not moving, yes.
- Q. But we can see, in terms of her body condition, she's rated 3/9 which is underweight, correct?
- A. No, it's not correct. It's been rated on that scale from Jess Beer but you can see from the photos on page 83 of her good condition and her correct
- 10 weight.
- Q. And then if we go—
- A. And then to put, that is the absolute— for her size, 27, 28 kilos was how she should be. Any heavier and then she's got an injury. You're just putting more stress on that injury but this is how it is.
- 15 Q. Page 5?
- A. Page 5?
- Q. Yes?
- A. Yes.
- Q. Go about sort of eight lines down.
- 20 A. Eight lines.
- Q. There's a paragraph that begins: "Gross examination," do you see that?
- A. Yes.
- Q. Now this is, this is the report following Ritzer being euthanised?
- A. Mhm.
- 25 Q. And we can see three lines or two or three lines further down at the end of the line, the dog weighed 31.3 kgs and was in fair body condition, body condition score: 3/5, you see that?
- A. I do see that.
- Q. So, Ritzer and the SPCA care has gone from 27.4 kilos and rated underweight to 31.3 and rated ideal weight, correct?
- 30 A. You just said, he gave her the grading of 3/5. I had no weight in front of me and that is the—
- Q. Had no weight in front of you, there's— it says 3—

A. I can see that now, when I said that, when Mr Hardcastle said he gave her a 3/5 on the Purina Petcare scale which is on the appendix from the, what is it called, sorry, I've got a mental block, from the government, I can't think of what it's called.

5 Q. Well, what I'm putting to you—

A. But what you're putting here, you're trying to say that she's gone from underweight to ideal weight, I reject that. She was of correct weight with 27.6.

Q. Earlier in your evidence?

10 A. Yes.

Q. You referred to the fact that she was rated as ideal weight at the time she was euthanised and you appeared to suggest that this spoke to the good care that she'd received under your stewardship, is that correct? Was I interpreting your evidence correctly there?

15 A. That she was of good weight when she went into the SPCA, yes and that she was—

Q. Well, you spoke specifically about her weight at the time she was euthanised so what I'm saying is that any credit that there should be for that should go to the SPCA and not you?

20 A. Mr Hardcastle, I'll just— I do have a few points there. Mr Hardcastle said 3.5— 3/5 for the Purina scale which according to the diagrams that is in the attachment to the Code of Welfare, that's it, that's what I was, the word I was looking for. The Code of Welfare. That is graded as ideal weight. Those are the words there, I think. I haven't got it in front of me
25 but that was the middle point. Mr Hardcastle didn't say any weight, if he had said 31.3, then I would've said: that's right at the upper end of a German Shepherd, a German Shepherd should only be between 22 and 32 kilos. We do not want their bones, their joints stressed through overweight and obesity. It's well meant, yes, and I'm sure, with her
30 character I'm sure she would have found a lot of friends that would have looked after her.

MR RADICH ADDRESSES THE COURT – APPROPRIATE TIME (15:40:32)

HOUSEKEEPING DISCUSSION (15:41:36)

COURT ADJOURNS: 3.50 PM

COURT RESUMES ON THURSDAY 3 FEBRUARY AT 10.14 AM

5 **MR GARDINER ADDRESSES THE COURT (10:15:04)**

COURT ADJOURNS: 10.25 AM

COURT RESUMES: 10.35 AM

THE COURT ADDRESSES MR GARDINER (10:35:24)

THE COURT ADDRESSES MR RADICH (10:36:08)

10

EXHIBIT 5 PRODUCED – USB WITH VIDEOS

EXHIBIT 6 PRODUCED – SPCA CLINICAL RECORDS FOR RITZER

CROSS-EXAMINATION CONTINUES: MR RADICH

15 Q. Ms Wallace, just a few questions in relation to ear infections generally. In general, dogs are more susceptible to ear infections than humans. That's right, isn't it?

A. That's a good question. I don't know. Humans can get earaches, earwax, ear infections. I wouldn't know. I just know that dogs – it's something very common. It's as common as an earache in humans.

20 Q. So you had – your dogs had quite a – we've heard about quite a few that had ear infections, but are you suggesting it wasn't at a level across the population of dogs on your property that it was of any concern?

25 A. No, it's not of concern because with the heat or with the change of weather there can be so many reasons, just swimming, getting water in their ears, but we just take very good care of their ears and if we see anything we react and we treat them.

Q. Is there anything particularly about the anatomy of a German Shepherd's ear that makes it susceptible – more susceptible to ear infections?

A. Good question. I think because first of all their ear – they are very large ears, they are open ears. The base of the – base of the head – top of the head. Some are wider at the base, some aren't. Some are susceptible to it, some aren't. Like people, some are susceptible, some never ever get an earache in their life.

Q. Yes, but the internal anatomy I suppose I'm thinking about particularly –

A. Oh, inside the ear?

10 Q. The internal anatomy of the ear is different, isn't it, to a human's for example?

A. Well, you've got the outer ear and the middle ear and the inner and it does go along the ears and it does go along the middle ear and then to the inner ear. That's a very good question. I haven't taken the human ear and compared it with a German Shepherd ear, so, yeah.

Q. Okay but you know about German Shepherds so –

A. I know about German Shepherds, yes.

Q. – what can you tell us – what can you tell us about the internal anatomy of their ear canal?

20 A. With the ear canal – well, I have been trained by our vets that I should flush it out with soapy water very gently –

Q. No, no, the anatomy not the treatment.

A. The anatomy of the ear? The middle ear, the length of ear –

Q. The ear canal.

25 A. The ear canal? Why are you asking me this?

Q. Could you just answer the question?

1040

A. So you're asking me to describe the middle ear. Is that correct?

Q. I'm asking you to describe the ear canal of a German Shepherd dog as best you can.

30

A. Right. The ears are very sensitive and German Shepherds seem to be prone sometimes, all dogs really, whether they've got floppy ears or upright ears, erect ears. With the ear canal, there is a... It's like a – if you

take a circle and cut that in half very gently, it's like a half-circle at the base of the upright ear. That's what we call the outer ear. From there, from his half-circle, is a lengthy, probably depending on the size of the dog and age of the dog, a long – like a – what do you call it, a – it's like a tube. So, you've got the outer ear, the middle ear with it like a tube, which is very sensitive. With ears you never put anything into the ear or any optics into the ear. This is how I have been trained to look after the ears and I've only used flushing them out with saline or with soapy warm water, massaging it gently into the middle ear, then the dog will shake its head to remove whatever's in it, and then to gently with a wet cotton wool pad or a wipe, a special aloe vera wipe that's very gentle and just gently wipe out the ears, but never with any force.

Q. Sorry, that's all very well. I wasn't asking about treatment. I was asking about the anatomy. In terms of the anatomy, you've told us that the ear canal is a tube. Can you tell us anything more in relation to its shape, its direction?

A. Yes, their direction moves along the – towards the jaw.

Q. Sorry?

A. Towards the jaw. Down towards the jaw.

Q. It goes down towards the jaw. From the outer ear, it goes down –

A. And then along.

Q. And then along. That's the point I was getting to.

A. Right.

Q. That's a trajectory in an ear canal that is – that makes ear infections particularly risky – well, not particularly risky but more common, isn't it, because that trajectory gives the opportunity for infections to essentially pull in the area because the ear canal is not straight.

A. And what is the question? You've just told –

Q. What I'm suggesting, what I'm saying to you is – come back to my original question that these dogs are susceptible to ear infections in part because of the shape of the ear canal. From the outer ear, it goes down sort of vertically and then horizontally across which creates scope for infection to pull different, for example, to a human ear where the ear canal is

straight and it's more easy for objects or liquids or infection to be excreted,
Do you agree with that?

A. Yes, I do, yes. This is why I'm – yes.

Q. And isn't that why swimming a dog with an ear infection is a bad idea?

5 A. It depends whether the dog had an ear infection before. It can be related to swimming that there's some water in the ear.

Q. Yes.

A. And an infection can only be determined. You're talking about everything as an infection. I'm talking about information or anything with an ear. An
10 infection, this is why if it is known that it has a serious ear infection, of course it wouldn't be swam.

Q. Of course, it wouldn't –

A. And they don't put their ears or their head underwater.

Q. As you said –

15 A. Normally.

Q. I'll just repeat exactly what you said there: "If it's known that a dog has a serious ear infection, of course it wouldn't be swam." And yet, these dogs in May, apart from Tiffany who didn't have an ear infection, were all swam. The other five, weren't they?

20 A. They were swarm, yes.

Q. And some of those dogs had ear infections, didn't they?

1045

A. No. Only – Image had been treated. She was – I'd cleaned out the ear. I don't know whether it was just one ear. There was one ear that was –
25 that I thought needed that and so I treated both of them. I never treat just one ear and they were cleaned out. I'm not sure whether it was from the water, there was just (inaudible 10:45:11) water in there, but I cleaned everything out and treated her and gave her ear drops and massaged those into the ears so that she was fine while she rested until I came and
30 picked her up.

Q. So you're saying that by – because of your treatment, while you acknowledge that a dog with an ear infection shouldn't be swum, Image's

ear infection was such that to you it didn't cause any concern to swim her?

A. No, she didn't. She was healthy.

5 Q. And you understand though that Dr Dreyer who examined her shortly after she'd been seized, said there was a severe pustular exudate, very thick, the dog had to be anaesthetised for the correct treatment to be identified, was given antibiotics, was given ointment and was given – and was in obvious pain, but you say no problem with swimming her in that condition?

10 A. This girl, when was she seen? She was seen in the afternoon, late evening, early evening.

Q. The same day.

A. Early evening. When I swum her it was early morning and her ears were fine and so was she, and this whole – where I am very confused is, we have a – when Mr Plowright arrived at 1.15 –

15 Q. You're not changing the subject, are you?

A. No, I'm not, because I don't know whether all of this has been tampered with, but we'll go back to that. Go back to Image's ear. Image, in that – at that morning when I took her out she was fine and I did not see any pus or any exudate, as you said, come out of her ear, no, and I would like to see evidence, not just in writing, I'd like to see photos of that if that's been done. All right?

20 Q. So you don't believe – are you saying you don't believe Dr Dreyer's analysis, or are you saying that the condition that he observed had developed in the course of less than a day?

25 A. I am saying, when I took Image up that she was fine. Image is a bitch that she can have on or off – as we've seen on or off ear infections, which we've seen in the treatment of the SPCA, because in that whole length of time she had various treatments. So if it was all just a matter there wouldn't have been a problem and we've never had a serious problem with Image. She's never – her ears were, as we saw, upright, bright and alert and if she had pain she would not be bright and alert and she would not have upright ears; those ears would be down.

30

Q. So can I clarify –

A. Mhm.

Q. – do you accept or do you reject Dr Dreyer's evidence, the accuracy of his observations when he said that she had a very thick and severe pustular exudate from her ears and was in obvious pain and had to be anaesthetised?

A. When was she anaesthetised?

Q. Do you accept that?

A. If you could just say when she's anaesthetised, because it wasn't the same day.

Q. I can't give evidence, but you've heard the evidence of Dr Dreyer, haven't you? And you've heard the evidence that he examined all the dogs on that day and those were his findings on that day. So, do you accept it or not?

A. Dr Dreyer has sworn that he saw the dogs on the 18th of May? All those contradictions in the body camera footage of Mr Plowright and Mr Rhys Heatley saying that the dogs would be taken to Pukekohe. Um, if Dr Dreyer says that, it could be possibly correct. I wasn't there. I don't know where the dogs were identified. I know that morning that she was healthy.

Q. All right. Let's go back to events that –

A. Mhm.

Q. – morning. What time did you leave with the dogs to take them up there?

A. That's a good question because I start very early in the morning and do various things. I did think – it would be around about seven. I don't know. When I start training the dogs I like to get them out early before it gets warm and it was a good day on the 18th and so I would have gone out earlier. I would have been up there, I think around about, completed, I'm sure I would've been completed with that about, I think about 7.30.

30 1050

Q. Okay, completed about 7.30?

A. I think so, 'round about then. It could– give or take, yeah, give or take.

Q. So we can certainly say, can't we, that the dogs that we've seen photos of in the bush tethered in the bush?

A. Yes.

Q. They were there tethered and unattended for at least, what, five hours?

5 A. We had— normally the dogs would be picked up after their kennels have been cleaned and they had their training, you could see from the photos that they are well-muscled from their training. It's their resting time and yeah, they'd usually been there for two, three hours. They have that — it's the time it takes, usually. If it's shorter, great. If it's a little bit longer, so
10 be it, but then they are picked up and taken back down.

Q. I will repeat the question and I will be grateful if you could answer it?

A. Certainly.

Q. We can assume on your evidence if you completed with them at about 7.30, they would have been in the bush, tethered and unattended for at
15 least about five hours, right?

A. At least about fives? 7.30, 8.30, 9.30, 10.30, 11.30, no. This all happened, Mr Plowright arrived at 11.20 at the neighbour's property with a back-up. Mr Plowright, according to his own body camera footage and that's body camera footage and the second, the first one which is 7375
20 which I would like to be shown, I would like you to show it. I have it on a stick so it's easy for you to show to the Judge when he arrives because he says that he saw sight of the dogs from the neighbour's property at that— that's at, three— 1.15 or 13.15 and then at 13.26, he is showing Cody Taylor, Laurie Davies and there was one other person on his
25 cellphone, photos of the dogs, each dog, describing each dog with their buckets, how many bitches, saying how sweet they are and about the dogs and you could only do that if you were right in front of the dogs which he contradicts himself in his own evidence and his narrative. His narrative and the evidence.

30 Q. You're getting way off topic, Ms Wallace could I ask you—

A. No, you're asking me if they were five hours. No they weren't, because I say no.

Q. Yes, how many hours do you say it was, how many hours do you say they were there unattended?

A. Unattended, yes, four hours.

Q. So 7.30 to 11.30?

5 A. Approximately, give or take, yes.

Q. And then that was when Mr Plowright found them in the bush and then came back, right, he didn't take them on their first trip, did he?

A. He didn't take them, he said he wasn't there in the bush. That's what he states in his body camera footage. That he wasn't there. He wrote an
10 AWS129 which says that the owner or person in charge is not on the property that's some— that's a document that you write and he came into the property and said he only d— only sighted them from the neighbour's property and then further along in his evidence, on his body camera footage, he explains what he's seen with the dogs and then it goes along
15 further and he goes in great detail so I'm very confused, your Honour, how it is, what it is because that means that scene is not guaranteed untampered with. People have been there, and this has all come out in his own body camera footage. I had no idea where they were beforehand. He just arrived suddenly on the farm and they were given this 129 form
20 which I didn't understand and a surrender form.

Q. You're getting— this is irrelevant. This is irrelevant, Ms Wallace to the question that I've asked?

A. Why is it irrelevant?

Q. I was just asking you how long, trying to work through how long these
25 dogs had been unattended in the bush, 129 notices and such —

A. It's not bush, it's a —

Q. Are irrelevant to that question so please try to stay focused?

A. Okay, sorry, the, yes, sorry. (inaudible 10:54:39) what they called the bush, this is our resting area and they were there, I would say, as I said,
30 just going on their evidence, four hours. I would've been up, back up there normally or someone from the rest of the crew would have been up there bringing them back down to come back into the kennels.

1055

Q. But it's at least four hours, isn't it, until you're aware that the SPCA are on the property and have a problem?

A. Approximately, yes. I said give or take, yes. I can't –

5 Q. So you can't say the SPCA interrupted your plans to go and get them in less than four hours, can you?

A. No, I can't.

Q. And you say you'd completed everything with them and left them there at about 7.30?

10 A. I said give or take. I don't have the times. I don't have my books, but give or take, it would've definitely been completed by 8 o'clock. Definitely. Up and back down.

Q. So, what time did you set off with them?

A. But I would say more quarter to eight, 7.30, quarter to eight, round about that time.

15 Q. Okay, pushing the time forward, but okay. What time did you set off that morning with them, with those dogs?

20 A. I would say setting off, 'cos it's not a long journey, setting off probably 7.30, quarter to eight (inaudible 10:56:17). Around about... Yeah, I would say about quarter to seven, quarter to seven, seven. It's all in that timeframe, yeah.

25 Q. About quarter to seven, so you're saying the process of exercising the dogs, swimming the dogs, taking them to the place they were ultimately found, getting water from the stream for each of them, putting them in those locations, you're saying all that took less than an hour or about an hour?

A. Oh, absolutely. About an hour.

Q. I'm suggesting to you that they'd been there for a significantly longer period than that.

A. Well, I dispute your suggesting.

30 Q. Okay. Well, let's take a look if we can at one thing in particular. Tell me about this stream and the quality of the water in it?

A. The stream, that particular stream is –

Q. Said it was fast-flowing. Is that right?

A. No. It's very continuous flowing. It fluctuates depending on the rain, what's coming down because it's from the hills coming through and it gravitates down. It's – there's a little tiny waterfall and there is just – it flows through. There's photos there of the stream, and on the video, it is very clear – on the body camera footage, very clear the stream, the little waterfall and the water that it drops into. It's very clear. In the stream, there is freshwater crayfish and they can only exist if it's a very clean water.

Q. So, the water is clean in the stream?

10 A. The water's water. I'm just saying that a freshwater crayfish – I haven't had that water analysed.

Q. Okay, here's what we can agree on, you're saying the water was of a sufficient quality, that you'd have no problem feeding it to your dogs.

A. Definitely.

15 Q. Okay, good. Could you please – if you don't have it in front of you, could prosecution exhibit 2 please be put in front of the witness?

WITNESS REFERRED TO EXHIBIT 1

A. Thank you, and that's page 29?

20 Q. Page 29. These are series of photos taken by Cody Taylor who gave evidence earlier in the trial.

A. Yes.

Q. And we can see Princess in the distance there, circled in a red – in a red circle. Correct?

A. That's right, yes.

25 Q. And you're the person who tethered her there, right?

A. Yes, I did.

Q. And you'd done this presumably sometime around 7 o'clock in the morning?

30 A. 7 o'clock in the morning? She' was being trained. You can't be done at 7 o'clock in the morning.

Q. What time do you say you tethered her there?

A. You realise we're coming from the house, from the kennels, through the farm and then up the hill and there, and I said the time that I tethered,

give or take 15 minutes, I would've taken the whole hour to do the whole exercise and if you are going about the distance, not a problem. She's exactly 58 steps, my steps, which are 8 –

1100

5 **THE COURT:**

Q. Can you just answer his question, what time did you tether her there? If you left the house at 7 o'clock or quarter to 7, I think you said? What time did you tether her there?

10 A. She would have been the last one that I tethered actually. She would have been the last one that I tethered so I can't give an exact time. I can only say within that timeframe that I tethered – there's six dogs.

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. What was the light like?

A. The light?

15 Q. Yes?

A. At seven, 7.30?

Q. At the time you tethered her, at the time you scrambled up that bank to tether her?

A. I didn't scramble up. I walked up.

20 Q. What was the light like?

A. Normal.

Q. What does "normal" mean?

A. Normal means that I can see where I'm going.

Q. Was it, had the sun risen?

25 A. To be really honest, it's too long ago that I could say that. I really don't know.

Q. But the light was good, you could see everything clearly?

A. I could see, yes.

30 Q. And this is on the 18th of May, one month and a few days before the shortest day of the year?

A. Then you can work out exactly the light.

Q. But you're saying when you tethered this dog–

A. And you can work out exactly, yes.

Q. The light was perfectly good?

A. Yes, yes, because actually I do training at night as well.

Q. Yes, you'd put her there the night before, hadn't you?

5 A. No, I hadn't.

Q. Well, let's go forward if we can?

A. Let's go forward, yes.

Q. Let's go forward to another of Cody Taylor's photos on page 33?

A. Yes.

10 **WITNESS REFERRED TO PHOTOGRAPHS**

Q. We can see a bucket of water tethered to a tree there, can't we?

A. We can, yes.

Q. Cody Taylor and I refer to the notes of evidence page 271 line 28?

A. Yes.

15 **WITNESS REFERRED TO NOTES OF EVIDENCE**

Q. Cody Taylor, and this was not something that was challenged in cross-examination, Cody Taylor described that water as: "Green and stagnant". How do you reconcile green and stagnant water with you having put that water from this fresh stream just a few hours earlier. How did it get green and stagnant so quickly?

20 A. I put water into that bucket. I put water into all of the buckets and when you first take the water from the little area where the waterfall comes down, it is crystal clear. Putting the bucket into there, I get whatever particulars that are in that little area where I'm taking the water but I know the water is good because fresh crayfish live in it, so I certainly don't have a water with that and it certainly wasn't stagnant.

Q. Well, he gave evidence—

A. This is, this is his opinion and he's entitled to his opinion.

Q. An opinion on which he wasn't challenged?

30 A. No, I don't know anything about— I've never had a court hearing before and how this all works, this is my very first time. That's why I'm making mistakes and if I'm—

Q. That's not true, Ms Wallace but we needn't go into it.

A. This is the first time I've had a trial hearing and don't tell me it's not true.

Q. Ms Wallace, we don't need to go down that path.

A. No, we don't.

5 Q. I'll take you back – I'll leave that, but what I'm saying is that that evidence of Cody Taylor of that water being green and stagnant puts a lie to your evidence that you had placed the dogs there and given them fresh water that morning?

A. No, it doesn't, and I did have my dogs with me so I will not accept that.

Q. Let's work through the charges in a methodical way. Page 4?

10 A. Page 4.

Q. Of–

A. Which book please?

Q. Of prosecution exhibit 2. We can see Tiffany there, can't we?

WITNESS REFERRED TO PROSECUTION EXHIBIT 2

15 A. This is Tiffany, yes.

Q. Just bear with me a moment. Now Tiffany in the bottom photo on page 4, we can see there's a bit of tangling of the lead around some trees, correct?

1105

20 A. This is your photo. If we have a look at the body camera footage which shows exactly that we see how she walks around and she is not tangled.

Q. Can you answer the question? We can see the rope –

A. It appears that it is, but the body camera footage shows that it is not.

25 Q. And it was your evidence, wasn't it, that this tangling was because of, "the invasion by the SPCA people". Is that your evidence?

A. My evidence is actually that the body camera footage of Mr Plowright, which shows it exactly, and that was the numbers four – with the last numbers 4481.

Q. If you –

30 A. And that shows that exactly and I think that is relevant, your Honour, to be in evidence that you can see exactly.

Q. Could you go forward to page 30, please?

A. I can.

Q. Of the booklet where we see Tiffany again, don't we?

A. Yes.

Q. And we can see quite a worn area around the tree to which she's tethered?

5 A. Yes, because this is a resting place that I use all the time. I leave the chains there, the buckets there and use it with different dogs. And?

Q. And that counts for the wear at the base of the tree as well, which you've seen elsewhere?

A. It's for the – with the chain, yes.

10 Q. Okay and we can see there that that water bowl is tipped over?

A. Yes.

Q. So you can accept Tiffany didn't have any access to water in this situation, did she?

15 A. Tiffany was watered beforehand. She had water when I left her and she was well hydrated.

Q. You can see that's quite a slope there, isn't it though?

A. No, it's not. It's with the way – the angle this has been taken.

Q. Right, so that's actually flat land?

20 A. I didn't say that, but I – you're saying it's quite a slope. It's a slight – what would it be? 50 centimetres off the ground from the pathway.

Q. And on page 30 we see that scene, this is part of the general scene –

A. Mhm.

Q. – where these dogs were left that you described as, "tranquil and idyllic"?

A. Yes.

25 Q. We've seen with some of the other dogs their water was tethered to a tree to make it less likely to tip over, but Tiffany wasn't – that wasn't done with Tiffany, as we can see.

A. As we can see.

Q. Correct?

30 A. Mhm, that's correct.

Q. So it was very easy on a sloped surface with an unsecured water bowl for that to tip over, correct?

A. Well she didn't have any problem beforehand otherwise she wouldn't have a bowl like that and there's too much been going on in the three hours beforehand that are unaccounted for.

5 Q. But she was unattended for a number of hours and for at least a portion of that we can say she had no water, correct?

A. We could say that, yes.

Q. And this was a day that – we heard from Mr Williams, Andre Williams, described the day as hot and humid. Do you agree with that?

A. That's what he said at 2 o'clock in the afternoon, yes.

10 Q. And you heard the evidence of Mr Plowright too, where he described this dog as being incredibly thirsty and "drunk and drunk and drunk and drunk and drunk" five times when she was given the opportunity. Do you accept that evidence?

15 A. Mr Plowright has contradicted himself in the – in his own narra – in his own body camera footage, one body camera footage, so many times. He is dramatizing – this – they've been on the scene, I don't know what's been done on the scene and how these dogs – he knew exactly who she was, what she had, and you could only do that when you've been with the dog, although he said to begin with he hadn't. So, I don't take any
20 responsibility for what's been done to these dogs and I do not life the reference that this girl was not hydrated and if she was dehydrated that would have been in every single medical record 'cos that would have just played into someone's hands.

25 Q. Do you accept there's a difference between being clinically hydrated and being very, very thirsty.

A. They are barking. Strangers have come onto their farm, their area where they should be safe and not be invaded and we've had so many invasions it's really starting to take quite a toll.

1110

30 Q. So you would say there was nothing wrong with you leaving Tiffany there for a minimum of four hours on a hot and humid day with a bowl that could be easily overturned and was, as it turned out, overturned. No problem with that?

A. We don't know when that bowl was overturned. Tiffany was in shade, as you could see. They all had beautiful, natural canopies. It was a very tranquil environment. You had the water trickling away. You also had the moisture from the stream. Where the stream is, it is very – it's a different microclimate. That's why the trees grow the way they grow and that type of trees. So, they were in a very chilled, beautiful environment. It's a natural environment and one that I personally love.

Q. I won't repeat the no shelter particular in relation to all dogs. I will just say in relation to this dog and obviously, applies to all of them that these conditions were not satisfactory in terms of shelter for the length of time that these dogs were there. Do you accept that?

A. No, I don't accept that.

Q. And I'll say the same in relation to the tethering of these dogs, that it's unacceptable to have left these dogs tethered and unattended for the length of time that you left these dogs tethered and unattended.

A. No, I don't accept that. These dogs are trained. This is why we train them from a very, very early age and this is their resting place. They are treated as athletes. This is their training.

Q. They're trained in relation to the lead so that they can be left unattended, is what you're saying?

A. That is not what I'm – I'm saying that they are trained to respect and relax a lead, a tether, a chain, that they know not to go silly, not to fight against it, not to... No, no, this is their relaxing time. This is their resting time. After they've had a –

Q. Was Ritzer trained in that way?

A. Pardon?

Q. Was Ritzer trained in that way?

A. Ritzer? Trained in what way?

Q. The same way that you're saying these – it was okay for these dogs to be left tethered in this way because of the training they'd received, so I'm asking you, was Ritzer trained in that way?

A. Ritzer was trained, yes.

Q. But still, a problem happened, didn't it?

- A. We haven't discovered or established how this problem happened.
- Q. What I'm putting to you is that the very risk that could've happened to these dogs eventuated or crystallised in Ritzer and yet, you were still doing this, still tethering these dogs unattended months later.

5 **OBJECTION: MR GARDINER (11:12:34)**

LEGAL DISCUSSION – COMMOTION CAUSED DOGS' NEGATIVE REACTIONS (11:12:35)

THE COURT ADDRESSES MS STOIKOFF – INPUT (11:14:38)

10 **MR RADICH ADDRESSES THE COURT – WON'T TAKE FURTHER (11:15:04)**

CROSS-EXAMINATION CONTINUES: MR RADICH

- 15 Q. In relation to Tiffany as well, of course there's the allegation that Tiffany was under weight and you've heard Dr Dreyer's evidence of her being three out of nine on the Purina scale, which represents underweight, but you reject that evidence, don't you?
- A. I reject that evidence, yes. Tiffany was showing only the Easter weekend beforehand and she was in perfect condition, first show that she ever had under German specialist judges and she came out in one on the Saturday, the second place and on the Sunday, third place and was awarded, 'Excellent,' which is the highest excellent medal, it's the highest award she could win.
- 20 Q. You do accept, don't you, as I move to charge 31 that –
- A. Thirty-one, I didn't know where you were to be really honest Mr Radich, 31?
- 25 Q. I'm still on Tiffany but you don't need the charge list –
- A. Don't I need it?
- Q. – we'll just look at the photos in the booklet, I'm just saying charge 31 for the Court's benefit.
- A. Thirty-one.

Q. We're on pages –

A. Tiffany.

Q. – pages 5, we can see some images of Tiffany's skin infection.

A. What page please?

5 Q. Page 5 of –

A. Page 5.

Q. – prosecution exhibit 2.

A. Thank you. Right here I've explained –

10 Q. No, no I'm not asking for an explanation I'm just asking you, do we see a picture there of Tiffany's skin infection?

A. We see a picture where there is hair missing from a chemical burn, it is not an infection because it had already been treated with Neosoothe, so if there was an infection, supposed to stop any infection because antibiotic and anti-inflammatory.

15 Q. So you're asking the Court to prefer your diagnosis of this being a chemical burn over Dr Dreyer's diagnosis of this as a dermatitis of a chronic nature?

A. Absolutely, he said it was from fleas.

20 Q. He said, I'll put the words exactly, he said that there was a superficial dermatitis which she then she needed treatment, sorry for the record, 316, line 18: "The dermatitis was of a chronic nature brought on in that area usually by a flea allergy which caused an itch and the dog self-mutilates and we had to anesthetise and clip that whole matt off and put it on antibiotics and steroids to clear the skin problem up." You're saying
25 Dr Dreyer got this completely wrong, this was a chemical burn and not a dermatitis?

30 A. I am definitely saying that Dr Dreyer got that wrong, there was not one flea on Tiffany. All our dogs get given Advocate which is so that they do not get any fleas in the summer and I know there was no fleas on her because I have her with me in the car everywhere I go and this burn you can see how the hair is growing out, it's a big difference if there is an allergy because that itches and there'll be itch marks, there'll be scratches, this was perfect, it was just the skin and the hair had been lifted

off and this was discussed with a vet and they explained the difference between an allergy and a chemical burn. So, yes I dispute that.

Q. Are you saying you'd taken Tiffany to a vet and the vet had diagnosed this as a chemical burn?

5 A. That is not what I said Mr Radich.

Q. So you didn't take – did any vet diagnose Tiffany in relation to the skin condition, this core condition to use a –

A. We've not been allowed to have any independent vet to any of our dogs, we've been told by the SPCA: "You'll never see them again," I hope –

10 **THE COURT:**

Q. Ms Wallace.

A. Sorry.

Q. Sorry to interrupt but you're not listening to his questions.

A. Sorry, would you please get –

15 Q. Mr Radich, repeat the question, Ms Wallace focus on the question and just answer the question because that's just, it's going to speed things up and you'll be out of there sooner which I think you must want to be well by now.

CROSS-EXAMINATION CONTINUES: MR RADICH

20 Q. Had any vet diagnosed the skin condition in relation to Tiffany?

A. Any of our vets?

Q. Any vet?

A. I don't know because Tiffany was uplifted.

1120

25 Q. No, before she was uplifted. Obviously we're talking about before she was uplifted, please?

A. No, I didn't know that. You just said, and I was thinking of Dr Dreyer. I'm sorry I misinterpreted your question. No, I discussed it with a vet and how it was and asked what did she think, had she experienced something like that and this is what we were told.

30

Q. Who was the vet?

A. The vet's name is, one moment, the name's on the top of my tongue. I just can't think of her name. I discussed it with, it's called Māngere Vets and I just can't think of the lady's name. I'm sorry, I'll have to come back to you with the name.

5 Q. Okay, we'll move onto page six in the second exhibit booklet?

WITNESS REFERRED TO SECOND EXHIBIT BOOKLET

A. If I think of the name, I'll say it immediately.

Q. And this relates to the dog, Princess?

A. Yes, she's—

10 Q. And this is, I needn't repeat myself in relation to the allegations of shelter in relation to Princess, but I do need to put to you that Dr Dreyer—

A. What charge?

Q. Sorry?

A. What charge was that, please?

15 Q. It's charge 32, we're looking at page 6 in the exhibit booklet. I do need to put to you that Doctor Dreyer of course assessed Princess as being a three out of nine and in: "Thin body condition" when he examined her on the day she was seized, you reject that obviously, don't you?

A. I reject that, yes, yes.

20 Q. Over the page we go to page 7, this is the dog, Tiana. I needn't repeat myself in relation to shelter but I will slightly repeat myself in relation to nutrition that Dr Dreyer found her to be three out of five on the Purina scale which is between thin and underweight. You don't accept that, do you?

25 A. I don't accept that, no.

Q. And you do accept, don't you, that this dog had a bucket there but that bucket, by the time the SPCA people got there, was empty?

A. I don't know, I wasn't there. I haven't seen it. There's no, I'm not looking into the bucket. I'm just seeing a bucket is there.

30 Q. You have heard— you've heard the evidence—

A. I've heard their evidence, they said it was empty, yes.

Q. And you are not in a position to dispute that, are you?

A. That's their evidence.

Q. Okay, we'll move onto page 8?

A. Yes.

5 Q. Which is the dog Image. I needn't repeat myself in relation to shelter or behaviour or enrichment for that matter, but this dog was also assessed by Dr Dreyer as being underweight and you say also that Dr Dreyer's just got that wrong, correct?

A. Absolutely correct, this bitch I think weight was at 28 kilos, 28.7, just like Tiana, I think she was around about 27. They were all of good weight. Yes, I dispute that.

10 Q. And then onto Neli on page 9?

A. Mhm.

Q. Same situation again, no need to repeat myself in relation to shelter or behaviour or enrichment but in terms of that dog's weight, Dr Dreyer assessed Neli as being three out of nine, again, thin on the Purina scale and again, you don't accept that?

15 A. I don't accept that, no.

Q. Onto page 10, we see Antonio, correct?

A. Yes, we see Antonio, yes. See his lovely shiny coat, his muscles.

1125

20 Q. And Antonio was – excuse me. I'd simply be repeating myself in relation to the shelter and behavioural enrichment matters, and Dr Dreyer gave that dog a score of three. Do you accept that? What do you say in relation to that dog's condition or weight?

A. His condition and weight was absolutely excellent.

25 Q. And then just to –

A. I dis – how do you say it – I disagree with what you said, yes. No, I don't accept it.

Q. In a general sense, I want to suggest to you again that those dogs had been there for much longer than you're letting on.

30 A. Well, I think we should have a look at the video. That will show exactly how the dogs are and how the people that took the dogs, how they are, their comments about the dogs and that's the – what they say speaks for

itself, and no, I do not accept what your suggesting, that the dogs had been there, how do you say, for a long period of time?

Q. Well, certainly longer than you're letting on.

A. I disagree. I use the place all the time because I love – that's my personal time out, and when I come up we have a lot of games there. This is where we play hide and seek. The dogs are let off, and this is what I've been taught in Germany, to go and hide somewhere and make a sound and then they'll come and find where I am, and this is – or any other person that goes up there. It's not just me. We have other people going up there. We do a lot up there and this is our area. This is our farm. We can have our dogs on our farm where we want. We can train them how we want. This is personal, but not to be raided like this and to have all these untruthful inaccuracies given and put out there and then not showing the evidence.

Q. These dogs – we've heard about the dogs on the 13th of October, 15 dogs being seized.

A. Yes.

Q. These six dogs were also seized following this visit by the SPCA, weren't they?

A. They were healthy dogs. They were taken under section 129, which actually was not correct.

Q. Yes, you say –

A. And these – it's a legal document and I suggest you have a look at the narrative, and you have a look at the body camera footage and compare it, and to uplift healthy dogs, and if they were so concerned, if this was genuine, if they were so concerned they've received a distress call or a call that there was distressed dogs, we don't want our dogs distressed. They are very valuable dogs. We love our dogs. I'm very passionate about it, and if someone said any animal, it doesn't matter what it is, dog, calf, animal, anything, was in distress, we'd be up there in a flash. If he'd come straight away with Ms Davis, if this wasn't a planned attack – or actually, after listening to these – this body camera footage, it sounds like revenge. There's so much in it, and that's why it was essential that it was

played, but you don't want to play it. If it was genuine, you would've come up and said: "I've just received a phone call you've got distressed dogs," and I would've said: "Let's get up there immediately. You can go on the quad bike or you can just follow me up there." They followed the quad bike –

5

Q. The question was, these dogs were seized, weren't they?

A. These dogs were stolen.

Q. You use the word "stolen".

A. Yes.

10 Q. And you've used the word "unlawful" more than once in your evidence in relation to the seizure of these dogs.

A. Yes.

Q. Both the October ones and the May ones. Just so we're clear, so everyone in the court understands, the lawfulness of the seizure of those dogs has been tested in court at the District Court on two occasions and then in relation to both those matters, also in the High Court, and at no point has the seizure of the dogs ever been said to have been unlawful. That's right, isn't it?

15

A. That's very good that you raised both of this. In dis –

20 Q. Just tell me if it's correct.

1130

A. Is that correct? The Auckland SPCA unlawfully, and I will stand by that and I will not budge, we've have this debate, the Auckland SPCA took our dogs, and if we go by the law, and this has been my biggest, biggest problem, that the rule of the court, the rule of the law hasn't been followed, even by yourself Mr Radich. You are very, and as I can see from your cross-examining, very conscientious, but you wrote so many court documents that were entitled RSPCA –

25

Q. Would you care to answer the question?

30 A. No, you asked me a question and I'm giving you my answer because –

Q. Well, you're not.

A. – that was a civil and I was told in the Civil Court that it's about probabilities. It doesn't have to be proven, it could be probably, and they

said in the criminal court it has to be proven beyond all doubt and this is why I want the truth out there, because I want to prove that this is not true and this is why I would like those body camera footages shown, shown on the 13th of October as the dogs were picked up, shown that the dogs were in good condition, where the dogs were, how the dogs were, how happy and healthy they were and the talk between the – Ms Davis, the inspectors, saying: “Oh, well we can’t really take these dogs. It’s clean.” Under the laws, under the Code of Compliance and Animal Welfare Act, they had no right to take those dogs.

10 Q. Ms Wallace, can I please –

A. And exactly the same –

Q. Can I please pause you there? You say they had no right to take –

A. No.

Q. – them – to take them?

15 A. No. No.

Q. But twice in the –

A. They did.

Q. Twice in the District Court and in the High Court it’s been found that they did have a right to take them, correct? And you –

20 A. They –

Q. Just let me finish.

A. Mhm.

Q. But what you’re saying is that you disagree with that. We understand that, that’s your right, but that’s the decision, isn’t it?

25 A. That is my position and because what’s been going on – this is why I wanted, and I really appreciate you’ve been absolutely fantastic, Judge Grau...

THE COURT ADDRESSES MR RADICH – TIMING (11:32:14)

CROSS-EXAMINATION CONTINUES: MR RADICH

30 Q. This is a relatively long question so please bear with me, Ms Wallace.

A. I’ll sit down. So, fire away.

Q. If you met somebody and they told you about a situation and they said: "Yes, I don't have any veterinary qualifications or work in that field, but I know more than the vets," and then on matters of animal welfare they said: "Yes, don't worry about what animal welfare inspectors say in their experience. I know better than them," and then in relation to pathology said: "Yes, the pathologist says this but I disagree with them. Yes, I don't have any qualifications or experience in that field but you should take my word over that," and in relation to patterns of dog behaviour and what's acceptable conduct say: "Yes, we've heard evidence from – there have been – yes, there are these experts and they say this, but I know more than them. You should take my word over it," and then even when we get to the lawfulness of the search you say: "Yes, the District Court and the High Court have both found no problem with these seizures of these dogs, but I know better. You should take my word over these." If you came across somebody like that and they were saying that, would you not think perhaps, and I want to phrase this as carefully as possible, but wouldn't you perhaps say that they were being a little bit unreasonably or unrealistic in their own assessment of their abilities and experience?

1135

20 A. Well, Mr Radich, I can see you've given this a lot of thought as your final question. I would ask myself why would this person be – if this was all correct with what you are saying, why would this person not accept that? The – my whole life has been around dogs, I love dogs, I've had a lot of experience with dogs and we all know, whether it's doctors, whether it's
25 vets, there's good vets, there's not so good vets, we have specialised areas. We – I am specialised just in German Shepherds. Even though I am a judge for all breeds, my specialty, what I know, 1,000% is German Shepherds and these, whether it's Ms Beer, whether it's Ms Flint, whether it is Ms Davis or Mr Plowright, coming in and saying: "Hey, these aren't
30 very good German Shepherds and not very good husbandry," look at their back end and their hips. We x-ray them because they – and they don't know what they're talking about and we send our x-rays to the best specialist, not in New Zealand because we want an independent

evaluation and something that we can accept, that's good, okay. So we go to the very best in every area, whether it's a vet and we have specialised areas with vets because this is, this is the specialist, we take Mr Salman, he's in surgery, that's his specialist area or we have a larger animal vet or for the vets here in the city, they are used to city dogs but not German Shepherds. Jess Beer is not a German Shepherd specialist. Elsa Flint is not a German Shepherd specialist. Plowright and Davis is certainly not a German Shepherd specialist. They have absolutely no idea, couldn't tell the difference and Ms Beer, whether it's a male or female, we had to feel underneath, not by looking at them. Behavioural. A pup jumps up and says hello and wants a cuddle and a pat and it's excited and it's denounced but, but, beside the point but areas which is it was important, medical areas, what Jess Beer has done with these dogs, treating – if she was so fantastic which she was, then you would not go and put sick, as you are saying, animals that have ear infections into a pound for two weeks, for 14 days and not treat them. The animals that were taken on the 13th would have been seen and given a thorough evaluation on the 13th. Doesn't matter what time – it wasn't done until three days later because they didn't, they weren't considered sick enough and then when they were treated, not treated correctly. What our dogs have experienced in the care of the SPCA, the diseases that they have received, how they've been treated, the lack of treatment, it's been appalling and that's why I wanted to the Auckland SPCA medical records for all 15 dogs and the 6 dogs to be included. What is very nice, you have put Ritzer's so the Judge will be able to see how she was treated in that very short time and how she was not treated from the 18th to the 24th of October so there's a lot of things in there that. There's discrepancies and I wanted the truth out there and yes, it's your job to represent the SPCA, but things have not been correct with this case all along. Whether we're talking about the illegal search warrants, what's been done, taking, seizing of the dogs. We went, suggested to have kennels built. We had kennels built. We did it in the shortest time possible. We did not receive any non-compliance notices. There were no charges made until 14

months later. If they were so shocking, as you would like to put it, it would have been so much evidence there it would have been done immediately. It wasn't because it was a scramble to try and find something. Why were the dogs on the 18th taken, they were taken because it was all in their strategic plan that there was going to be a disposal hearing of our 15 dogs in the beginning of June and at the same time from the beginning of January to beginning of June, it was— we had publications asking the public for donations. They were no charges but it was out there public and we were being named and shamed. Before anything had been determined and if you call that lawful, right. I thought we were living in New Zealand where everyone is innocent until proven guilty and we have been trialled by the media and by the SPCA and that has not been correct and you yourself, with your legal document, we – everyone can make a mistake, not a problem. But you didn't go out and say: "Oh, sorry, I've made a mistake, the name wasn't correct." We had to take it to court. We had to fight for that, we have a— a decision and our dogs were awarded to the Auckland SPCA. How could it be, and now we have the RNZSPCA. The RNZ, and it's the same dogs and we've been charged the same charges on the same, well we've been charged— that's not correct— we've been charged the same dogs now under a different name. That's a different story. The RNZSPCA has been very good to us. The RNZ SPCA once they became involved after the five dogs were taken in 2019 without any paperwork. They returned those five dogs with all the paperwork on the 16th of December 2019 and that was returned by Tracey Phillips and Michael Langton.

1140

Tracey Phillips was the general manager and Michael Langton was the chief inspector and we sat and discussed that there for two or three hours. The dogs that came back have taken three years to get over their experiences with the SPCA to come back to their normality. We had dogs given back that were obese. The obesity was to such an extent that the eyes were popping out of their sockets. It had changed it, I've never seen it before, that's how it was. It was meant well, I'm sure it was meant well,

but it's not the right thing for a German Shepherd. And back to different breeds, different breeds have different characteristics, different standards, different shapes, weights. If you take a Greyhound, a Greyhound is slim. If you take a Bulldog people like it to be roly-poly and quite heavy, that's the breed. A German Shepherd is working dog and an athletic dog, a healthy dog, and this is why I have wanted that the facts come out, the real facts, not what we're – not a picture that we're wanting to paint, because we're wanting to use it for donations. It's just been run on greed; it hasn't been about the health and wellbeing of these dogs. None of these dogs were mistreated or abused in any way. They were healthy, happy dogs, whether it was a little puppy with three and a half years old or a bitch that was 12 years old. It's only been about numbers, just numbers, nothing else, and that has got nothing to do with the SPCA and if you have a look at the Animal Welfare Act or the Code of Welfare, we have a large farm. We have so much space and so much diversity. It is a paradise and we're very lucky to have it and to be able to use it to their best advantage. I was thinking this morning, because I went and picked up some tablets from Chemist's Warehouse, and I went past the fish shop and I don't like the smell of fish so I would react – I was thinking of Mr Luke Radich: "It was odorous, it stunk," and so on and that's how I could say to this fish shop, which is pristine and beautiful and it sells fish and I'm sure it would be, I'm sure, a first-class, but the smell of fish, I don't like and you can smell that out on the road, but the people that are working there, they wouldn't smell it, they'd have a different sensitivity to the smell of fish or if you love fish, you love the smell of it, everything about it, on the water. Everyone is different and it is important to understand that smell difference. It wasn't about – I can see you're looking at the clock. Okay, I'll stop, but I would really like all of the medical records to be put in and I would like both the body camera footage ending in 4481 from Mr Plowright, that's his first one arriving on the farm on the 18th of May, I have it on a stick there if you like and you can just plug it in and the other one is ending – his second video, to start at 1310. That's ending in 7375. And then we have from Laurie Davis, if her body camera

footages is given to the Judge, if she'd like to see it she can see, or not, and that is the 15 dogs being examined and uplifted right there and then and you can see – I must say, Laurie Davis – it was, looking back now, probably a very situation to be because it was Mr Plowright that was
 5 decided that would go. She questioned, she said: "It's clean, shall we leave them," and he said: "No, take the lot." Or Monty, the same, so I do – I do understand, yes, that was her, her boss, but still things were not co – in my opinion, not correct.

COURT ADJOURNS: 11.45 AM

10 **COURT RESUMES: 12.02 PM**

RE-EXAMINATION: MR GARDINER

- Q. All right, Ms Wallace, I'll just go through by way of re-examination on matters – some matters that have arisen during the cross-examination by my learned friend.
- 15 A. Yes.
- Q. And I've as – I may do a bit of jumping around because I've asterisked certain points and I don't want to be – so I'll be going straight to them as far as I can.
- A. Right.
- 20 Q. Now, my learned friend asked you about the location of different dogs on different – at different times, where they were housed.
- A. Yes.
- Q. That was exhaustively traversed, so I'm not going to dwell on that or revisit it. There was also – now, but there was some discussion of international
 25 workers and the number of people that were available to look after the – a reasonable number of dogs, and the issue was, who were these people who were helping?
- A. Yes.
- Q. And you – the term "WWOOFers" was used.
- 30 A. Yes.

Q. And you mentioned that you could have at any given time, one to seven workers working in support of yourself.

A. That's correct, yes.

5 Q. And now, the – and I believe that there were – you also said that there were, I think, workers from 33, up to 33, 35 countries or thereabouts.

A. That's correct.

Q. And quite often, workers came with their partners?

A. That is correct, yes.

10 Q. Now, there was an issue over whether you could provide a list of workers and whether they were contactable, and you spoke about privacy issues.

A. Yes.

Q. Where do – when a worker of this nature – what's the average length of time for which a WWOOFer, for want of a better term, one of these international workers, would work at the kennels?

15 A. They came to the farm – depends where – that could range between a week or six months.

Q. Right.

A. It depends on the person, how they adapt, do they like it not like it, or that can change.

20 Q. Now, there were some discussion about where these workers would live. Some lives at the main house.

A. Yes.

Q. Others, at the cottage down by the main road.

A. That's right.

25 Q. To what extent did workers live locally? You know, off the property.

A. While they were with us, they were all on the property.

Q. Right.

A. Some had their own –

THE COURT:

30 Q. Sorry to interrupt, but as I understand that like with the WWOOFers, they do the work in exchange for food and board? Is that the exchange? Is that right?

A. That's right. That's exchange. They want to learn as much 'cos they were hands-on experience and some had cars, so they were very independent, and if they didn't, we used to take them everywhere so they could see as much as possible or recommend special places to go or people that we knew, other farmers down the country where they could spend some time.

Q. Now, there were – there'd been – my learned friend took you through a number of visits by the SPCA.

A. Yes.

10 Q. On the 28th of July 2017, the 4th of August 2017.

A. Yes.

Q. The 11th of August 2017.

A. Yes.

Q. The 12th of October 2017.

15 A. Yes.

Q. The 13th of October 2017.

A. Yes.

Q. And then the 17th of – correction, 18th of May 2018. Now, you were asked to what extent can – there were a lot of visits there and they were a long time ago, but we'll just – I'll just focus on one which in terms of these WWOOFers or international students, when the SPCA came on the 13th of October 2017 and took the 15 dogs, how many WWOOFers do you recall actually assisting you on that day?

25 A. I think there were two. I do remember there was a man. I think there were two men, and there could've been a girl. It would've been no more than three, I think, yeah.

Q. Now, there was a suggestion in the cross-examination that the numbers of dogs – correction, the breakdown of dogs and puppies on each of these visits leading up to the seizure on the 13th of October 2017, these – this ratio – the number of dogs wasn't reducing appreciably. Just to – or much, if at all, I think is probably a fairer, correct way of putting it. Do you have a response to that?

30

A. Yes, I do. When as puppies, puppies can go to their new homes, first of all, when they're approximately eight to 12 weeks of age. So, if we've got little baby puppies, which was classified as a one dog or one number, you've got that period of time. So, if that's said on the 11th of August, let's
 5 just say a number, 50 dogs, and that included puppies and adults, those little ones are trained and adapted so that they're ready to go to their new homes in that period of time, and also, what was important that we find the right home. It's not just a matter of – these are special dogs and they – it's special to have that bond. We've got so many lovely homes for our
 10 dogs and puppies, and the new owners are thrilled with them –

UNIDENTIFIED MALE SPEAKER ADDRESSES THE COURT – TECHNICAL ISSUE (12:09:46)

THE COURT:

Not sure what's going on, but okay. Sorry. Carry on.
 15 1210

WITNESS:

We also have dogs that we are training for shows that they are with other families and come back in just for a particular time to be trained so they are nice and fit and ready to be shown. We also have older dogs and it just takes time
 20 and we've got, we had the room, we're doing everything we could to find the right, if we wanted to put them out, find the right home. It is not a computer, these are very, they're dogs that have a lot of character, intelligence and personalities and it is a matter, like people, to find the right partner.

RE-EXAMINATION CONTINUES: MR GARDINER

25 Q. So to what extent do you believe that there was a reduction in the overall numbers after the initial– because initially, there was the surrender of five dogs and then there was, later had the seizure of 15?
 A. Mhm.

Q. So up from the 28th of July 2017 through to the 13th of October 2017, to what extent was there a reduction by your estimation in the number of dogs overall?

A. Good question.

5 Q. Dogs and puppies?

A. Mm, we had— we had, we thought a good reduction. We had people— it was also the holiday periods, it's — weather plays a role and that it suits different families or people, their timeframes like if they say, well we would love to, they'd like to purchase this dog, let's just say September, 1st of
10 September but they can't— haven't got everything ready, what they'd like for that dog until the 1st of November. That's not a problem, we give them that time, We just want the right home.

Q. So to what extent did you have suitable people lined up to take a dog, you know, under an arrangement whether by sale or otherwise, as at the 13th
15 of October— say as at the 12th of October 2017?

A. As of the 12th of October, we had and I did explain that, if I remember correctly, there was at least two or three, yes, at least.

Q. Now...

A. This is why we tried de-sexing the puppies as well. We hadn't done that
20 before so for those people that weren't quite used to— or didn't have a lot of experience with German Shepherds. We'd been very reluctant because we'd done a lot of research on it and it's supposed to shorten their lives by taking that step and it's also increases the likelihood that they get cancer and we wanted our dogs, because they're our best
25 friends, to live as long as possible so that's why we hadn't done it until then so that's why we were just trialling it.

Q. So just in terms of placement of dogs and/or puppies, to what extent would you be in this process be looking at placing an older dog, say six years, five six years of age. If we just deal with —

30 A. Mhm, just say an older dog. Depending on her personality and the people that we're talking of. Usually that's someone that's had a German Shepherd and maybe for whatever reason, it's died from old age or whatever and there's a big gap in their lives and we know, well this

particular dog would bring a lot of joy back into their lives and fulfilment and that would be ideal so we try—we do take our time and try and match up the right person with the right dog.

5 Q. But to what extent would a— you talk about de-sexing an animal. To what extent would you seek to protect a bloodline by not disposing of the dog?
1215

A. Exactly, this is why we ran on, ran litters on so that we— after going to all that trouble importing the bloodlines and to secure those bloodlines and this is why we only sold them as pets-only, not to be bred from and that
10 was really important and they agreed on that. But they were just thrilled to be able to have that quality. It's like cars. You can have BMW or a Mercedes and you can have a Lada or a Fiat or whatever. There's all different qualities and the people, the new owners, they just wanted something very special you can't just go out and buy.

15 Q. Right, so just in terms of a male dog, to what extent would you geld such a dog?

A. Geld, do you mean de-sex?

Q. De – yeah, is that –

A. We only did that in 200 – a few in 2017 because we need to take it back
20 a step. We are – for us it's important that the male puppies keep their testicles. It's not a given.

Q. Right –

A. And we're happy that they have their testicles and then to take them away, it's, a hard one.

25 Q. Just to cut to the chase, to what extent, given the criteria that you've referred which had to be taken into account in disposing of the dogs, to what extent were you able within the time allocated by the SPCA able to reduce numbers from a practical point of view?

A. From a practical point of view, the timeframes— what the SPCA gave were
30 ridiculous. You cannot suddenly dispose unless you euthanise in a matter of a week a number of dogs. We wouldn't euthanise any of our dogs. We—we're the guardians of our dogs.

Q. But to – so given the fact that you were a breeding kennel?

A. Mhm.

Q. A private breeding kennel?

A. Mhm, yes.

5 Q. There were, are you saying that there were definite constraints on your ability to reduce numbers?

10 A. The constraints are finding the right people and those people don't come (inaudible 12:17:15) we had, for example, if I take one litter, we had – that's a really good question because there's two parts of it. We had a lot of enquiries from overseas for our bloodlines and our combinations and you can't just go and sell a puppy overseas. It has to have a particular age, it has to be– have a particular vaccination and there's a process it has to go through before it can be exported and it all takes time. Princess was one that was being exported.

15 Q. Now, you were asked by my learned friend about– there were a series of questions relating to and particular with the six dogs that were seized towards the end. That's arising from the – that's on the 18th of May 2018. You were asked a series of questions on body weight?

A. Yes.

Q. And I will deal with this– that at this stage?

20 A. Mhm.

Q. Reference was made to the Purina scale used by the SPCA which is one– kind of rating it one to nine and Dr Dreyer didn't explain that scale, but he did refer to questions when questioned about it briefly. He did refer to one being emaciated, nine being– that's at the bottom of the scale, nine being obese and the ideal rating on the scale as being a number five. Now my learned friend referred to Dr Dreyer to some extent and three to four, Dr Dreyer when he gave evidence, rated– he talked about three and four on the Purina scale in general terms and ascribed a three. What do you understand by– are you aware of this Purina scale before the SPCA involvement, showing a rating of 1 to 9?

25

30

A. No, I wasn't aware of that Purina scale. I now know what it is, yes.

Q. Right, but are you– to what extent are you knowledgeable about what the other ratings, I've mentioned some which was specifically given in

cross-examination by Doctor. To what extent do you understand or am aware— I'll just restate the question – of that particular scale used by the SPCA?

1220

5 A. The scale used by the SPCA, the Purina scale, which I've previously described being a – Purina's a – I think, probably the world's largest pet food manufacturer, and it's as it says, pet food manufacturer. It's for pets. Our dogs are fed on premium food, and this is why we purchase that from the vets or directly from the manufacturer. What I understand there is,
10 everyone has a personal view or interpretation of that. If you look at the medical records, the same dog, if you had a different vet, one would say three, the other one would say four, one would say five, one would say: "Oh, that's six. It's obese. It has to lose weight," but it's the same dog, same weight. They were all different opinions and going back to German
15 Shepherds, they're athletic. They have – it's their height. You might say: "Right, it should be six and that should be 35 kilos", which is overweight for a bitch that's only 56 centimetres high. She will – she'll go in the legs. Like –

Q. Right, when you talk about specialist, you talked about a specialist
20 category for these dogs. They're working dogs.

A. Yes.

Q. But they're in specialist category when they are shown?

A. Yes.

Q. Can you explain what you mean by specialist category and, for example,
25 what might be the case, if you are able to do it, in relation to a German Shepherd which is shown in a more breed category?

A. Yes, those are two totally different areas. A specialist show is – doesn't happen very often. Maybe two, three, four times a year if we're lucky, and they bring – the various clubs try to bring in German Shepherd breed specialists from judges, from overseas, and these are usually coming
30 from Europe, but can come from other places, and these qualified German Shepherd breed specialist judges come out to New Zealand and –

Q. I just want you to address the issue of weight.

A. Oh, the weight. The weights are the bitches are not allowed to weigh – from 22 kilos to 32 kilos, and the males from 30 to 40 kilos, and these weights are very important. If it's –

5 Q. This is in relation to specialist German Shepherd?

A. Yes.

Q. Competing?

A. Yes.

Q. What is the weight scale, only if you know it –

10 A. For the – all breeds?

Q. For all breeds. Are German Shepherds competing in that category?

A. It's exactly the same.

Q. Right.

A. So, if they're over that, for them, it's obese or underweight.

15 Q. And just in terms of – just, finally, on weight issue, to what extent would the weight, and your Honour did refer to body – how human being adults – human beings might be assessed for body mass.

A. Yes.

20 Q. To what extent can weight of a dog be turned on its height, confirmation, build, you know – is there – can you comment on that?

A. What does the weight have to do with the confirmation and the build –

Q. And the bone structure of the particular dog.

25 A. Yes, a lot. If – we'll just start off with puppies. If you have them too heavy, that will – it can damage their joints or their legs, their bone structure, the anatomical structure. It's very important to have that balance and because all these little joints are not fused, especially the hips, and that's the motor of the German Shepherd to move it forward. With a young adult, you do not want it overweight because that dog is growing over a long period of time. They have their spurts, but it still takes till about two
30 years until they get their maturity. If you – if the dog is too light, for example, I thought about that this morning walking the dogs, if we weren't giving our dogs the right nutrition, the puppies or the adults, they would have something what we call rickets. That means the bones are

deformed and you can google what rickets are, but we don't have any of that. All our bone structures are solid, strong and healthy and it's having that body mass with the muscling, the body mass, especially when they're competing and young dogs. When they're older dogs, they do gain a little bit more weight or if they're not competing or pregnant or maybe just after pregnancy, they are carrying a little bit more weight but that's because they're supplying their little babies and they need all the nutrients but not overweight.

1225

10 Q. Right, so, now you mentioned hips being quite important?

A. Yes.

Q. To an assessment of dogs and you alluded to two dogs being euthanised for hip dysplasia. Who were those dogs?

15 A. They were two that were surrendered. That was Regina and Dazzle. One was a 10 month old puppy and Regina was just over two years old. It—that came down to the lack of experience and the capability that's no criticism, it's just facts from Dr Jess Beer because she did not know how to evaluate hips and this is why we only go to the best specialist.

20 Q. Just going to that. So you've mentioned in evidence at different times and we're getting into this area here, very briefly?

A. Yes.

Q. You, in terms of ensuring that the hips— that the dogs had suitable hips and were suitable for breeding— what, just very briefly, what process did you go through?

25 A. The process we go through is usually, a German Shepherd shouldn't be x-rayed before it's 12 months old because usually then it's fairly firm in the joints and normally, it's appointed specialist to x-ray the dogs and these digital x-rays are then sent or we have them sent to New South Wales in Australia and they are evaluated by Professor Macara who comes from South America but has his professorships in Switzerland and
30 he is one of the leading authorities. Normally, Germany has got what we call an "A stamp" and our dogs come from Europe and have this "A Stamp" and there is a professor at the Giesen—

Q. I just want you to cut to the chase.

A. Yes.

Q. This is a process by which the x-ray is taken in New Zealand by an expert, sent to Australia for evaluation in relation to these dogs?

5 A. Or Germany.

Q. Or Germany?

A. Yes.

Q. And they're subjected to a group assessment or assessment headed by the professor that – to whom you've just referred.

10 A. Very good question–

OBJECTION: MR RADICH (12:28:25)

LEGAL DISCUSSION – RELEVANCE (12:28:35)

WITNESS:

15 The relevance was, was a false diagnosis. Ms Beer diagnosed them as having middle to severe hip dysplasia and they were hip dysplasia free. That was the...

1230

RE-EXAMINATION CONTINUES: MR GARDINER

20 Q. Now just going on, there was some cross-examination in relation to two of the dogs, Debbie and Desney, both sisters who both had large numbers of puppies. Now, there were some questions by my learned friend after addressing your experience with dogs and other life experience. When court resumed on the Wednesday, you were asked a
25 series of questions which related to the sale of dogs.

A. Yes.

Q. And/or puppies.

A. Yes.

Q. And it was put to you that – about money-making, you know, 2,000,
30 \$5,000 a pop. Now, you acknowledged that there were a few puppies sold, but you – and they were sold on Trade Me, and you – but you were

asked some questions – the implication was that you were making great profits by sell – you know, by the sale of these puppies, but you did say that the cost of doing this were very high, you know, of rearing puppies and so on. Can you elaborate what you meant by that? What are the costs that are incurred in actually breeding suitable, good stock, pedigree stock?

A. The breeding of just one litter, whether you get a litter, that's – it's in the hands of the God. You can only do your best. The breeding of these high quality litters, the cost – when you have the cost of the mother being in the hundreds of thousands or the costs involved in rearing and showing, in training, because they all have specific professional trainers, the quarantine, the importation, and you still do not have a guarantee. So, if any puppies are sold, it's – we try to – as you can see with the champions, I had four from one litter. We ran them on because we wanted – we were so honoured to have those bloodlines and it's about building up. We were just building up. This was a young kennel with top bloodlines and then the cost of a litter – I'm going back to what the cost would be, because we feed them on such premium food, just to give you an idea, a 20-kilo bag of Royal Canin 4800 is \$147.

Q. So how many dogs – how many meals would be in that for, say, a puppy?

A. Good question because we'd put that together with angus mince and the puppies start off with angus mince that has been one and five per cent fat. Then, we also give them a lot of extras. So, we're trying to give them the best start so that they've got a healthy basis to fall back on regardless to where they go.

Q. Now, you were asked –

A. It's not supermarket food.

Q. Right. Now, in terms of Ritzer, I just want to just focus on some points. There was a video that was produced, or has been produced, which there was question over the weightbearing of Ritzer when it was taken out by the animal control officer out of the hay barn, and there was some interplay between, well, between him and Ritzer. Now, what – could you just clarify what your view was, or is, in relation to what was portrayed in

the interaction between the two? What was the animal control officer doing, and I think it was Mr Heatley?

1235

A. Yes.

5 Q. – and how would you explain the response of the dog to what he was doing in terms of weight bearing?

A. Weight bearing? She was just getting her balance and her weight on her legs, stretching. When she was with him outside in the area in the hay barn she was trying to actually get away from Mr Heatley. She was still
10 wagging her tail. She's got a very – had a very happy, bright personality. She sat there for the examination from Ms Beer, but she was trying to get her feet on the ground. As Mr Beer said, she will be up and walking in the afternoon and the swelling will go down. There's no lacerations, those were her words and that's how it was. So, she was just – she only needed
15 – only took a few minutes to get everything back into motion.

Q. All right, now, now I'll just jump ahead to the woolshed.

A. Yes.

Q. That was said to be not suitable because there was an updraft which was coming through the slats and you make a point that there was a couple
20 of metres drop to the ground underneath that.

A. Yes.

Q. Now you mention in this – in the context of the woolshed where there were some puppies that there were dog beds that would have been available – were available to the puppies and would they have been
25 available to the adult dogs that were also in the woolshed?

A. If one overnighted there, yes. It was just a –

Q. Right so you mentioned that they would be taken up and the bedding wasn't there at the time because it's taken away to be cleaned.

A. Mhm. It's either water blasted, hosed out, put in the washing machine
30 and if it's been – if they start trying to take it apart then it is removed entirely and –

Q. Right, so basically what you're saying – effectively you said in relation to the woolshed that there was plenty of light, plenty of ventilation.

A. Yes.

Q. And to what – we had a photograph which was off the body cam camera footage.

A. Yes.

5 Q. That was the one taken of Dr Beer.

A. Yes.

Q. I'll just grab that, that's exhibit D page 6.

WITNESS REFERRED TO EXHIBIT D

A. Yes.

10 1240

Q. Now that's very light and it looks very airy in contrast to the photograph that appear in relation to the wool shed in booklet one, Crown booklet 1 at page 62 following but particularly perhaps, just take photograph 62. Just on having said that, just looking at the booklet, that's booklet 1, page 15 61 following. Those photos are actually quite clear. Can you just re-iterate your position in relation to those slats?

A. Yes, the slats are purpose-built and these slats are also put in dog kennels. If you purchase a dog kennel by manufacturers. They'll put the same slatting in the run so it's a little house with the run and these slats, 20 its rounded , it's not a cutting edge so it is good on their feet. It's natural and it has lanolin from the sheep so for the dogs, it was excellent.

Q. And just going to page 63 of the booklet?

A. Yes.

Q. That's booklet 1 prosecution. We've got, just in the picture at the bottom, 25 what's– just once again, what's that timber to the right at the top?

WITNESS REFERRED TO BOOKLET 1

A. That is plywood. That's in the puppy pen where the puppies were and it was a big solid plywood sheet of wood which covered a third of that area.

Q. Right?

30 A. With your photo –

Q. Now, my learned friend asked you a question relating to the deer house and you made a comment that talked about horses and a stable, a horse's stable?

A. Mhm.

Q. And basically, he then referred to— at least a horse has, if it was in there, would have the ability to look out the top door 'cos there are two doors?

A. Mhm, that's right.

5 Q. And it would get presumably some environmental sustenance to use that expression, from just looking out at the scene?

A. Mhm.

Q. Now, to what extent, we'll just— and if the door was shut, you know, it was equivalent to the horse being in prison, it would be shut in?

10 A. Mhm.

Q. Or words to that effect. Now just looking at the dogs which were tethered on a fence line, looking out on nature, do you think that those dogs, to what extent would you compare their situation, for example to a horse which was in that stable looking out of an open door?

15 A. Exactly. For dogs that were tethered, they've got the whole world in front of them which— there's so much happening and they are attentively looking. In the stables, when they're in there, that is their quiet time. We want the puppies just to — they can play but rest — but what is important with those stables is both doors open and there were wooden— which we—
20 wooden— pieces of wood which were just were just slid down. We could make it this high, half a metre, or a little bit higher so depending on the age of the puppies so that they can still look over.

Q. Now, just putting that side and going to page 52 of the prosecution booklet?

25 A. Yes.

Q. Number1?

A. Yes.

Q. Exhibit 1, now there was— you were cross-examined by my learned friend from the water in the containers there, now and in particular the colour
30 which — could you comment, you mentioned that it was bore, B-O-R-E, water.

1245

A. Yes.

Q. And you had covered this in examination-in-chief, but could you specifically comment on, we'll just take the photograph at the bottom of page 52, on what we see on the colouration of that water and why it might be coloured in that way, given that you have given evidence that the water was changed or refreshed daily.

A. The – it depends on the – well, the bore water has a particular chemical analysis. These concrete containers here, that is also a mixture. So, there is an exchange of chemicals between the water and the – this container. It is all natural, but it happens and of course, the outside environment has an influence as well. When you have containers like this, yes, the dogs can put their feet in if they want to, depends on the dogs. You can see there, there's wet feet there, so I would say so, but that has – it's not chlorinated. There's no chemicals in it. It hasn't been purified in any way. It's just natural water.

Q. And there was similar question – another question, broadly similar, asked by my learned friend in relation to one of the containers that was found up at the back of the farm in the wooded area where the six dogs were found.

A. Yes.

Q. And I think it related to the container for either Tiffany or Princess.

A. Princess.

Q. Right. So, there was – he referred to Inspector Cody making comment on the colour of the – or discolouration of the water. What do you say in response to – in fact, Inspector Cody, my learned friend quoted him saying... Well, he commented, in effect, unfavourably on the look of the water.

A. The colour of the water.

Q. So, what do you say in relation to the proposition that my learned friend put to you based upon Inspector Cody's evidence?

A. What he said, when you take water out of a stream or something natural, it hasn't been purified. It can be – it looks clear, crystal clear, and as soon as you move into it, you've got these clouds coming up from the bottom of the – or the sides of that stream base and it can be discoloured. I don't

know what's in it. We've never analysed it. It's just natural water, and it's just like a dog will go and drink out of a puddle if it feels like it. It knows – their sense of smell is 1,000 times better than humans', so if it didn't think the water was good, it would not drink it.

- 5 Q. Now, just moving on. Now, you've been asked – you were asked a series of questions on treatment of ear infections and the like, and just to refresh, we've got a situation here, for example, there's an alleged untreated skin and ear infection for Desney, untreated skin infection for Tiffany, untreated ear infection for Danni, just by way of – and some untreated ear
10 infections in relation to Dolly, Mafia, Debbie and I believe, Dani. So, to what extent, there are four, five, six, seven dogs, just of that quick count, which might've had – which had ear infections or skin – in one case, two cases, skin infections. To what exte – so, what's your response, just broadly speaking to – I realise there were different circumstances relating
15 to each dog, but broadly speaking to the contentions that have been made in relation to those dogs?

1250

- A. Astro, Mafia, Zeta, I think they said Paris as well, were all in the Pukekohe pound. Mafia had been treated, Dolly had been treated and Dani had
20 been treated. Debbie was on antibiotics and Desney reacted – Debbie didn't – the only dog that had a skin allergy was Desney, and Desney received that skin allergy because we changed her food. We thought it – from – with her hopefully being in whelp it would have the nutrients she needs and that would be better for her, but her body didn't agree to some
25 ingredient that was in that new dry food that we introduced her to, so everyone reacts differently. The allergies she had – like people, some can be allergic, some not. She was allergic to that but she was treated. All of our dogs were treated and to say that they weren't treated, there is no evidence, and if they had looked or taken a blood sample I'm sure that
30 treatment would have been in their body.
- Q. Right, now you mentioned –

THE COURT ADDRESSES MR GARDINER – REPEAT OF EVIDENCE
(12:51:59)

RE-EXAMINATION CONTINUES: MR GARDINER

5 Q. Now you were asked some questions which related to – which involved the use of disinfectant, well, you mentioned disinfectant being adopted and used as a result of an SPCA recommendation for cleaning out areas –

A. Yes.

10 Q. – for example in the stables, you know, involving the puppies. You mentioned that there was burnt feet and pads on the feet.

A. Yes.

Q. Does – to what extent to – how significant was that in terms of the health of the dog, dogs?

15 A. It's significant because they actually through their feet as well, through the pores and that variates the temperatures so if they get hot they like to put their feet in cold water to bring their temperature down, so when the pups or the dogs are not walking freely on their feet, you know, they're very sensitive and walk gingerly, that's a good word, over whatever ground they're going over. We had a look and thought, oh goodness, it takes away, it eats away the first skin of the pads and so we stopped that.

20 We tried natural things. We tried – I tried just squeezing out fresh oranges, fresh lemons, fresh grapefruits, because citrus is used for everything, but it didn't work.

1255

25 Q. Right. Now just... You were asked a series of questions by my friend in relation to the incident involving the dogs on 18 May 2018?

A. Yes.

Q. There was some questioning around the time that you departed the farm.

A. Mhm.

30 Q. To go up and exercise the dogs to what extent can you be categoric as to actual timings?

- A. Good question. I never looked at the time. This is my routine. This is where we're going and it was just a matter of training, taking them up there, quick swim, continuing on and resting because we're doing it in the energies and spurts, the hill walks in spurts. I'm just using my eye on the dogs how they react so I said it approximately – it's – I should've – I've got no notes here. I'm just trying to recall back to that time. I get up very early so it varies. Each day is different. I don't have any set time to do this, this, this and this. It's (inaudible 12:56:44).

QUESTIONS FROM THE COURT – NIL

10 LEGAL DISCUSSION – NEXT WITNESSES (12:57:19)

COURT ADJOURNS: 12.59 PM

COURT RESUMES: 2.02 PM

HOUSEKEEPING – VMR (14:02:17)

MR GARDINER CALLS

15 JANET PATRICIA KING (AFFIRMED) (VIA AVL)

Q. Right Ms King, Dan Gardiner. I'm counsel for Ms Janine Wallace. I'm about to ask questions. You can't have the brief of evidence in front of you. You haven't got it with you?

A. Oh, no, I don't have it in front of me, no.

20 Q. Excellent. I will just ask you, I've asked you a series of questions going through which are basi – reflect the brief of evidence that you've previously provided. First of all, what is your full name?

A. (inaudible 14:09:26) Sorry, it's dropping it out, I'm getting no one's (inaudible 14:09:34) video, so I'm missing parts.

25 Q. Ms King could you please state your full name to the Court?

A. No, I'm missing it again. It's just saying no videos are being sent so I've got Ms King, something.

Q. Perhaps we can do an audio link up, your Honour?

A. You're asking me state my name, I think. Are you asking me to state my name?

Q. Yes, your full name?

A. Janet Patricia King.

5 Q. Thank you. And you've been involved in the care, showing and breeding of German Shepherd dogs for a long time?

A. Yes, that's correct.

Q. How many years?

A. Probably 50.

10 Q. And as part of your involvement, have you extensively studied the breed and its health requirements?

A. Yes, I have.

Q. When did you?

A. What's that?

15 Q. Can you state just a little bit about your and first– when you first became involved with German Shepherd dogs?

A. Well I first became involved from, during, with my father's kennel so I would've been just a small child, probably 50 years ago and have continued to have been involved and owned German Shepherds since that time.

20

Q. And you have preciously run a kennel of your own?

A. Yes, I currently have my own kennel. Joint, with my partner. Originally it was my own kennel but at the moment, it's a joint kennel with myself and my (inaudible 14:11:53).

25 Q. Is it registered as a kennel with the Kennel Club of New Zealand?

A. Yes, it's a New Zealand (inaudible 14:12:03). Yes, it is a registered kennel.

Q. And how many dogs have you owned, German Shepherd dogs – what's the – in the past at any one given time?

30 A. The most I've owned at one time is 11 and I currently own five.

Q. And is the owner of the– this is a private kennel?

A. Yes, it is a private kennel.

Q. And have you shown German Shepherd dogs to Champion status in the past?

A. (inaudible 14:12:53) first part of the question?

5 Q. Have you been— have you raised and bred and shown German Shepherd dogs at competitions for specialist German Shepherd dogs in the past?

A. Sorry, I keep getting no video, no one's sending video. I think the question was about Champion dogs I've bred, yes I've bred Champions and raised more than one Champion out of most litters that I've bred.

Q. Right, and have you, is your background—

10 A. (inaudible 14:13:44)

Q. And as your background, you also assisted other breeders as well?

A. Yes, I have assisted other breeders in whelping their litters and showing their dogs.

15 Q. Now in terms of promotion of the German Shepherd dog breed, have you— do you have any administrative or executive positions involved in that area?

A. Yes, I do. I'm currently the acting president— acting joint president for the New Zealand German Shepherd Dog Advisory Council. I'm also the breed health liaison officer for the German Shepherd Dog to the Dogs
20 New Zealand Canine Health and Welfare Committee and I've been involved on the committees (inaudible 14:14:49) number of German Shepherd dog breed clubs.

Q. And what are the objects of the German Shepherd Dog Advisory Council of New Zealand?

25 1415

A. The objects are to promote the breed using breed surveys and education and to just generally promoting the breed and to breed standard by way of breed surveys and structure assessments, training qualifications and advice to breeders and clubs.

30 Q. To what extent as part of the objects have you been involved with recording the hip elbow status of German Shepherds in New Zealand?

A. Sorry I missed that. Can you repeat that question?

Q. To what extent in this position given your involvement with the advisory council, have you been involved with recording the hip/elbow status of German Shepherds?

5 A. I currently hold the database for the hip recording and elbow recording for and any other health information sent to the advisory council so I'm basically inputting that information and holding the database at the moment.

Q. Why is that particular role important in relation to the German Shepherd dog breed?

10 A. The German Shepherds is prone to hip dysplasia so hip testing is paramount for the health of the breed. It gives us a record of breed improvement and what pedigree lines, blood lines improve the hip status in New Zealand and also gives us some average score to base our breed survey parameters on. Our current parameters are – 18 is our parameter for hips for (inaudible 14:17:28) to pass.

Q. Now you are aware of the SPCA prosecution of Barbara Glover and Janine Wallace of Volkerson Kennels?

A. Yes, I am.

Q. And they are both involved with Volkerson Kennels, correct?

20 A. Sorry I missed that last part. Keeps dropping out (inaudible 14:18:10).

Q. Both Ms Wallace and Ms Glover are involved with Volkerson Kennels?

A. Yes, I believe that was Barbara's kennel but yes.

Q. You're also aware that being prosecuted by the SPCA they each face various charges?

25 A. Yes.

Q. Is it correct that you're not socially a friend of either Barbara or Janine?

A. Yes. That's correct.

Q. Essentially you know them through breeding and showing of German Shepherds?

30 A. Yes, I know them as a breeder and as show competitors.

Q. I just want to ask you some series of question on Volkerson Kennels. How long have you known of Barbara Glover and Volkerson Kennels?

A. Since the early 1960s.

Q. Can you say something about Ms Glover's role with those kennels in the period you've known of her and the kennels?

1420

5 A. As long as I've known of Volkerson Kennels, Barbara Glover has been instrumental in importing top bloodlines into New Zealand from Germany and other overseas countries with great benefit to the breed here in New Zealand. A lot of the New Zealand German Shepherd kennels that are still operating today would be able to trace Volkerson line, pedigree line dogs back in their own pedigrees which gives them the success that they're enjoying today.

10 Q. And this involvement of Barbara with Volkerson Kennels would've involved a fair amount of energy on her part?

A. Sorry, I'm missing the last part of your question again.

15 Q. This involvement of Barbara Glove with Volkerson Kennels would've involved a great deal of energy on her part?

A. Sorry, I'm just not getting video. It just keeps saying: "No video's been sent", so I'm missing the questions.

Q. Right. I'll say again. You're aware of Barbara Glove's success with Volkerson Kennels over a long period of time –

20 A. Yes, I am.

Q. And that has been over a long period of time.

A. Yes.

Q. To what extent –

25 A. Yes, it has. They've constantly imported top quality lines and pedigrees into New Zealand which – and they have been top-winning show kennel for over the years quite a lot of the time.

Q. And have you any idea of the expense that's been – the money that's been spent in developing the German Shepherd breed through the kennel?

30 **MS STOIKOFF ADDRESSES THE COURT (14:22:40)**

WITNESS:

Well, I don't know exactly, but to import the number of dogs they have over the years and to bring in the pedigree lines that they have over the years would be hundreds of thousands of dollars in today's money. Some of the top dogs, you're looking at \$80,000 for a dog, and selling top dogs to China from Germany were up to \$300,000. So, to import a dog into New Zealand, that's no cheap exercise.

OBJECTION: MS STOIKOFF (14:23:15)

THE COURT ADDRESSES MR GARDINER – WITNESS CAN'T COMMENT (14:23:38)

10 LEGAL DISCUSSION – GENERAL COMMENTS OKAY (14:23:43)

EXAMINATION CONTINUES: MR GARDINER

Q. Now, you've attended – how many shows have you attended, as best you can recall, over the years which have involved Volkerson dogs?

A. Sorry, what was the bit – in attendance at Volkerson?

15 Q. Yes. How many shows – have you attended many shows over the years involving Volkerson dogs?

A. Oh, yes, I have, yes.

Q. And how are – when you've observed them, how have they presented at those shows?

20 A. They've always been presented in good conditions as far as the dogs that I've seen. I have handled on occasion their dogs in the showing when I've been called upon at the last moment. I'm not a usual handler for them and I've never had an issue with the dogs' condition or the temperament or anything else with the dogs, and they seem well cared for and well-adapted to what they were doing.

25

1425

Q. And how many Volkerson dogs have you owned, if any, over the years?

A. None.

Q. And have you ever visited Volkerson Kennels, and if so, in what capacity?

A. I have visited Volkerson Kennels once as to attend a breeders meeting where the top New Zealand North Island breeders and a number of NZKC judges were in attendance.

Q. When you refer to NZKC judges, what is the acronym NZKC stand for?

5 A. Sorry, that's New Zealand Kennel Club. I'm – they have changed the name to Dogs New Zealand, but the old-school people still call it NZKC, New Zealand Kennel Club. In fact, it is still a New Zealand Kennel Club trading as Dogs New Zealand.

10 Q. Thank you. I just now – I now want to proceed to the issue of weights of dogs, the ideal weights for a German Shepherd. Are you there?

A. The ideal weights – yes, I am.

Q. Right.

A. The breed's standard, the international – can you hear me?

Q. Yes, I can.

15 A. The international breed standard sets out the weights.

Q. Right, and –

A. The weights for a male, 30 to 40 kgs, and the weights for a female are 22 to 32 kgs, and the range is dependent obviously on the size of the dog. If you have a very large dog, you expect it to be up in the 30 kgs. If you
20 have a small, then you expect it to be closer to a 30 kgs. So, it's like people. Some are big and some are small, but there is a breed standard and that's the range for the standard.

Q. Now –

A. That's an international standard used in 98 countries.

25 Q. Now, you mentioned the term "coach potato" might be banded around in relation to some German Shepherd dogs. So, if we take a male, you mentioned the standard, that if a dog, German Shepherd dog is not in show condition or bred for that purpose, what would be the normal weight range?

30 A. Sorry, I missed the middle bit. If what purpose?

THE COURT ADDRESSES MR GARDINER – SHORTEN QUESTIONS

(14:28:19)

EXAMINATION CONTINUES: MR GARDINER

Q. If we – if a German Shepherd was not in the ideal weight range but a “couch potato” in inverted commas, what range would you expect such a dog to be in? Firstly, a male dog.

5 A. Oh, a male, I'd expect – a male would be in the 40 to 50 kgs. I've owned a 50 kg couch potato myself.

Q. Right, and when you refer – when one refers to a couch potato, what are we specifically referring to?

A. Sorry, I missed the end of it.

10 Q. When we use the term “couch potato”, whether it's a male or female, what do we mean by the term “couch potato”?

A. I would say I'm talking about just a pet that is not trained for any working position or any – trained to any fitness level. It's just a pet that spends a lot of time lying around at home and eating and sleeping really.

15 Q. Now, you'd mentioned the range for a male –

A. Just pet.

Q. All right. You mentioned the range, weight range of a male dog in that category. What about a female dog? What would be the weight range for a couch potato?

20 A. A couch potato female would be in the 30 to 40 kg range, I would say.

1430

Q. Now puppy litters. I want to deal with that as a topic. Can you comment on the normal litter size for a German Shepherd dog? Normal litter size if any.

25 A. Litter sizes range from one to 12 depending on a lot of factors and the age of the bitch, the breeding system used, the potency of the stud dog but I'd say in average litter would be five to – five or six, maybe five to seven.

Q. How many litters does a large breeding kennel produce each year?

30 A. Again it depends on the kennel. My own kennel I don't breed probably more than one litter per two years but in larger kennels and there's a number of larger kennels, especially in the 90s, there's a few less today but in the 90s there would've been – I could – I know of 10 at least large

breeding kennels that would produce 10 litters or puppies in one year so that's pretty non-stop puppies because you have the puppies for eight weeks.

5 Q. Is there now a control exerted over the number of litters that a bitch can have in her lifetime?

A. Yes, there is. Dogs New Zealand have imposed – I think it is four litters now currently. It used to be six. I think it's now four litters per lifetime and that just changed in June 2020.

10 Q. Now in your role with the Dog Advisory Council of New Zealand do your duties include the number of litters for different kennels in New Zealand?

A. Only kennels that are members of Advisory Council. Dogs New Zealand keep the registry for all the registered litters in New Zealand.

Q. Was Volkerson Kennels a member of the council?

A. They have been in the past but think are not currently.

15 Q. Based upon your knowledge through your membership of the council and your involvement with the council, when Volkerson was a member, how many litters on average would they, from your personal knowledge produced each year?

20 A. I don't have an exact figure but on the Dogs New Zealand Kennel Club website, it is the public searchable site and Volkerson did not produce anywhere near the 10 litters a year that the other kennels were producing so I can't give you an exact figure because I haven't done that. I've done (inaudible 14:34:26) complete count, but I do know they were not included in the 10 kennels producing more than 10 litters a year.

25 Q. Right.

A. So they didn't – they weren't breeding that much.

30 Q. Now you mentioned earlier your involvement with the German Shepherd Dog Advisory Council involved recording hip/elbow status of German Shepherds in New Zealand and that German Shepherds have a predisposition to hip dysplasia. Can you please state what that is and what kennels, reputable ken – breeders, do to deal with it?

OBJECTION: MR RADICH (14:35:33)

LEGAL DISCUSSION – RELEVANCE (14:35:52)**EXAMINATION CONTINUES: MR GARDINER**

Q. Ms King, I just want to go back to this hip dysplasia. Are you with me?

A. Sorry, we missed that last little bit.

5 Q. That's okay. I'm just going to ask some questions on hip dysplasia –

A. Yes.

Q. – given your position with the Council. Can you explain what a predisposition to hip dysplasia is and what it is?

A. Sorry, I'm missing it again. Can I explain what?

10 Q. Can you please – the concept, hip dysplasia, and how you deal with it?

A. The hips, well, most breeding kennels will x-ray their breeding stock before they breed to ascertain the state of the hips. Ideally, the cut off for a pass for hips from the New Zealand Dog Advisory Council is 18. The cost is between – depending on which vet you're using it's between four and \$800 per dog. You want them to be – they're judged on – the x-rays are read by an expert panel of breeders. They're usually sent away to Australia to be read and you get a score back. The score is between zero, being the best, and 106 being the worst. For the Volkerson dogs that I have seen, the public scores for, of about 40 dogs that I've seen, the results, their breed average is 7.4, so they are well inside the 18 breed average expected from the New Zealand Dog Advisory Council.

Q. Thank you. Just going to a different topic, showing of dogs. Can you comment on what the optimum age for a German Shepherd dogs is in New Zealand for showing?

25 A. I think the peak age is probably between three to five, but one to six would be probably the lifespan of their showing career, so to speak, in New Zealand. In Australia it's a lot less, it's about one to four years old. I don't know why that is, but that's just the comparison.

Q. Now when a German Shepherd dog is showed, what does the judge look for?

30

1440

A. The judge is judging the dog against the breeds standards. It's not judging one dog against the other dog so it's the dog that's most correct to what the breed standards states so he's looking for good structure, good conformation, good movement, fitness, the breed standards states that the dogs should be firm which is the muscle condition and dry which is the fat, body fat levels so that is what the Judge is looking for. If you've got a roly-poly dog that's rolling about the ring then don't expect to do too well.

Q. Now, I'll just deal with another topic which – coats and grooming. Can you explain firstly how a kennel might be groomed– correction a dog might– a German Shepherd dog might be groomed in a kennel situation as opposed to a pet dog being groomed?

A. For myself, my pets are groomed probably weekly they're in the house and shedding hair but my kennel dogs, I groom probably maybe monthly and they are not– they are groomed, all the coat is stripped out in one go and then they are bathed and blow-dried and that blows out any dead or loose hair so they might be carrying an amount of dead hair for a while until they are stripped out, ready for shows. You don't strip it out earlier because you want the coat to grow in so that they look– and their coats are in peak condition for showing so they might look a bit daggy on the outside but that's just the moulting condition of a German Shepherd.

Q. Now, how much– German Shepherds presumably have different coats for different types of German Shepherd. Can you describe the difference between the different coats for example, firstly the short-hair coat?

A. A short-coat, they – it is exactly what it says it is. It is a shorter coat. It can be anything from a very close tight coat that's short to the body or it can be a medium what we call a plush coat which is a bit thicker and a bit plusher but it's still a short coat. They don't have undercoat on the top of their back so they shouldn't have any issues with matting over the back. Some of the very short coats, they don't drop the coat easily and it just stays in the coat until its stripped out. Because it's short, it just stays in there for some reason. It's the nature of the coat. The long-coat with undercoat, which is the type of long-coat that you can show, their

undercoat is prone to matting. It doesn't take more than a day or so, especially in winter, to get little mats forming so they do have to be carefully groomed out and that just, it does take time but it doesn't take time for them to get dirty and muddy and natty. It's— I live rurally and it's—
 5 it is an issue with people who live rural because you are in a— you're not on concrete all the time and they do get (inaudible 14:42:50) and things like that so it is an issue but it's just a matter of (inaudible 14:43:57) stripped out and groomed out when their time comes for getting ready to be shown.

10 Q. And would that be once a month as you indicated earlier?

A. Well, yes, but you— my own long coat, I only own one long coat because they're difficult to keep and it does get the odd little mat around its ears or under its arms which I do have to attend to ahead of their main grooming but generally they just get groomed out, the same as all the
 15 others. (inaudible 14:44:33) stripped and bathed and groomed out that way.

Q. What about faeces being— clinging to a coat easily and forming a mat, have you got any comments on that?

A. Well, yes, if you have a kennel environment, then the if the dog (inaudible
 20 14:44:56) toilet and lies down on it, of course it's like the proverbial shit to a blanket, it's going stick in there and be a bit mucky and it's going to have to be, you know, it doesn't take long for that stuff (inaudible 14:45:10) and then it's got to be cleaned out.

Q. Right.

25 A. But that's (inaudible 14:45:14) I mean, this happened (inaudible 14:45:16) lie in it or step in it. Even standing in it, because they have very hairy feet with a long coat, it can just flick up and, you know, it's a bit like cleaning your (inaudible 14:45:29). It's the coat (inaudible 14:45:31).

Q. What about a long hair without undercoat? Is that another type of coat?

30 A. It is another type of coat. That's a type of coat that we used to have a lot more of in New Zealand, but they're not able to be shown because they have an undercoat so — and because they don't have an undercoat they're way less prone to matting and their coats are a lot just silkier,

they're not just coarse. You need a bit of weatherproofing and coarseness for the coat. That's what the undercoat provides. Without undercoat the dog's not waterproof, so it's not a good working dog example.

5 Q. Right. Now just going to – I want to deal with puppies and ask some questions, this is as a topic. When puppies are raised and they're found with faeces and overturned water dishes, does that surprise you?

A. Sorry, I got *overturned*. That's as far as I got.

10 Q. Right. When puppies are raised, when puppies are raised and they're found with faeces and overturned water containers, does that surprise you?

A. No, that's normal puppy raising. First thing in the morning it's a bit of a disaster area and then it's all the puppies to (inaudible 14:47:12) and they would get up and have stood in it and spilled any water they might have had, and that will carry on throughout the day. Once you've cleaned them and you've fed them breakfast, by the time you get back at 11 it's back how it was and you start again, and you might do that five times during the day, especially if you've got a big little of puppies, you know, they poop and they stand in it and they run around and play in it and that just
15 – it's a messy exercise, it's just a constant repeat the process of cleaning and then refilling the water and cleaning it again and...

20 Q. Right. Now I just want to ask you, if you had a, had a number of puppies, what would the daily routine consist of, a minimum one in relation to looking after these puppies?

25 A. Well it's just a constant process of all puppies do is eat, sleep, play and poop, so it's a constant – first thing you do is clean in the morning, then you will feed them their breakfast and you'll refill water, you'll – then you'll go back and clean them again, maybe at 11, and then you'll feed them lunch and then you'll do the water, then you'll clean them again in the
30 afternoon, because they all would have toileted again from their lunch and then you'll refill the water and so – and in amongst that – and then the same at dinner time. But in amongst that time you'd be doing some puppy socialising, you'd be handling the puppies, you'd be taking them out on

the lawn for a run around and letting them see new environments and new objects and unfamiliar things that they don't – haven't encountered yet as part of their socialising.

Q. What about playing with their toys and bones – and eating bones and playing also with unfamiliar things. Where would that all fit in?

A. Bones are necessary (inaudible 14:49:24), well, that's part of their day – myself I give them bones to help build the muscles in the head and the skull, which helps with the ear carriage to help their ears stand up. Once the puppies have eaten the meat off the bones, the bones, once they dry up, I might leave the bones in there as just something for them to gnaw on to continue to develop their ear carriage. They also need bones to bed in their adult teeth. So, it must be puppy teeth, baby teeth. They require something hard to chew on and if you don't leave some old bones in there you might end up them chewing on wood. So it pays to just leave something in there for them to chew on. Toys, I guess toys when they're supervised, puppies are like babies, they put everything in their mouth, they eat everything. Most toys, and I mean most, I can't even recommend a toy that is a safe toy to leave with a dog unattended. No toy is designed to be left unattended with a dog so I don't leave my puppies with toys unattended, I give them toys to play with and take them away again.

1450

Q. What would you say in terms of how would you best ensure that puppies didn't overturn their water bottles?

A. To start with you do have to have a bowl on the ground because the puppies are too small to reach up and get anything that's higher than ground level but as they get bigger you can use a bucket clipped up onto the wire so that they can't overturn it as easily. They still will put their feet in it and dirty it and play in it but it's less likely they'll tip it all out but when they are small usually the bowl is on the ground.

30 **MS CRANSTOUN ADDRESSES THE COURT – USING SPECIAL MICROPHONE (14:51:52)**

THE COURT ADDRESSES WITNESS – PROCEDURE (14:52:06)

CROSS-EXAMINATION: MS CRANSTOUN

Q. Can you hear me Ms King?

A. Yes I can, yes.

5 Q. Ms King, you said in your evidence that you used to handle Volkerson dogs occasionally, what does *handle* refer to? What would you be doing if you were *handling* a dog?

A. That refers to showing them in the show ring so that the person on the end of the lead in the show ring is called the *handler*. So that's what I mean by *handling* the dog. So that means I helped them show some of
10 their dogs on occasion when they require more handlers than they had available.

Q. Do you know who normally does the handling for the Volkerson dogs?

A. Janine does a lot herself and I believe they have had other handlers help in the past.

15 Q. And you said that you'd been to Volkerson Kennels once, do you remember when that visit was, what year?

A. (no audible answer 14:53:39).

Q. Ms King?

THE COURT:

20 Are you still there Ms King?

WITNESS

(no audible answer 14:53:56).

CROSS-EXAMINATION CONTINUES: MS CRANSTOUN

Q. Can you hear us Ms King? There she is.

25 **THE COURT:**

There you are, can you hear us?

WITNESS:

(inaudible 14:54:06) I got the first part of the last question. Can you repeat your last question please?

CROSS-EXAMINATION CONTINUES: MS CRANSTOUN

Q. Yes, you'd been to Volkerson Kennels once?

A. Yes, I have.

Q. Do you remember what year that was in?

5 A. Oh, not exactly, maybe 2017 maybe '16, '17 maybe. I couldn't tell you exactly.

Q. Do you know what year Volkerson Kennels left the Advisory Council?

A. No I don't, I don't have the membership details. I would say maybe the '90s but that would be a guess.

10 Q. Thank you.

A. Because I don't have that information.

1455

Q. And when you were speaking about the 10 kennels producing 10 litters, would I be correct in (inaudible 14:55:18) that was in the 1990s?

15 A. Yes, that's correct.

Q. Thank you, those are all—

A. That's publicly searchable in— on the (inaudible 14:55:30), yeah. In the '90s, there were 10, probably 10 large kennels breeding 10 plus litters a year and you can look that up on any, on the Dogs New Zealand
20 (inaudible 14:55:45).

CROSS-EXAMINATION: MR RADICH

Q. Thank you, Ms King, can you hear me?

A. Yes, I can.

25 Q. Thank you, the time that you visited Volkerson for the breeders' meeting, was that— did you go through the whole property, the buildings or were you just in the house for the meeting?

A. I didn't go through all the buildings but I did go around the property and view a number of their other stock that they hold on their property, the gear, the horses. I did see from there, oh and their exotic birds. I did see
30 from their yard, I can see their day runs where they have the exercise runs and I could see their dogs out in the exercise runs there and they also have little puppies out on the lawn.

Q. You were asked a few questions about the matting of coats and you, with a very colourful turn of phrase, described how faecal matter can cause matting. I just want to be clear, that's for basically any of the categories of hair length German Shepherd that you spoke about, is that right?

5 A. Yes, it can happen. Any dog that lies in faeces will get it stuck in their coat. It's, it's like chewing gum in your hair.

Q. Thank you. You said the most dogs you've ever had at one time is 11 dogs, is that right?

A. Yes, that's right.

10 Q. Can you give us an idea, how much work was involved in that? Is that essentially a full-time job for you at that time or what?

A. Yes, it is, really, well. My personal way of running my kennel is that if you have that number of dogs, someone should be there at all times as a safety precaution, but it does take a fair amount of (inaudible 14:58:28) time. They had (inaudible 14:58:32) routine. They have a regular routine of breakfast and daily exercise and dinner and then their time, so they like their routine, as long as you have a good routine going, it's not as— such a big task.

20 Q. What about if you'd had say 10 dogs and 10 puppies at the same time, that would be a lot of work, I take it?

A. Sorry, I missed the number in the middle. I got: "if you had" and then I missed the last bit.

Q. If you had say 10 adult dogs and 10 puppies, puppies including anything up to a year old, that would be a lot of work for one person?

25 A. Not — routinely, puppies, once you— if you have a good routine, the puppies are the same. Once you have a routine down, it's, you know, it's just a matter of you doing breakfast, lunch and dinner and the same routine for your adults— with exercising and socialising and playing in between so it's— it's a matter of what, how good you are at making a routine and managing that. it's,, it's not a big— one litter of puppies it not that hard. The hardest time is from when they're born to maybe one to 30 two weeks old, that's the harder time. The rest is sort of easier after that.

1500

Q. What if say you had, say, 30 adult dogs and 30 pups, would that would obviously be more work, is that something that you think you could have coped with my yourself?

5 A. I could if I had enough kennels for that but if that was all I was doing, that's a – 30's a manageable number and I mean two litters of 10 puppies is 20 puppies, so really that's only two litter of puppies, so you might have three litters at the most, yes, it's a manageable thing I think but it is a huge amount of work for one person.

Q. Sure, and –

10 A. You know, to keep on top of it you'd be going all the time.

Q. Right, and one of the first things you said in response to that question was: "I could have if I had enough kennels," what do you mean, do you mean enough kennels so that all dogs could be housed in a kennel?

A. Sorry, I missed, enough kennels for?

15 Q. When you said you could have managed that if you had enough kennels, what does enough kennels mean for say the example we were using, 30 adult dogs, 30 puppies, puppies being up to a year old, what would enough kennels represent for you?

20 A. Well for 30 dogs I would say you would need 15 kennels minimum probably and puppies would then need their own puppy area. Quite often the dogs are paired, I pair my own, I usually have two pairs together at a time, so if I had 30 I would need 15 kennels.

Q. And for, if somebody expresses that they generally prefer one dog per kennel then more than 15 would be needed?

25 A. Sorry, if someone expresses what?

Q. Well if – you're saying you don't mind –

A. You keep dropping out, the video keeps, sorry.

Q. That's all right, it's not your fault but can you hear me ok? Can you hear me okay?

30 A. I can hear you, when the video drops out I can't hear you so (inaudible 15:02:37).

Q. That's okay, if somebody had a general preference to having one dog per kennel then obviously you'd need more than 15 kennels for the adult dogs on that scenario, right?

5 A. Well yes but being pack animals they prefer to have a partner or a mate together, they're just, makes for happier dogs.

Q. In relation to a bitch getting pregnant is it possible for, obviously everybody wants a bitch that's been bred from to be in optimum health but is it possible for a dog that is in less than optimum health to get safely in pup?

10 A. Is it possible?

Q. Yes.

A. Yes, it's possible. You only have got to see puppies, stray dogs on street get in pup so yes, it's possible.

15 Q. Can I ask you about ear infections which are, maybe not a problem for German Shepherds but they're something that you have to be conscious of as a German Shepherd owner, correct?

A. Yes they are pre disposed to skin conditions and allergies the same as other dogs, the main problem with their ears and any type of infection is usually a yeasty base build up and that's 90% of the time is an allergy relating to food so it's the new regime of feeding your dogs dry kibbled food, not all foods are equal, a lot of them are filled with grain and fillers which are not something that a dog eats as a K9 and that causes skin allergies and ear allergies, which is the same really, it causes inflammation, is harm. Put it this way, back when my father had a German Shepherd kennel in the 60s and 70s we never had any dogs with skin issues, we never had any ear issues, we didn't have any dogs with allergies and I never heard of a dog with a skin allergy, and that is because we went with dry food. All the dogs were fed more, so a lot of it is food related.

30 1505

Q. If you did get a dog with an ear infection, what would be the best thing to do?

A. Well most breeders or larger kennels have products on hand. I have (inaudible 15:05:36) which is an ear canal cleaning fluid drop, from any vet. I have another stuff – medicated shampoo called Malaseb, which was (inaudible 15:05:50). I have had occasions where a dog had to have its food changed because it kept getting (inaudible 15:05:57) stuck in its ears and since I changed the food the ear issues resolved.

Q. Just in –

A. So, it didn't –

Q. – sorry –

A. – require vet treatment.

Q. You prepared your brief of evidence or statement, if you like, in relation to this matter in January of this year, correct?

A. Yes.

Q. Since then have you spoken to anybody else about the content of that evidence?

A. Sorry, you got – since then?

Q. Have you spoken to anyone –

A. I missed the rest.

Q. – else. Have you spoken to anyone about the content of your evidence?

A. I think you said, have I spoken to anyone else about this evidence? No, I haven't.

Q. Okay, about the – I said *about the content*, but that's okay. What do you understand your role in giving evidence today to be?

A. Just to state facts to the questions I've been asked. I don't see that – I haven't (inaudible 15:07:22) – I personally haven't seen any issues with Volkerson Kennels so I, you know, don't have any problem in giving evidence in the defence of that.

Q. So do you understand your role to be to give evidence advocating for their defence? Do I understand that correctly?

A. No, I'm just stating the facts to the questions that are put to me –

Q. Okay.

A. – and I see I'm a witness for the defence, so that's – would be yes, then, would it?

Q. Well not necessarily. Do you understand that you have obligations of objectivity?

A. Yes, I do, and that's why I'm just – I will only give facts for my own personal experience.

5 Q. Sure and that's good, that's good. Were you by – have you by any chance been shown or reviewed a document called the Expert Witness' Code of Conduct?

A. No.

10 Q. Okay, I'll move on to a different subject. You've got – you've had provided to you, haven't you, the – a couple of links to photo booklets that we have referred to in this trial?

A. Yes, I have.

Q. Okay. Have you discussed the content of those photo booklets with anyone?

15 A. No, I haven't.

Q. Okay, could I ask you to go to page 3 of the larger of those booklets. We're calling it exhibit 1, but the link, in terms of the link which I understand you were sent –

A. I've lost it again. Sorry, I missed that.

20 Q. Okay, I just want to –

A. Oh, I've lost it again.

Q. Okay. Do you have – if you can hear me do you have the booklet –

A. Sorry, I'm – I did look at them. I don't have them in front of me.

Q. Okay, can you get them in front of you?

25 A. So if you can describe it, I can tell you.

1510

Q. No, no, that won't do. Can you get it in front of you please?

A. No, I don't have them in front of...

Q. Can you get it in front of you?

30 A. Hang on, I'll try, I don't have it in paper form so I would have to go and find it on the computer.

Q. Tell us when you're there.

A. Okay, if you just wait, give me a moment.

Q. Sure thing.

A. Okay, which one am I looking for?

Q. The one that I think, we're calling it prosecution exhibit 1 but I think the link that you have will be named "Living Conditions photo booklet"?

5 WITNESS REFERRED TO EXHIBIT 1 - LIVING CONDITIONS PHOTO BOOKLET

A. Okay. Okay, I have that open.

Q. Could you go to page 3 please?

A. I don't have that open sorry, I've lost it again, (inaudible 15:12:01). Are
10 you there? Oh, it's gone again. Sorry, I'm here.

Q. That's okay—

A. I have that open.

Q. We're still here.

A. Can you hear me?

15 Q. We can hear you, can you go to page 3?

A. You keep dropped it out, it's just page 3.

THE COURT ADDRESSES MR RADICH – SAME COMPUTER (15:12:29)

LEGAL DISCUSSION – PHONING IN (15:12:44)

THE COURT ADDRESSES WITNESS – ALTERNATIVE COMMUNICATION

20 (15:13:13)

LEGAL DISCUSSION – PHONING IN (15:14:39)

THE COURT ADDRESSES WITNESS – WAITING FOR MR GARDINER(15:16:50)

CROSS-EXAMINATION CONTINUES: MR RADICH

25 Q. Ms King, can you hear me okay?

A. Yes, but if you could be a bit louder, that would be good.

Q. Okay, I will try to stay as close to the microphone as possible, is that clear?

A. Yes.

Q. Okay, thank you, do you have that booklet in front of you and are you on page 3?

5 A. I do but I don't have page numbers, sorry, how many pictures are on a page?

Q. There are two on a page but there are page numbers at the bottom of each page?

A. (inaudible 15:18:07), what page am I going to, photo third page and we're on page three, okay. Yep, I'm there.

10 Q. Okay, are you looking at a page- the bottom photo of which shows a double dog kennel and the top photo shows two dogs attached to a fence?

A. Yes.

15 Q. Okay, in relation to that top photo, we've heard evidence in this trial that that puppy could have chewed through that leash in a minute. Does that sound about right to you?

20 A. No, not for a puppy, no. That's, that's a webbing, that's a webbing lead. If you ever tried to chew through a seatbelt? I doubt that a puppy would chew through that that quickly. That's why dog leads are made of that stuff, they're quite, it's quite hard even for an adult to chew through that stuff and puppies only have small baby teeth, they don't have big teeth (inaudible 15:19:19).

Q. Thank you, could we now—

THE COURT ADDRESSES MR RADICH – PAUSE (15:19:32)

25 1520

MR RADICH ADDRESSES THE COURT (15:22:38)

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Ms King, we're back again if you can hear me okay?

A. Yes good thanks.

30 Q. If you go over to page 6 of that same booklet please?

A. Yes.

Q. In the bottom photo there, the close up one, can you tell us, do you know what we're looking at there?

A. I'm not sure what the actual, what it actually is, going by the two photographs, it's a patch of something but it looks like it's got dog hair stuck to it, whatever it is though it could be anything, it doesn't look like anything I recognise in actual fact but the dog hair on the top does. Sometimes if you hang a water bucket that's what the dogs underneath where it's we where all the dog hair sticks there but I can't say that that's the case, what's – not what's caused that but it's just like a wet patch with dog hair stuck to it, to me.

Q. Could you go to please, page 10? If you're having trouble with page numbers then tell me.

A. So that's the puppy pen thing in the wool shed.

Q. That's correct.

A. Yes.

Q. Just looking at the top photo, you gave evidence before that the minimum number of times you would say a puppy pen should be cleaned out is five per day, is that correct?

A. Yes, it's probably around how many times I do it, yes.

Q. We've seen a video in relation to that photo that you can see there which showed a little bit more detail but are you able to say whether that looks to you like a puppy pen that's potentially been cleaned five times per day?

A. I would expect a puppy pen to look like that...

1525

A. I would expect a puppy pen to look like that for the first thing in the morning. The paper – newspaper would all be soaked. It wouldn't last very long. There would be a number of piles of poop depending on how many pups there are. From that picture, I'd say I have a good impression. It doesn't sound right, but I do because the puppies' poop is of good consistency and good colour, but that's what happens when you use newspaper. It doesn't take very long for it to be soaked and even with urine, but even spilling the water and the puppies are wet in the water and they play in the water and the paper gets soaked very quickly. So, that's

how I would expect it to look first thing in the morning or maybe after lunch, you know, that's – if you're going into clean, so that's not unusual if you're using newspaper.

Q. Okay, we're getting a bit of rumbling in the background there, but can you
5 hear me okay?

A. Yes.

Q. All right, look, I'll try to abbreviate things because of the difficulties we're having, but can I just ask you about something we've heard referred to a lot in this trial called a choke chain. Do you know what a choke chain is?

10 A. Yes, I do.

HOUSEKEEPING – MS CHAYTOR TO MUTE MICROPHONE (15:26:29)

CROSS-EXAMINATION CONTINUES: MR RADICH

Q. Ms King, sorry, we'll try again. As I say, I'll try to keep it brief because I know this isn't easy. I asked you about a choke chain. What's a choke
15 chain used for?

A. Well, the correct term is a check chain and it's used to check the dog in training and it's also used as a – so it's not used ideally to pull tight. It's just used to check the dog so that it realises that whatever it is its doing, that's not the correct behaviour, and it's also used as a way to tether dogs
20 if you have a risk of dogs getting off or slipping collars. I'll use it if I have young dogs and I'm tying them up and I have adult dogs as well, so just for the safety of the dogs, I'll use my check chains so then I know that they can't escape out of their collars.

Q. And I take it in those situations, because of the nature of a choke chain,
25 you'd make sure you're always close by in attendance so that there wouldn't be any problem with a chain like that. Would that be right?

A. Yes, relatively, yes. They can be clipped so that they don't actually go onto pull choke and there are cheap chains that you can buy that have a – what's called a stop on them and then they will tighten to a certain
30 degree and they won't tighten any further.

Q. What about a dog generally being left tethered unattended? We all know that that's going to happen from time to time, but is that something that you wouldn't want to do for long periods?

1530

5 A. It's something that you do do. It is required for a number of training exercises. The New Zealand – or the Dogs New Zealand canine good citizen requires that your dog should be able to be tied up and left unattended for up to five minutes, so to receive the canine good citizen qualification, so that is – and that's a title that goes on your pedigree, so
10 there is a training requirement to have your dog tethered and remain calm in that situation. There's also (inaudible 15:30:25) testing which is an international training exercise qualification and it's to test the character and what have you of the dogs and the same thing's required. The dog is left unattended tied up with the handler or the owner out of sight, so
15 they are– it is done in different training things. I tether my own dog if I'm maybe preparing them for bathing, grooming, nail clipping, whatever else might be going on then, you know, they have to learn to be tethered and be calm and just wait quietly it is, can be part of training so yes, it is done from time to time.

20 Q. Sure, and you spoke more about minutes, in terms of the time for tethering, is that right. Would hours–

A. Well, it depends. If you've had your dog and you play your exercising say adult, I'm talking bigger dogs there. If those dogs had been out for exercise, say running in the paddocks or training, show training or
25 something like that, that requires them to some exertion, then you would leave the dog tethered to and not allow it to go back into the kennel and gulp big buckets of water because that's a risk of bloat so it's like a cool down period so that could have been up to an hour for an adult. My own dogs, if I bring them in from their day runs at night, I don't feed them for
30 an hour to give them that cool down time so that can be another reason why a dog is tethered and you know, and that's what I do with some of mine but they, German Shepherds are prone to bloat so gulping water is a prime thing that you don't really want them to do if they've been

exercising. It's like don't swim after you've eaten your lunch, it's a bit like that, yeah.

Q. Sure, what about tethering a dog in a cage overnight?

5 A. I don't tether my dogs in their cages because I have room for them not to be and I have secure cages so it just depends what you're tethering and how. Is it that the dog's on a collar and the area's not secure, then I could see a reason for tethering it but it would be how it would be tethered would be tethered would be this question without having an actual instance.

10 Q. Right, because you have to tether the dog, don't you so to minimise the risk of it coming to harm?

A. Well, sometimes, it depends on what, where the dog's being kept and what the conditions are so it's all relevant to you know, the, each situation's relative.

15 Q. Look, I'll leave it there. I know this hasn't gone very smoothly, technically, so I will ask you– I've got no further questions for you, Ms King, thank you.

A. Thank you.

RE-EXAMINATION: MR GARDINER – NIL

QUESTIONS FROM THE COURT – NIL

20 **WITNESS EXCUSED**

LEGAL DISCUSSION – TIMING (15:36:10)**COURT ADJOURNS: 3.37 PM****COURT RESUMES: 3.57 PM****5 MR GARDINER CALLS****SUSAN CHAYTOR (VIA AVL)**

- Q. Ms Chaytor, my name is Dan Gardiner and I'm just going to ask you some questions which relate to the report that you wrote back in January 2018. What I will do is ask you some questions. That report should not be there, and I should be asking you questions about what steps you went through on that day but I will start by referring to you something you covered at the end of your report. That is your credentials as an independent witness. Can you please state your background with dogs and period over which you've had that background?
- 10
- A. I had owned show and breed judged, trained dogs since approximately 1982, not necessarily German Shepherds but I have been instructor at Obedience for 20, maybe 30 years. Now now.
- 15
- Q. What's your experience with German Shepherd dogs?
- A. As a judge or as a trainer?
- 20
- Q. Firstly as a trainer.
- A. I haven't actually trained German Shepherds myself and I've had a reasonable amount to do with them. My ex-husband was a dog trainer and trained German Shepherds for security work but not me.
- Q. What about your experience as a judge with German Shepherd dogs?
- 25
- A. I've judged mostly – mostly all over in New Zealand and Australia, not necessarily German Shepherd specialist because there is a difference between German Shepherd specialist shows and the ones that I normally judge at which are classed as all breed shows.
- Q. Just on that score, can you explain what's involved with a German Shepherd specialist show? What that involves.
- 30

A. They usually get highly trained SV judges usually are from Germany. Some from Australia but usually Germany and they will – they prefer a leaner, dry dog and they want the muscular and fit.

Q. What about the all breed category?

5 A. The all breeds category is not so specific on the leanness and muscular and dry. Dry meaning that they have no excess weight. They have enough weight, but they have no excess weight.

Q. What areas have you trained dogs in?

10 A. What areas? Just normal obedience is what I used to do. Not, not – that was quite a while ago and I am now just – I just judge. I judge confirmation not agility or obedience or anything like. I just do confirmation.

Q. Do you hold the position as chair of the Judges Association?

A. Not currently, no, I was. I think when I first wrote that report, yes I was, back then.

15 Q. Did you have an involvement then with an all breeds dog club?

A. All breeds dog club. I've been involved with Hamilton Kennel Association for 10 years and probably Cambridge Kennel Association for another 10 years after that.

20 Q. I will now ask you some questions in relation to that report but before I do so I emphasise that you're a person of some expertise and it's very important that you be objective in your answers.

A. Okay.

Q. You were retained or asked to do a report on the state of dogs and living and housing conditions at Volkerson Kennels?

25 A. Correct.

Q. When was that precisely as you recall?

A. It was the date that I put on a report. I think I came home and wrote the report out the same night and sent it back.

1605

30 Q. And does the 27th of January 2018 sound correct to you?

A. Yes.

Q. Now when you did that report, you walked the kennels, compounds?

A. Yes.

Q. And surrounding areas' kennels?

A. Correct.

Q. What did you find?

A. What did I find?

5 Q. Yes?

A. It's written in my report.

Q. Was there any evidence of lack of care or treatment or undernourished dogs?

A. Most certainly not.

10 Q. What did you— what was the impression that you had when you did this circuit or walk around the kennels, compounds and surrounding areas?

A. The impression?

Q. Yes?

15 A. I've got to think back. It's quite a few years ago. The impression well, it was a dry day, as opposed to a wet day so that- that helped. I certainly didn't have to wear a raincoat or anything like that. It was, was late January so it was hot. I didn't, I didn't, I didn't see anything out of the ordinary that I would— otherwise I would have put it in my report.

Q. Were you briefed on what the dogs were fed on?

20 A. Yes.

Q. What was that?

A. Mainly raw but I can't remember the brand of dog biscuits that we used.

Q. Does Royal Canin High Performance biscuits, do they strike a bell?

25 A. I don't— I can't remember whether, I think it was Royal Canin but I'm not 100% certain on that. Anyway, that's a top of the range dog kibble that's available.

Q. Now, you— when you did this report, you met with Mrs Glover and her daughter, Janine Wallace, correct?

30 A. Not Mrs Glover, I went into the house where Mrs Glover was with her dog Brenda.

Q. And you— and who showed you around the—

A. Janine. We walked the deer, the deer enclosure as per the picture on my report. We went around the side, as per the pictures that apparently the—

we took of the muddied, bloodied newspaper that was there, that was, I—
I can't, there was no puppies in there so it was— that was, I can't comment
anything on that but that was being cleaned up, that was just where the
puppies had had two bones. We went into the barn where the dog was
5 taken from. We went into the wool shed which is just a normal wool shed.
I've worked in wool sheds and it was perfectly fine as a wool shed.

Q. And what about the— did you go into the cattle sheds?

A. I took pictures of the cattle yards.

Q. And how many dogs do you estimate you saw on this visit?

10 A. That's hard to tell because there were dogs in the newly formed runs so
I don't know, I think there were 17 there but I can't, I can't honestly— I can't
remember how many I saw. I certainly didn't put that in my report.

Q. So, just to recap, in the— you talk in your report about carport type sheds.
Was that the utility shed as opposed – was that the utility shed next to the
15 house?

A. Yes.

Q. There were no dogs in there, in that shed?

A. Not at that stage.

Q. No dogs in the woolshed?

20 A. No.

Q. No dogs in the deer shed?

A. No.

Q. And in terms of the— did you form an impression of the deer shed, can
you describe what you saw?

25 1610

A. It's a shed with a skylight.

Q. Yep.

A. Lighting on the top.

Q. Right.

30 A. That's in the picture on the report that I submitted.

Q. Right.

A. I don't – there wasn't any deer in there and there wasn't any dogs in there,
so I can't really form an impression of it because it wasn't being utilised.

Q. Right. Now, did you see any dogs in the cattle sheds, cattle yards?

A. No.

Q. Right.

A. There was – no, there wasn't. There wasn't any in the cattle yards itself.

5 Q. Right and as regards drinking utensils, what did you see in terms of drinking utensils for dogs?

A. Where did I see them? I think they were in the lean-to by the house. I don't recall not seeing any, but – it wasn't early in the morning so if they had been full the dogs could of played in them, splashed them, spilt them, tipped them over. I don't know, I can't recall seeing anything untoward.

10

Q. And would it be fair to say that the utensils you saw were stainless steel –

A. Yes.

Q. – and had water in them?

A. Yes.

15 Q. Right. Thank you very much.

CROSS-EXAMINATION: MR CRANSTOUN – NIL

CROSS-EXAMINATION: MR RADICH

Q. Sorry, Mr Chaytor, there was a little bit of radio silence there, but can you hear me?

20 A. Yes.

Q. Okay, sorry. My name's Luke Radich. I've just got a few questions for you as well, so thank you for your patience. This visit that you made to the property and report you wrote was in January 2018, correct?

A. Yep.

25 Q. Is that the only time you've been to the property?

A. Yes, it is.

Q. So I guess to state the obvious, you can't speak to what the conditions were like in July, August or October of the previous year. Correct?

A. That's correct.

30 Q. Now you saw a number of dogs on your visit to the property, but it would be fair to say you can't be completely clear about a spe – a specific number. Would that be fair?

A. I've got an old brain. It's not – I can't remember back that far.

Q. No, no, that's okay. That's okay, but you saw these – this new kennel block, correct?

A. Yes. It's in –

5 Q. And –

A. – the pictures in the report, yes.

Q. It is. Thank you for that and that housed 17 dogs?

A. I'm not certain of the number. I think it was 17, but I wouldn't put – say that as 100%.

10 Q. No, sure thing. That's okay. And you saw the woolshed but there were no dogs in there, correct?

A. Yeah, that's correct.

Q. The deer shed, but there were no dogs in there?

A. Correct.

15 Q. The hay barn, but there were no dogs in there?

A. Correct.

Q. The cattle yards, but there were no dogs in there?

A. Correct.

20 Q. And you did go – you mentioned you did go inside the house and you saw, did you say, one dog in there with Barbara, is that right?

A. Correct.

Q. Did you see any other dogs on the property?

A. Yes.

Q. Okay.

25 A. I think there were some in the lean-to, but I can't – I didn't, I didn't take (inaudible 16:14:14). I think there were some in the lean-to.

Q. Okay.

A. That was by the house.

30 Q. Sure. Again, I can hear in your voice that you're being very careful to be accurate with things and that's great, but are you able to give us an idea about the number of dogs you might have seen in there? Are we talking like one or two or are we talking five or six or what?

A. I don't – it certainly wasn't five or six. It was more likely to have been three or four. Maybe less.

1615

5 Q. All right. So, do you – would it be fair to say that you probably saw – on your visit to the property this day, you're probably shown what a maximum of, say, 25 dogs. It wouldn't have been much more than that, would it?

A. Correct.

Q. Now, sorry, the line hasn't gone dead. I'm just organising my papers, Ms Chaytor, so bear with me a moment. Thank you.

10 A. I see that, yeah.

Q. Now, do you have with you a photo booklet either in hardcopy or on a screen? That is – here's the front page, labelled "Images from Inspection Volkerson Kennels 2017"?

WITNESS REFERRED TO PHOTOGRAPH BOOKLET

15 A. Not in front of me. It's on my computer and I'd have to downsize this to go and look at it.

Q. Okay, are you able to do that?

A. Remembering that I can only say what I saw on the day.

Q. No, no, sure. I understand that.

20 A. Okay, so I'm going to downsize the page. Where did I put it? There it is. What was it called?

Q. The front page of it is titled: "Volkerson Kennels 2017 Images from Inspections". If you were sent a – are you clicking on a link that was sent to you?

25 A. I downloaded two.

Q. Right, yes. The one – and one was called, "Bush Dogs". I'm talking about the other one.

A. Yeah, "Living Conditions"?

Q. That's the one, yes. Thank you. Just tell me when you've got that there.

30 A. Yep.

Q. Okay. Now, I understand you can only speak to the time you were there, but could I just ask you to go to page 3 please?

A. To three?

Q. Yes. Can you see on the page there, there should be two photos on page 3, on the top a – two dogs tethered to a fence. Have you got that photo?

A. Yep.

5 Q. Now, when you did your report, you said that you saw no leads that were a metre long. They were all well over a metre. We can see a dog in that photo – understand this wasn't during your visit, this is months before, but on this occasion, there's a dog tethered by a lead that is certainly not well over a metre, is it?

10 A. It's also tied quite high up the fence, so yes.

Q. Yes.

A. But – yep, I can see that, yeah.

Q. So, the lead when fully extended might've been much longer than a metre, but it's certainly tied up to less than a metre. Would you agree with that?

15

A. The picket fence is about a metre. It's probably close to a metre.

Q. Okay. All right, that's good. Thank you. Could you go right forward to page 47?

A. Did you not – oh, there we are, right down the bottom. Page 47?

20

Q. Yes.

A. Forty-four, five, 46, 47.

Q. Have you got two photos there, the one on top being a dog sort of in a shed and can you see a yellow sign there saying, "waste not stop feeders", just to make sure we're looking at the same page here?

25

A. Yes.

Q. Okay. You mentioned some dogs being in what you call the lean-to. We've been calling a particular building in this trial a utility shed, which was opened. It had an opened front. It wasn't completely enclosed. Does that look like the area you're talking about where you're saying the dogs were in the lean-to? If you can't say, that's okay.

30

A. I'm not 100% sure, but yes, I think so.

Q. You can see a dog in that photo?

A. Yes.

Q. Now, could I then ask you – I'm going to show you a photo that we've heard evidence was taken of that same area the next day. It's just a little bit closer up. Could you go to page 65?

1620

5 A. Yep.

Q. Just to make sure we're at the same page, the top photo right up in the top left-hand corner we see part of that same yellow sign thing "Waste-Not Stock Feeders"?

A. Yeah.

10 Q. Looking at those two photos and the bottom one you can see some dog hair on the ground, correct?

A. Can see something but I wouldn't 100 per cent guarantee it's dog hair but yeah.

Q. You're not able to say from that photo, is that fair comment?

15 A. Yeah.

Q. Alright. Thank you.

A. There is water in that bowl.

RE-EXAMINATION: MR GARDINER – NIL

QUESTIONS FROM THE COURT – NIL

20 **WITNESS EXCUSED**

MR GARDINER CALLS**ADRIAN DAMSTEEGT (VIA AVL)**

Q. Doctor, I'm Dan Gardiner appearing for Janine Wallace. You're a senior veterinarian doctor with an Anexa FVC, would that be correct?

5 A. Yes. Senior as in years.

Q. You've had many years of practice as a vet?

A. Yes.

Q. How many years in practice?

A. About 41.

10 Q. Would it be fair to say you've treated animals in both urban and rural environments?

A. Yes.

Q. Small animals, large animals, medium sized animals?

A. Yes. Yes.

15 Q. Would you please confirm whether it's correct or not your practice and you in particular that provided veterinary services Volkerson Kennels?

A. So we have provided service to the farm as in their beef animals and their sheep and also the dogs as the Glovers have asked us for service. Yes.

20 Q. I've just got to confirm that during the period November 2016 to 20th of November 2017, that's approximately a period of a year, the practice provided various medications to Volkerson Kennels. I will just go through those medications and you can perhaps confirm yay or nay. Firstly –

A. From memory the SPCA asked us for what medications we have provided to the Volkerson Kennels over the period yes.

25 Q. I will put list of these points, a short list. Firstly 10 bottles of DermOtic, an antibiotic.

A. DermOtic.

Q. An antibiotic for the treatment of ear infections in the kennels' German Shepherd dogs, correct?

30 A. Yes.

Q. Secondly two bottles of (inaudible 16:28:24) eyedrops, an antibiotic for eye infections?

A. Yes, eyes and ears.

Q. Thirdly 47 bottles, one litre each of Troy calcium syrup which is a product also available for pregnant bitches and it's a puppy formulated dog food which comprises biscuits with high levels of calcium. Would that be correct?

5 A. So Troy syrup is a calcium rich additive to feed to a lactating bitches and people rather than using that are now using special formulated dry biscuits with extra calcium added.

Q. Do you want to add something to that or?

A. At that time the Glovers had – they felt they had better results with their
10 bitches in early lactation giving them the Troy liquid rather than just relying upon the calcium enriched dog biscuits that were available.

Q. And various flea and (inaudible 16:29:39) treatments as well?

A. Yes.

Q. Did you form an opinion from dealing with Mrs Glover, Barbara Glover the
15 mother and the daughter, Ms Janine Wallace that they were concerned to look after the good health of their dogs?

1630

A. As I (inaudible 16:30:07), any sick animals they brought in, they chose to treat or treat as we recommended, yes.

20 Q. Right, thank you. I'll just pass you over to Mr Radich, who's the prosecutor, correction to another learned friend who's representing Mrs Glover.

CROSS-EXAMINATION: MS CRANSTOUN

Q. Can you hear me, Doctor Damsteegt?

25 A. Yes, thank you.

Q. Sorry, how do you pronounce your surname?

A. Damsteegt for a kiwi, Damsteegt for a Dutchman but my mum was born in (inaudible 16:30:52).

Q. Thank you. So you've had veterinary dealings with the dogs from
30 Volkerson kennels and that was during 2017, correct?

A. Yes, well we forwarded all the records of the histories of all the pets to you so they will be recorded on the days that we saw them, yes.

Q. And for the majority of the veterinary dealings with the dogs, were the dogs brought to the clinic or did you go to the farm to deal with the dogs?

A. Virtually exclusively, they brought them to the clinic.

Q. And so when they were brought to the clinic, was that Mrs Glover or was it Ms Wallace or was it both of them, who predominantly brought—

A. Normally the two of them. Normally the two of them but—

Q. And have you sold the dog food, do you sell the dog food Royal Canin?

A. Yes.

Q. And that's available only at veterinary clinics, correct?

10 A. Almost exclusively. I wonder that Animates or some others may but true, it's recommended through veterinary clinics, yes.

Q. Thank you.

A. And that has become a big seller for us in the last say five years, yes.

Q. Thank you, those are all the questions I have. Mr Radich may have some questions for you too.

CROSS-EXAMINATION: MR RADICH

Q. Thank you, Mr Damsteegt. The DermOtic, first of all, can you hear me okay?

A. Thank you.

20 Q. Very good. The DermOtic that you prescribed between November 2016 and November 2017, are you able to tell us what size bottles they were? I understand it comes in a 20 ml and a 40 ml , is that right?

A. No, I couldn't tell you right now. They will be on the animals' records that you've received.

25 Q. Are you able to tell us to which animals they related?

A. Me sitting here, no, but they will be recorded against the animals in the records you've received also.

Q. With a bottle of DermOtic, in each case would you have necessarily seen an animal in relation to that to prescribe that?

30 A. We may have seen an animal and then given one or two bottles, (inaudible 16:33:37) if more treatment was required and then we'd

recommend to recheck the animal if things weren't– if it wasn't sorted within say two or three months, yes.

Q. With DermOtic though, you'd give a, you're basically giving a prescription specific to a specific animal, correct?

5 A. Yes.

Q. And it wouldn't be recommended good practice would it to just keep some stock onsite and then sort of self-diagnose in the future, would it?

A. No.

Q. And it certainly wouldn't be recommended obviously to open a bottle and use it on one animal and then use it on another, that wouldn't be good practice either, would it?

A. No, true.

Q. In the statement you gave, you didn't refer to any treatment for skin infections so is it fair to say you, in the operative period, you didn't prescribe any treatments for skin infections?

A. We can't have because we would have antibiotics, skin antibiotics, list there as well.

Q. Thank you, Mr Damsteegt, I don't have any further questions.

RE-EXAMINATION: MR GARDINER – NIL

20 **QUESTIONS FROM THE COURT – NIL**

WITNESS EXCUSED

DEFENCE CASE CONCLUDES

MS STOIKOFF ADDRESSES THE COURT (16:37:47)

COURT ADJOURNS: 4.53 PM

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Notes of Evidence Legend

National Transcription Service

Indicator	Explanation
Long dash –	<p>Indicates interruption:</p> <p>Q. I think you were – (<i>Interrupted by A.</i>)</p> <p>A. I was – (<i>Interrupted by Q.</i>)</p> <p>Q. – just saying that – (<i>First dash indicates continuation of counsel's question.</i>)</p> <p>A. – about to say (<i>First dash indicates continuation of witness' answer.</i>)</p> <p>This format could also indicate talking over by one or both parties.</p>
Long dash (within text)	<p>Long dash within text indicates a change of direction, either in Q or A:</p> <p>Q. Did you use the same tools – well first, did you see him in the car?</p> <p>A. I saw him through – I went over to the window and noticed him.</p>
Long dash (part spoken word)	<p>Long dash can indicate a part spoken word by witness:</p> <p>A. Yes I definitely saw a blu – red car go past.</p>
Ellipses ... (in evidence)	<p>Indicates speaker has trailed off:</p> <p>A. I suppose I was just... (<i>Generally witness has trailed off during the sentence and does not finish.</i>)</p> <p>Q. Okay well let's go back to the 11th.</p>
Ellipses ... (in reading of briefs)	<p>Indicates the witness has been asked to pause in the reading of the brief:</p> <p>A. "...went back home."</p> <p>The resumption of reading is noted by the next three words, with the ellipses repeated to signify reading continues until the end of the brief when the last three words are noted.</p> <p>A. "At the time...called me over."</p>
Bold text (in evidence)	<p>If an interpreter is present and answering for a witness, text in bold refers on all occasions to the interpreter speaking, with the <i>first</i> instance only of the interpreter speaking headed up with the word "Interpreter":</p> <p>Q. How many were in the car?</p> <p>A. Interpreter: There were six.</p> <p>Q. So six altogether?</p> <p>A. Yes six – no only five – sorry, only five. (<i>Interpreter speaking – witness speaking – interpreter speaking.</i>)</p>
Bold text in square brackets (in evidence)	<p>If an interpreter is present and answering for a witness, to distinguish between the interpreter's translation and the interpreter's "aside" comments, bold text is contained within square brackets:</p> <p>Q. So you say you were having an argument?</p> <p>A. Not argue, I think it is negotiation, ah, re – sorry. Negotiation, bartering. [I think that's what he meant] Yeah not argue.</p>