



STATE CORONER'S COURT OF NEW SOUTH WALES

Inquest: Inquest into the death of Sarah Waugh

File number: 2990/10
2010/437640

Hearing dates: 6 – 10 June 2011 and 19, 20 and 21 December 2011

Date of findings: 23 December 2011

Place of findings: State Coroner's Court, Glebe

Findings of: Magistrate Sharon Freund, Deputy State Coroner

Findings: I find that Sarah Kate Waugh died on 24 March 2009 at TAFE NSW Western Institute Dubbo Campus from multiple fractures of the skull, separation of C2 and C3 and generalised cerebral contusion as a result of a fall from a horse.

Recommendations: See pages 31 to 34 inclusive of finding.

Representation: Ms. Donna Ward, Counsel Assisting instructed by Alana McCarthy, Crown Solicitor;
Mr. J. Morris instructed by Emma Mead, Burke Elphick and Meade, solicitors for the family;
Mr. M. Cahill instructed by Geoff Diggins for the WorkCover authority;
Mr. M. Shume instructed by Sandra Butler, Department of Education for TAFE;
Mr. M. Johnstone instructed by Neale Dawson, Federation Law for Sara Falkiner;
Ms. T. Berberian instructed by Julia Ban, HWL Ebsworth for Glenn Manton.

Inquest into the death of Sarah Waugh

FINDINGS

Sarah Kate Waugh was just 18 years old when she died on 24 March 2009 as a result of her injuries she sustained when she fell from a horse whilst participating in the Jackeroo/ Jillaroo course conducted at the Dubbo Rural Skills campus of TAFE NSW Western Institute. She is survived and very much missed by her mother Juliana, her father Mark and her younger brother Jonathan, and her four grandparents Marjorie and Domenico Sidonio and Jim and Judy Waugh.

Sarah was undoubtedly a much admired and respected individual with an inquiring mind and many talents demonstrated by the proficiency and passion with which she played her clarinet (which I had the pleasure in watching). Her father, Mark shared his memories of his “kaleidoscope girl” on the final day of this inquest as someone with an endless stream of questions and thirst for knowledge. Sarah was someone who would not blindly follow instructions, would stand up for the underdog and was very caring and concerned that rules were followed especially when they affected others. Her death on 24 March 2009 is a tragedy, the effects of which will continue for her family, friends and those that knew her beyond my handing down of these findings today.

A coroner’s function is to attempt to answer five questions namely: Who died? When did he or she die? Where did he or she die? What was the cause of death? And finally, what was the manner of death? The cause of death is the immediate physical cause. The manner of death refers to a way a person dies, including the surrounding circumstances. A coroner may also make recommendations concerning public health or safety issues arising out of the death in question.

In relation to Sarah’s death, there is no issue in relation to the identity, date, place or direct cause of her death. This inquest has focused upon the tragic circumstances surrounding Sarah’s death and how similar deaths can be avoided in the future. Ms.

Ward, Counsel Assisting in her opening submissions emphasised, and the evidence confirmed, that which is already acknowledged by the Australian Horse Industry Council in their Code of Practice for the Horse Industry:

“Horse activities involve a number of inherent risks...the only way to totally eliminate the risk of a rider falling from a horse would be stop the rider getting on the horse”¹

Despite the risks, large numbers in the community participate in activities with horses (from horse racing to stock work to show jumping to hobby riders) and to date there is no “agreed minimum standard for managing risks related to horse activities” although the voluntary Code of Practice for the Horse Industry² certainly provides a comprehensive guide to managing such risks and was a good starting point for the purposes of this inquest.

In examining the surrounding circumstances of Sarah’s death this inquest has focused on the following issues:

1. Was Sarah affected by the prescription medication, namely Zoloft, that she was taking at the time of the accident and did this contribute in any way to the accident?
2. What did the Certificate II in Agriculture , Jackaroo/ Jillaroo course comprise of?
3. How were the Horse Units in the Course delivered as at February 2009?
4. How were the horses selected and assessed?
5. Was Dargo a horse suitable for beginner riders?
6. What occurred on 24 March 2009?
7. What equipment was provided?
8. Were the horses fed oats while on the TAFE Dubbo campus?
9. Was the investigation that was carried out by TAFE after the accident adequate?

¹ Exhibit 2, Volume 4, Tab 75, pg. 1;

² Ibid;

I will deal with each of these issues in turn.

WAS SARAH AFFECTED BY THE PRESCRIPTION MEDICATION, NAMELY ZOLOFT, THAT SHE WAS TAKING AT THE TIME OF THE ACCIDENT AND DID THIS CONTRIBUTE IN ANY WAY TO THE ACCIDENT?

It is undisputed that Sarah Waugh was taking a prescribed course of anti-depressants, namely 100mg of Zoloft per day, at the time of her death and had been prescribed that medication at that dosage since May 2006 (first prescribed at a lesser dose in August 2005)³.

There is no evidence to suggest that Sarah Waugh complained of any side effects from the medication to her general practitioner in the years prior to her death, indeed the report received from her General Practitioner, Dr. Riedel dated 7 December 2010, suggests that Sarah's medication worked well and that her depression was well controlled⁴.

Furthermore, Sarah's mother who was in the position to observe Sarah with the most regularity (and who was clearly very close to Sarah) gave evidence that Sarah was not displaying or complaining of side effects from the medication⁵. Indeed during the period May 2006 up until her death in March 2009 Sarah participated in a range of musical and sporting activities and passed her driving exam, all of which suggest that there was no obvious effect on Sarah's balance or coordination.

Sertraline is a specific serotonin re-uptake inhibitor (SSRI) antidepressant, which is marketed by Pfizer as Zoloft. I note that the blood sample taken post mortem contained Sertraline at a concentration of 0.6mg/L, apparently outside the therapeutic range. I had the benefit of two reports from Professor Starmer whose evidence can be summarised as follows:

³ Exhibit 2, volume 4, tab 64: evidence of Dr Catherine Riedel dated 7 December 2010;

⁴ Ibid;

⁵ Exhibit 2, Volume 4 Tab 55 paragraphs 5-7 inclusive;

1. Sertraline is generally well tolerated and even in over-dosage is considered to be relatively non-sedating;
2. that as Sarah had been taking Sertraline for some years prior to her death, he considered it unlikely that she would have experienced any significant symptoms if she had modestly increased her dosage; and
3. that there is no evidence to suggest that the presence of Sertraline might have contributed to the events on the day that Sarah died⁶.

Accordingly, I am satisfied on the balance of probabilities that the fact that Sarah had been prescribed and was taking Zoloft did not contribute to the circumstances surrounding Sarah's death on 24 March 2009.

WHAT DID THE CERTIFICATE II IN AGRICULTURE, NAMELY THE JACKAROO/ JILLAROO TRAINING COURSE COMPRISE OF?

At the time of her death Sarah was enrolled and participating in the Certificate II in Agriculture course taught by TAFE NSW Western Institute. As Sarah died during one of the horse riding lessons/ units of that course, it follows that the focus of this inquest is on those components of that course which provided for actual horse riding or learning to ride and those were specifically:

1. RTE2130A Ride and Care for Horses and Equipment (nominal hours 40 hours); and
2. RTE1104A Support Horse Work (nominal hours 20 hours) ("the Horse Units").

The Certificate II in Agriculture course was part of a Rural Production Training Package prepared as part of the National Training Framework and endorsed by the National Quality Council (as it then was). The training package included mandatory components for each unit of competency (performance criteria, key competencies, range statement and evidence guide). These mandatory components were the same nationwide wherever a Registered Training Organisation was conducting the course.

⁶ Exhibit 2, Volume 4, tab 77A at paragraph 6;

Accordingly, TAFE NSW Western Institute was just one among several organisations offering the Certificate II in Agriculture course across the country, and was subject to the same mandatory components as others offering the course. The evidence indicates that there is some flexibility for developing guides for the conduct of the course. As such, in New South Wales the TAFE NSW Primary Industries and Natural Resources Curriculum Centre developed the relevant unit guides, which include the mandatory components along with additional information to assist in the delivery of the course (for example, nominal hours)⁷.

The documentary evidence indicates that the unit RTE2130A Ride and Care for Horses and Equipment was estimated to require 40 nominal hours of tuition whilst the unit RTE1104A Support Horse Work was estimated to require 20 nominal hours of tuition. It was the evidence of Mr. Bastian that the nominal hours indicated refers to the hours taken to deliver each unit in isolation. However, because the units were delivered as part of a broader course and there was some overlap between the various units within the course with some of the skills being taught in other units, the 2 Horse Units were combined and conducted across 40 hours of tuition.

Mr. Bastian estimated that the actual percentage of time that students spent riding during the 40 hours of tuition varied for each student but ranged from 40-60% of the available time. Clearly, students spent significantly less than 40 hours actually riding the horses.

The unit guide for the 2009 Horse Unit course was difficult to understand when read as a “stand alone” document. Whilst Mr. Bastian gave evidence that experienced staff would be able to interpret the guide as a whole, to a lay reader it was internally contradictory and opaque in its language.

⁷ Exhibit 2, Volume 3, Tab 38;

For instance, performance criteria 3.6 provides that “Horse education is carried out in association with stock working routines”. It is not clear what students need to demonstrate in order to meet this criteria. It seems unrealistic to expect a beginner rider to reach a level of proficiency in, say 16 to 24 hours of riding experience, in order to be able to carry out horse education as part of stock working routines. Indeed, as the expert evidence of both Professor Paul McGreevy and Sergeant Karen Owen made clear, beginner riders first need to develop balance on horseback and then focus upon the use of appropriate cues in their early stages of learning to ride.

Performance criteria 3.7 provides “Educated horses are controlled and worked as an integral part of stock husbandry routines”. Again, if this criteria means what it says then it is difficult to see how beginner riders could demonstrate compliance with the criteria.

Mr. Bastian gave evidence that competency under these criteria can be demonstrated by a theoretical understanding of the principles involved. If so, then the unit guide should say so.

Whilst I note that the unit guide has apparently been amended since 24 March 2009, these difficulties remain⁸.

AS AT FEBRUARY 2009 HOW WERE THE HORSE UNITS IN THE COURSE DELIVERED?

It is undisputed that in 2009 TAFE NSW Western Institute introduced a new system for the delivery of the Horse Units, namely for the first time at the TAFE NSW Western Institute the horses used for the Horse Units were to be brought to TAFE premises for use two days per week for the 5 weeks that the Horse Units took place.

In order for this change in the delivery of the course the TAFE NSW Western Institute had to:

⁸ exhibit 2, volume 2 tab 30 (G);

1. firstly, build the infrastructure on the campus for the housing of horses and also to carry out the horse riding components of the course including the arena, round yard and stables;
2. secondly, contract an external supplier to provide and transport the horses for the course; and
3. finally, engage a new instructor to conduct/ teach the Horse Units.

The primary focus of this inquest has been in relation to this new system.

Despite the significant change in how the course was to be delivered to its students by the TAFE NSW Western Institute namely from the riding component being outsourced to becoming in-house it is clear that from the evidence that the TAFE NSW Western Institute did not undertake any formal or written form of risk assessment to determine the pros and cons of the new scheme prior to its implementation⁹.

Mr. Bastian, the Head Teacher of Extensive Agriculture at TAFE NSW Western Institute, gave evidence over the course of one and half days after the hearing of this inquest resumed. During the course of his oral evidence he referred to discussions in person and by telephone with Ms. Margie Fixter the Director Educational Delivery Primary Industries and Natural Resources, which included an assessment of the risks associated with implementing the new system of delivery of the Horse Units. Despite this oral evidence I note that he made no reference to these discussions (and he conceded this fact in cross-examination) in either:

1. the interview he gave for the internal TAFE investigation dated 24 April 2009¹⁰,
2. the statement he gave to WorkCover dated 23 February 2011¹¹; and

⁹ I note that the brief does contain one document titled "Risk Assessment Work Experience and Off Campus Work by Students and/or Staff" found at Exhibit 2, Volume 2 tab 30(E) this is a generic risk assessment of the property after the new scheme had been settled but prior to lessons actually commencing;

¹⁰ Exhibit 2, volume 3 tab 43;

¹¹ Exhibit 2, volume 2, tab 29;

3. the statement provided by TAFE dated 13 May 2011¹² in the course of these proceedings.

Accordingly, I am satisfied on balance that no meaningful risk assessment was carried out by TAFE NSW Western Institute with respect of the new means of delivery of the Horse Units to its students. Furthermore, if those who implemented the changes gave any consideration to the risk it was in a cursory and ad-hoc manner.

THE INFRASTRUCTURE

It was the evidence of Mr. Bastian that for the implementation of the 2009 Horse Units infrastructure had to be built on the TAFE NSW Western Institute campus this included the construction of the:

1. stables;
2. round yard, and
3. arena.

On 29 January 2009 (9 days prior to the commencement of the Horse Units), a written risk assessment was completed by Mr. John Hollow and approved by Mr. Bastian. The risk assessment related to the task of “horse riding” and identified a number of hazards and action that was required to be taken. Some of the hazards identified in that document were:

<i>“Traffic</i>	<i>Gates to be kept shut into surrounding paddocks</i>
<i>....</i>	
<i>Yards</i>	<i>Weld lugs on 3 panels to secure joins</i>
<i>Gates</i>	
<i>Ground Surface</i>	<i>More sand required in small round yard.</i>
	<i>Pick up rocks in small yards</i>
<i>....</i>	
<i>Noise</i>	<i>Teacher to monitor on a daily basis</i>
<i>Fences</i>	<i>Posts to be capped + white wire on top fences</i>
<i>....</i> ¹³	

¹² Exhibit 2, volume 2, tab 30;

¹³ Exhibit 2, Volume3 tab 50;

When taken to the document, which I note is the only formal risk assessment or written risk assessment undertaken by the TAFE NSW Western Institute in relation to the change in the delivery method, Mr. Bastian denied that the document related to the outer paddocks in particular, the paddock in which Sarah Waugh had ridden out to on the day of her death with her class and teacher. He claimed in his evidence that it only related to the “gates on the smaller yards” namely the arena and round yard and the paddocks that were adjacent to those areas.

When cross-examined by Mr. Morris, counsel for the family about the lack of capping on the fence posts in March 2009 on the laneway down to the paddock where the students rode out¹⁴, Mr. Bastian again sought to limit and confine the ambit of the risk assessment dated 29 January 2009 namely that it did not include the areas outside the arena and the round yard. He did concede however that:

1. in 2009, the capping was not carried out on areas adjacent to where the students would ride;
2. capping of the fence posts was important to protect people from becoming impaled; and
3. the capping on the fence posts had now occurred.

HOW WAS THE 2009 COURSE TO BE STAFFED?

As a then part time teacher at TAFE NSW Western Institute, Ms. Sara Falkiner was engaged to conduct the Horse Units. As at January 2009, Ms. Falkiner’s experience and expertise with horses and teaching can be summarised as follows:

1. She had an Advanced Certificate in Horse Management and a Certificate IV in Veterinary Nursing both from Western Sydney Institute of TAFE;
2. Approximately seven months experience teaching horse riding at two different riding schools;
3. One week a year for maybe two or three years of assisting as an instructor at Pony Club events;

¹⁴ Exhibit 16 – photos clearly show that fence posts not capped;

4. Experience performing and instructing riders (although not beginner riders) at El Caballo Blanco;
5. Many years experience in riding and keeping horses on her own property;
6. Other experience working with horses (although not necessarily teaching beginners how to ride) whilst working with the University of Sydney Equine Research and Demonstration Unit, and as a groom in various positions; and
7. Teaching experience with TAFE NSW teaching the Certificate II in Animal Studies, Certificate III in Animal Studies (part time), Certificate IV in Veterinary Nursing and micro chipping short course¹⁵.

The relevant evidence, demonstrates as follows:

1. Ms. Falkiner had no formal training and assessment qualifications and accordingly pursuant to the AQTF 2007 guidelines (as then in force) was under the “direct” supervision (as defined) of Mr. Bastian¹⁶;
2. Ms. Falkiner did have personal horse riding experience but relatively little formal experience in teaching beginners how to ride;
3. Ms. Falkiner had no accreditation via, for instance, the NCAS EA scheme, the Pony Club scheme, or the Australian Horse Riding Centres Scheme;
4. Moreover, Ms. Falkiner had:
 - a. never taught these units before;
 - b. no previous experience with or exposure to these horses (individually or as a group) prior to the first day of lessons;
 - c. no previous experience in working with Mr. Manton the horse supplier;
 - d. no previous involvement with these students; and
 - e. did not have a current first aid certificate¹⁷.

¹⁵ Exhibit 2, Volume 1, Tab 10 at “C”;

¹⁶ Exhibit 2, Volume 3, Tab 30, Volume 2, Tab 30, pg.3 and Exhibit 2, Volume 2, Tab 28, pg. 15 Annexure “E”;

¹⁷ Exhibit 2, Volume 2, Tab 28, pg. 15

5. Mr. Bastian as Ms. Falkiner's supervisor had no qualifications in riding or in teaching beginners how to ride, although he did have industry experience.

The evidence provided by both Mr. Bastian and Ms. Falkiner indicated that the "direct supervision" provided to Ms. Falkiner by Mr. Bastian was ad hoc at best, in that there would be discussions in the hall way and at lunch and other times but no regular time set aside to discuss the conduct of the Horse Units. Mr. Bastian did not:

1. provide Ms. Falkiner with any pro forma documents to assist in the assessment of the horses (although she found one somewhere for use with Dargo/Bundy)
2. review the written lesson plans prepared by Ms. Falkiner (although general discussions around the topic); and
3. discussed but did not formally review record keeping,

indeed the instructor and supervisor disagree as to the date on which the morning group was first permitted to ride out of the arena¹⁸.

Ms. Falkiner was, in my view, as at March 2009 an inexperienced educator particularly in relation to teaching teenagers (with little or no horse riding experience) how to ride. This was evidenced by:

1. firstly her general perception that any difficulties experience by her students with the horse or horses they were riding was interpreted or understood to be the fault, failure or attitude of the student as opposed to the inappropriateness of the education of the horse.

Her interpretation or explanation of what occurred when Ms. Lucy Piec was unable to control Dargo on 3 March 2009 (that is, preventing Dargo from accelerating into a trot and being able to cause him to decelerate). In her

¹⁸ Exhibit 2, Volume 2, Tab 30, pg.3;

statement dated 19 September 2009¹⁹, Ms. Piec (who was at the time 18 years old) stated:

“When I first got on the horse I was in the group of six. We were in an arena. I got on and kicked him with one boot. The horse bolted and pulled on the reins to stop it but it kept going. It galloping and I jumped off it landing on my feet. The teacher came up and told me to get back on Diago. I walked over to the horse and got back on. Straight away the horse bolted again I could not control it any way I tried turn it but couldn’t. I jumped off again and landed on my knee. I did not want to get on again but the teacher made me. When I got on again I still couldn’t control it and the teacher had to get in front of it to stop it. I got off it and would not get back on Diago [sic] again”²⁰

Ms. Falkiner’s evidence in relation to this incident, can be summarised as follows:

- (i) that Lucy was mucking around and not listening to instructions;
- (ii) It was Lucy that had made the horse trot instead of walk; and
- (iii) It was Lucy who had panicked and jumped off Dargo.

The expert evidence indicates ultimately that if Dargo had been a horse suitable for beginner riders such as Ms. Piec, the horse should not have reacted to the inappropriate aid namely Ms. Piec kicking it and setting it into a trot. However, Ms. Falkiner insisted that it was Ms. Piec who was at fault and not the horse²¹.

2. secondly, her labelling of Sarah in her earlier statements, who on all accounts was an intelligent and inquiring personality, as “a bit defiant”²² and “strong willed”. She did however resile from this assessment during the course of cross examination where she indicated that “she was not a behavioural problem”²³.
3. thirdly, her inability to enforce safety rules.

The unambiguous evidence of this was on 24 March 2009, when Sarah was videoing the ride in the paddock whilst on Dargo. This was contrary to the “ride

¹⁹ Exhibit 2, Volume 1 tab 17;

²⁰ Ibid at paragraph 7;

²¹ See evidence of Professor McGreevy Exhibit 2, volume4, tab 76 at page 12;

²² Exhibit 2, Volume 1 tab 10(a) at paragraph 10;

²³ Transcript 25/06/11 page 250;

out rules” that Ms. Falkiner referred to in her evidence. Despite Ms. Falkiner being heard on the footage questioning whether or not Sarah was using a camera she did not ask Sarah to put it away, reprimand her in any way or remind her of the rules.

4. and, finally, her abandonment of the structured lesson plans.

The structured lesson plans originally developed by Ms. Falkiner were quickly abandoned. Her evidence indicates that the filming of the bloopers video²⁴, the filming of which occurred on several days, was carried out at the suggestion of the students²⁵. I accept the expert evidence that some of the manoeuvres carried out on the video are often taught to beginner riders however, the haphazard introduction or production of the video seemed unusual bearing in mind the limited horse riding experience / instructions the students were to receive over the 5 weeks of the Horse Units.

Ms. Falkiner was given and accepted the opportunity to teach the Horse Units at TAFE NSW Western Institute, in spite of her lack of formal accreditation and experience. She was in an invidious position on 23 February 2009 in that she was assigned a group of new students and unknown horses. Quite simply as submitted by Mr. Morris, she did not know what she did not know.

HOW WERE THE HORSES SELECTED AND ASSESSED?

The undisputed evidence regarding the horse assessment and selection process can be summarised as follows:

1. In late 2008, TAFE NSW Western Institute advertised for “Expression of Interest for the supply of horses suitable for conducting horse riding lessons”²⁶. It nominated as its selection criteria for the horses to be provided by the successful tenderer as:

²⁴ Exhibit 14;
²⁵ Transcript page 351;
²⁶ Exhibit 2, volume 3, tab 40;

“Provide suitable horses for conducting horse riding lessons for Agriculture students” ... “The horses supplied need to be quite [sic] and suitable for beginner riders”²⁷.

Clearly, the advertisement:

- a. did not refer to the provision of educated horses;
- b. did not disclose the fact that TAFE NSW Western Institute anticipated that the horses would be used for stock work exercises; and
- c. did not make express reference to preferred selection criteria for the horses being supplied namely breed, age, education and history beyond the generalised comments that they be *“suitable horses for conducting horse riding lessons for Agriculture students” ... “The horses supplied need to be quite [sic] and suitable for beginner riders”²⁸.*

Accordingly, the tender process was dependent upon whatever each applicant for tender might consider would make a horse suitable for beginner riders.

2. The closing date for expressions of interest was 18 December 2008 namely approximately 8 weeks prior to the time that the horses sought by TAFE NSW Western Institute were to be delivered;
3. On 17 December 2008, Mr. Glenn Manton completed and submitted his Expression of Interest²⁹. Under the heading titled “Please itemise your current and relevant horses to be provided by this EOI” it states:
“As I have a very young family I hand pick all the horses. If my children can’t ride and tack them up they are not suitable for the job. I pride myself on supply the right aritical [sic]. I also supply Riding school Horses in South Korea and Malaysia,...30 to 60 horses at a time, Also the domestic market, Sydney Equestrian Center Kerry ph. 0408991919”
4. On 11 February 2009, contract entered into between Mr. Manton and NSW Technical and Further Education Commission and TAFE NSW Western Institute

²⁷ Exhibit 2, Volume 3, Tab 40, pg 1;

²⁸ Ibid;

²⁹ Exhibit 2, volume 3, tab 46;

- for the delivery of horses suitable for conducting horse riding lessons for Agriculture students at Dubbo TAFE Rural Skills & Environment Centre NSW³⁰;
5. Sometime shortly before the Horse Units commence Mr. Manton rides horse known as “Snakey Thought” and makes the decision to purchase it;
 6. Sometime after 7 February 2009, Mr. Manton purchases Snakey Thought aka Dargo from Mr. John McKinnon;
 7. On 23 February 2009, Mr. Manton delivers the horses to the TAFE NSW Western Institute Dubbo Campus for the first day of the Horse Units.

The evidence in relation to the Tender Process adopted by TAFE NSW Western Institute, its ultimate selection of Mr. Manton as its horse provider and the ultimate vetting and approval of the horses supplied by Mr. Manton, was provided by:

1. firstly, Mr. Manton himself;
2. secondly, Mr. Bastian; and
3. finally, Ms. Falkiner.

The evidence can be summarised as follows:

1. It was conceded by Mr. Bastian that he made no attempts to check the referees provided on the Expression of Interest supplied by Mr. Manton, such as the Sydney Equestrian Centre or the “riding schools in South Korea and Malaysia”³¹ and that he had no knowledge of Mr. Manton excepting that a former riding instructor at TAFE had worked with him almost ten years before;
2. Despite the Expression of Interest required copies of certificates of currency for suitable horse insurance, suitable horse transport insurance, public liability insurance and professional indemnity insurance³²;

The certificate of currency actually provided by Mr. Manton (and attached to his Expression of Interest) identified the policy type as “Farm Insurance” with the

³⁰ Exhibit 2, volume 3 tab 47;

³¹ Exhibit 2, volume 3, Tab 46;

³² Exhibit 2, volume 3, Tab 40 pg 1;

cover being effective from 1 August 2008 for a period of one year³³. It did not conform with the insurance required and sought by TAFE NSW Western Institute. This did not prompt any further inquiries by TAFE NSW Western Institute.

3. That, as at 17 December 2008, Mr. Manton did not yet own the horse that we have come to know as Dargo which he supplied to TAFE NSW Western Institute and which Sarah Waugh was riding when she fell to her death;
4. That there were further discussions between Mr. Bastian and Mr. Manton regarding the horses to be supplied to TAFE NSW Western Institute, however these discussions, which were not documented, failed to elicit the fact that Dargo had been recently purchased from a racing stable and had raced only 15 days prior to the commencement of the Horse Units;
5. At no time did Mr. Bastian, Ms. Falkiner or any other employee of TAFE NSW Western Institute make an assessment, visual or otherwise, of the horses to be supplied pursuant to the tender by Mr. Manton prior to their arrival to the campus on 23 February 2009, the first day of the Horse Units. That is, there was no attempt to assess the horses in their home environment prior to their being supplied to TAFE NSW Western Institute.

The horses supplied by Mr. Manton pursuant to his contract with TAFE NSW Western Institute, were first delivered on 23 February 2009. It is uncontroversial that neither Ms. Falkiner, the teacher of the Horse Units or her direct supervisor Mr. Bastian had met or assessed the 6 horses being delivered on that day. The horses, Reggie, the Witch, Khan, Honey, Raymond and Bundy/ Dargo were delivered by float at sometime before 8:00am and the first session of the Horse Unit started at around 8:00am.

It was the substance of the evidence of both Ms. Falkiner and Mr. Bastian that they carried out an assessment of the horses during the course of this first day to ensure that they were suitable. However, there were substantial conflicts in their evidence with

³³ Exhibit 2, Volume 3, Tab 46 pg. 6;

respect to how the horses were assessed on 23 February 2009, if at all. I will deal with the evidence of these witnesses separately:

The evidence of Ms. Falkiner was that:

1. She recalls that the riding component assessment of each horse took between 30- 60 minutes, which was only an estimate as some took longer and others shorter;
2. She thinks she carried out the assessment during the course of her lunch time and stayed back that afternoon and evening to finish it however she did not make a claim for overtime payment³⁴;
3. she used the document titled "Horse Check List"³⁵ to assess each of the horses on 23 February 2009 however she does not know what happened to the other documents in relation to the other horses. She also could not advise where she got the pro-forma document furthermore she did not receive any training on how to use the document.

In contrast, Mr. Bastian's evidence was:

1. That he had a conversation with Ms. Falkiner about her assessment of the horses and instructed her how to perform the assessment and what to test for, in particular softness in the mouth, responsiveness to hand and leg aids, and simulating the novice rider;
2. In the WorkCover interview Mr. Bastian stated:

Q125 Were you present for the assessment of the 2009 horses?

A125 Yes

Q126 How long did it take to assess one horse in 2009?

A126 It would have been between 30 and 60 mins

Q127 Can you explain why there is a range of time?

A127 Depends on the individual horse, some horses may take longer to put through certain parts of the assessment than others.

³⁴ Transcript 8/06/11 p.220.37;

³⁵ Exhibit 2, Volume 3, tab 33;

Thereafter, in his evidence before me, Mr. Bastian sought to distance himself from his earlier evidence and explained that the whole assessment process for each horse took between 30 and 60 minutes and that included the visual observations made of the horses as they were being moved from the float to the stabling area.

3. In his oral evidence on 19 December 2011, Mr. Bastian gave a detailed description of his involvement in the assessment process which included that:
 - a. He observed Ms. Falkiner during her lunch break (between the morning and afternoon classes) riding each of the horses except Khan for approximately 10 to 15 minutes and that she rode each of the horses around the arena at a walk, a canter and stopped and mimicked an inexperienced rider by flopping her body around; and
 - b. He assisted Ms. Falkiner in swapping horses (that is getting the next horse ready for assessment) as in effect time was of the essence.

Despite Mr. Bastian's detailed oral evidence regarding his involvement in the lunch time assessment of each of the horses provided by Mr. Manton on 23 February 2009, he conceded during the course of his cross-examination by Mr. Cahill, Counsel for WorkCover that he made no reference to his involvement in the assessment of the horses during his interview for the TAFE internal investigation³⁷ and only limited details to the WorkCover investigation (as outlined above in these findings). In fact, Mr. Bastian's evidence or recollection of the evidence with regard to the horse assessment on the first day seems to have improved with time.

4. He did not provide Ms. Falkiner with the pro-forma document she used to assess the horses only one of which has been produced to this inquest³⁸;

It is appropriate at this stage to give consideration to Mr. Bastian's evidence as a whole.

³⁶ Exhibit 2, Volume 2 tab 29 page 19;

³⁷ Exhibit 2, Volume 3 Tab 43 at page 497;

³⁸ Exhibit 2, Volume 3, tab 53;

I found Mr. Bastian's evidence often vague and self-serving. Despite having little or no recollection of matters which were clearly of major concern to this inquest, for example detail of discussions he had with Mr. Manton and Ms. Falkiner, he could recall details of events which would be of little of value except in an attempt to shift blame or the focus of responsibility of this tragedy from himself or his employer to someone who can no longer speak for herself³⁹. Accordingly, unless corroborated by other evidence I have not accepted the evidence of Mr. Bastian.

Despite the criteria set by TAFE NSW Western Institute⁴⁰ stating:

"By what criteria are horses selected upon?"

*On their breed or breed-cross, age, condition, colour and markings, brands or tattoos. They must also be examined for lameness, sore eyes, sore mouth, girth galls, back conditions, mud, caked sweat or vegetable matter, damaged feet or lower limbs, localised or systemic infections."*⁴¹

In my view, the assessment of the horses was rudimentary at best, as neither Mr. Bastian nor Ms. Falkiner had:

1. obtained a knowledge of the various horses histories;

I note that despite evidence from Mr. Bastian that he was unaware that Dargo, Reggie and The Witch were all ex-racehorses until he was told by workcover, the students namely Tahlia Peterson⁴², Tracey Cox⁴³ and Sarah Waugh⁴⁴ all had that knowledge. The students were better informed than the staff.

2. made attempts to ride horses in an open paddock;
3. made attempts to ride the horses in amongst the other horses;
4. made attempts to ride the horses with stock.

³⁹ An alleged conversation he had with Mrs. Waugh prior to Sarah enrolling in the course we she allegedly says to him that "Sarah has had her ups and downs";

⁴⁰ In its Unit Guide – Exhibit2, Volume 3 tab 38;

⁴¹ Ibid at page 6;

⁴² Exhibit 2, volume 1, tab 12 paragraph 8;

⁴³ Exhibit 2, volume 1, tab 13 paragraph 7;

⁴⁴ As evidenced by her diary Exhibit 2, Volume 4 tab 55 annexure G;

Accordingly on the balance of probabilities I am not satisfied that either Ms. Falkiner or Mr. Bastian carried out a proper assessment of the horses supplied by Mr. Manton on 23 February 2009.

WAS DARGO A HORSE SUITABLE FOR BEGINNER RIDERS?

It is important for the purposes of these findings to understand the history of the horse we have come to know as Dargo, which has been uncovered as a result of the WorkCover and Coronial investigations (not any of the processes or investigations of TAFE). Dargo's history can be summarised as follows:

DATE	EVENT
14 November 2004	Dargo born ⁴⁵
20 April 2008	First raced as "Snakey Thought" at Ballarat Races places 8 out of 9 ⁴⁶ ;
16 October 2008	"Snakey Thought" sold to John and Susan McKinnon ⁴⁷ ;
4 January 2009	"Snakey Thought" races at Gilgandra Races and places 10 out of 12 ⁴⁸ ;
18 January 2009	"Snakey Thought" races at Gilgandra Races and places 9 out of 14 ⁴⁹ ;
31 January 2009	"Snakey Thought" races at Coonamble Races and places 7 out of 11 ⁵⁰ ;
7 February 2009	"Snakey Thought" races at Binnaway Races and places 7 out of 10:

⁴⁵ Exhibit 2, volume 4, Tab 66

⁴⁶ Tab 67;

⁴⁷ Ibid;

⁴⁸ Ibid;

⁴⁹ Ibid;

⁵⁰ Ibid;

	Races and places 7 out of 10;
Between 7 February and 23 February 2009	Mr. Manton purchases “Snakey Thought” from Mr. McKinnon ⁵¹ for \$500.

It therefore follows that:

1. that the horse formerly known as “Snakey Thought” but which came to be known as Dargo, had been in Mr. Manton’s possession for a maximum of 15 days as at 23 February 2009, the date he presented the horse to TAFE NSW Western Institute as being suitable for beginner riders;
2. as at 23 February 2009, the first day of the Horse Units, only 15 days had elapsed since Dargo’s last race; and
3. Sarah Waugh died approximately 6 ½ weeks after Dargo’s last race.

I had the benefit of hearing evidence of two eminent experts.

Sgt. Karen Owen the supervising sergeant at the NSW Mounted Police where she has over 21 years experience. In addition she is a Level 1 Coach accredited by the National Coaches Accreditation Scheme, and is an accredited Skills Specific Trainer Assessor under the same scheme. She has over 20 years experience teaching beginner riders (of all ages) how to ride in Pony Club.

I also heard evidence from Professor Paul McGreevy. Without listing all of Prof. McGreevy’s qualifications and offices I note that he holds:

1. British Horse Society Assistant Instructor’s Certificate;
2. British Horse Society Intermediate Stable Manager’s Certificate;
3. Bachelor of Veterinary Science;
4. PhD in Horse Behaviour (University of Bristol);
5. Equine specialist to the World Society for the Protection of Animals;

⁵¹ Exhibit 2, volume 1, Tab 16 paragraphs 15-16 inclusive;

6. Current President, International Society for Equitation Science; and
7. Professor of Animal Behaviour and Welfare, Faculty of Veterinary Science, University of Sydney.

Both Sgt. Owen and Prof. McGreevy provided detailed reports⁵². Their evidence, which for the most part was in agreement, can be summarised as follows:

1. thoroughbred horses as a breed are bred to accentuate their speed and flight response and that's why generally they are not considered safe carriage horses. In addition, a thoroughbred in training is trained to "run in the company of other horses and their deceleration responses are often poorly trained"⁵³;
2. thoroughbred horses in training are fed concentrated diets that contribute to their tendency to show sudden acceleration⁵⁴. As Dargo had raced recently it had not had sufficient time to "let down" and work the high energy "hot feed" out of its system; and
3. no young ex racehorse would be appropriate to ride in large open paddocks by inexperienced riders⁵⁵;

Clearly, Dargo at the time of its delivery to TAFE NSW Western Institute had no experience with stock or stock work, nor enough time to be educated as a horse for beginner riders. Accordingly I am satisfied on balance as a result of all the information available at the inquest, that the horse known as Dargo was patently unsuitable for use with beginner riders.

WHAT OCCURRED ON 24 MARCH 2009?

At the time that Sarah Waugh lost control of Dargo she was riding in a paddock with Ms. Falkiner and three of her other classmates namely William Aldridge, Tahlia Petersen and Tracey Cox. It was just after 11.30am and the decision had been made to return to

⁵² Exhibit 2, Volume 1 tab 9 and Volume 4, tab 76;

⁵³ Exhibit 2, Volume 4, tab 76 page 9;

⁵⁴ Ibid;

⁵⁵ Exhibit 2, Volume 1 tab 9 paragraph 8;

the stables. To determine exactly what occurred in the moments before Sarah's death I need to examine the evidence of all the people who were out on that fateful ride.

It was Ms. Falkiner's evidence:

1. the gate to the paddock was not closed⁵⁶;
2. in her interview with the investigator from WorkCover:

"...Sarah's horse slowed down and then began to jog and ...which I thought was to catch up because she was not inline anymore, it then...jogged past the line that we were in formation, and I asked her to walk, and explained that we need to be walking, she didn't reply, and she didn't pull her horse back to a walk, it continued to jog, so I repeated asking her to walk, and she didn't reply and she didn't pull up, so I repeated it more loudly and she said "I can't" and I said " Yes you can, pull on the reins" cause she wasn't pulling on the reins, and I also asked her to get her heels out of the horses ribs and she didn't so I asked her to pull him up, and she said "I can't" again , and I said "Yes you can, pull one rein and turn him back to us" and she said "I can't" and the horse began to trot and I asked her again to pull him or turn him back to us and to get her heels out off his ribs, and she said "I can't", and then the hose began to canter and I asked her...told her to hold on and the hose would stop when he got to the yards, and just to hold on. And the horse began to gallop and then approximately half way up the lane she fell off."⁵⁷; and

3. Her evidence was similar in her interview for the TAFE internal inquiry into incident on 6 April 2009 where she stated:

"...then he got a little bit in front of the next horse I said "make him walk", he was jogging but he wasn't doing anything too exciting really....and she didn't respond. Probably, she could be a bit defiant and it was sort of in her nature not to immediately respond or to argue the point with me. She didn't argue, she just didn't respond. AS he got a little bit further in front I said "pull him up, make him walk" and it was then that I could see that she didn't have her left foot in the stirrup. I don't know why the reins weren't loose. She appeared to be holding on to the saddle.

The horse was only jogging so that was a bit weird, so again I repeated "make him walk" and I said that a couple of times before she said "I can't" and he kept jogging. And I could see that the foot that wasn't in the stirrup was digging into the horse's ribs indicating to the horse go faster. I said "get your heels out of his ribs, lay him back and pull up". She was a little bit like this: she had her toes down and her heels in his ribs. She didn't and I said "Sarah, pull him up" because he was starting to trot. She said "I can't" and I said "righto, pull on one rein, turn him round and bring him back to us", as they all been taught that.....She said "I can't"...."⁵⁸

⁵⁶ Exhibit 2, volume 3, tab 44 pages 7-8;

⁵⁷ Exhibit 2, volume 1, tab 10A at page 11/29;

⁵⁸ Exhibit 2, volume 3, tab 44 pages 1-2/8;

Ms. Peterson's evidence to the police was:

"About 11:00am that day while we were involved in this exercise, we were walking back to finish up riding for the day, Tracey COX, William Aldridge, Sarah Falkiner and I were all on our horses walking in a straight line to the north will Sarah Waugh was walking her horse a few strides behind us. As we were all walking our horses, Sarah Waugh suddenly trotted past us with her left foot out of her stirrup, we all told her to pull up as were told by Sarah Falkiner to just walk back to the yards. Sarah Waugh kept trotting on Dargo and was telling us that she cannot pull him up because she's lost her stirrup and is unbalanced. Sara's horse broke into a canter and we weren't all that worried at that stage as Sarah Waugh seemed to be in control of Dargo as she was sitting to his canter properly although she didn't have one stirrup.

Instructor Sarah Falkiner, kept yelling at her to pull up but when Dargo reached the laneway he broke into a gallop still with Sarah Waugh on his back but she it seemed like didn't have her left stirrup on. It looked that way because she was gripping the horse with her legs and was leaning forward Sarah Waugh then shouted out she couldn't stop him and continued to lean forward which could have accidentally encouraged the horse to move faster and as Dargo is an ex racehorse it would be his nature to gallop faster when the rider leans forward over his neck..."⁵⁹

Ms. Cox's evidence was also consistent, she observed:

"...We started walking the horses back. I noticed that Sarah had dropped back behind us. All of sudden "Dargo" has trotted past us and was getting faster. I noticed as "Dargo" went past us that Sarah's left foot was out of the stirrup, I can't remember seeing the stirrup.

I could see that Sarah was trying to slow "Dargo" down but pulling on the reins and turn him to the side. I could see that it wasn't working. I could hear Sara Falkiner yelling instructions at Sarah but the horse did not stop. By the time that Dargo and Sarah had reached the gates he was at a canter and was going quite fast. I could tell that Sarah wasn't in control of the horse.

When you exit the paddock through the gates there is a laneway that runs back to the horse yard and sheds. As soon as "Dargo" entered the lane he started into a gallop. It was almost like the race horse instincts kicked in and he took off..."⁶⁰

This evidence coupled with the information we now know about Dargo namely that:

1. that he was a 4 year old gelded thoroughbred;

⁵⁹ Exhibit 2, volume 1, tab 12 paragraphs 10 & 11;

⁶⁰ Exhibit 2, volume 1, tab 13 paragraphs 10 to 12 inclusive;

2. he had raced up until 14 February 2009 some 6 1/2 weeks prior to this incident;
3. that when Mr. Manton had examined him in early February 2009 he was observed to be “on hard feed and in full racing condition”⁶¹; and
4. he had been trained to race and had raced

and the evidence provided to this inquest from our experts that:

1. thoroughbred horses are bred to race that is they are bred to accentuate their flight response; and
2. horses can become fractious on the way home – which was evidenced by Reggie’s behaviour whilst being ridden by Ms. Falkiner on the video taken by Sarah Waugh moments before she lost control of Dargo;

I am satisfied on balance that Dargo’s racing instinct kicked in, Sarah Waugh was unable to keep or gain control of Dargo, what signals she was trying to give him to decelerate were either being ignored or confused and Dargo accelerated to a trot then a canter and ultimately a gallop up the laneway where Sarah fell.

WAS THE EQUIPMENT PROVIDED ADEQUATE?

The evidence indicates that at the time of her death Sarah Waugh was:

1. wearing a helmet that complied with Australian Standards. This unfortunately was not enough to prevent her death because no helmet can protect a rider from such a fall;
2. using a type of all purpose saddle; and
3. using a safety stirrup.

⁶¹ Exhibit 2, Volume 1 tab 16 at paragraph 15;

The expert evidence indicates that the equipment used in the Horse Units by TAFE NSW Western Institute should be geared for beginner riders, namely they should be using:

1. safety stirrups, retro fitting toe caps or using safety stirrups with break away sides to try and minimise the chance of a rider's foot becoming stuck in a stirrup; and
2. saddles (such as stock saddles) which have as a key feature the presence of a knee and thigh roll for when riding outside of the arena. I note the suggestion that such saddles may not be appropriate if lessons involve jumping exercises.

The equipment provided by TAFE NSW Western Institute is a relevant consideration for this inquest as being one way to minimise (although never eliminate) risk to beginner riders. Riders of different levels of riding experience and education might prefer to use 'more advanced' equipment, but when advertising is directed at beginner riders, TAFE NSW Western Institute should provide equipment that best protects those individuals. That is, risk should be minimised by providing the most protective equipment even if some more experienced students might feel that they are able to manage with other types of equipment.

However, proper equipment is only ever part of the picture. It cannot make up for the absence of appropriate horses, appropriate assessment of horses and an appropriate environment for riding tasks.

WERE THE HORSES FED OATS WHILST AT TAFE?

There was conflicting evidence as to the feed used for the horses. Bill Aldridge was the only witness that indicated that the horses were fed "oats and hay"⁶², whilst Ms. Falkiner and Mr. Bastian deny that the horses were fed oats.

⁶² Exhibit 2, Volume 1, tab 11 at paragraph 10;

As Mr. Aldridge was the only witness to assert that oats were used by TAFE and his recollection was not clear during the course of his oral evidence I am not satisfied that oats were fed to the horses whilst they remained at the TAFE Dubbo campus.

WAS THE INVESTIGATION CARRIED OUT BY TAFE AFTER THE ACCIDENT ADEQUATE?

TAFE NSW Western Institute conducted an internal investigation into Sarah Waugh's death. That investigation and subsequent report failed to uncover or identify any failure of any workplace practices or procedures. The investigation and subsequent report was essentially not worth the paper it was written on. I will attempt to highlight some of the report and investigations failings:

1. Whilst the supplier volunteered the fact that Dargo was an ex racehorse, this did not prompt an inquiry as to whether TAFE staff knew he was an ex racehorse at the time of the Horse Units nor did it prompt an inquiry as to Dargo's racing history⁶³.
2. The investigation did not question Sara Falkiner about the history obtained from the supplier⁶⁴.
3. The investigation was alerted to the fact that the gate into the paddock was not closed, yet this did not prompt any comment in the report⁶⁵.
4. The investigation failed to elicit the fact that Sarah Waugh, to the knowledge of Ms. Falkiner, had her camera out whilst riding in the paddock shortly before her death.
5. The investigation failed to identify the lack of a current first aid certificate for Ms. Falkiner at the time of the accident.
6. The investigation failed to adequately consider the tender process and the adequacy of the information provided by the supplier beyond an assertion that the process was suitable.

⁶³ Volume 3, Tab 42 pg. 2

⁶⁴ Volume 3, Tab 44

⁶⁵ Volume 3, Tab 39 and 44

Julianna and Mark Waugh are understandably inconsolable as a result of the loss of their beloved daughter. It is clear shortly after her death that they quite reasonably sought answers as to why and how she died. I note those answers were not immediately forthcoming and the investigation and subsequent report produced by TAFE raised more questions than it answered.

PRACTICAL CHANGES SINCE SARAH WAUGH'S DEATH

TAFE NSW Western Institute have implemented changes to practice and procedure⁶⁶ since Sarah Waugh's death, as set out in the document titled "Conduct of High Risk Course – Horse Riding", these changes include:

1. Guidelines exclude horses that do not yet have their central adult incisors in wear (that is, exclusion based on age). This seems to reflect the horse industry code of practice. However, according to Prof. McGreevy, horses can have their central adult incisors in wear from around 3 years of age. It would be entirely sensible to exclude horses younger than 10 years from use with beginner riders. (This would exclude some young horses that are nonetheless suitable, but so be it).
2. New horse identification and history documents for tender applicants to complete as part of the tender process. The evidence suggests that this has led to some improvement in the information supplied, but the information volunteered in the 2011 documents is still both brief and very general.
3. New process for assessing applications for tender, including an assessment of the proposed horses on their home property by TAFE staff.
4. New horse skills audit. It would be preferable for the audit to be conducted independently by two staff who each ride every horse. This is important to try and consistently replicate rein and leg pressure used by each assessor on each horse. The assessment should include a measurement of deceleration response from gait to gait within a 3 beat stride.

⁶⁶ Volume 2, Tab 28, annexure M;

5. Horse skills audit includes assessment of horse in open spaces (that is, not limited to the arena).
6. New staff to student ratios when riding outside the arena (2:6).
7. Daily risk assessments.

I note that these amendments are of course only effective at reducing risk if actually implemented and fully understood by all concerned.

In light of Mr. Bastian's evidence that he remained of the opinion that Dargo was a suitable horse for beginner riders, I have reservations as to whether TAFE NSW Western Institute **even yet** recognise the deficiencies in the Horse Units as conducted in 2009. This finding has prompted a recommendation for an independent assessment of practice and procedure at TAFE NSW Western Institute.

CONCLUSION

Sarah Waugh was a bright, intelligent, talented and passionate teenager who enrolled (with the permission and backing of her supportive parents) in the Jackeroo/ Jillaroo Course offered by TAFE NSW Western Institute Dubbo campus in order to gain appropriate skills and knowledge of agriculture and country life to further her dream in becoming a country vet.

Sarah Waugh was allowed on 24 March 2009 to ride an ex-racehorse (who had last raced approximately 6 ½ weeks before) in a large paddock with an open gate, ultimately she lost control of the horse and subsequently died.

Accordingly I now turn to the findings I am required to make pursuant to section 81 of the *Coroners Act 2009*.

I find that Sarah Kate Waugh died on 24 March 2009 at TAFE NSW Western Institute Dubbo Campus from multiple fractures of the skull, separation of C2 and C3 and generalised cerebral contusion as a result of a fall from a horse.

RECOMMENDATIONS

Accordingly, pursuant to section 82 of the Coroners Act 2009 I make the following recommendations arising out of the death and subsequent inquest into the death of Sarah Waugh:

To:

- a) The NSW Minister for Education;
- b) The Managing Director, TAFE NSW;
- c) The Australian Skills Quality Authority; and
- d) AgriFood Skills Australia.

Further amendments to TAFE practice and policy are warranted so as to minimise risk to students in other courses.

REVIEW AND AMENDMENTS OF POLICY

1. That the Australian Skills Quality Authority, Agrifood Skills Australia and TAFE NSW review the conduct of the units including:
 - a) The essential performance criteria that students are required to meet in order to be deemed competent.
 - b) The feasibility of educating beginner riders to a level where they can demonstrate via mustering exercises that “educated horses are controlled and worked as an integral part of stock husbandry routines” in the space of 40 hours of tuition and significantly less than 40 hours of riding time.
 - c) The adequacy of relying upon the recognition of staff prior learning and industry experience in the circumstances of this case and in the absence of any independent accreditation of riding skill.

- d) Best practice for the assessment of horses for use in the conduct of these units.

TENDER PROCESS

- 2) That TAFE NSW amend policy and practice at TAFE NSW Western Institute relating to the tender process for the supply of horses for use in the units as follows:
 - a) Tender documents should require the provision of horses educated for use with beginner riders, experienced in lessons with beginner riders, educated for use around stock and experienced in use around stock.
 - b) Tender documents should exclude ex-racehorses and horses that are under 10 years of age.
 - c) Tender documents should require applicants to provide information (as within their knowledge) specific to each horse including:
 - i) Age, breed and height of horse.
 - ii) Date of purchase.
 - iii) From whom purchased.
 - iv) Purchase price.
 - v) Level of education for use with beginner riders and recent experience with beginner riders in the course of riding lessons.
 - vi) Level of education for use in stock work and experience in stock work.
 - vii) Whether horse has ever been trained for racing (although never raced), and if so, date when such training concluded.
 - viii) Whether horse has an Australian Stud Book Microchip Number and if so, the number.
 - ix) Whether horse has an Australian Identification Number and if so, the number.
 - x) Details as to how horses would be worked and kept on the days when they were not at TAFE.

- 3) Assessment of applications for tender should take into account the nature of information provided for each horse, recognizing that the relative importance of specific criteria will vary from horse to horse. For instance, if an applicant does not have much historical information but has owned the horse for 5 years, the lack of historical information would be less significant than in the case where the applicant has owned the horse for 5 weeks.
- 4) Assessment of applications for tender should include cross checks using the ASB Microchip Number and/or Australian Identification Number if available. This is not to suggest that this assessment as and of itself, obviates the need for other assessments as follows.

OCCUPATIONAL HEALTH AND SAFETY AUDITS

- 5) That TAFE NSW undertake an independent Occupational Health and Safety audit at TAFE NSW Western Institute, Rural Skills Campus (such as via commercially available safety management programs) that includes:
 - a) Risk assessment of paddocks and properties on which the units are conducted with a view to ensuring that any paddocks that will be used for riding exercises are fit for purpose. This shall include the use of single purpose gates.
 - b) Risk assessment of equipment to be used in the conduct of the course.
 - c) Review of the assessment process for horses to be used in the units taking into account the necessary experience required to adequately assess the horses, current practice and the adequacy of the current forms and assessment tool.
 - d) Guidelines prohibiting use of cameras and phones whilst riding should be strictly enforced.
- 6) TAFE NSW adopt the Australian Horse Industry Council Horsesafe Code of Practice in the conduct of the units.

The inquest has also raised questions as to the adequacy and feasibility of the unit guide as presently drafted. It is not appropriate for me to attempt a review of those units within the adult education network or to attempt to draft policies for use with the guide. That is properly the domain of the organisations that administer and implement the unit guide (Australian Skills Quality Authority, AgriFood Skills Australia and in this case, TAFE NSW). Those organisations, under the auspices of the Australian Skills Quality Authority should review the unit guide, its implementation in this case (including horse selection) and the recognition of staff prior experience in the absence of any independent accreditation of riding skill. This review, unlike this hearing, would be able to draw on the experience of other Registered Training Organisations which have implemented the unit guide in other jurisdictions.

It must be noted that neither the Australian Skills Quality Authority nor AgriFood Skills Australia have appeared in these proceedings and so, the Court cannot bind them by recommendations. But it is to be hoped that these two organisations will assist in bringing their own specialist expertise to a review of the issues enlivened by the Inquest.

Finally, Professor McGreevy has given evidence about research into a rein tension metre and pressure detection monitors that will permit the horse industry to precisely replicate assessment from horse to horse. The commercial supply of such technology will be of great assistance to the industry as providing a reliable measure of the responsiveness of individual horses.

23 December 2011

Magistrate Sharon Freund

Deputy State Coroner