Australian Government
Department of Agriculture, Fisheries and Forestry

6 October 2005

Ms Maureen Weeks
Committee Secretary
Rural and Regional Affairs and Transport Legislation Committee
Parliament House
Canberra ACT 2600

Dear Ms Weeks

Department of Agriculture, Fisheries and Forestry Submission to the Senate Rural and Regional Affairs and Transport Committee's Citrus Canker Inquiry

The Department of Agriculture, Fisheries and Forestry (DAFF) indicated during the Senate Rural and Regional Affairs and Transport Committee hearing of 12 August 2005 that DAFF was preparing a further submission for the Committee.

The enclosed submission draws on the material and evidence previously provided to the Committee by DAFF and other witnesses. The submission addresses both the investigation of allegations of illegal importation of citrus budwood at Evergreen Farms and the subsequent response to the outbreak of citrus canker. It provides the logic and justification that link events and management decisions in the DAFF response to these events that the Committee may find useful in its deliberations.

Yours sincerely

Peter Liehne
National Manager Plant Programs
Australian Quarantine and Inspection Service

Australian Government

Department of Agriculture, Fisheries and Forestry

Submission to the Senate Rural and Regional Affairs and Transport Committee Inquiry into the Citrus Canker Outbreak

September 2005

EXECUTIVE SUMMARY

Effective quarantine involves a partnership between the Australian Government and the States and Territories, industry and the public. It involves a continuum of activities from pre-border measures to reduce the threat of entry, targeted border controls and post-border activities, such as monitoring and surveillance, to detect incursions at an early stage with a view to controlling and eradicating pests and diseases. A 'no risk' quarantine policy is not viable but since 2001 the Australian Government has taken major steps to strengthen the work of border agencies.

Even the most stringent quarantine and biosecurity measures however will not prevent calculated, deliberate smugglers from breaching quarantine.

The Australian Quarantine and Inspection Service (AQIS) first became aware of the possibility of illegal importation of plant material into the Emerald region on 12 June 2001 by a call to its 'Redline' number alleging that the owner and employees of Pacific Century Production Pty Ltd (PCP) in Emerald, Queensland, had been involved in smuggling plant cuttings into Australia.

It responded by commencing an investigation into whether plant material had been brought into Australia illegally, and if so to seek to gather appropriate evidence to prosecute the offender; and to put in place arrangements to ensure that if such material did enter Australia and carried exotic pests or diseases, those pests or diseases would be detected and controlled.

The application for a Search Warrant under Section 66AF of the *Quarantine Act 1908* (Cth) (the Quarantine Act) requires an officer to swear an affidavit containing sufficient information to convince a Magistrate that there are reasonable grounds for suspecting that a search of the premises will afford evidence of the commission of an offence under the Act. A Search Warrant was executed on 26 July 2001. Without independent corroborating information however, AQIS cannot pursue an allegation of an offence if potential witnesses deny all knowledge of it - as did all those spoken to at Evergreen Farms on that day.

In the course of the search of the Evergreen Farms property AQIS took cuttings of the grape and citrus plants which were alleged to be illegally imported and questioned staff who might have information in relation to the allegation. Apart from the original informant, all others denied any knowledge of the matter. Initial testing of the citrus material showed no evidence of citrus canker. It indicated the possible presence of citrus tristeza virus which subsequent testing could not confirm was exotic to Australia. The repeated testing of the citrus material taken from Evergreen Farms and grown at the Eastern Creek Post Entry Plant Quarantine Facility between 2001 and 2005 has not been able to confirm the variety, as it has not been possible to distinguish between Ponkan and Emperor mandarin varieties. Citrus plants grown from the original seized material are still being held at Eastern Creek. They have fruited three times and as at September 2005 continue to show no evidence of citrus canker.

Testing of the grape material provided no evidence of exotic diseases, particularly Pierce's disease which was of primary concern in 2001.

AQIS sought to manage the quarantine risks associated with the possibility that illegal plant material was on the Evergreen Farms property by issuing a number Quarantine Orders. Although subject to legal challenge, the original allegations provided sufficient grounds for this purpose until mid-October 2001. At that time AQIS was advised that it could not continue to maintain a Quarantine Order on the plants on the property without evidence of a quarantinable disease or illegal importation. In the context of advice from the Queensland Department of Primary Industries (QDPI) that it had no power under its legislation to survey the plants on the property or control the movement of plants from the property, and in order to

maintain a capacity to pursue its investigations and monitor citrus and grape plants on the property for expressions of exotic diseases, AQIS entered into a Deed of Arrangement with the owners of the property (PCP) on 22 October 2001. The Deed set out arrangements which enabled PCP to harvest their grape crop under AQIS supervision and required PCP to destroy under AQIS supervision the citrus that was allegedly illegally imported.

The Deed also gave AQIS the right under specified conditions to go onto the property and monitor the grape and citrus plants on the property for up to eighteen months. In accordance with normal commercial practice for agreements to settle legal actions, it provided for the terms to remain confidential between the parties.

The Plant Health Consultative Committee (comprising State and Commonwealth representatives under the leadership of the Chief Plant Protection Officer) developed a surveillance plan for the Emerald district in April 2002 to be implemented by QDPI as the responsible State agency. This plan was not implemented as there was no power at that time in the Queensland legislation to enforce it and the voluntary cooperation of all growers in the district was required but not forthcoming.

Since this time, Queensland has amended its legislation and now has power to enter onto private property and undertake surveys and testing if QDPI has reasonable grounds for believing it may be infested with a quarantinable pest.

AQIS continued investigations and on 3 October 2003 put a brief of evidence to the Commonwealth Director of Public Prosecutions (CDPP). In April 2004 the CDPP advised that there was insufficient evidence to mount a successful prosecution against any individual or company. Despite best efforts, until June 2005 there were no witnesses willing or able to provide statements or any definitive evidence to substantiate the allegations made, including those witnesses now providing information to the Senate Committee.

In June 2004, citrus canker was detected within the Evergreen Farms property by a private employee who sent a sample of the disease to Queensland Department of Primary Industries and Fisheries (QDPI&F). QDPI&F subsequently confirmed the sample as being infected by citrus canker in accordance with the protocols established by Plant Health Australia's PLANTPLAN.

The QDPI&F imposed a Pest Quarantine Area (PQA) on the Emerald district on 30 June 2004 to prevent the movement of citrus plant material or fruit out of the area.

In October 2004, citrus canker was detected on a second property; and in July 2005 on a third property.

The response to the confirmation of citrus canker has been managed under the auspices of the Primary Industries Ministerial Council/ Primary Industries Standing Committee framework and in accordance with PLANTPLAN.

The determination to engage in a full scale eradication programme for citrus canker from the Emerald PQA was made on 6 July 2004 by the National Management Group (NMG) which comprises the Chief Executive Officers from the jurisdictions' agricultural agencies and the chairs of Australian Citrus Growers Inc and Plant Health Australia. The decision was made on the recommendation of the national Consultative Committee on Emergency Plant Pests (CCEPP). The NMG's decision took into account the isolation of Emerald from other citrus producing areas of Australia; the analysis undertaken by ABARE which indicated significant benefit over cost; and the scientific and technical advice which confirmed that eradication could be achieved.

Following the confirmed detection of disease on the third property, the NMG, representing all Governments and the peak citrus industry organisations endorsed the removal, by the Queensland Government, of all commercial and non-commercial (domestic) citrus trees and certain areas of native hosts within the Emerald PQA. In doing so, it confirmed its view that citrus canker remains eradicable from within the PQA in a cost effective manner.

The *Australian Government Citrus Canker Assistance Package* was announced by the Minister for Agriculture, Fisheries and Forestry, the Hon Warren Truss, on 11 February 2005. The package, worth $1.5 million, is available to Queensland citrus growers and production nurseries facing serious financial pressure due to the outbreak of citrus canker in 2004 and includes measures such as interest rate subsidies, income support and a market facilitation project.

The *Citrus Canker Reimbursement Package* was announced by the Minister for Agriculture, Fisheries and Forestry, the Hon Peter McGauran and the Queensland Minister for Primary Industries and Fisheries, Mr Gordon Nuttall on 10 August 2005. The $11.5 million package is designed to provide assistance to those growers affected by the 3 June decision of the NMG to destroy the remaining orchards within the Emerald PQA without waiting for confirmation of the presence of disease within them. It is equally funded by the Australian Government and the Queensland Government (40% each) with a co-contribution from the citrus industry (20%). A request to contribute to the package was made to the Primary Industry Ministers of all other State and Territory Governments but did not gain their support.

An Emergency Plant Pest Response Deed has been developed and once it is formally signed by all Governments and comes into force it will provide for reimbursement of certain types of costs incurred by owners on the principle that a grower should neither lose nor gain from an eradication response. This should provide a secure basis for Governments and industry to share the costs for biosecurity and risk reduction measures and arrangements. It should remove uncertainties and disincentives for growers to report suspected emergency plant pests.

The development by the Australian, State and Territory Governments of an Australian Biosecurity Strategy – Primary Production and the Environment Component (BIOSEC) will assist also in bringing together a number of activities to provide for greater national collaboration on biosecurity issues within and across jurisdictions and with key stakeholders in the primary production and natural resource management sectors.

INTRODUCTION

The Senate Rural and Regional Affairs and Transport Legislation Committee is inquiring into the outbreak in 2004 of citrus canker in Emerald, Queensland. Its terms of reference are to investigate the Department of Agriculture, Fisheries and Forestry's administration of the matter with particular reference to:

1. AQIS's response to the allegations of illegal importation of plant material;
2. The adoption of the quarantine protocols and management of the emergency response;
3. Cooperation between the Commonwealth and States, including funding issues;
4. The impact of the incursion on the Australian citrus industry;
5. Prevention and management of future incursions; and
6. Other related matters.

The Australian Government Department of Agriculture, Fisheries and Forestry (the Department) has provided evidence to the Committee at its hearings on 22 June and 12 August 2005 and responded to questions on notice taken at the hearings. It has also provided the Committee with a large body of documentation (listed at Attachment A).

Against this background, the Department considered that it would be helpful to the Committee as it continues its deliberations to provide a short submission. This submission outlines the roles and responsibilities of the Department and the States and Territories in the continuum of quarantine that begins before goods or people reach the Australian border, and continues through to post border management arrangements. It seeks to put into context the Department's response to the allegations in 2001 that citrus bud-wood and other plant material had been illegally imported into Australia and the response of the National Citrus Canker Eradication Program (NCCEP) to the outbreak of citrus canker in the Emerald region of Queensland in 2004.

AUSTRALIA'S QUARANTINE FRAMEWORK

Australia's relative freedom from many of the debilitating pests and diseases of animals and plants that affect other countries has been maintained over the years through Australia's relative isolation as an island continent and through significant investment in quarantine activities to protect against incursions of exotic pests and diseases. Responsibility for maintaining Australia's favourable pest and disease status has been shared between the Australian Government and the States and Territories. More recently, arrangements have been developed which enhance the collaborative work between jurisdictions and which recognise the role of agricultural industries and the broader community's responsibilities.

This partnership approach to the management and administration of Australia's quarantine arrangements was articulated in the Report of the Australian Quarantine Review Committee[1] in 1996 and continues to underpin Australia's quarantine policy and programmes. That review also recognised that a policy of 'no risk' cannot, and never has been, a viable quarantine policy option. Given that, there is a continuing need to ensure that quarantine risk management systems are adapted to meet the various challenges that emerge, while at the same time ensuring that the measures employed are proportionate to the risks involved.

[1] Australian Quarantine: A Shared Responsibility. Department of Primary Industries and Energy, Canberra, 1996 (the Nairn Report)

Australian Government Responsibility for Quarantine

The Australian Government, through the Department, is responsible for administering the *Quarantine Act 1908* (Cth) (the Quarantine Act). The Act provides for the prevention or control of the introduction, establishment or spread of diseases or pests that will or could cause significant damage to human beings, animals, plants, other aspects of the environment or economic activities.

The Department fulfils its quarantine obligations primarily through risk assessments and scientific advice from Biosecurity Australia (BA), quarantine measures applied by the Australian Quarantine and Inspection Service (AQIS) at points of entry into Australia, and through involvement in subsequent measures at the immediate post-border level, including national co-ordination of responses to emergency pest and disease outbreaks which is handled by the Product Integrity Animal and Plant Health (PIAPH) Division. The Department's post-border role is focussed on working with other stakeholders in managing pest or disease incursions if a breach occurs.

States and Territories Responsibilities for Quarantine

Since the Quarantine Act was given effect in 1909, the States and Territories have largely assumed responsibility for surveillance and post border action within their jurisdictions as part of their wider plant and animal health responsibilities. They undertake inter and intrastate quarantine operations, the key work in the detection of new pest and disease outbreaks and the collection of data on the status of animal and plant health. This information is shared with responsible Australian Government agencies and applied to the assessment of quarantine and other issues.

Each State and Territory jurisdiction has separate quarantine and/or plant health legislation which prescribes their responsibilities and powers. These are set out in Attachment B.

Non-Government Roles and Responsibilities for Quarantine

Responsibility for the development, implementation and funding of the specific operational elements of quarantine policies and programmes is shared between governments, industry and the general public. This means that non-government sectors have a very important role to play in the national system.

Industry has a key role in Australia's quarantine system, particularly in surveillance and reporting programs, and enhancing prevention and preparedness. Early detection is essential to maximise the chances of eradication and minimise the impacts of incursion.

The role of informed and concerned individuals is also critical in achieving this outcome. Although State and Territory agencies have specific roles and responsibilities in post-border surveillance, the greatest capacity for surveillance lies with the group that is constantly in contact with crops and therefore most likely to make the earliest possible detection of pests and diseases – growers themselves and others involved in the industry.

Cooperative Government and Industry Arrangements for Quarantine

Since 2001, the Australian Government has taken major steps to strengthen border agencies in their work to counter threats from exotic pests and diseases by intensifying controls over the entry of people and goods into Australia. Substantially enhanced intervention and effectiveness rates since 2001 mean that Australia is better placed to detect illegal importations.

Notwithstanding this increased activity, as external reviews of quarantine have found, even the most stringent quarantine measures will not prevent calculated, deliberate smugglers from breaching quarantine. Similarly, the role of natural incursion or spread cannot be ignored. Exotic pests and diseases can be introduced through the natural movement of wildlife, such as migratory birds, or be borne for long distances on wind or sea currents.

For these reasons the Australian Government has taken a lead role in cooperative arrangements with State and Territory Governments and industry to tackle exotic pests and diseases identified in the agricultural environment and to ensure commitment by all levels of government and industry when an emergency response is necessary.

The most significant development for plant industry biosecurity management arrangements in recent years has been the establishment, in April 2000, of the joint industry/government owned body known as Plant Health Australia (PHA). PHA is a Corporations Law company whose members include the Australian Government, all State and Territory Governments and national representatives of plant industry organisations. PHA's primary objective is to play the lead role in coordinating the national priorities for plant health with a particular emphasis on plant health protection and emergency preparedness and response. It works closely with its industry and government stakeholders and reports to the Primary Industries Standing Committee to ensure there is an integrated approach to national plant health policy development and implementation.

Since its establishment, PHA has developed PLANTPLAN, the emergency plant pest response guide as a framework for management of infrastructure, actions and communications through all sectors involved in any response[2]. It has also driven the development of the Emergency Plant Pest Response Deed (EPPRD) which is anticipated to come into force in late 2005 once it is formally signed by all Governments. The EPPRD will strongly influence the management of responses to emergency plant pests in the future (more detail on the EPPRD is at Attachment F).

APPLICATION OF QUARANTINE LEGISLATION

The quarantine response provisions at both the Australian Government and State/Territory level can only be applied where evidence of an exotic pest or disease exists through detection or diagnosis, or where reasonable grounds (capable of withstanding legal challenge) exist that an exotic pest or disease threat is present.

For example, both sections 35 and 55A of the Quarantine Act require Quarantine Officers to conclude that 'goods are or are likely to be infected' before they can issue the goods into quarantine. Thus, the Quarantine Officer must form an opinion

- that the prospect must be 'real and not a remote possibility', and
- be based on facts and knowledge, not suspicion.

In forming an opinion the Quarantine Officer may consider matters such as their own observations, findings from investigations, documents accompanying the goods, or results from tests i.e. facts and specific observations.

[2] Details of PLANTPLAN are at http://www.planthealthaustralia.com.au/plantplan/files.asp.

ALLEGATIONS OF ILLEGAL IMPORTATION OF PLANT MATERIAL IN EMERALD

'Redline' call and search warrant

AQIS first became aware of the possibility of illegal importation of plant material into the Emerald region on 12 June 2001. It was advised by a call to its 'Redline' number that the owner and employees of Pacific Century Production Pty Ltd (PCP) in Emerald, Queensland, had been involved in smuggling plant cuttings into Australia, including grapes, lychees, citrus and seeds for paw-paw and melon. Further brief details of a recent incident were also provided. The caller, subsequently identified as Mr Wayne Gillies, advised that he could only be contacted on his home number which was located in a house on the Evergreen Farms property owned and operated by PCP.

The 'Redline' is an AQIS operated 1800 freecall hotline service which members of the public can call to report alleged breaches of AQIS portfolio legislation. 'Redline' is managed by the Compliance and Investigations Program (C&I) within AQIS and it has operated since 1997. AQIS receives between 500 and 700 'Redline' calls each year. Of those calls, approximately 60 to 80 calls are 'Merit' calls ie calls which require follow up action by AQIS.

C&I have documented work instructions on how 'Redline' calls are handled. Those work instructions include escalation and referral procedures to ensure that allegations are properly tested and nuisance calls or those without any factual basis are eliminated.

It is normal investigative practice to conduct enquiries to establish or corroborate the validity of an allegation prior to the application for a Search Warrant. The application for a Search Warrant under Section 66AF of the Quarantine Act requires an officer to swear an affidavit containing sufficient information to convince a Magistrate that there are reasonable grounds for suspecting that a search of the premises will afford evidence of the commission of an offence under the Act.

In accordance with those procedures, the call from Mr Gillies was referred to the AQIS South Queensland Regional Office for further investigation. At that time there were two permanent C&I officers in Queensland - one with an investigations/law enforcement background and one with an AQIS technical background. Because of the seriousness of the allegations, the Senior Compliance Officer began work on the matter during his annual leave when it became apparent that work pressures would have otherwise unduly delayed the investigation.

AQIS C&I Officers undertook a number of enquiries including checks of AQIS databases to determine whether permits had been granted to import plant material; obtaining a statement of disease risk; checks on the travel movements of the people associated with the Evergreen Farms property; and enquiries with the State and Territory Departments of Agriculture to determine if the citrus variety 'Ponkan' was already in Australia. They also took a statement from Mr Gillies.

A Search Warrant was granted on 23 July 2001. The warrant execution team comprised AQIS C&I officers, AQIS scientists and quarantine officers based in both Brisbane and Gladstone as well as an officer of the Queensland Department of Primary Industries[3] (QDPI) based in Brisbane. A team briefing took place prior to the execution of the warrant. In line with C&I practice, local Queensland Police were also notified of the action in case of any breaches of the peace. The warrant was executed on the morning of 26 July 2001.

[3] *Department of Primary Industries became Department of Primary Industries and Fisheries (QDPIF) in February 2004.*

A number of witnesses appearing before the Committee have asserted that the owners of Evergreen Farms were 'tipped-off' prior to the Search Warrant being executed and that the search of the property lacked 'resolve and determination'. Within AQIS, only those with a 'need to know' had information about the investigation. It is unlikely that anyone could have concluded on the basis of the AQIS accommodation booking at the Emerald motel that a search of the property was being planned. AQIS officers routinely visit the Emerald district on three or four occasions in each season for export certification or other purposes.

In executing a Search Warrant, a Commonwealth agency such as AQIS carrying out an investigatory function is bound by specific legal requirements to comply strictly with the terms of the warrant. These terms specify the scope and extent of the actions that can be undertaken. Without independent corroborating information AQIS cannot pursue an allegation of an offence if potential witnesses deny all knowledge of it, as did all those spoken to at Evergreen Farms on that day.

Within these requirements, the search team that attended Evergreen Farms actively sought to identify evidence to substantiate the allegations of illegal importation. The team searched those parts of the property identified by Mr Gillies, took cuttings of the grape and citrus plants which he had advised were illegally imported and questioned staff.

On 26 July AQIS issued an Order under section 55 of the Quarantine Act over the Evergreen Farms property. It issued a further Order on 27 July to prevent the unauthorised removal of the quarantine signage on the property.

Contrary to the suggestion of some, the plant material taken from the property was handled carefully. The grape and citrus cuttings were packaged in plastic bags by the AQIS Senior Plant Pathologist and placed inside a sealed polystyrene box which was in turn placed inside a cardboard carton and sent to the AQIS Eastern Creek Post Entry Plant Quarantine Facility (Eastern Creek) for testing to determine the variety and disease status.

Testing of seized plant material

Initial testing of the citrus material showed no evidence of citrus canker. It indicated the possible presence of citrus tristeza virus; subsequent testing, completed in February 2002, identified an atypical strain but there was insufficient evidence to confirm it was exotic to Australia. It is relevant to AQIS's management of this finding that only those strains of citrus tristeza virus that are exotic and likely to cause a serious disease in citrus, or that are currently controlled under State and Territory legislation because of the diseases they produce, are placed under quarantine control. Many strains of the virus are benign and do not cause any disease symptoms in infected plants. The strain identified was not under State quarantine control, nor was there evidence that it caused overt disease in the citrus on Evergreen Farms or neighbouring properties.

Citrus plants grown from the original seized material are still being held at Eastern Creek. They have fruited three times and as at September 2005 continue to show no evidence of citrus canker.

The repeated testing of citrus material taken from Evergreen Farms and grown at Eastern Creek between 2001 and 2005 has not been able to confirm the variety as it has not been possible to distinguish between Ponkan and Emperor mandarin varieties.

Testing of the grape material provided no evidence of exotic diseases, particularly Pierce's disease which was of primary concern in 2001.

The Committee has been provided with a complete schedule of all tests undertaken on citrus and grape material and the results.

It should be noted however that even if tests had clearly indicated an exotic variety of plant or disease, this information would not be sufficient to prosecute any individual for illegal importation in the absence of other independent corroborating evidence implicating them. Before deciding to pursue a prosecution, the Commonwealth Director of Public Prosecutions (CDPP) requires evidence that is "admissible, substantial and reliable . . . that a criminal offence . . . has been committed by the alleged offender."[4]

In practice this means that the available evidence must demonstrate a particular individual was involved in organising the importation of the plant material on the property at the specific time and that appropriate approvals had not been obtained under the Quarantine Act to import the plant material.

In the absence of witnesses willing to come forward and provide evidence of their direct observations on what occurred, the CDPP concluded that there was "insufficient evidence to identify which individual or individuals were involved in the importation or importations, or to identify any individual's level of knowledge of the degree of compliance with quarantine requirements" to the standard required by the law.[5]

Legal Challenges to AQIS actions

On 1 August 2001, PCP instigated legal action in the Federal Court challenging the validity of the Quarantine Order. Following legal advice on the issues raised by PCP in their application to the Court, AQIS issued a new Order into Quarantine under section 35 of the Act to limit control to the plants and plant material and the machinery associated with the plants and plant material that was allegedly illegally imported, and to specify a time period of six weeks corresponding to the likely time that the initial disease testing would take to complete.

On 17 August 2001, the Court found that the AQIS decision maker had information before him sufficient to form an opinion that the plants were likely to be affected with a quarantinable disease. Further, the court found the applicants had an opportunity to respond to the allegations and that the requirements of procedural fairness had been met. On 18 September 2001 the Quarantine Order was extended to 13 November 2001 to enable further testing of the seized plant material to be completed.

PCP appealed the Court's decision to the Full Federal Court which on 12 October 2001 found that the Quarantine Order was valid.

Throughout this period, PCP continued to press AQIS for approval to harvest their grape crop, claiming that the quarantine arrangements were causing significant commercial losses, as it was the peak of the picking season. AQIS was advised that if it maintained the quarantine arrangements in the face of these demands, and no quarantine risk material was ultimately detected, AQIS would be open to legal action by PCP to recover substantial damages for these commercial losses.

On the basis of the results of the tests done on the citrus material and in light of the scientific advice that the grape cuttings taken from Evergreen Farms on 26 July were of very poor quality and unlikely to be sufficiently viable to enable testing for exotic diseases, AQIS had no grounds for maintaining a Quarantine Order on the property. In these circumstances,

[4] Prosecution Policy of the Commonwealth Director of Public Prosecutions
[5] Advice from Commonwealth Director of Public Prosecutions, Brisbane Office, to AQIS, April 2004

monitoring of the grapes on the property over a reasonable period of time was the only means of determining whether they were infected with a quarantinable disease.

As a result, AQIS advised PCP that it would only be prepared to lift the Quarantine Order if they:

- destroyed the whole of the citrus in block 182 which had been identified by Mr Gillies;
- agreed to regular monitoring of the whole property by AQIS for up to three years.

PCP rejected AQIS's offer.

On 8 October 2001 PCP sought to enter into a Compliance Arrangement under section 66B of the Quarantine Act to harvest their grape crop. A Compliance Agreement would have enabled PCP to harvest their crop without any on the spot supervision. AQIS formally refused the application on 10 October 2001.

PCP appealed this decision in the Federal Court and a hearing was set down for 23 October 2001. Following legal advice that AQIS could not maintain the Quarantine Order on the plants on the property without evidence of a quarantinable disease or illegal importation, and in order to maintain a capacity to pursue its investigations and monitor citrus and grape plants on the property for expressions of exotic diseases, AQIS entered into a Deed of Arrangement with PCP on 22 October 2001.

This decision was taken in the context of advice from QDPI that it had no power to survey the plants on the property or control the movement of plants from the property. AQIS was keen to secure the right to supervise the picking and packing of the grapes to ensure that no vegetative material left the property before it had confirmation either that no illegal importation had taken place or that the plants had no quarantinable disease. As Mr Gillies had alleged that the grape cuttings had been smuggled from California, AQIS was particularly concerned with the potential for the introduction into Australia of Pierce's Disease which was devastating grape crops in California.

The Deed set out arrangements which enabled PCP to harvest their grape crop under AQIS supervision and required PCP to destroy under AQIS supervision the citrus that was allegedly illegally imported. The information put to the Committee by a number of witnesses that the owners of Evergreen Farms had already caused those plants to be killed was not known to AQIS at the time the Deed was signed but was obvious to the AQIS officers who attended on the day the plants were pulled out and incinerated. The explanation offered by PCP to AQIS officers at the time - that they had ceased watering the trees in question - provided a logical cause for the state of the trees.

The Deed also gave AQIS the right under specified conditions to go onto the property and monitor the grape and citrus plants on the property for up to eighteen months. In accordance with normal commercial practice for agreements to settle legal actions, it provided for the terms to remain confidential between the parties.

<u>AQIS monitoring of the Evergreen Farms pursuant to the Deed of Arrangement</u>

AQIS undertook three surveys of the citrus plants on Evergreen Farms between 26 October 2001 and 10 December 2002. The surveys were planned following discussion with the Commonwealth Chief Plant Protection Officer and were specifically targeted on those parts of the orchards adjacent to the areas identified in the initial allegations of illegal importation as any potential introduction of a quarantine pest or disease was most likely to be found in these adjacent parts of the property.

During these surveys AQIS officers observed plants for signs of disease and took samples to test for quarantinable diseases. No signs or indications of quarantinable diseases were detected in addition to the earlier identification of *citrus tristeza* virus.

The last survey was done in December 2002 on the advice of the Chief Plant Protection Officer that the initial wet season growth was the most critical period for examination of plants and testing for diseases and that surveillance at the end of the wet season was unlikely to yield additional evidence.

Consultative Committee considerations

On 14 November 2001, the Chief Plant Protection Officer convened an initial telephone conference of State and Territory Government authorities and industry, including the Pressler family and legal representatives of PCP, to discuss the disease testing on the citrus samples from Evergreen Farm and a possible survey of the Emerald district for exotic strains of citrus tristeza virus. This was followed up by a formal meeting of the relevant intergovernmental committees in February 2002.

The Plant Health Consultative Committee developed a surveillance plan in April 2002 to be implemented by QDPI as the responsible State agency. This plan was not implemented as there was no power at that time in the Queensland legislation to enforce it and the voluntary cooperation of all growers in the district was required. The Pressler family refused to agree to a survey of their property unless they were given access to the details of the confidential Deed of Arrangement between AQIS and PCP as well as the results of tests done on all other properties. This refusal was maintained despite general support in the citrus industry for the survey, indications that other citrus growers in the district were willing to cooperate and discussions with the Pressler family to emphasise that the survey was in the best interests of the whole citrus industry. Data was already available for Evergreen Farms but the majority of the remaining unsurveyed citrus in the area was on the Pressler properties. After discussions with QDPI, it was concluded that there was little point in undertaking more survey activity if access to the Pressler properties was not possible.

Since this time, Queensland has amended its legislation and now has power to enter onto private property and undertake surveys and testing if it has reasonable grounds for believing they may be infested with a quarantinable pest.

AQIS investigations

The Committee has been provided with a complete schedule of all interviews and inquiries made by AQIS C&I. AQIS has continued active investigations into the allegations since July 2001. AQIS C&I interviewed suppliers of bud-wood, rootstock and other equipment and services to PCP in the 2000-2001 period but no new evidence was produced that could substantiate the allegations.

On 3 October 2003, AQIS put a brief of evidence to the Commonwealth Director of Public Prosecutions (CDPP). In April 2004 the CDPP advised that there was insufficient evidence to mount a successful prosecution against any individual or company. The full submission and related correspondence have been provided to the Committee.

Despite best efforts, until June 2005 there were no witnesses willing or able to provide statements or any definitive evidence to substantiate the allegations made, including those witnesses now providing information to the Committee.

AQIS C&I has reviewed all submissions to the Committee and located further witnesses and avenues of inquiry. The CDPP is being briefed on an ongoing basis.

ACTIONS SINCE 2004: CITRUS CANKER ERADICATION PROGRAMME

Identification of citrus canker

In June 2004, citrus canker was detected within the *Evergreen Farms* property (officially referred to as IP-1) by a private employee who sent a sample of the disease to QDPI&F. QDPI&F subsequently confirmed the sample as being infected by citrus canker in accordance with the protocols established by PLANTPLAN.

In October 2004, the disease was detected and reported by the owner, Mr John Pressler, of the 2PH - *Selma Road* property (officially referred to as IP-2), which is a neighbouring property approximately 7kms away in a north-west direction.

In July 2005, citrus canker was confirmed on a third property, the Iddles property (officially referred to as IP-3) located between IP-1 and IP-2. (Refer maps at Attachment C).

Disease symptoms on these properties appear to have been there since at least January or February 2004 and are of the same species sub-type.

The QDPI&F imposed a Pest Quarantine Area (PQA) on the Emerald district on 30 June 2004 to prevent the movement of citrus plant material or fruit out of the area.

The Response Framework

The response to the confirmation of citrus canker in the Emerald region has been managed under the auspices of the Primary Industries Ministerial Council/Primary Industries Standing Committee framework. Under this framework, and in accord with PLANTPLAN, a national Consultative Committee on Emergency Plant Pests (CCEPP) was convened. The CCEPP comprises plant health managers from all Australian jurisdictions as well as industry representatives. It is chaired by the Australian Chief Plant Protection Officer from within the PIAPH Division of the Department. The CCEPP's primary function in respect of the citrus canker outbreak has been to develop the control and eradication programme, drawing on all the necessary scientific and technical expertise at its disposal.

The second element of the national response framework is the Citrus Canker National Management Group (NMG), comprising the Chief Executive Officers (CEOs) from the jurisdictions' agricultural agencies and the chairs of Australian Citrus Growers Inc and Plant Health Australia. The NMG's role has been to consider the advice received from the CCEPP and determine the feasibility of the eradication programme and how it should be funded.

The NMG makes its recommendations to the affected State or Territory – in this case Queensland - which then implements the agreed response under its own relevant legislation.

Decision to eradicate under intergovernmental cost sharing arrangements

The determination to engage in a full scale eradication programme for citrus canker from the Emerald PQA was made by NMG on 6 July 2004 on the recommendation of the CCEPP. The NMG's decision took into account the isolation of Emerald from other citrus producing areas of Australia; the cost benefit analysis undertaken by ABARE, which indicated significant benefit over cost; and the scientific and technical advice which confirmed that eradication could be achieved.

In line with existing practice and precedent, NMG took a decision that governments would adopt the 50:50 Australian Government:State and Territory Governments formulae for sharing the cost of the eradication programme[6].

Development of the eradication strategy

Prior to the outbreak of citrus canker in the Emerald region, Australian authorities and peak industry organisations had already identified citrus canker as a major threat to the national citrus industry. In May 2004, the Australian Government, in conjunction with industry, prepared a *Draft Contingency Plan for Citrus Canker* as a basis for emergency management of any future incursion. Eradication was based on two principles: stopping the multiplication of bacteria on infected plants; and preventing contact between non-infected susceptible plants and the citrus canker bacterium.

The *Draft Contingency Plan for Citrus Canker* summarised Australian experience and international practices to contain and/or eradicate the disease, including that from the successful eradication of citrus canker in the Darwin region in the early 1990s.

At the time, the Florida Protocol was considered to be the most robust of the strategies employed within commercial citrus regions overseas as there was a significant body of scientific research data available on implementation of the protocol. The rationale for this protocol is based on a study in Florida[7] that found the distance of spread from the foci of infection in an urban setting to be an average 1902 ft during a 30-day period, resulting in the current 1900ft rule (579 m). Other elements of the protocol include the restriction of movement of potential host material, decontamination of equipment and personnel and chemical disinfestation of host plants while destruction is taking place.

The quarantine action for infested premises advocated in the *Draft Contingency Plan for Citrus Canker* (see page 52 of the *Draft Contingency Plan*) determines that, with NMG approval, the area to be treated should include all infested trees and all citrus canker hosts within a defined area (possibly 500-600 metres) of the infected tree. In this case, the CCEPP determined to operate at the maximum level and set the radius of the destruction zone at 600m.

An abbreviated chronology of key decisions relevant to the development of the eradication strategy and the detailed investigations of infections on the three infected properties are provided in Attachment D.

Movement to a more aggressive strategy

As a consequence of the confirmed detection of disease on a third property (IP-3), the CCEPP further refined its eradication strategy to reflect the epidemiological, environmental and orchard management evidence that had been directly accumulated from the Emerald eradication programme to this point.

The CCEPP accepted that there was a high likelihood that the entire PQA had been subject to low levels of inoculum and that the disease was unlikely to become visible until weather conditions favoured the expression of symptoms. The available evidence led the CCEPP to

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[6] The agreed cost breakdown for contributions from the states and territory governments are: SA 15.75%; NSW 13.75%; VIC 9.85%; QLD 9.85%; and WA 0.8%. Tasmania, ACT and the NT, as minor producers relative to other states, do not provide funds under the implementation of the cost-sharing arrangements in the circumstances of citrus canker.

[7] Gottwald, T.R., Sun, X., Riley, T., James, G.H., Ferrandino, F. and Taylor, E.L. 2002. Geo-Referenced Spatiotemporal Analysis of the Urban Citrus Canker Epidemic in Florida. Phytopathology, 92 (4): 361-377.

recommend that all commercial and non-commercial hosts be immediately removed and a regime be developed to minimise and manage risks posed by native citrus in the area.

The NMG, representing all Governments and the peak citrus industry organisations, has endorsed this more aggressive strategy. It decided to support the removal, by the Queensland Government, of all commercial and non-commercial (domestic) citrus trees and certain areas of native hosts within the Emerald PQA. In doing so, it has confirmed its view that citrus canker remains eradicable from within the PQA in a cost effective manner.

In terms of building certainty for the local industry, the NMG has publicly stated that its long term strategy (at Attachment E) is to enable the local area to be declared disease-free and for Australia to declare the disease eradicated; this means that no plantings, re-planting or introduction of new host material will be allowed into the PQA until July 2007 following destruction of the last hosts, unless new science shows otherwise. Local growers will be able to grow other crops to generate a financial return during this period.

The NMG's latest decision means that the remaining 115,000 citrus trees on local commercial orchards and another 4,500 canker hosts within the Emerald Township are to be removed.

Reimbursement and Compensation

There is an important distinction to make in terms of the costs incurred during an eradication campaign: those direct operational costs associated with the destruction and removal of plant material and incidental economic costs incurred by the growers.

Under the current intergovernmental framework within which the CCEPP and the NMG operates, direct operational costs are eligible for cost-sharing by governments whereas compensation for incidental economic losses to growers is not. Responsibility for such losses lies with the lead combat State(s). Some jurisdictions are able to compensate for certain types of losses in specific circumstances. Queensland legislation provides for compensation where healthy plants are destroyed to prevent the spread of a pest.

Once the EPPRD comes into force it will provide for reimbursement of certain types of costs incurred by owners on the principle that a grower should neither lose nor gain from an eradication response. To that end, the Deed sets out a number of formulas for calculating anticipated income for a wide variety of crops and circumstances.

The 'Pressler Plan'

The Pressler Plan (also known as the pre-emptive destruction plan) was submitted to the Queensland citrus growers by the Pressler family. The plan proposed the destruction of all cultivated citrus in the PQA at $50/tree but did not include the destruction of non-commercial or native hosts.

The CCEPP discussed the Pressler Plan in October and November 2004. It was not accepted. Both the CCEPP and the NMG believed that eradication could be achieved using established protocols. The CCEPP also noted that the proposed costing structure was not consistent with the actual costs incurred by QDPI&F based on experience with removal of citrus trees from the initial infected property (IP-1). Furthermore, broader destruction within the PQA could not be justified until there was evidence of the absence of disease outside the PQA through ongoing surveillance being undertaken in the rest of Queensland.

Australian Government response

The *Australian Government Citrus Canker Assistance Package* was announced on 11 February 2005[8]. The $1.5 million package is available to Queensland citrus growers and citrus production nurseries facing serious financial pressure due to the outbreak of citrus canker in 2004. The programme includes interest rate subsidies, income support and a market facilitation project.

The *Citrus Canker Reimbursement Package* was announced on 10 August 2005. The $11.5 million package is designed to provide assistance to those growers affected by the 3 June decision of the NMG to destroy the remaining orchards within the Emerald PQA without waiting for confirmation of the presence of disease within them. It is equally funded by the Australian Government and the Queensland Government (40% each) with a co-contribution from the citrus industry (20%). A request to contribute to the package was made to the Primary Industry Ministers of all other State and Territory Governments but did not gain their support.

SUMMARY & LESSONS LEARNED

Whenever there is a pest or disease outbreak such as the one in Emerald, with the associated accusations of illegal import of a product, a number of questions arise:

- has there been sufficient attention given to possible pathways for product coming across the border?
- are the incentives right for growers to provide early notification, enabling an early response?
- is the domestic scientific and technical capacity sufficient to identify and respond to an incursion?
- do AQIS and State/Territory Governments have sufficient powers to act quickly when a disease incursion is suspected; monitor and control potentially affected areas; prosecute and fine alleged wrongdoers?

A number of reviews into Australia's quarantine system have acknowledged that it is not possible for Australia to adopt a zero risk quarantine policy and remain a member of the world community – zero risk would mean stopping all trade and tourism and even that wouldn't be enough. There will always be the prospect of exotic pest and disease incursions, either through deliberate or inadvertent introduction by people or on goods entering the country, or through natural means.

The plans and systems that are in place to prevent exotic pests and diseases entering Australia and to respond quickly and effectively to outbreaks if they do occur are constantly under review. Indeed, since 2001, the capacity of the Australian and Queensland Governments to identify and respond to the risks that emerged in Emerald has improved significantly. In this regard, it is worth reflecting on some of the changes that have been implemented over the past five years and, more importantly, how these changes and the experience gained during this period will influence future approaches for managing pest and disease outbreaks of this magnitude.

<u>Enhanced Quarantine Intervention and Awareness</u>

There has been a 'sea change' in quarantine management over the last four years. In the May 2001 Federal Budget, the Australian Government announced a $596.4 million package (including $266 million for AQIS) to strengthen border agencies in their work to counter

[8] *Ministerial Press release is at http://www.maff.gov.au/releases/05/05011pm.html.*

threats from exotic pests and diseases, by intensifying controls over the entry of people and goods into Australia.

Funding was extended for a further four years in the 2005-2006 Budget. Since the Increased Quarantine Intervention (IQI) programme began, quarantine border intervention has increased to over 90% for arriving passengers at airports (up from 25%) and 100% at other border entry points (up from less than 5% for international mail).

Importantly, $15 million of this package has contributed to the development of the *Quarantine Matters!* information campaign, including extensive television advertisements, to ensure all Australians are aware of their responsibilities.

Substantially enhanced intervention and effectiveness rates since 2001 mean that Australia is better placed to minimise quarantine risks and detect illegal importations of the kind alleged to have occurred in the citrus canker case.

Building Partnerships around Biosecurity - Commencement of the Emergency Plant Pest Response Deed

The management of the response to the citrus canker outbreak in the Emerald region has been done under the existing plant pest and disease incursion mechanism operating under the PISC/PIMC framework. This has exposed the limitations of this framework and made management of the outbreak more difficult.

The formal commencement of the *Emergency Plant Pest Response Deed*, once signed by all Governments, will remove uncertainty and disincentives for growers to report suspected emergency plant pests and provide certainty in the funding of responses to emergency plant pest threats and provide biosecurity and risk reduction measures.

At the time of preparation of this submission, the Australian Government, four State Governments (South Australia, Western Australia, Victoria and Tasmania) and eleven industry members have now signed the Deed. The Queensland Government has agreed to do so. The citrus industry has recently signed the Deed. A table outlining the benefits of the EPPRD, which has been drafted by PHA, is provided at Attachment F.

In addition, PHA has been active in raising awareness amongst the production sector about biosecurity issues. Its *National Plant Health Awareness Campaign* aims to make commercial plant producers aware that plant health is an important issue to them individually, to their industry and the national economy at large. It also seeks to inform them of the steps that they can take to reduce the risk of exotic plant pests and diseases. It targets commercial plant producers with the message "*Look. Be Alert. Call an Expert*" and encourages them to develop and maintain their vigilance and to take action if they spot anything unusual in their crops.

PHA has also put a strong focus on the development of Industry Biosecurity Plans and Incursion Management Plans which collate information from agricultural sub-sectors, identify risks and priority pests, and generally promote appropriate biosecurity practices in each sector. All Australian governments are encouraging industry to develop these plans as they are an important source of information that assists emergency management planning and response, especially in the absence of a pre-prepared detailed contingency plan.

Keeping up with scientific developments

The citrus canker outbreak in Emerald exposed the limitations of scientific and technical knowledge on the biological behaviour of this disease organism in the Australian environment. The original approach for controlling and eradicating citrus canker from the

Emerald PQA was based on the Florida Protocol which, at the time of the first detection, was considered to be the most scientifically robust approach. Experience under Australian conditions revealed that this approach was not going to deliver full and early eradication of this disease organism. Accordingly, the more aggressive strategy was adopted after the detection of the disease on a third property in the PQA.

Processes are underway to improve basic diagnostic and surveillance capacities within both the industry and government sectors through the development of networks of experts and a more strategic focus in targeted surveillance. A number of scholarships have been funded by the Australian Government to develop centres of excellence in priority pests. The Australian Government has also established a Cooperative Research Centre (CRC) for Biosecurity. This CRC will have a major role in the development of new technologies relevant to management of emergency plant pests.

Legislative frameworks

The Australian Government through the Quarantine Act primarily has responsibility for intervention at Australia's national border to prevent entry of unapproved risk material and to investigate and prosecute offenders. State and Territory Governments have operational responsibility for managing pest and disease outbreaks. This is delivered through their relevant legislative instruments.

The citrus canker outbreak in Emerald revealed some limitations in these arrangements and in particular the Queensland Government's capacity to respond quickly and effectively when a disease incursion is suspected and monitoring is required when there is an outbreak of this nature. The Queensland Government is now better placed to carry out monitoring surveys following an amendment to its legislation. The amendments also give QDPI&F the power to prevent, control and remove pest infestation of plants from defined areas, including the power to enter and search any land, premises or item and to destroy apparently healthy plants. In the light of Queensland experience, other States and Territories have reviewed their legislation. All have powers to enter and search any land, premises or item, although a number do not have specific powers to destroy plants that do not show signs of an exotic pest or disease.

These powers should enable a quicker and more focussed response in the event of a possible breach and subsequent incursion. But they will not ensure those who cause the problem are held accountable for the consequences. A major impediment to a full investigation into the allegations of smuggling of plant material in 2001 was the unwillingness of witnesses to come forward and provide relevant authorities with information. Only with their cooperation is a prosecution possible. The greatly increased quarantine and biosecurity awareness campaigns should assist in developing understanding both among those in the industry and the wider community of the importance of these issues and what they can do to help manage the risks.

Further Improvement to the Broader Biosecurity Framework

There are a very high number of potential plant pests of economic significance. Consequently, government focus has to be on developing a generic capacity within the emergency management frameworks that facilitates a response to a wide range of circumstances.

In this regard, the Australian, State and Territory Governments have recently embarked on the development of an Australian Biosecurity Strategy - Primary Production and the Environment Component (BIOSEC) designed to maintain or improve the nation's biosecurity status. Its objective is to bring together all activities in this area being undertaken by the Australian Government and State and Territory Governments, as well as industry, landholders and other key stakeholders. It will establish a policy framework for greater national collaboration on

biosecurity issues both within and across jurisdictions and with key stakeholders in the primary production and natural resource management sectors. It will also build on the specific industry and pest based strategies, legislation and operational procedures that are already in operation.

BIOSEC, itself, will draw together key elements, and is a major part of, the Australian Biosecurity System. Goals and objectives of BIOSEC are provided at Attachment G. This new framework approach has been endorsed by the Primary Industries Standing Committee and the Natural Resource Management Standing Committee and will be considered by their respective Ministerial Councils in October 2005.

Attachment A

LIST OF DOCUMENTATION PROVIDED TO THE COMMITTEE

1. Chronology of events related to the allegations of illegal importation of bud-wood and plant cuttings by Evergreen Farms (Pacific Century Production Pty Ltd);
2. Results of testing carried out on citrus samples collected from Evergreen Farms (2001 - 2002);
3. Results of testing carried out on grape samples collected from Evergreen Farms (2001 – 2002);
4. Powers for imposing quarantine restrictions under the *Quarantine Act 1908*;
5. Quarantine import requirements for and management of citrus bud-wood;
6. Quarantine import requirements for and management of grape cuttings;
7. Maps of Evergreen Farms indicating block identification, sampling frames and location of eventual identification of citrus canker;
8. Statement from Mr Wayne Gillies dated 17 July 2001;
9. Affidavit from Mr Stephen Watson (AQIS Compliance Officer) dated 7 August 2001;
10. Federal Court Judgement: Pacific Century Production Pty Ltd vs Watson [2001] FCA 1139;
11. Full Federal Court Judgement: Pacific Century Production Pty Ltd vs Watson [2001] FCA 1424;
12. Management Framework for a National Emergency Plant Pest Response;
13. Chronology of events following the confirmation of citrus canker at Emerald Farms in July 2004.

COMPARATIVE ANALYSIS OF STATE AND TERRITORY QUARANATINE AND PLANT PROTECTION[9]

LEGISLATION

Actions taken to contain or eradicate a plant pest incursion must be supported by the relevant State[10] legislation (Table 1). These plant protection Acts enable government agencies to, among other things:

- Enter properties to survey for an exotic pest;
- Inspect and take samples of plants or plant products;
- Establish and maintain quarantine zones;
- Restrict the movement of plants, plant products, equipment, vehicles and other potential sources of contamination;
- Issue orders for the destruction of infested plant material; and
- Require owners of affected premises to implement quarantine or pest eradication measures.

A more detailed analysis of the scope of State legislation is provided at Annex 1 to this Attachment.

Table 1: State Plant Health Legislation

Legislation	**Administering Agency**
Plant Diseases Act 1924 (Amended 2001)	New South Wales Agriculture
Plant Protection Act 1989 (Amended 2004)	Queensland Department of Primary Industries and Fisheries
Fruit and Plant Protection Act 1992	Primary Industries & Resources South Australia
Plant Quarantine Act 1997 (Amended 2005)	Department of Primary Industries, Water & Environment, Tasmania
Plant Health and Plant Products Act 1995 Amended 2004	Department of Natural Resources and Environment, Victoria
Plant Diseases Act 1914	Agriculture Western Australia
Plant Diseases Control Act 1979	Northern Territory Department of Business, Industry and Resource Development

The Commonwealth *Quarantine Act 1908* (and *Quarantine Proclamation 1998*) and *Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Act 1999* operate alongside the State legislation and have broad coverage over plant protection matters in Australia.

In 1999, the then Standing Committee on Agriculture and Resource Management (SCARM) established a task force to investigate the feasibility of establishing a uniform national approach to plant and animal health legislation. An objective for the task force is to provide a stronger framework for emergency management with

9 Prepared by the Department of Agriculture, Fisheries & Forestry in 2002 for Plant Health Australia. The document has been modified to reflect those legislative changes adopted by the Queensland Government as part of the emergency response to the citrus canker outbreak.
10 Including the Northern Territory.

legislation that is equally applicable in all jurisdictions of Australia. However, the Commonwealth, States and industry are yet to agree on a mechanism to achieve uniformity, so a national system is still some way off.

ISSUES

Overall, the State agencies are reasonably well placed in terms of their legislative powers to respond to new pest incursions. However, there are some areas where actions to contain or eradicate an outbreak may be constrained by legislation, namely:

- Few States have specific powers to destroy healthy plants or to establish buffer zones to prevent the spread an outbreak;
    - For example, the Northern Territory *Plant Diseases Control Act 1979* does not provide legislative authority for the removal of uninfested plants as part of an eradication programme[11].
- There is no uniform position across the States on the matter of compensation for losses incurred as a result of eradication action;
    - For example, only the Queensland *Plant Protection Act 1989* provides for compensation of owners of healthy plants that are destroyed as part of a response programme; growers in a similar position in other States are not entitled to compensation[12].

In addition, there is no legal requirement under State plant health Acts (with the exception of Tasmania and Queensland) for growers or other members of the public to report new or unusual pests. This is despite the fact that early reporting of a suspect incursion is critical to ensure that opportunities for eradication are preserved.

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[11] *This was a problem following an outbreak of grapevine rust in Darwin in 2001. The Consultative Committee recommended an eradication program involving the location and destruction of every grapevine in Darwin. However, the lack of legislative coverage meant that the proposed response program could not be readily pursued.*

[12] *The issue of compensation has the potential to influence decisions made by the Consultative Committee. For example, following an outbreak of asparagus rust in Queensland in 2000, a cost benefit analysis indicated that eradication would be feasible from a national perspective but not from a Queensland perspective alone. Eradication of the disease in the national interest would have involved destruction of the affected grower's entire crop and restrictions on replanting for several years, incurring a very large loss to the grower – although under Queensland legislation he would have been entitled to claim compensation for uninfested plants destroyed as part of an eradication program. In light of these factors, the Consultative Committee recommended that eradication should only be pursued if industry was willing to contribute at least 80% of the cost of compensating the affected grower.*

CRITICAL POWERS IN THE RESPONSE TO A NEW INCURSION[13]

1. Able to control or eradicate an exotic pest on ALL land and ALL plants and plant products, including Aboriginal land, Defence Department holdings, National Parks etc.

It may be necessary to apply control measures on protected land in order to contain or eradicate an exotic pest. The powers of the State plant protection agencies vary in this respect. For example, the provisions of Victoria's *Plant Health and Plant Products Act 1995* for control of exotic pests are comprehensive, applying to all land and all plants and plant products "protected or otherwise dealt with under any other Act". Under Tasmania's *Plant Quarantine Act 1997*, powers may be limited in cases where they affect plants protected under the *National Parks and Wildlife Act 1970* or the *Threatened Species Protection Act 1995*. In Queensland, powers may be exercised in relation to all land known to be infested or likely to be infested (taking into account factors such as proximity to a known outbreak, ability of pest to spread, etc). The application of plant protection legislation in other States to land and plants is less clear or not specified.

2. Require a person to report the presence of a suspected exotic or unknown plant pest.

Early reporting of a suspect incursion is critical to ensure that opportunities for eradication are preserved. However, with the exception of Tasmania, there is no legal obligation for growers or others to report suspect *new* or *unknown* pests (although all States require the reporting of *declared* or *notifiable* pests). In the absence of any legal obligation, contractual arrangements between property owners and diagnosticians could also prevent disclosure. However, the compulsory reporting of all suspicious pests might be difficult to enforce and manage given the vast number of exotics that threaten the various plant industries.

3. Inspector able to enter and search any land, premises or items to verify the presence or not of an exotic plant pest, vector or other material.

Following a report of a suspect new incursion and before a decision to contain or eradicate can be made, it is necessary for State plant protection officers to conduct delimiting surveys to determine the extent and severity of the outbreak. All State plant protection agencies have the legislative authority to enter and search properties, vehicles etc to confirm whether an exotic pest is present or not. The scope of these powers varies slightly between States, particularly in relation to the search and entry of residences, but in the majority of cases this should not seriously constrain response actions.

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13 This section has been adapted from: Murdoch L, McWaters N and Evans G (2002) Stocktake of Existing Systems for Contingency Planning and Response Action and Consideration of their Adequacy: Part II. A report commissioned by Plant Health Australia and prepared by the Office of the Chief Plant Protection Officer, Canberra.

4. Able to inspect, count, examine, mark for identification, treat, fumigate, disinfest, and/or take and remove samples of any plant, plant product, consignment or other item.

As part of the initial assessment of a suspect new incursion, inspectors frequently need to be able to examine, mark, count and/or treat affected plants and plant products. Where it is necessary to verify the initial identification, samples may need to be taken away and sent to diagnostic laboratories interstate or overseas. The authority to undertake these response actions is covered under all State plant health Acts, although the level of detail specified varies between Acts (eg. some Acts do not specify particular activities such as 'count' or 'mark for identification').

5. Require a person to provide information or records pertinent to the control or eradication of a pest, or to trace the source or cause of an outbreak.

When investigating the distribution, likely pathway of entry and the feasibility of eradication of an outbreak, State inspectors may need to obtain information and records from landholders and the general public. The legislative authority for inspectors to require a person to provide information considered pertinent to the control or eradication of an exotic disease is covered under most State plant health Acts. The South Australian *Fruit and Plant Protection Act 1992* provides inspectors with specific investigative powers to trace the source of a disease; for others States, tracing relies on questioning and production of records.

6. Immediately make an Order to declare any place to be a quarantine or restricted area if an exotic pest is detected and impose conditions on a declared area.

If initial diagnostic tests confirm the presence of citrus canker, State authorities need the power to immediately implement containment measures, including the declaration of quarantine areas around the detection site/s if this is deemed appropriate. All State plant health Acts contain provisions for the establishment of restricted or quarantine zones (*declared areas*), however some States may not be able to take immediate action. In most cases, State authorities have no powers to act unless the exotic disease has first been *declared* by the Minister or Governor in Council and a notice placed in the Gazette.

In Victoria, for example, State authorities have no powers to act unless the exotic pest or disease has first been declared by the Governor in Council and gazetted. Even in an emergency situation, declaration of a pest can take up to two weeks – but once declared it generally only takes 24 hours to obtain an Order under the signature of the Minister. This means that if an undeclared exotic pest is detected, there is a considerable delay before the exotic can be declared and the Minister can issue an Order to establish quarantine zones and compel property owners to take the necessary control measures. This was the case with the outbreak of the potato cyst nematode in the early 1990s and, more recently, with the outbreak of lily thrips. In the case of the potato cyst nematode incursion, an Order was made under the Commonwealth Quarantine Act to facilitate prompt action. However, when fire blight was detected in Melbourne in 1997, officers at the Department of Natural Resources and Environment (NRE) were able to respond immediately and have the Minister issue the appropriate

Orders in rapid time because the disease had already been declared as a pre-emptive measure. NRE officers have declared a number of serious exotic pests and diseases, including melon fly and Pierce's disease, to ensure that immediate response actions can be taken if these exotics are detected. They are also currently reviewing the list of declared species to determine whether there are other high-risk exotic pests that should be declared.

7. Prohibit removal from, or control movement within, a declared area of any plant, plant product, agricultural equipment, used packages, soil or other item that might transmit an exotic pest.

In order to prevent the spread of an exotic pest outbreak, it is necessary to prohibit or restrict the movement of host material and other items from quarantine or declared areas into unaffected areas. All State plant protection agencies have the legislative authority to impose various movement controls on plants, plant products, packages, agricultural equipment, soil and other items from, into and within declared areas. However, there have been cases where gaps in these powers have hindered response actions. For example, when Fire blight was detected in Melbourne in 1997, powers were in place to enable plant protection officers to control the movement of host plant material, but there were no specific powers under Victorian plant health legislation to control bees, honey, beeswax, honeycomb, beehives or pollen, which may also transmit the disease. This caused a delay, although relatively minor, in the implementation of certain aspects of the response programme. Given concerns about the risk posed by another incursion of Fire blight, the *Plant Health and Plant Products Act 1995* has since been amended to provide for specific controls on bees and associated material necessary for the containment or eradication of the disease.

Depending upon the nature of the outbreak, it may also be necessary to impose restrictions on the interstate movement of host plants and plant products. All State plant health Acts contain powers to enable the control of interstate quarantine pests. The Interstate Plant Health Regulation Working Group (IPHRWG), a sub-committee of the Plant Health Committee (PHC), recommends protocols to minimise the spread of pests between States and coordinates any legislative amendments necessary in this respect.

8. Restrict the movement of people into or out of a declared area.

Because some exotic pests may be spread via the movement of people, it may be necessary to place restrictions on the movement of land owners, farm workers and others into or out of a quarantine zone. While all State plant protection agencies have the legislative authority to control the movement of plant material, equipment and other items from and into declared areas, their powers with respect to control of the movement of people are somewhat less clear. With the exception of Tasmania and Victoria, the State plant health Acts do not specifically provide for restrictions on the movement of people into or out of declared areas, however legislative authority may be provided under general powers relating to quarantine zones.

9. Require occupiers of any place within a declared area to take specified measures, including the treatment or destruction of plants and plant products, necessary for the control or eradication of an exotic pest.

As part of a containment or eradication programme for an exotic pest, occupiers of affected properties will need to implement control measures that may include the application of pesticides and destruction of host plants. All State plant protection agencies have the legislative authority to require land owners or occupiers to take specified measures to control or eradicate an exotic pest and penalties may be imposed on a person for non-compliance.

10. Require plants, plant products, refuse, used packages, equipment or other items to be disposed of in a specified manner.

Correct disposal of host material and other contaminated items is critical to reduce pest numbers or pathogen inoculum levels. New South Wales, Queensland, Victoria and the Northern Territory have specific powers to direct items to be disposed of in a specified manner; for other States, legislative authority may be provided under general powers associated with the control or eradication of exotic pests.

11. Prohibit the planting or propagation of plants within a declared area.

In order to contain or eradicate a newly introduced exotic pest, it is necessary to implement a range of measures to prevent the establishment and spread of the organism. This may include preventing the planting of host crops within the affected area for a period of one or more growing seasons. South Australia, Victoria, Tasmania and the Northern Territory have specific powers to prohibit the planting or propagation of plants, or reduce the number of plants, within a declared area over a specified time; for other States, legislative authority may be provided under general powers associated with control or eradication programmes for exotic pests.

12. Require used agricultural equipment, packages and other items to be cleansed, disinfected or otherwise treated in a specified manner.

Because plant pests may be spread on agricultural equipment, tools, packages and other items, these items may need to be decontaminated before they are moved out of a declared area. Queensland, Tasmania and Victoria have specific powers to require equipment, packages and other items to be cleaned, disinfected or otherwise treated; for other States, legislative authority may be provided under general powers relating to the control or eradication of an exotic plant pest.

13. Able to destroy healthy or apparently uninfested plants to prevent the spread of an exotic pest.

For exotic pests that pose a high risk of spread, it may be necessary to destroy healthy host and volunteer plants surrounding the outbreak to create a buffer zone for containment or eradication. In some cases an eradication programme may not be able to proceed unless such a buffer can be established. The provisions of the State plant health Acts vary in relation to the removal of healthy plants and none has specific provisions for the creation of buffer zones. In Queensland, the Chief Executive has express powers to order the destruction of healthy plants, harvested crops and volunteer plants for the purpose of controlling an exotic disease (however, destruction of healthy plants is subject to payment of compensation – see *Section 6.1.9*). In South Australia, the Chief Inspector has legislative authority to order the destruction of plants that *might* become affected by a disease – the implications are that healthy plants may be destroyed. However, the powers of the other States are less clear. For example, government control programmes in Tasmania may involve measures to reduce the number of plants in an area, but it is not specified in the *Plant Quarantine Act 1997* whether this includes healthy plants or not.

14. Clear position on compensation for losses incurred as a result of programmes to control or eradicate an exotic pest.

An eradication programme for an exotic pest may have an adverse impact on affected growers or homeowners. However, there is no consistent position across the States on the matter of compensation for losses incurred as a result of a containment or eradication programme. For example, the Queensland Government is legally obliged to pay compensation to owners of healthy plants that are destroyed as part of an exotic disease control programme. In South Australia, the payment of compensation is at the Minister's discretion, whereas in NSW and WA no person is entitled to compensation. In Tasmania, an order from the Minister to implement a control programme must state whether or not compensation for any loss incurred as a direct result of the programme is payable. The Victorian and NT plant protection Acts have no provision for compensation.

This means that if an eradication campaign that involved the destruction of healthy crop plants was mounted near the NSW/Queensland border, the response programme itself would be funded under Commonwealth/State cost-sharing arrangements, but only the affected Queensland growers would be entitled to claim for compensation for the loss of healthy plants from the Queensland Government (NSW growers would not be compensated under their State legislation).

Table 2: Legislative Powers of the States to Respond to Exotic Pest Incursions

Key factors in the control and eradication of exotic pest incursions	**New South Wales** Plant Diseases Act 1924	**Queensland** Plant Protection Act 1989	**South Australia** Fruit and Plant Protection Act 1992	**Tasmania** Plant Quarantine Act 1997	**Victoria** Plant Health and Plant Products Act 1995	**Western Australia** Plant Diseases Act 1914	**Northern Territory** Plant Diseases Control Act
1. Able to exert powers to control or eradicate an exotic pest in relation to ALL land and ALL plants and plant products, including Aboriginal land, Defence Department holdings, National Parks etc	*Application to land not specified	*Powers may be exercised in relation to land or items known to be infested or likely to be infested (taking into account factors such as proximity to a known outbreak, ability of pest to spread etc)	*Application to land not specified	*Before any power is exercised that may affect plants protected under the *Threatened Species Protection Act 1995* or the *National Parks and Wildlife Act 1970*, the Minister or Secretary responsible for these Acts must be consulted	Covered - applies to all land, plants and plant products that are protected under any other Act	*Application to land not specified - but the Minister may declare any portion of the State to be infested with a pest	*Application to land not specified - but the Minister may declare all or part of the Territory to be a quarantine area
2. Require a person to notify an inspector of the presence of a suspected exotic or unknown plant pest	*Requirement to report those pests declared by proclamation only	*Requirement to report notifiable pests only	*Requirement to report suspect exotic pests	Covered - applies to new or unknown pests (penalty applies)	*Requirement to report exotics declared by Order in Council and notifiable pests only	*Requirement to report prescribed pests only	*Requirement to report notifiable pests only

3. Inspector able to enter and search any land, premises or item to verify the presence or not of an exotic plant pest, vector or other material	Covered *for land, vehicles, etc, inspectors must have a certificate from the Director-General and give reasonable notice to the occupier *For residence, written authority from the Minister is required	Yes: premises, places, vehicles, equipment may be investigated of inspected or inquired on. Can collect documents, information and names and addresses of offenders.	Covered	Covered *for residence, consent of the owner/occupier, or a warrant, is required	Covered *for residence, consent of the occupier is required	Covered	Covered *inspectors must show identification to the owner of the land, premises etc if requested
4. Able to inspect, count, examine, mark for identification, treat, fumigate, disinfest, and/or take and remove samples of any plant, plant product, consignment or other item	Covered	Covered - no express power of entry to any premises to inspect, test or treat - this is being amended to provide an express power under strict conditions to allow an inspector to treat a pest infestation in the public interest	Covered	Covered	Covered	Covered - details not specified	Covered - details not specified

5. Require a person to provide information or records pertinent to the control or eradication of a pest, or to trace the source or cause of an outbreak	*Not specified - although inspectors have authority to question vendors of plants and fruit	Covered	Covered - specifically mentions powers to trace the source of a pest	Covered	Covered	Covered	*Not specified - may be covered under Section 23
6. Immediately make an Order to declare any place to be a quarantine or restricted area if an exotic pest is detected and impose conditions on the declared area	Covered - the Minister may, by notice in the Gazette, declare any land to be a quarantine area in respect of any pest	Covered - once a pest is declared, action may be taken under s13 to quarantine, treat or destroy pest infestations on land or in transit - the Minister may also accept an undertaking from a landowner to comply with quarantine conditions in lieu of declaring quarantine action on the land - if urgent action is needed the Minister may, by notice, declare any land to be a quarantine area for any declared pest	Covered - the Minister may, by notice in the Gazette, declare a quarantine area in respect of those pests specified in the notice	*Cannot happen immediately - the pest must first be declared in a public notice by the Secretary.	*Cannot happen immediately - the exotic pest must first be declared by an Order under the Minister in Council by notice in the Gazette	Covered - does not specify 'quarantine area' but the Minister may, by notice in the Gazette, declare an area to be infected with a pest specified in the notice - the Minister can also give directions for urgent control measures to be carried out immediately	Covered - the Minister can place a notice in the Gazette to declare a quarantine area for a pest specified in the notice

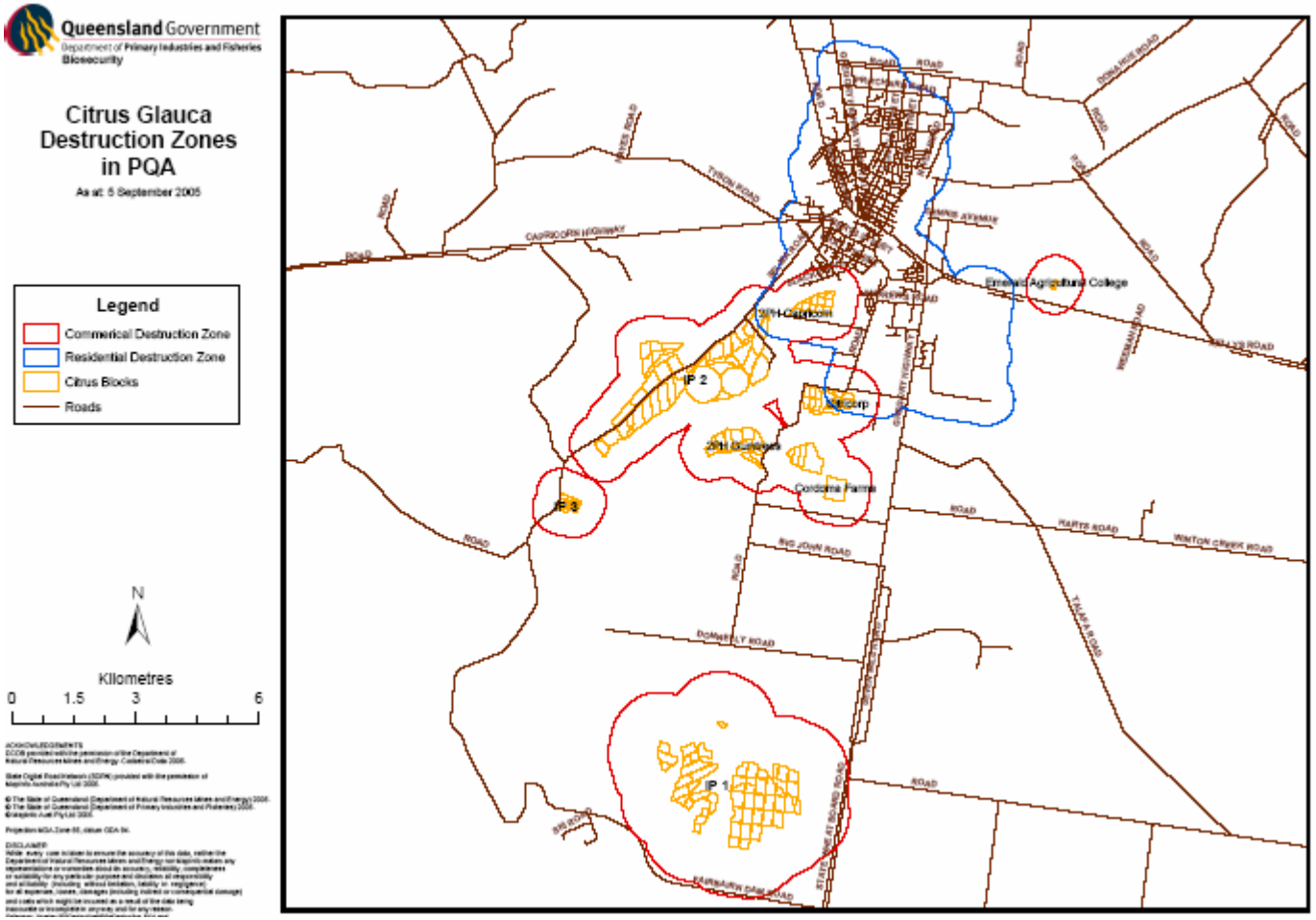
7. Prohibit removal from, or control movement within, the declared area of any plant, plant product, agricultural equipment, used packages, soil or other item that might transmit an exotic pest	Covered	Covered	Covered	Covered	Covered - this Act also covers bees, beehives, beeswax, honey, pollen and honeycomb	Covered - details not specified	Covered
8. Restrict the movement of people into or out of a declared area	*Not specified - may be covered under Section 8	*Not specified - may be covered under Sections 11 & 13	*Not specified - may be covered under Section 14	Covered	Covered	*Not specified - may be covered under Section 12	*Not specified - may be covered under Section 11
9. Require occupiers of any place within the declared area to take specified measures, including the treatment or destruction of plants and plant products, necessary for the control or eradication of an exotic pest	Covered	Covered	Covered	Covered	Covered	Covered	Covered
10. Require plants, plant products, refuse, used packages, equipment or other items to be disposed of in a specified manner	Covered	Covered	Covered - details not specified	Covered - details not specified	Covered	Covered - details not specified	Covered
11. Prohibit the planting or propagation of plants within the declared area	Covered - details not specified	Covered - details not specified	Covered	Covered	Covered	Covered - details not specified	Covered

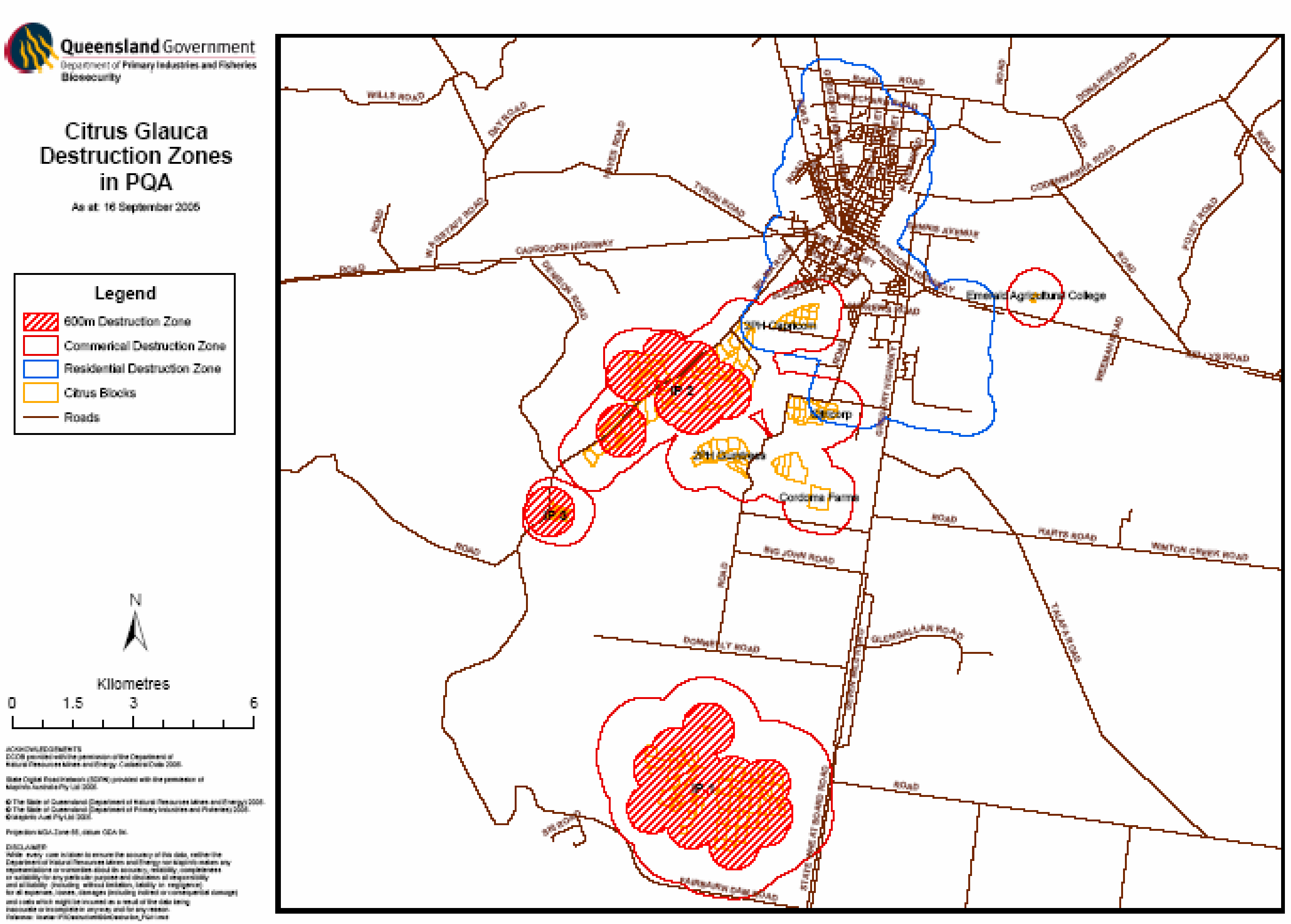
12. Require used agricultural equipment, packages and other items to be cleansed, disinfected or otherwise treated in a specified manner	Covered - details not specified	Covered	Covered - details not specified	Covered	Covered	Covered - details not specified	Covered - details not specified
13. Able to destroy healthy or apparently uninfested plants to prevent the spread of an exotic pest	*Not specified	Covered - applies to the destruction of healthy plants, harvested crops and volunteer plants - healthy plants are destroyed subject to payment of compensation	Covered - applies to plants that might become affected by a pest	Yes, prescribed matter.	*Not specified - may be covered under Sections 17 & 22	*Not specified - may be covered under Section 18.3	*Not specified
14. Clear position on compensation for losses incurred as a result of programmes to control or eradicate an exotic pest	Covered - no person is entitled to compensation	Covered - owners of healthy plants that are destroyed to prevent the spread of a pest are entitled to compensation	Covered - the Minister may, but is not compelled to, pay compensation for losses incurred by any person as a result of Orders made to prevent the establishment or spread of a pest	Covered - a direction from the Minister to implement a control programme must specify if compensation is payable for any loss incurred as a direct result of a control programme	The Act has no provision for compensation	Covered - no person is entitled to compensation	The Act has no provision for compensation

- Denotes gaps in the legislation and/or legislation that may restrict or limit response actions.

Attachment C

MAPS OF AFFECTED AREAS




Queensland Government
Department of Primary Industries and Fisheries
Biosecurity
Citrus Glauca
Destruction Zones
in PQA
As at 16 September 2005
Legend
600m Destruction Zone
Commercial Destruction Zone
Residential Destruction Zone
Citrus Blocks
Roads
N
Kilometres
0
1.5
3
6
CAPRICORN HIGHWAY
WILLS ROAD
Emerald Agricultural College
Cordoma Farms
IP 1
IP 3
HARTS ROAD
WINTON CREEK ROAD
BIG JOHN ROAD
GLENGALLAN ROAD
DONNELLY ROAD
FAIRBAIRN DAM ROAD
TALAFA ROAD

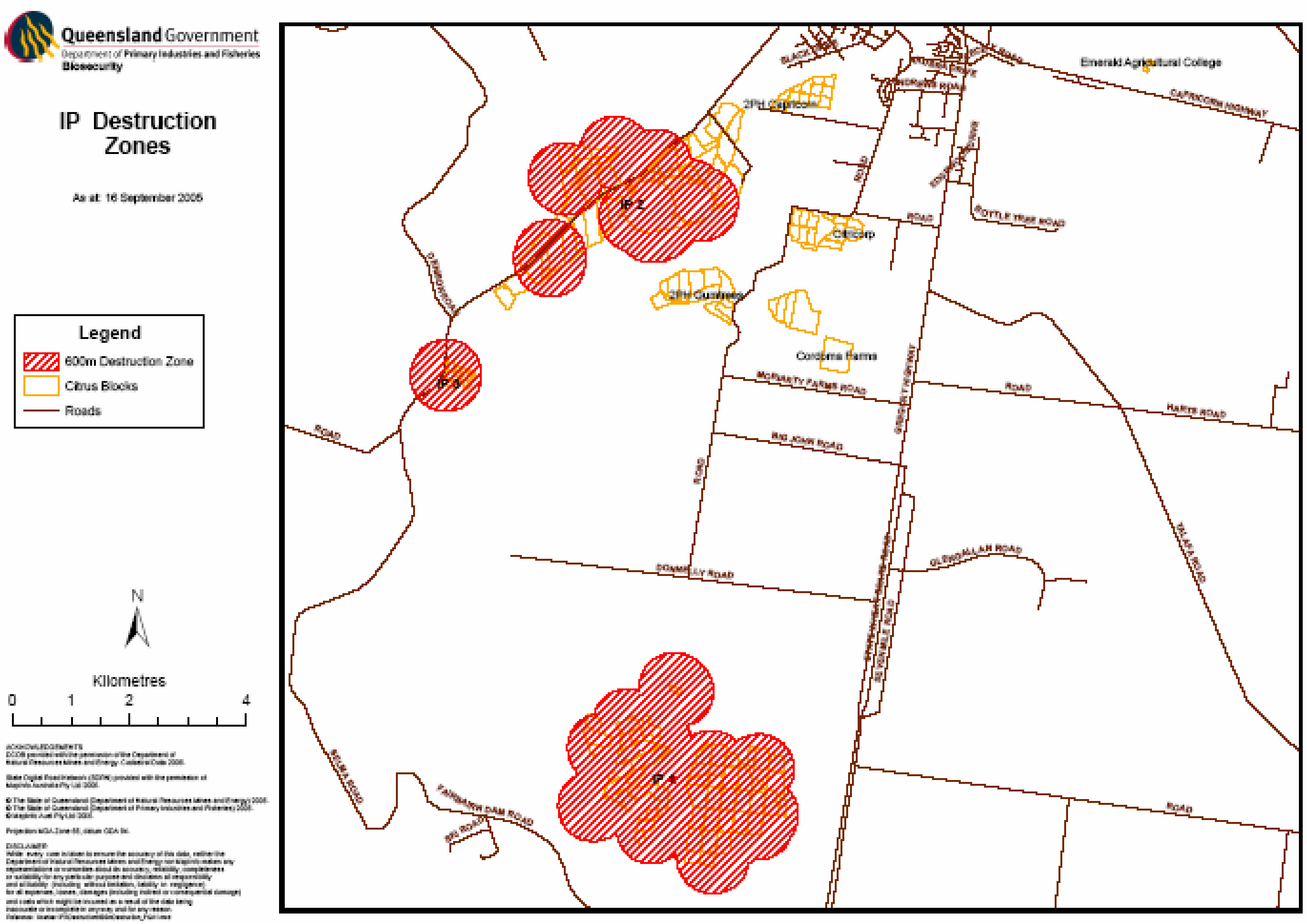

Queensland Government
Department of Primary Industries and Fisheries
Biosecurity
IP Destruction Zones
As at 16 September 2005
Legend
600m Destruction Zone
Citrus Blocks
Roads
N
Kilometres
0
1
2
4
Emerald Agricultural College
CAPRICORN HIGHWAY
2PH Capricorn
Citricorp
2PH Gumtrees
IP 2
IP 3
IP 4
BOTTLE TREE ROAD
MORIARTY FARMS ROAD
BIG JOHN ROAD
DONNELLY ROAD
GLENDALLAN ROAD
HARPS ROAD
FAIRBAIRN DAM ROAD
SELMA ROAD

Table 1:	**CHRONOLOGY OF KEY DECISIONS (SUMMARISED)**
Date	**Comment**
July 2004	Diagnosis of citrus canker in Emerald, Qld. NMG agrees to support eradication. Normal cost sharing arrangements between the Commonwealth and State Governments agreed. Agreement to use PLANTPLAN (national plant emergency response plan) in co-ordinating response using the draft *Citrus Canker Contingency Plan* (completed May 2004). Agreement that a national surveillance strategy be undertaken. Interstate surveillance completed providing negative results for citrus canker elsewhere.
	Test results of suspect budwood at the Howard nursery are investigated and confirmed negative. Results of 1st round surveillance in the 2PH properties in Emerald are negative. Delimiting surveillance (at 600 trees per 10 Ha block) of the 42 linked properties in the Mundubbera/Gayndah area is completed and provides negative results for citrus canker.
	Broader surveillance of the Gayndah-Mundubbera Management Zone (GMMZ) - beyond the 42 blocks - is commenced.
	Confirmation of disease in new infection foci within the orchards of IP-1 leads to overlapping 600m destruction zones ('cookies'), which leads to the destruction of the entire property. Additional surveys in GMMZ are completed and results are negative for citrus canker. On the belief that the disease had been contained to a single property, strategies were discussed in terms of reopening market access and allowing replanting on IP-1. Further surveillance to be implemented to underpin the area freedom status of the GMMZ – surveys to be at the best time of finding results (late 04/early 05).
Oct 2004	New suspect sample reported on Selma Rd Block belonging to 2PH. Sample confirmed positive by analysis.
Nov 2004	The NMG reviewed the capacity to achieve the eradication objective. The NMG noted that eradication is achievable so long as new infections are located within the PQA. The NMG also noted ABARE advice that eradication would be reasonable even if a significant portion of citrus plantings in the Emerald area were destroyed because of the disease. Pressler proposal discussed and discounted as neither effective nor justifiable on technical or economic grounds, especially as it did not include residential citrus nor native hosts. Results of the surveillance of the rest of Queensland show no infection location in the rest of Queensland commercial properties. **NMG AGREED** that eradication is technically feasible while the outbreak is contained within the Emerald Pest Quarantine Area (PQA); **NMG AGREED** that the strategy of eradication would be reviewed by NMG were additional evidence of citrus canker to be found outside the PQA as a result of surveillance programmes.
Feb 2005	Confirmation of citrus canker on (3 trees) in Block 41 of IP-2. Gayndah-Mundubbera Management Zone surveillance completed providing negative results.
March to April 2005	Additional positive results from new infection foci within IP-2. Agreement reached to remove all trees from IP-2 based on the evidence of long distance spread and spread by orchard management practices.
May 2005	Suspected infection within IP-3 confirmed positive, leading to decision that all Pest Quarantine Area had been exposed and a more aggressive strategy adopted.

CHRONOLOGY OF KEY EVENTS

IP-1: Evergreen Property

Citrus canker was confirmed on Evergreen Farms in July 2004. Surveys by Queensland officials determined the disease was widespread, which led to the removal of all citrus hosts within the property, including native citrus, where it occurred within a 600 m radius of a confirmed infection.

Throughout July 2004, extensive surveys were conducted on properties close to IP-1, i.e. all commercial properties within the Plant Quarantine Area (PQA) and the Emerald Agricultural College. Trace-forward investigations were undertaken and surveys were conducted on properties connected by trade of plant material from the PQA.

Further surveys were conducted in July 2004 throughout the Gayndah-Mundubbera Management Zone (GMMZ). The results of all surveillance activities were negative. Trace back investigations from IP-1 also yielded negative results.
Symptoms appeared to be recent and pathologists concluded that the symptoms had appeared as recently as early February 2004 and could be associated with extreme weather events that occurred at that time.

Consequently, in September 2004, following the removal of all hosts on IP-1 and only negative results from numerous surveys, all indications were that the disease had been contained to IP-1.

Notwithstanding this evidence, further rounds of surveillance were agreed to, and planned, for the remaining commercial hosts in the PQA, the GMMZ and the rest of Queensland. These surveys were timed to coincide with weather conditions considered favourable for the expression of the disease.

On similar grounds, QDPI&F in consultation with CCEPP, negotiated a land-use and replanting strategy with the owners of IP-1 throughout August/September 2004.

IP-2: 2PH Property

Citrus canker was detected and confirmed as present within IP-2 between October 2004 and April 2005 at six primary foci. The physical evidence of the disease was limited to susceptible varieties and trees rendered susceptible through physical damage.

Epidemiological analysis of the physical evidence led the CCEPP to the conclusion that the most likely cause of the spread was the same weather event(s) that had distributed the disease within IP-1 but at a highly diluted level.

Significantly, the age of the primary lesions on IP-2 were consistent with the age of lesions on IP-1; indicating the expansion of the primary infection occurred at the same time on both properties.

When secondary spread of the disease (i.e. not caused by the distribution of inoculum from IP-1 but arising from the primary lesions within IP-2) was detected in early

2005, the epidemiological conclusion was that normal farm practice (pruning, chemical spraying by blowers, picking, high pressure watering, etc) was an additional factor that had spread the disease within IP-2.

On the basis of the CCEPP's technical findings and its recommendations to the NMG arising from epidemiological studies of the disease, the Queensland Government was able, as part of the cost-sharing arrangement, to destroy the remaining trees on IP-2 under Queensland legislation.

During this period, surveillance in the rest of Queensland's commercial orchards was continuing to return negative results for citrus canker, providing no evidence to demonstrate that the disease was not contained within the PQA.

IP-3: Iddles

A suspected outbreak of citrus canker was located and confirmed on the Iddles' property in May 2005. The outbreak consisted of a single focus of disease on a highly susceptible variety of grapefruit and on mandarins with a highly susceptible rootstock that had grown through the canopy.

The Iddles' property is a small property of 7,500 trees. Even though all trees fell within a single 'cookie', the decision to destroy them was based on the same rationale applied to IP-2, particularly operational linkage and evidence of disease spread of small foci of infection dated to January/February 2004.

PROTOCOL TO DECLARE CITRUS CANKER ERADICATED AND FOR THE REMOVAL OF ALL MARKET ACCESS RESTRICTIONS FROM THE EMERALD PEST QUARANTINE AREA

1. Completion of the destruction of all high risk host plants (i.e. all commercial and non-commercial citrus trees and all native citrus within 1200m of IP-1 and 600m of all other commercial citrus orchards and the Emerald town boundaries) marks the commencement of the host-free period.
2. Surveillance at 90 day intervals[14] for regrowth and native citrus[15] (and control where necessary) continues during host-free period. If no regrowth is detected on a property (commercial or residential) for three successive rounds of surveillance, then no further regrowth surveillance will be conducted on that property.[16]
3. At completion of the 18 month host-free period (i.e. 1 July 2007, provided destruction completed by 31 December 2005) replanting of citrus within the PQA will be allowed subject to the following:[17]
    a. Pest Quarantine Area remains in place to provide control over entry of host plants, and logging of plant locations;
    b. Inspector's Approval required for entry of host plant material into the PQA;
    c. Other existing movement controls (e.g. movement within and out of PQA of machinery and pickers) will remain until the PQA is revoked. Some amendments will be required to allow fruit to be imported into the PQA for processing prior to export to domestic and export markets.[18]
4. Surveillance of replanted citrus at 90 day intervals at an inspection rate of 100% of commercial and non-commercial plants until 31 December 2008 (i.e. for up to 18 months). The final results of the survey will be provided to the CCEPP by 15 January 2009.[19]
5. **If** no detections, then eradication will be declared by NMG by 31 January 2009. The PQA will be revoked at the same time.
6. With the declaration of eradication by 31 January 2009 and reinstatement of country freedom, the basis for any intrastate or interstate movement restrictions also will be removed. All jurisdictions will remove all movement / market access restrictions for Emerald citrus by 1 February 2009.

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14 Degradation studies indicate that approximately 50% of inoculum remains after 90 days.

15 Surveillance on C. glauca will occur within the 600m immediately outside of the destruction zones of IP-1 (i.e. between 1200 – 1800m) and IP-2 (i.e. between 600 – 1200m). Surveillance cycles are to factor in the timing of wet season in relation to growth patterns of C glauca and conditions favouring disease.

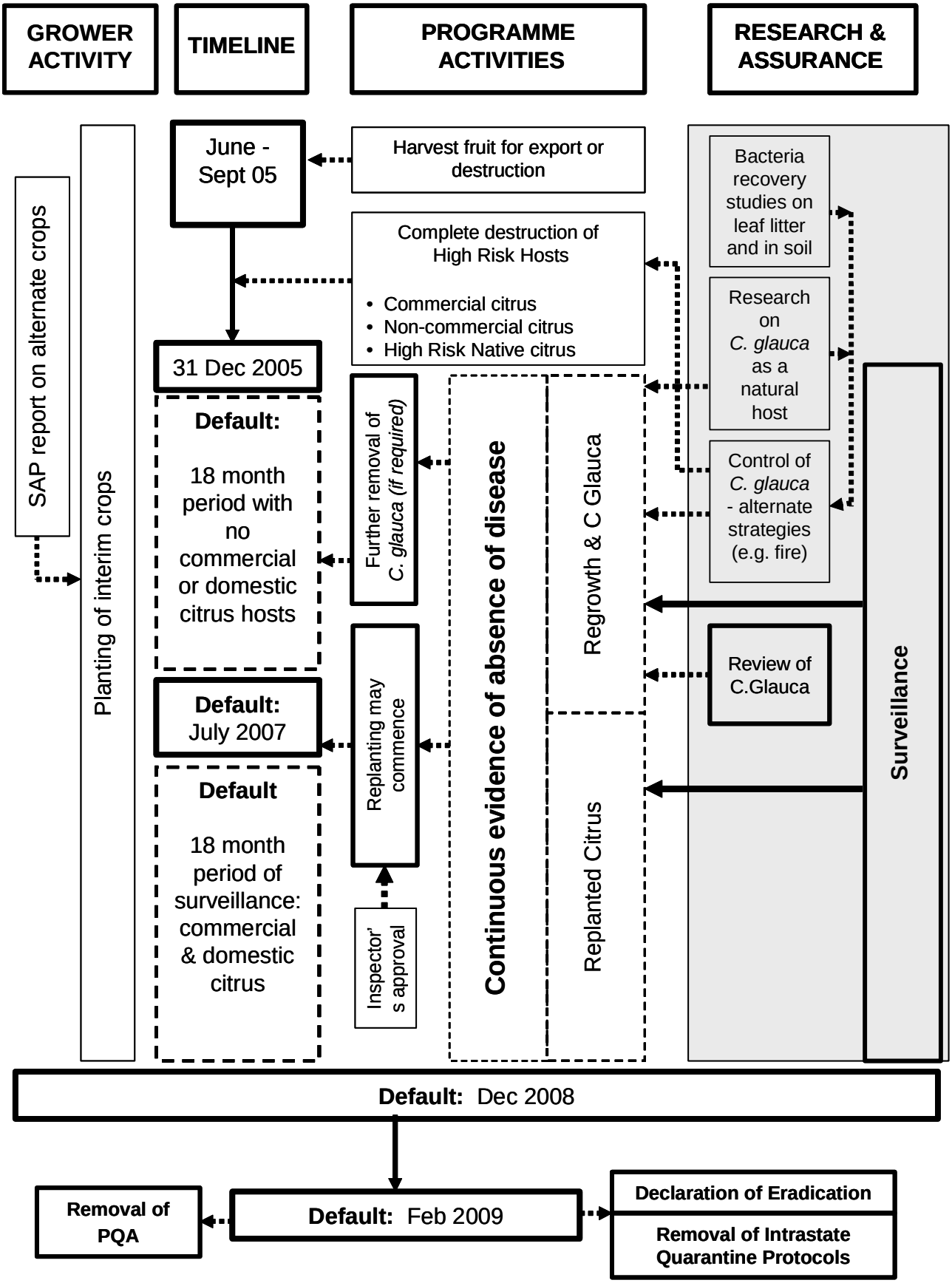
16 The occurrence of regrowth would not cause the host-free period to stop or be restarted.

17 This means that for all of IP-1 and the majority of IP-2, the host free period will exceed two years.

18 Currently under Queensland's legislation, citrus fruit can only move into the PQA for domestic consumption through approved retail outlets or for export. Changes to the current movement controls are required to allow fruit to enter the PQA to be packed for the Australian domestic market in line with the CCEPP's decision of 9 August 2005.

19 Current indications are that there will be up to 200,000 commercial citrus trees for which permission will be sought to enter the PQA for replanting within the first 6 months. The replanting will be on IP1 and IP2 principally. This will provide a substantive body of host material on which to conduct up to 18 months of intensive surveillance in the area where disease was confirmed to have occurred prior to eradication of the orchards, including at its heaviest infection levels.

PROTOCOL TO DECLARE CITRUS CANKER ERADICATED AND FOR THE REMOVAL OF ALL MARKET ACCESS RESTRICTIONS FROM THE EMERALD PEST QUARANTINE AREA – DIAGRAM



EMERGENCY PLANT PEST RESPONSE DEED

In late 2000, PHA began coordination of a formal national cost sharing agreement for the plant sector.

PHA has coordinated the development of the new arrangements through an extensive consultation process involving governments and plant industry stakeholders. The "Government and Plant Industry Cost Sharing Deed in respect of Emergency Plant Pest Responses", otherwise known as the *Emergency Plant Pest Response Deed* (EPPRD) is the outcome of that consultation process.

Under the EPPRD, the Australian Government, the State and Territory Governments and affected plant industries will share the eligible costs incurred in responding to emergency plant pests and diseases. The EPPRD does not cover weeds or forest pests and diseases.

Once signed by all governments, the EPPRD will provide certainty in the funding of rapid and effective responses to emergency plant pest threats and will complement the cost-sharing arrangements already in place for the livestock industries.
Minister Truss signed the EPPRD on behalf of the Australian Government in May 2005.

The plant industries that have signed are grains, sugar, bananas, apples and pears, rice, avocados, strawberries, summerfruit, pineapples, citrus and macadamia nuts.

The benefits of the EPPRD include:

- Defined funding responsibilities (up to certain pre-agreed limits) for agreed emergency plant pests responses;
- Greater certainty and transparency of funding;
- Incentive for early reporting of incursions;
- Responses to emergency plant pests are undertaken rapidly and effectively, providing the best possible chance of eradication;
- Industry commitment to contributing its 'fair share' to emergency plant pest responses, and industry engagement in decision making;
- An anticipated fall in the potential government share of costs for the vast majority of emergency plant pests; and
- A wider commitment to risk mitigation through the development of individual industry biosecurity plans and biosecurity statements by industry and government parties.

BENEFITS OF THE EPPRD (PHA June2004)

Current system	Cost Sharing Agreement	Benefits
• No payments for growers directly involved in eradication responses.	• Owner reimbursement costs, based on pre-agreed schedule, available to those directly involved in a response to an EPP.	• Owner reimbursement costs will help remove disincentives to report pests, and will ensure a small number of individual growers do not carry significant additional costs due to their involvement in a response to an EPP. • Payments are agreed and determined in advance based on a valuation formula applicable to particular industries or sectors.
• No formal industry involvement in decision making.	• Industry involved at all levels of decision making (pest categorisation, technical response, funding decisions).	• Industry informed and involved in decision making from outset of pest incident, leading to greater industry endorsement and assistance with response activities.
• No certainty in funding, as treasury or cabinet may have to approve expenditure for responses to EPPs on an ad-hoc or case by case basis.	• The agreement legally binds all parties to meet their relevant costs relating to agreed EPP responses.	• Legal agreement will streamline government funding processes, and minimise any delays in funding and mounting responses.
• No requirement for government parties to either agree to, or remain engaged in government level cost sharing	• Once an EPP response is agreed by all parties, individual parties cannot withdraw from cost sharing unless the agreed limit is reached or they give six months notice.	• Greater certainty that funding for an EPP response will be maintained until the Response Plan is successful or a decision is made that the response is no longer technically feasible or cost effective.
• No formal commitment by either government or industry parties to risk mitigation.	• Government and industry performance standards/benchmarks will be put in place, and all parties will be bound by specific risk mitigation clauses. • Industry and government cooperate to identify and reduce the risk of incursions (noting natural pathways may always be a source of risk).	• Greater focus on ensuring all parties collaborate to minimise the risk of future incursions. • Ongoing commitment by government to maintaining relevant plant health capacity.

Current system	Cost Sharing Agreement	Benefits
• Potential delays in decision making on responses due to uncertainty over funding, debates over the impacts of pests or delays in convening relevant decision making groups.	• A small number of serious pests are categorised in advance for each industry, with an agreed process established to categorise other pests that may occur. • Parties obliged to convene decision making groups at short notice.	• All parties aware of potential liabilities in advance and agreed funding mechanisms in place. • Responses can begin rapidly, without lengthy delays or debates over the impact of the pest. • Decision making groups expected to be available to meet at short notice (within 24 hours).
• Government decision making processes are not always handled at the same level between jurisdictions.	• Decision making process more clearly defined, with distinct roles and responsibilities for each decision making group. • Training and resources will be provided to the NMG, CCEPP and Pest Categorisation Group.	• Seniority of committee members aligned to reflect the roles and responsibilities of each group, decisions not delayed by parties having insufficient authority to authorise actions or to commit to funding decisions.
• No nationally consistent means for handling responses.	• PLANTPLAN, a national set of emergency response procedures, underpins all responses undertaken under the EPP Response Agreement.	• Responses conducted in a nationally consistent manner across jurisdictions. • Government commitment to legislative support for response actions. • Responses to be conducted by accredited and trained personnel.
• Incursion response funding arrangements solely between governments. • Increasing indications that government funding for pest responses cannot be sustained without industry contributions.	• Cost shares determined according to the benefits of pest eradication that fall to each party, and emergency pests categorised in advance.	• Benefits of pest eradication for different sectors reflected in funding split. • More sustainable and robust funding mechanism. • Industry not reliant on lobbying to assist in securing pest response funding.
• Limit on liabilities uncertain.	• Limit on liabilities (agreed limit) determined in advance.	• All parties aware of, and can manage their commitments and liabilities under the agreement. • Agreed limits can apply to all crops represented by an industry party or subgroupings of crops as appropriate.
• No performance standards for response activities.	• Performance standards and benchmarks established to ensure eradication efforts are undertaken efficiently and effectively.	• All response activities externally audited on completion, and response plans developed in line with cost/benefit analysis.

STRATEGIC FRAMEWORK FOR AN AUSTRALIAN BIOSECURITY SYSTEM - Primary Production and the Environment Component

Goal

A national cost-effective risk based approach to minimising the number of biosecurity breaches, and mitigating the deleterious economic, social and environmental impact of new and existing breaches on Australia's natural and built environments and primary production sector, and including zoonoses with implications for human health, public amenity, food safety and security.

Objectives

1. Prevent the entry and establishment of identified target exotic pests, diseases and weeds that pose a major biosecurity threat to Australia.
2. Cost effectively minimise the likelihood of entry and establishment of other new incursions of exotic pests, diseases and weeds in Australia.
3 Eradicate where practicable, or contain and control and mitigate the impact of established invasive organisms that have a major economic, social, health or environmental impact, and including established "sleeper" organisms that have the potential for major impact.
4 Manage the impact of, or contain and control at jurisdictional, regional, industry sector or local levels other pest, disease pathogens and weeds that have established in Australia.
5 Mitigate adverse impacts of exotic species introduced for production and other beneficial purposes.