RESUMING 10.25 A.M.

COMSR: Perhaps before we start, there is something that I would like to say and really it deals with the boundaries of where the freedom to vigorously report what has occurred in the Commission quite clearly crosses the line and what is reported is not an account of the hearing, but a gratuitously insulting comment made by a potential witness with whom counsel for the Commission had been communicating, particularly where the person may not necessarily have had the benefit of any prior advice. This has the effect of placing such a person, if called upon to give evidence, in a difficult position. Moreover, it may well have the effect of causing a person who might otherwise have voluntarily attended as a witness to form a resolve not to appear. To this extent, it has the capacity to interfere with the work of the Commission. It is, of course, very easy for persons who are being interviewed outside the witness box where they are not on oath and not subject to the probing of cross-examination by experienced counsel, to appear quite confident and convincing. Where those same persons are subjected to cross-examination, often quite a different picture emerges of the confidence of that person.

Now, I appreciate that the media has their job to do and no doubt it is not an easy job, particularly in circumstances such as this, but I should point out that I would expect all sections of the media to comply with
the requirement of s.11 of the Royal Commissions Act,
which prescribes wilfully insulting the Commission.
I don’t propose to enlarge upon that.
MR SMITH: Could I indicate also that Mr Bourne,
who at least not in this Commission, but by letter to
this Commission after he left the Commission, indicated
that he acted for or continued to act for Mr Milera, on
television some nights ago indicated that, had he known
Mr Milera was to be subpoenaed, he would perhaps have
sought to cross-examine a number of witnesses.
Can I indicate to you that counsel for Mr Kenny, for
instance, has indicated that, should Mr Milera give
evidence, Mr Kenny will proffer himself to
cross-examination by Mr Milera's counsel.
COMSR: Mr Chris Kenny?
MR SMITH: Mr Chris Kenny, yes.
And, so far as the Commission is concerned, should
Mr Milera give evidence, that those witnesses such as Mr
Denver who have given evidence touching upon what was
said by Mr Milera to them would, probably unhappily
perhaps, but be available for cross-examination. On the
basis, of course, that Mr Milera contests that these
things happened, if he does.
So, we have reached the programme for today.
MR KENNY: I don't mean to interrupt. Just so that
I understand from my client's point of view and the
instructions I may need to take from my clients, do I
understand that Mr Milera is to be subpoenaed to give
evidence?
MR SMITH: Yes.
The programme for today is just the continuing
evidence of Mr Chapman.
WITNESS T.L. CHAPMAN, EXAMINATION BY MR SMITH CONTINUING
Q. I think we had reached p.8 of your statement and the
authorisation of 12 April 1990, which is document 33,
that is so, isn't it.
A. Yes, that document was given to us on the morning of the
12th and that gave us clearance under s.13 of the
Aboriginal Heritage Act of 1988, which clearance we had applied for under s.12 on 3 January. And that authorisation was the authorisation that we needed. And that is the one that so confused Mr Collett in the Federal Court. He didn't understand it and I don't think Mr Kenny understood it yesterday, when he was cross-examining my wife, but that was the clearance that we needed and we got it. We actually, in fact, got it before we got the s.51 approval later in the day. So, that meant that our main Aboriginal clearances were achieved on the same day as we got our planning approval. So, any need to discuss anything of a heritage nature was cleared within that document. And you will see that the authorisation was subject to conditions set out in s.4.6 of the assessment report, which told us to go back, as this does, to the Aboriginal Heritage Unit, when we started digging, which we did it. We did in a phone call, writing, letters backwards and forwards, which I will come to later on. So, the issue is very clearly a two-staged issue. One to do with heritage and one to do with issues of local interest that are nonheritage issues.

Q. Upon obtaining that approval you were then faced with organising finance, were you not.

A. We got the s.51 approval on the same day. They were the two approvals that we got. But, yes, having got all the necessary approvals, including the Aboriginal Heritage Act approval, we then had to look for finance, which we had organised through the State Bank, at that stage, subject to getting the planning approval.

Q. For the purposes of that finance, it was necessary to come up with an indicative cost for the bridge itself, that's right, isn't it.

A. That's correct, yes.

Q. For the purpose of that costing, core testing had to be carried out in the river bed.

A. That's correct.

Q. I think that core testing was done at the end of the
ferry causeway on the eastern side of the river.
A. That's correct, yes.
Q. I think there was some further core testing done from a
   barge in January 1992, is that right.
A. That's correct, yes, both of which were well-documented
   in the Victor Harbor Times. And, of course, the testing
   that went right across the river was subject to a notice
   to mariners, which was advertised in The Advertiser, in
   accordance with the normal procedure with those issues.
Q. I take you, first of all, to document 41, or item 41:
   That is the bore hole location plan, isn't it.
A. That's correct.
Q. Perhaps if we start with item no.34, in Exhibit 178.
A. That's correct.
Q. Which is a Victor Harbor Times article on core testing
   conducted for the bridge support.
A. That's correct.
Q. Which is 2 May.
A. Bridge core tests begin, preliminary work begins, the
   construction of the bridge between Hindmarsh Island and
   Goolwa began on Thursday with the core testing for the
   bridge support.
Q. We have there in the Victor Harbor Times, on 2 May, on
   p.3, graphic pictures showing testing or pictures
   showing core testing for Hindmarsh Island bridge getting
   underway, etc.
A. That's correct, yes.
Q. I take you to item 39 in the book of documents, Exhibit
   178, which is the notice to mariners, that's right,
   isn't it.
A. Yes.
Q. Is that some sort of compulsory notice that has to be
   given to shipping.
A. Yes, because the barge was anchored in a continuous
   manner at various points across the river, the
   Department of Marine & Harbours had to give a formal
   notification that that would be there. It would be lit
   with certain lighting at night and it would also have
certain markers during the day to identify that it was
stationary and we were also to let people know that
there were cables extending from it for anchoring it
into set locations.
Q. That is later, of course, isn't it.
A. Yes.
Q. We have come out of chronology a little bit. That is 11
A. That's correct, yes.
Q. The item to the right in that sheet of paper no.39 is
again a newspaper article `Testing continues for
Hindmarsh Island bridge.'
A. That's correct.
Q. Can you tell us when that was.
A. That was in accordance with that notice to mariners
thing, because you can actually see the barge on the
bottom photograph. And the top photograph was a special
piece of equipment - sorry, no, that is taken on the
barge, as well. That is actually a photograph on the
working deck of the barge. You can see the OSCAR W in
the background.
Q. We know the notice to mariners was given in The
Advertiser, on 11 January 1992. The two other pictures
and the article there under the heading `Testing
continues for Hindmarsh Island bridge', is that January
1992, as well.
A. Yes.
Q. You were present, I suppose, from time to time, while
that work was being done.
A. Yes.
Q. Were there any complaints received by you as the
developer.
A. No, at that stage, the Government was paying for the
costs of putting that - the second lot of drilling tests
were done by them. But, no, because it was done through
Pak Poy of PPK who we used as our engineers and they
were involved in it, so, we knew the personnel well
involved. It caused considerable interest, but no
T.L. CHAPMAN XN (MR SMITH)

Q. No complaints from the wider community.
A. None that we were ever advised.
Q. I take you to document 41, in Exhibit 178. I think that is the important hole location plan and the results of testing.
A. That's correct. And it can be seen how it has slewed slightly downstream or slightly to the south of the existing ferry track across the river. The major Stobie poles which sit there some 40 metres high are evident on that plan as identification and at each one of those BH points, BH1 through to BH13, are where they actually located the barge across the river or drill set on the land and drilled a hole which went down up to 40 metres, I believe, in some cases.
Q. If we look at the second sheet of item 41, that is a section into the depths of the river bed.
A. That's correct.
Q. That indicates a number of bore holes going down into the river bed to a depth of 45 metres.
A. That's correct.
Q. The plan shows the number of bore holes is something like twelve.
A. Yes.
Q. And I think you can draw from that, as we did in our submission to Professor Saunders, that it would be impossible for any skeletal remains to be in the line of the bridge.
Q. In any event, that testing unearthed no skeletal remains, to your knowledge.
A. That's correct. And each one of those bore holes was positioned over the point where the major tressle for the bridge was going to actually go - be constructed.
Q. During this time, and bear in mind that we are back to the middle of 1990, the Supplementary Development Plan for Hindmarsh Island was still being prepared, was it not.
A. Yes, that's correct.
Q. In February 1991, a public meeting was held at the Council chambers in Goolwa to discuss the draft plan.
A. That's correct.
Q. Did you go to that meeting.
A. Yes, I did go to that meeting.
Q. We are talking here about the Supplementary Development Plan and there was a draft prepared and put on notice.
A. That's correct. It was well-advertised locally and by ACOP, which is a Government committee which assesses Plans. It was chaired, if I remember correctly, by Tom Muecke. And the members of the committee came down to Goolwa for a public hearing. And that took place in February in the Council chambers.
Q. In February 1991.
A. Yes, and then people could give their evidence to the committee, what they either agreed with or disagreed with or were for or against.
Q. That was a public hearing.
A. That was a public hearing. It was advertised.
Q. The Draft Supplementary Development Plan, which was, as it were, in the spotlight.
A. Yes.
Q. That included the construction of the bridge.
A. It was predicated on the bridge being in place. In other words, it was a plan that identified what would be allowed to happen on the island in the way of development with the bridge in place.
Q. How many people, to your knowledge, attended that meeting.
A. From memory, there were fifty to sixty. And, since, somebody else has confirmed they thought it was about the same number. And there were two Aboriginal people who sat down the front of the meeting, were there during the whole of the meeting.
Q. Do you know who they were.
A. No, I cannot recall who they were now. The Aboriginal
Heritage Branch was one of the people that the Supplementary Development Plan was given to for comment and they made a comment to the Planning Department and through to ACOP and these two gentlemen were there as presumably part of what it would have been then, the Lower Murray Aboriginal Heritage Committee.

Q. Were there any objections raised by any persons and, in particular, any Aboriginal persons or Aboriginal interests.

A. There were probably objections raised by people, but, as far as I understand, there were none raised by Aboriginal persons. And, in fact, the Aboriginal Heritage Branch advised the Planning Department, so I understand, that they had no objection, providing skeletal remains were protected.

CONTINUED
Q. Under the original conditions, stage 1 of the marina extensions could proceed at any time. That's correct, isn't it.
A. That's correct, yes.
Q. Can you draw a distinction for us, a practical distinction, between, first of all, the original marina, and then there was a lagoon development further downstream, which was essentially a residential -
A. Yes.
Q. What are we talking about here.
A. This stage 1 - and I apologise there are too many stage 1's - but this stage 1 related to the lagoon development, which we call Barkers Lagoon, that is, there were 150, approximately, allotments created in that development. We could not proceed - there were other certain things that we could do that you might term were relatively minor, but basically we had to wait until the bridge was completed.
Q. That Barkers Lagoon, stage 1 of the second stage, if you like, did that require the sort of excavation into the bank and the creation of a lake in much the same sort of way as the original marina.
A. Yes. They were both dug to 3 metres depth of water, and that's done for a variety of reasons, but principally the water level in the basin, although it is kept to .75 AHD as the pool level, the nominal pool level, it is subject to quite considerable variations in level due to primarily wind. If the wind blows strong and hard from the south-westerly quarter, then that pushes the water up into the lake, so there is quite a substantial drop in water level suffered at Goolwa and, correspondingly, if there is a strong consistent northerly blowing, then you will find the water level goes above .75 AHD. The biggest drop I had experienced happened in a localised but very strong storm in May in one particular year, where the water had been reduced by over a metre below the pool level. So that became one of the primary concerns, that boats would still have water left under
them. Secondly, because of weed growth, you needed to have a certain depth of water, otherwise you would have had the basins filling up with unwanted weed, and that would have then meant it would have rendered them useless for boating. Three metres means there is not enough sunlight down there to allow weed to grow, and the basins have a slight slope on them so cold water in the basin goes back out of the river. There is a tremendous amount of hydrological thinking went into the basins, which people wouldn't be aware of from general knowledge.

Q. I think we can get a picture of the extent of the basins if we go back to the plan which is part of item 26, which is the application under section 12, which has attached to it a plan which includes the lagoons.

A. Yes. The southern most lagoon is the one that we have dug.

Q. The southern most being the one closest to the river.

A. Yes, closest to the Goolwa barrage.

Q. Again, I take it that the creation of those lagoons in that residential estate was massively invasive of the island in the sense that you cut those lagoons into the island. Is that right.

A. I wouldn't say it was massively invasive. They were in fact depressions, and the ridges that you see there - the fingers are in fact ridges. It has always been my concept that we were working with nature. In fact, nature had created those valleys which we have approval now to dig out, and the fingers are natural ridge lines which we were going to enhance, and that's what we will be doing in the future.

Q. But there is a lagoon there of considerable proportions if this development goes ahead which wasn't there before.

A. That's correct, but there were - you know, they were salt pans, so there was, you know, maybe a few inches of water there - in much of it, not all of it.
Q. You were ready to commence that part of the development, and in accordance with the requirements of the EIS, you wrote to the Aboriginal Heritage Branch to notify them of the commencement of digging.

A. Yes. One of our requirements was that we had to liaise with the Aboriginal Heritage Branch, and we did that by phone call. That was then confirmed with a letter to them of the 23rd, advising them that we were about to dig.

Q. That's item number 35, at Exhibit 178, is it not.

A. That's correct, yes.

Q. You received a letter of reply of 29 May from the Aboriginal Heritage Branch of the Department of Environment and Planning.

A. That's correct. It is interesting to note that, by then, the branch archaeologist was Vanessa Edmonds, our consultant archaeologist. So I think that shows the standing in which she was held. It makes it very clear that if we unearth any skeletal/artefact material, `please contact Vanessa and she will carry out a site inspection'. That was one of the requirements we had to do. The other requirement was that we had to make anybody that was on the site aware of the Aboriginal heritage issue, and we covered that with the next item, where our contractor, Bardavcol, made every employee that visited the site sign an undertaking. And you will see there that it was highlighted that `Hindmarsh Island is an area of particular importance to Aboriginal heritage. The respect of all people involved on this project is warranted and encouraged. Back further you will find, in item 4, that any discovery of artefacts, fossils, et cetera, of any descriptions is to be reported to the site foreman immediately.' That was along with a number of other requirements that we had, basically common sense. I suppose the other important area was that there was an area that we had fenced off as a reserve, and that was not to be entered by any equipment because it had a plant that was relatively
rare to the area, and we were keen to preserve it, and
we achieved that.
Q. Just going back to that document, as your statement sets
out, in late May 1991, there was a site meeting between
Bardavcol -  
A. Yes.
Q. They are a sort of earth moving organisation, aren't
they.
A. Yes, that's correct.
Q. PPK Consultants, the engineers.
A. Engineers, yes.
Q. And yourselves.
A. That's correct.
Q. You have said 'Other people involved in the marina
work'.
A. That's right.
Q. What, just other contractors.
A. Yes, other various people.
Q. That meeting was, in particular, to deal with this
question of how the siteworks were to be managed.
A. That's correct.
Q. In particular, to alert everybody to the need to be
sensitive about discovery, for instance, of artefacts,
fossils, et cetera.
A. That's correct, yes.
Q. So that document, which is in fact document 37 of
Exhibit 178, is a list of warranties, if you like, by
workers on site.
A. And visitors.
Q. That had to be signed by them.
A. That's right.
Q. That they would be sensitive to the discovery, for
instance, of burial remains -
A. That's correct.
Q. If that happened.
A. Yes.
Q. In fact, it is the case, isn't it, that no skeletal
remains and artefacts were found in that excavation of
the lagoon.
A. Absolutely none.
Q. Construction work on that was carried out in what
period.
A. We started late May, or you could say early June, and by
6 October it was formally opened by the then Premier, Mr
Bannon.
Q. Moving to document 38, that is a newspaper article,
including a photograph. Is that the `Victor Harbor
Times'.
A. That's correct, yes.
Q. Article of 8 October 1991, headline `Bannon opens marina
stage.'
A. That's correct. You will notice in that that there is a
paragraph that says `It will also result in a bridge
being built to the island to replace the ferry'.
Q. There is a second page there in that same paper.
A. That's right. That had the completion date set by the
government, 1993.
Q. That second page is again the `Victor Harbor Times' of
Tuesday, 8 October.
A. That's correct, yes.
Q. In that article there is a mention indeed of the bridge,
Isn't there.
A. That's correct. The article really talks about the
bridge mainly.
Q. The article speaks for itself, but indeed we have Mr
Bannon speaking in several areas in the article about
the bridge.
A. That's correct.
Q. You were present at that time.
A. Yes.
Q. Was that gathering, the opening, if you like, attended
by members of the public.
A. Yes, and it was well telecast in the news that night.
So anybody in South Australia would have been well aware
of what was happening, and they talked about a bridge.
Q. However, at about this time, negotiations on the bridge contract were still taking place, weren't they.
A. That's correct.
Q. What do you mean by that, exactly.
A. We were in negotiation with the State Government over the manner in which the bridge would be constructed, ownership and the like. This was brought about by the fact that we had a package in place to build the bridge on the basis that ownership remained in our control basically. We had an indicative undertaking, and I think this whole debacle, to a degree, goes back to the fact that we had to give up ownership of the bridge, which is something that today the government are quite willing to let private people keep them. In other words, we were meant to fund something upfront in a development on the basis that we lost - had no title to it.
Q. So there were negotiations going on about that.
A. How we overcame that and how it happened. You know, how the bridge would be developed, who would develop it, how it would develop and costings, working out indicative costings. Connell Wagner were brought into the proceedings to come up with options to consider, once again, whether a bridge was a viable alternative.
Q. Isn't it the case that this need for you to contribute to the financing of the bridge was what was causing financial strain on your development resources.
A. We were caught in a difficult position in that we had, firstly, the State Bank suddenly change their mind after we had got planning approval, and we had been told they would finance it. They then came up with an alternative package which wasn't acceptable to Westpac, and that is because of what is now well known, the State Bank was in trouble so they weren't prepared to take on any more lending. And we found ourselves in a situation where we just had to keep pushing on with everybody falling around the sides of us and making life very difficult for us, because we still had a major project which was
eating up large amounts of family funds, and we were
placed in a difficult position not of our making.
Q. In early 1992, as your statement sets out, there was a
major development proposed for the waterfront on the
Goolwa side of the river.
A. That's correct.
Q. That was known as the Carmo development.
A. That's right.
Q. What was the Carmo development.
A. The Carmo development was put up by the Weeks family in
response to a proposal that was outlined by the joint
committee that we referred to yesterday of the State
Government and the council, to develop the foreshore
area. That was a joint working committee. They were
the people that were also involved in getting the
costings of the bridge, if you remember yesterday.
There were a series of things they were trying to do in
and around Goolwa. I guess you could say the most
important aspect of their operations was to try and get
a development going on the foreshore, as they saw that
was the principal area to develop. This followed an
earlier attempt, some few years earlier, by the Fricker
Group to build a 5 star hotel in the same - generally in
the same spot, which is immediately south-west and
adjoining the existing shed complexes at the wharf. So
Carmo, which was the Weeks family, became involved, as I
understand, in negotiations with the joint committee -
the Goolwa Development Committee. They then lodged
plans for a motel, marina and I think shopping complex,
together with a tavern in that particular location.
That was driven very hard, I believe, by the State
Government and the council to make it happen. In the
end, it didn't happen.
Q. Item number 40 in Exhibit 178 is a newspaper article,
broadcasting the information, if you like, or
disseminating information about that development, is
that right.
A. That's correct. It was a $14 million tourist complex prepared for the Goolwa wharf. It was given the thumbs-up by the Port Elliot and Goolwa Councils. Councils met to inform the State Planning Commission of its support for the project, providing certain conditions were attached to the approval.

Q. There is a mention in that article of some 27 written objections to the project.

A. That's correct. In fact, we were one of the objectors, because we were concerned that they were going for planning approval which was more advantageous than ours in commercial basis. For instance, we have a setback of 25 metres from the waters edge of any substantial building, and this is a general requirement by what was then the E&WS Department on the River Murray in built-up areas. We also have a requirement that we cannot build below 3 metres AHD. And these two things, in particular, were being completely overlooked by this competing development. We saw, for commercial reasons, that it was important - we would support the development going ahead, but it had to go ahead in the same playing field as we were in, and that was the reason why we objected to it primarily.

Q. Do you know anything of the other objections.

A. The other objections were raised really by people who lived immediately behind and above it in Admiral Terrace, the Bishops and people like that. They were very concerned because it would have impinged upon their existing ambience, I would suggest. They, I believe, at one stage got in Jean and Henry Rankine to look at the area to see whether there were any Aboriginal sites in that area. and they were - that is, the Rankines - were apparently happy that there weren't any that were going to be impinged upon by that development if it went ahead. They apparently pointed out that there were burial grounds on the properties owned by the people who were in fact objecting against that development, and in fact behind Admiral Terrace. This whole area is, I
might add, a matter of 200 metres south of the bridge.
So it is important to realise its geographical position.
Q. In 1992, the bridge project engineers, Connell Wagner,
requested the Aboriginal Heritage Branch to comment on
the slight realignment of the bridge.
A. That's correct, yes.
Q. Why was that.
A. Connell Wagner had come into the bridge project now on
behalf of the State Government because they were the
managers appointed by the Department of Road Transport,
and in the formalisation of the design, which now
became, you know, the actual fixed working drawings,
there were minor alterations - and I stress minor
alterations - to the alignment of the bridge. So Connel
Wagner, I presume, as a matter of prudence as project
managers, checked through the various government
authorities to make sure the approvals were still
current.
CONTINUED
Of course, in the course of doing that, they wrote to
the Aboriginal Heritage Branch for comment and they got
a response.

Q. The response is the letter marked 42 in the bundle in
Exhibit 178.
A. That's correct.

Q. That is a letter from a Mr Ware of the Aboriginal
Heritage Branch. The letter gives the all-clear, as it
were, to Connell Wagner, but suggesting to Connell
Wagner that it be careful as excavations go on of
archaeological discoveries further down in the soil.

A. Yes. And I think you would read into that, that is the
sort of letter they would write in every development.
That is the same sort of letter we got earlier in
relation to our digging, that things - you never know
what you are going to come across necessarily.

Q. A green light with the reservation of what might be
discovered.

A. Just to be careful. Once again, make your contractors
know what is going on.

Q. This is the letter from Mr Ware dated 8 May 1992, which
is item 42, and also I think refers Connell Wagner to Mr
Gara and provides a number. Now that's Tom Gara, is it,
as you understand.

A. Yes. I don't know - at least I'm not aware of knowing
Tom Gara. He apparently made an inspection of the site
on 19 April 1992.

Q. He is actually mentioned in the letter itself as the
historian with the Aboriginal Heritage Branch.

A. Yes, that's correct.

Q. Going on then. On 26 August 1992, the Minister for
Environment and Planning issued a further consent to the
bridge and marina extensions planning application; is
that right.

A. That's correct, yes.

Q. I think that is document no.43 in Exhibit 178.

A. Yes.

Q. That letter attaches a series of conditions. That is
the approval, isn't it.
A. Yes.
Q. And it attaches a list of conditions to the approval.
A. That's correct.
Q. Can you go back to item no.32.
A. Yes.
Q. Comparing those two lots of conditions, which I think
addresses what you said in the opening this morning in
evidence, doesn't it.
A. Yes.
Q. Will you draw our attention to the conditions, which
speak for themselves, but there is a marked difference
between the conditions attaching to this approval of 26
August 1992 and the earlier conditions in item no.32 -
that is, the approval of 11 April 1990 - is there not.
A. That's correct, yes.
Q. What is the essential difference.
A. Well, the item 2.B has been removed, which is the
recommendations relating to anthropological issues, is
removed in the second approval. That was done on the
basis, as I understand it, because we had on the same
day, or on the 12th, the next day of those
recommendations, received our approval under the
Aboriginal Heritage Act. They then took precedence over
this issue and there was obviously no need to have those
in our planning approval.
Q. Is this the position: You understood, as a result of
that letter, of that approval of 26 August 1992, that
the extent of consultation with Aboriginal interests was
as to the discovery of artefacts, skeletal remains and
the like as you went about the project.
A. Absolutely, because there was no other need for us to
consult. We were waiting for the Aboriginals to come
back to us on any other issue they might want to raise,
but not heritage issues, nothing to do with heritage at
all.
Q. Certainly nothing to do with whether the development
could go ahead or not.
A. Nothing to do with it whatsoever.
Q. There were subsequent alterations to that approval in April 1993 and July 1993.
A. That's correct.
Q. Those alterations to the terms of the approval are found in documents 45 and 46, I think, are they not.
A. That's correct.
Q. Perhaps if you would turn to those. Have you got those.
A. I'm sure I have, yes - yes.
Q. The first one is a letter from the Office of Planning and Urban Development of 28 April 1993.
A. That's correct.
Q. Then, the next one is again with some conditions attached.
A. Yes.
Q. Then, the next is a letter from the same office, the Office of Planning and Urban Development of 13 July 1993.
A. That's correct.
Q. Again, with some recommended conditions.
A. Yes. The first one of those two altered the numbers of allotments in stage two. The second one altered the time in which we can get titles issued. That couldn't be before February 1994 and we had - the Government had to have the bridge substantially commenced before we could issue titles, or the Government would issue us titles.
Q. You see there in that letter, the last letter I just referred you to, which is item 46, and that's the letter of 13 July 1993, am I right there that Binalong has had a commendation, if you like, from the Director of the Policy and Assessment Division of the office.
A. Yes.
Q. The copy's rather hard to read.
A. Yes. `I wish also to commend Binalong Pty Ltd in its approach to the development of the marina and the housing development of State significance at the marina Goolwa and the manner in which the company has conducted
its dealings with this agency. These have been open and
honest on both sides and this co-operation is much
appreciated. I wish you well in the development of
stage two of the marina.’ And that is signed by Rod
Hooke, the Director of Policy and Assessment Division.
Q. In addition to that commendation, there was no mention
made of any outstanding Aboriginal heritage matters.
A. No. Bearing in mind that every time we wanted an
alteration to our approval, it has to go through to
Cabinet and then from Cabinet to Executive Council. So
it was thoroughly tested by the department, the
Minister's, you know, unit or staff, then the Office of
Cabinet before it finally got in the Cabinet agenda.
And that is the normal procedure. And I wouldn't see
the approval after Cabinet had approved it and before it
got to Executive Council - and that was for the
Governor's approval, it had to have the Governor's
approval. It wasn't a normal type of approval which you
would get.
Q. To address this question of consultation at this point,
it is your position, and a position supported by the
documentation that we have just addressed, that
consultation with Aboriginal groups as to the primary
question of whether the development could proceed was
now over.
A. Absolutely.
Q. That the only consultation with Aboriginal groups was an
obligation of yours, which was the on-going need to keep
the heritage branch appraised of the discovery of any
burial remains and like artefacts as excavations and
work continued.
A. Yes. That was certainly our requirement.
Q. What was your understanding then of what was going to
happen in terms of this meeting that was going to be had
by the Ngarrindjeri peoples of Point McLeay and other
areas.
A. That was purely to discuss matters that they might have
thought of in accepting that they had some interest in
the island in general terms, but certainly nothing to do
with heritage. That had already been cleared by them
and by the department.
Q. On 22 October, is this the first sign - is this the
date, if you like, of the beginnings of the opposition
that grew to the bridge.
A. Well, there had been a few people from, I suppose, right
back prior to us really being involved in the equation
that didn't want a bridge for their own particular
reasons, whatever they may be. Very few. In fact, a
handful. And the priority permits kept them in the
standard of living which they had become accustomed to.
When they came out, they panicked and were very keen to
support the bridge, or something similar to that, but
then when that sort of all faded away and the bridge got
underway, there was still a few people who said they
didn't want the bridge, for whatever reasons. And I
guess the first that we really saw that anybody was
particularly interested in it was the petition of Mr
Roscrow - and he is a man who has done very well, and in
South Australia has had considerable success.
Apparently, he developed the recreational and
residential property on a relatively prominent area of
the island immediately upstream from the ferry crossing,
and he used considerable fill and other material from
our development, I might add, and set up a very pleasant
house. He was also a developer of a site at Middleton,
I think, a little earlier than this. So he was
something - and, in fact, I think he was the Chairman of
the State Development Committee. He was somebody
well-known within the community and the like. He
apparently didn't like the idea of a bridge being built
because it would impede his view of the boats, the ships
at the wharf, and so he thought it would be a good idea
to perhaps put in a second ferry and, therefore, he
would be able to retain his view from the front sea
room.
Q. Did he say that to you.
A. That is the view that has been conveyed to me by numerous people, and I did meet him.

Q. What is the basis of your evidence of that conversation.

A. In the conversation he had with me in January, later.

That is in January, which I will come to shortly I guess.

Q. On 22 October 1992, Noel Roscrow wrote to Dean Brown enclosing a petition signed by a number of people; a petition opposing the construction of the bridge.

A. That's correct. And it's interesting to note, if you take a few minutes to have a look at that, that people who have now become very obvious anti-bridge people, picketers, have signed this. Some of them - you will find that, for instance, Mr Richard Owen signed it on behalf of his family four times, or on behalf of four members of his family. You will find that other, to us anyway, well-known picketers have signed the document twice; and, in fact, Mr Roscrow signed it at least twice. It was really - and it was signed by people who had no interest in the island or the ferry crossing, and things like that. It was a petition of not much standing, I believe. It certainly showed the colours of some people which we subsequently became aware of.

Q. There are people who became active in the group known as, eventually known as The Friends of Goolwa and Kumarangk.

A. That's correct.

Q. Who featured in this petition.

A. Yes. You'll find them in there.

Q. Noel Roscrow.

A. Yes.

Q. Bill Longworth.

A. Yes.

Q. Anne Lucas.

A. Yes.

Q. Jean Bishop.
A. Yes.
Q. Owlyn Barwick.
A. Yes.
Q. Tony Brooks and Richard Owen.
A. That's correct. They were all original people within this group.
Q. It's the case that a bridge had been, we know that a bridge had been mooted for many years.
A. Yes.
Q. But actively pursued in terms of your development, what, from about 1989 onwards.
A. Yes. At that time in 1989, we were told by the Government that a bridge had to be built for access to the island, approved access to the island, or they were not prepared to consider any further development on the island. And that, don't forget, included the other two competing developments. It's a common - it's a common misconception that the bridge was for the Chapmans, which was absolutely ludicrous, it wasn't.
Q. If we just go back in time in the documents you have tendered to this Commission, in Exhibit 178, the first active canvassing of a bridge is in about the middle of 1987.
A. That's correct, but I believe that is not the first time. There is earlier evidence of this which is yet to be made available of the council considering a bridge to the island some 30 years ago.
Q. To your knowledge, is it the case that this is the first time people such as Noel Roscrow and Bill Longworth, et cetera, had come out and voiced their opposition to the bridge.
A. Yes. And we weren't immediately aware of that. We became aware of it shortly afterwards.
Q. Can I take you to that January meeting, the 1993 meeting that you mentioned a minute ago. Tell us what happened.
A. Andrew, one of our sons, was at the marina on Sunday afternoon working and Noel Roscrow and Bill Longworth came into the office and asked whether they could see
Q. Who is Bill Longworth.
A. Bill Longworth is a close friend of Noel Ross and runs a landbroking business in Goolwa and down near Reynella somewhere as well. He has a house on the island. And you will see from newspaper articles that he is very prominent in the anti-bridge campaign and has been all the way through. He does a lot of the carrying out of the work of Mr Roscrow, I would suggest, at his beck and call.
Q. So Roscrow and Longworth visited the marina.
A. They came into the marina and Andrew rang me up. I was in the house not far away so, I made my way down to the marina and met with them in my office, the four of us. And they then said 'Well, we like the marina, we think it's fantastic', and Noel Roscrow had been in and out of that place on a weekly because - or all during our development stage, using our facilities there and things like that. And all of a sudden, he appeared with Bill Longworth and said 'We don't like the idea of a bridge'. He said 'I think primarily I don't like the idea of a bridge'. And we said 'Well, we're sorry, it's a Government requirement long ago. We didn't see that the bridge was necessary straight away, but it's now a fact of life. If we can't develop it, the development would be dead. We have to have a bridge.' He then made it very clear that he was going to the Government and he was going to stop the bridge. He was somebody who was, I think when I say the Chairman of the State Development Advisory Committee, whatever it was around about that time, and he led me to believe and Andrew that he had access to Government and he could stop those sorts of things. And it was clear to me from that discussion that he was concerned because it was going to impede his view.
CONTINUED
Q. Did he say that to you.
A. Yes, or words to that effect. Because, I pushed hard as
to why suddenly this would happen when he - I
particularly raised the issue that he hadn't, or Bill
Longworth become involved in the EIS process where it
was open and clear for them to make representations.
And bear in mind they were both living - you know, were
holidaying in the area on a regular bases, as they had
houses down there and they just didn't take that
opportunity up. So, why come now, two years, three
years later?
Q. Is that indeed the case, that these men, just speaking,
say, for a minute, about Roscrow and Longworth.
A. Yes.
Q. Had been long-time recreational residents on the island.
A. Yes.
Q. To what extent, throughout the period of the
development.
A. Throughout the period, yes. And they said `We didn't
really see any interest in the EIS.'
Q. Notwithstanding that the EIS encompassed the bridge.
A. Absolutely, and it was well-publicised and there were
public meetings. Other people who became prominent in
that list at the top of the page are a few of the people
who, in fact, were against development. Anne Lucas and
Olwyn Barwick I think were two that were agin it,
because it would put more people down in the Sugars
Beach area where they lived.
Q. They were originally objectors.
A. They were originally objectors and they were objecting
to it, because it would upset their area where they
lived down there and they didn't want other people down
there. And they made that clear. They were what you
would call nimby.
Q. Nimby.
A. Yes.
Q. What does that mean.
A. No development in my back yard, or words to that effect.
Q. On 14 January 1993, Dean Brown visited the marina at Goolwa.

A. Yes, he came down and he met with Wendy and myself and at least one other person. We were concerned that the Liberal Party, at that stage, in opposition, were being vocal about trying to stop the bridge. Particularly Diana Laidlaw. And we could see that there was no logic behind their argument. That they would need development in South Australia, if they won power. And, at that time, it appeared they would at the next election. And it was absolutely, seen from the perspective of myself and the family, illogical in the extreme that the Liberal Party would be fighting a development which they would need for employment and other purposes. And Dean Brown who had recently been made or got the position of local member, the local member of Finnis, which is our electorate down there, came, at our invitation, met with Wendy and myself and, as I say, one other person. At the end of that meeting, he made it very clear the Liberal Party would go quiet on the issue of the bridge, because he now realised that the position had got sufficiently far down the line that it was beyond political interference, so to speak. However, that didn't stop the Liberal Party, as we now all well-know.

Q. Just completing that picture, in February 1993, the present Premier, Dean Brown, took a delegation to meet the then Premier Arnold regarding the bridge.

A. That's correct.

Q. And that delegation included Noel Roscrow.

A. Yes.

Q. And other anti bridge people such as Tony Brooks and Gus Cattenach.

A. Yes, Tony Brooks became involved with the original picket group that met at Noel Roscrow's place every lunchtime and he had a property both on the island and in Goolwa. And he was obviously the mouthpiece to getting to various media outlets. And Gus Cattenach had
recently arrived on the island and took over Nanu Cottage Homestead, which was a bed and breakfast type place on the north shore, and he became involved in the tourism committee in Goolwa. And, for some reason or other, he was anti bridge, but he had only arrived on the scene months beforehand. So, what he had to contribute, I wouldn't know.

Q. In effect, the anti bridge group developed, as it were, and started agitation against the bridge.

A. Yes, there was still a small group who were the nucleus.

Q. I think you would claim that that was instrumental in Parliament referring the matter of the construction of the bridge to the Environmental Resources & Development Committee.

A. Yes, it is yet to be clear why Diana Laidlaw became interested in the bridge issue, apart from the fact that she was the Shadow Minister for Transport and stood against Barbara Wiese, who was the Minister for Transport in the Upper House and needed to obviously point-score on a political basis. But he was obviously concerned about access to the island, because, in 1987, she is quoted in Hansard as saying 'I had to wait three hours to get off the island.' So, back in 1987, she was well-aware of the problems. Mike Elliott was obviously picked up by the cause and his name appears in and out of this saga on numerous occasions and I think has probably had quite a significant part to play. He certainly saw himself as the role-maker at times, but he supported - and that's what the Liberal Party needed in opposition - the, sort of, democrates - in order to force the ERD Committee to review the bridge.

Q. On 8 May, the ERD Committee advertised their terms of reference. And I think you make the point in your statement that the terms of reference did not address any matters of Aboriginal heritage.

A. That's quite correct. And the report didn't cover anything of Aboriginal heritage.

Q. Tenders for the bridge construction closed on 8 June
1993, did they not.

A. That is correct, yes.

Q. On 29 June 1993, at a Westpac shareholders meeting in Adelaide, you make the point in your statement that Anne Lucas, who was an original objector to the bridge, made submissions to the meeting to stop funding Binalong.

A. That's correct. And I was advised of that by one of the Westpac staff, because the matter had been taken up with Westpac in Sydney, at that time. They were obviously interested in it.

Q. You learned also I think that Noel Roscrow appeared on the 7.30 Report.

A. Yes, and he had got involved with Westpac, as well.

Q. Noel Roscrow issued a media release making his position abundantly clear I think on 16 August 1993.

A. That's correct.

Q. That is item no.48, in Exhibit 178, is it not.

A. Yes, that's correct, yes.

Q. The ERD Committee hearings were held in July 1993.

A. That's correct.

Q. I don't think you were involved in that.

A. No, we looked at the advertisement that gave the terms of reference for that Committee and there was nothing in those terms of reference that we, as a family, or Binalong, or any of our other companies, could add to. They were just, in our view, totally out of context in the reality of what was going on, as we saw it. It was a political manoeuvre.

Q. The next thing that happened I think was, on 3 August, there was a meeting, or a public forum, concerning the bridge, called by The Friends of Hindmarsh Island.

A. That's correct. And the Conservation Council of South Australia, who, strangely enough, had changed horses completely, because the Conservation Council had, during the EIS process, supported the development, both in their submissions and publicly in newspaper articles.

So, it was a surprise to us that, some three years later, the Conservation Council had changed their
colours. They were either greener than green or
whatever the change was, I don't know, but there was no
logic, in our view. They didn't talk to us about it, it
was just a hobbyhorse they suddenly came across, I
suspect, with no real thinking of their previous
position.
Q. I take you back to the media release relating to the
Hindmarsh Island and the release is headed 'Hindmarsh
Island bridge fiasco.'
A. Yes, the Noel Roscrow one?
Q. Yes, and it is no.48.
A. Yes.
Q. That came to your attention, that media release.
A. Yes, that's correct.
Q. You see in the final page, p.3, Noel Roscrow's name is
recorded there as the spokesman for The Friends of
Hindmarsh Island.
A. That's correct, yes. He was prominent, at that time.
And he is less prominent today, but I think still the
person that probably pays most of the money and does
those sorts of things behind that group.
Q. I think we had got to the public meeting, the public
forum, of 3 August.
A. That's correct.
Q. I think that was advertised in the Southern Argus.
A. Yes, and I think probably the Victor Times and things
like that, as well, but certainly the Southern Argus,
yes.
Q. You have that in front of you.
A. Yes.
Q. And the advertisement there speaks for itself. So, is
this the case, The Friends of Hindmarsh Island, whose
spokesperson was Mr Roscrow, had been joined, at this
stage, by the Conservation Council.
A. That's correct, yes.
Q. Was that the first notice you had of the conversation
Conservation Council taking an objection to the bridge.
A. Yes.
Q. As late as 1993.
A. Yes, and as I said earlier, they were supportive of the development during the EIS process.
Q. I think that the first hint you had that Aboriginal interests were going to be involved in this protest was what incident, can you tell us.
A. It was a meeting held in the Centennial Hall in the main street of Goolwa, on 8 October 1993. There was a meeting that had been put together by the anti bridge people and they got Henry Rankine and George Trevorrow, as I understand, to be present. I wasn't at that function.
Q. Interrupting you there, I go back to an earlier time: Did you not learn, albeit secondhand, that the protest movement was going to elicit some aid from the Aboriginal interests.
A. Yes, I was told by a number of people, but particularly by one person that there had been a discussion that took place. In fact, I think the person who made the point was Bill Longworth, then speaking to another party, that they would, as they weren't getting anywhere with the ERD Committee and things like that, that had come down against them, they would go and bring in the Aborigines. And Bill Longworth said words to the effect, as I am told, 'We should call on the Aboriginals from Murray Bridge to come and help us in our cause.'
Q. You learnt that in a rather long, secondhand sort of way, didn't you.
A. I heard it from a person, Reverend Jones, who heard it from a person called Wayne Posgate, who was, in fact, the person that Bill Longworth was talking to. But in and around Goolwa, at the time, it was a very open secret, that you would hear it from many places.
Q. On 6 October 1993, the ER & D Committee tabled its report.
A. That's correct.
Q. It recommended a second ferry rather than a bridge, did it not.
A. That's correct, but they didn't mention anything to do
with Aboriginal issues.
Q. Then we had, on 8 October, the public meeting at Goolwa
that you mentioned before.
A. That's correct.
Q. That is referred to in document 49, is not.
A. Yes, document 49 talks about motions that they passed.
Who were the speakers. They had Margaret Bolster, the
vice president of the Conservation Council of South
Australia, the Honourable Dean Brown, the leader of the
Liberal Party and Member for Alexandra, Mike Elliott,
the Australian Democrats' MLC and a member of the ERD
Committee, George Trevorro and Henry Rankine of the
Lower Murray Aboriginal Heritage Committee and Jock
Schmieshen, some such name, from Australia About Echo
Cross-Culture tours and David Thomason from the
Construction Forestry Mining & Energy Union.
Q. Amongst other people, this is the first mention, at
least in your evidence, of David Thomason.
A. That's correct, yes.
Q. From the CFMEU.
A. Yes.
Q. Were you aware of any union opposition to the bridge,
prior to this 8 October 1993.
A. To the best of my knowledge, I don't think there were.
Q. Did you go to that meeting.
A. No, I did not.
Q. However, a number of residents on the island whom you
knew went to that meeting, didn't they.
A. That's correct. And they reported back what was said.
Perhaps the most significant saying in that, the whole
discussion that night, was the fact that Henry Rankine
was reputed to say to a question from the floor
apparently `Are there any Aboriginal sites in the line
of the bridge?' He said `No, but I'm sure I can find
some, or we can find some.' And that was reported to me
by three people.
Q. I produce to you Exhibit 170A, which you would recognise
T.L. CHAPMAN XN (MR SMITH)

1 as a volume of clippings and documents.
2 A. Yes, that's right.
3 Q. Deposed to by your wife.
4 A. That's correct.
5 Q. You will see there, at about almost more than
6 three-quarters of the way through the volume, there is a
7 flyer for that public meeting on Friday, 8 October, is
8 there not.
9 A. That's correct, yes, from 7.30 to 9.30, Friday the 8th.
10 Q. Headed 'Too late to stop Hindmarsh Island bridge', with
11 three question marks.
12 A. That's correct.
13 Q. That sets out the agenda of the meeting.
14 A. Yes, and sets out the motions, doesn't it?
15 Q. No, I think the document which you have included in
16 Exhibit 178 sets out the motions that were passed at
17 that meeting, does it not.
18 A. That's correct.
19 Q. The flyer that I just had you acknowledge, from Exhibit
20 170, actually went back and addressed the ERD
21 Committee's recommendations, didn't it.
22 A. That's right. And then they had four motions. And you
23 will notice that none of those motions talked about
24 Aboriginal heritage.
25 CONTIÑUED
Q. Can I take you to document number 50, I think that is just an 'Advertiser' article concerning that meeting dated 11 October. I think there is a computer printout of that in your -
A. Yes, there is one.
Q. I don't need to take you into that. It features, amongst other things, residents plans to protest against Hindmarsh Island Bridge.
A. Yes. Also it is perhaps worth adding at this time that the bridge contract had been completed, signed, and the actual contract for the bridge was, from memory, $4,095,000, and when you added on the engineering fees and certain other standing charges, you came out with a total cost of the bridge of just a fraction under $5 million. And it has always amazed me that it has been reported as a $6.4 million bridge when, in reality, it was just a fraction under $5 million. So I think it is important to see it in the context of what has happened since, that it was in fact something around a $5 million bridge, a fraction under.
Q. There were further meetings of the anti-bridge people.
A. Yes. They then thought it was a good idea to meet at a Amelia Park, which is adjacent to the ferry crossing.
Q. Going to document 49, I think that is a flyer for the picnic that you have just mentioned there.
A. Yes.
Q. 'For Ferry Friendly Folk at Amelia Park'.
A. That's correct.
Q. Did you go to that.
A. No, no, but I did see it.
Q. That is supported by the Friends of Hindmarsh Island.
A. That's correct.
Q. The Conservation Council.
A. Yes.
Q. The Lower Murray Aboriginal Heritage Committee.
A. Yes.
Q. Is that the first mention of that committee.
A. Yes, I think it was, and that was obviously in consequence of 8 October, the public meeting.
Q. Then the CFMEU and Green Peace.
A. That's correct, yes.
Q. That was 23 October. I think there was an earlier meeting on 16 October, wasn't there.
A. That's correct. That is when they talked about an article on 19 October in the 'Victor Harbor Times', `Push for bridge picket. A push to conduct a residents picket of the building site of the Hindmarsh Island Bridge is gaining momentum with 40 people attending an on-site meeting on Saturday to plan their tactics'.
Q. Just to complete the picture, I produce to you Exhibit 170A again, and there is the original flyer for the picnic for Ferry Friendly Folk at Amelia Park.
A. Yes.
Q. On 23 October.
A. Yes. They were quite friendly to anybody else but the Chapmans, I might add. When we tried to get a brochure or anything like that, they didn't seem so friendly as their brochure said they were.
Q. Bridge work commenced on 27 October 1993, is that right.
A. That's correct, yes.
Q. You were there when it commenced, were you.
A. I was there at some time during the day, in the afternoon. I wasn't there the whole time.
Q. The first work was some grading, was it not.
A. That's right. Well, that's what was anticipated to be held - proposed to be done, yes.
Q. What happened.
A. From what I observed and from what I understand of the happenings of that day. Mr Traeger, a local subcontractor to Built Environs, was to lay a skim of blue metal on the road that ran alongside the railway line adjacent to Amelia Park from near the Veenstra's boat building area, through to the ferry crossing, and that was going to be used as a short term access road to the ferry during the bridge construction. But what
happened was that, because the council hadn't done as they were required to do in the assessment report, that is, to block off that road which had been in existence for probably 30 or 40 years, maybe longer, because it went through a site identified by Vanessa Edmonds, some Aboriginal people were there who were brought down by Neale Draper, who was also on site, and they said that that work couldn't proceed through that area. So effectively, Kym Mayes, who was then the Minister looking after Aboriginal heritage, put a stop work on the activity for the day, and I think that was perhaps the source of the cancer that stopped the bridge at that point in time.

Q. The picketing then started at the bridge site.
A. There were very few people that did it. They were regulars, well known to us. We were well aware of who they were, what they were doing, where they lived, and everything else. They kept up a picket with signs that were rather amateurish, and tried to intimidate people as they crossed on some occasions across the ferry to Hindmarsh Island. There was a real rift in the community then appearing between the people on Hindmarsh Island generally who supported the bridge and those people in the town that did, against the small nucleus of say 15 or 20 people who suddenly decided they didn't want a bridge, for whatever their motives.

Q. After the bridge work was stopped in October 1993, I think there was the announcement, was there not, that the department would provide $20,000 for a report to be prepared by Dr Draper, with the help of the Lower Murray Aboriginal Heritage Committee, relating to Aboriginal heritage sites on Hindmarsh Island.
A. That's correct, which had no bearing to the original stop, and I think also at the same time there had been an alternative approach to the ferry was agreed to by the Aboriginal - Lower Murray Aboriginal Heritage Committee; the contractors; the works supervisors, that is, Connell Wagner; and the council, for work to proceed
along - with access to the ferry along another route which wouldn't take it through Amelia Park. So, in other words, steps were taken immediately to overcome any objection there might have been to the original proposal.

Q. While this was going on, was work still being, nonetheless, undertaken on the island itself by Binalong.

A. Yes. We were - well, at that stage we had Barkers Lagoon obviously finished in late October 1991. We had done superficial works then. But basically we were selling that Barkers Lagoon development and running the marina and getting increased usage of that. Pressure was building on us because we were running out of stock, or could see when we would run out of stock, and we needed to have the bridge underway to be able to get into the next stage.

Q. I think you had a visit to the marina from Neale Draper around about this time, is that right.

A. Yes. In fact, he came on several occasions, but he certainly came in very early on. But, however, I think it is probably worth reporting that the people that were - the Aboriginal people that were on site on the day that the work stopped on, whatever it was, the end of October, were mistaken in believing that the bridge alignment was still on the Crystal Street alignment and not now on the Brooking Street alignment. So therefore the midden that Vanessa Edmonds had identified was really never in any threat whatsoever.

Q. Just to get back to the protest and stoppage of work for a minute, there was an article on that in the 'Advertiser' of 29 October 1993, was there not.

A. There were a number of articles in the 'Advertiser' about that.

Q. Item number 52.

A. Yes, that's right, yes. Of course, the big advantage of that was that it, amongst other things, told us
precisely who the picketers were, by identifying them in
the photographs.
Q. Can I take you then to the visit of Dr Neale Draper. I
think your statement records at p.14 that that was on 2
November, is that right.
A. Yes.
Q. He came to the marina, did he not, to do something in
particular. What was it.
A. On 2 November he came in to have a look at what is known
as a borrow pit, and that's an area where you - it was
proposed that Built Environs would take material for the
approach to the bridge on the island side. In other
words, they were going to quarry out the material, it
had to be of a certain quality obviously, remove that,
and take it to the bridge site. In consequence of the
issue of a few days beforehand, he came in, together
with some members of the Aboriginal Heritage Committee,
and looked at that particular site, and gave a clearance
of it. It was a hard area. There would hardly be any
significance to anybody.
Q. Do you remember who was with you from the committee.
A. No, I can't particularly remember, no.
Q. You were present there with your wife and your son,
Andrew.
A. Yes.
Q. What did Draper say to you.
A. He said that our site, there were no problems with it,
and the marina generally and the bridge site was okay,
and there would be - a clearance letter would be issued
by the department immediately. And I think you will
find there is a copy of that clearance.
Q. That was on 2 November.
A. That's correct.
Q. Indeed, there was a clearance issued by letter from the
Aboriginal Heritage Branch, was there not.
A. Yes, that's correct.
MR SMITH: That letter is not there only because it
provides some detail that perhaps shouldn't go before
you at this time, commissioner.

Q. That letter was dated 9 November 1993, wasn't it.
A. Yes.

Q. Which, in effect, bore out what Draper had told you on 2 November.
A. On 2 November, that's correct.

Q. I think you met again with Neale Draper and the members of the Lower Murray Aboriginal Heritage Committee -
A. That's correct.

Q. Later in November.
A. That's correct, yes.

Q. Tell us about that.
A. Yes, we had a phone call in the marina office to say that there were some people out in the subdivision wandering around, and we went out and found that it was Neale Draper, together with people that he introduced to us, being Robert Day junior, Robert Day senior, and Doug Milera. They were just generally looking around the marina area - or the Barkers Lagoon area actually, and they found two small areas which had become exposed through erosion of the top soil. One of these was, as they described, a kitchen oven type thing, which was partially in an allotment which we had already sold, and the balance of it was in a council reserve. To give you some idea, it was a blackish material and it was about the size of a base of a 44 gallon drum. We gave them details of the purchaser of the allotment and a copy of the Certificate of Title, so they could then identify it on the allotment and do whatever they had to do to register it, if they chose to do so. But it was no longer in our ownership so we had no control of it. The other site was on land that Binalong still owned, and we discussed it. It was a very scattered area that had exposed, and the suggestion was that any artefacts material would be removed before we filled the site, and that can be used then for some sort of interpretive
display at some other suitable location, to which they agreed.

Q. You were wandering around as a group, I take it, looking at all these places.

A. Yes. We were out there for quite some time.

Q. Did you have any discussion with Dr Draper about -

A. We had - two other things of significance, I guess, were that he told us once again the marina area and the bridge crossing were cleared and that, from their point of view, they had no problems with it whatsoever. We suggested then that they should go back and recheck where the skeletal remains were found in 1989, which they did, and Neale Draper returned to the marina office later in the afternoon and said that he was very satisfied with - and so were the members of the committee - the way that it looked at this particular time. I think they probably would have had difficulty finding it. Neale Draper came in and used a phone in the office for some considerable time to talk to Adelaide. I think it was probably the first meeting, the November second meeting, but he made use of our facilities quite extensively.

Q. I am producing to you again Exhibit 170A, the clipping book kept by yourself and your wife. Almost at the end of the clipping book there is an article headed `Aboriginal areas studied', `Victor Harbor Times' of 26 November 1993, and we have a photograph of Doug Milera, Robert Day junior, Robert Day senior, and Dr Neale Draper looking at some -

A. That was the item I was describing, yes.

Q. That is the oven found at a location on land sold by you.

A. That's correct, yes.

Q. So we can fix the day as the 26th.

A. It would have been a day or two before then.

Q. You were actually in attendance at that spot, were you, at some stage.
A. At some stage. We weren't when the photograph was taken. I presume it was the same spot.

Q. You had got a clearance letter from the Aboriginal Heritage Branch of the department, hadn't you, of 9 November 1993.

A. That had gone to Connell Wagner, yes.

Q. Did you, around about this time, late November, have a discussion with Neale Draper about the topic again of the marina area and the bridge crossing and that sort of thing.

A. Yes, certainly did.

Q. What did he say.

A. He said that it was clear. There was nothing there that he'd identified that would stop the development of the bridge or anything on our particular site, Binalong sites.

Q. So that conversation was around about the time of the incident that has been photographed in the 'Victor Harbor Times'.

A. That's correct, yes.

Q. The discovery of that artefact around about 26 November.

A. That's correct, yes. He went to some considerable trouble to reassure us that there was nothing that would concern us.

Q. I think it was around about this time that arrangements were made with Draper to inspect the foreshore area where remains had been discovered in 1989.

A. That's correct.

Q. And Draper did go and inspect that, did he.

A. That's correct, yes, together with, as I understand it, the three Aboriginal men he had with him, or at least one or two of them, or whatever.

Q. On 9 December 1993, the supplementary development plan for Hindmarsh Island was approved and gazetted.

A. That's correct.

Q. Of course, it made provision for a bridge as well as your other development.
A. It was promulgated on the basis the bridge was going to happen because that was the basis of that planning approval - that supplementary development plan, and it reinforced the planning approvals we already had in relation to our area.

Q. Can I take you to item number 53, Exhibit 178, which is the Amelia Park access road closure plan document.

A. That's a newspaper article.

Q. A newspaper article in the `Victor Harbor Times' of 21 December 1993, is it not.

A. That's correct, yes.

CONTINUED
Q. If I take you to item 56, which is council minutes of a meeting of 21 April 1994. That is minutes of a meeting between the council and representatives of the Lower Murray Aboriginal Heritage Committee; is that right.
A. Yes.
Q. It dealt with this topic of the Amelia Road closure, did it not.
A. That's correct, yes. And that was a meeting held on 21 April 1994 between the council representatives, the Mayor, six councillors and the District Clerk, representatives of the Lower Murray Aboriginal Heritage Committee, together with representation from the Department of Aboriginal Affairs. And the purpose of the meeting was to discuss the roadway adjacent to Amelia Park and the use of the reserve area.
Q. There had been an earlier council meeting which resolved to close the road.
A. I think that came after this. It was around that time. It came as a consequence of this.
Q. What relevance was this to the question of the bridge.
A. Well, I think there were two important issues with this. One was that this carried out the requirement the council was required to do in the assessment report; that is, namely protect that midden which they hadn't done and close that road off. And the second was that - that really was what it was all about. There was little logic that we could see in the whole thing because the cockle train kept rolling past two metres away and the midden was seen to be on both sides of the road and the railway. How you can close the road and not the railway defied our logic anyway.
Q. I think together with your wife and your solicitor, Mr Palyga, you met with Mr Samuel Jacobs QC in early January 1994.
A. That's correct.
Q. When he was doing his work in relation to reporting to the Government.
A. Yes.
Q. I don't need to take you any further on that topic.
A. I think he made the comment that the Aboriginals had
advised him that they were more than satisfied in the
way in which the Chapmans had handled their relations
and consultations with the Aborigines.
Q. Then, the next event of significance was that on 15
February 1994, the then Minister of Transport, Miss
Laidlaw, issued a Ministerial statement concerning the
Government's obligations to build the bridge.
A. That's correct, yes.
Q. You have included that as document no.54 in Exhibit 178,
have you not.
A. Yes.
Q. The problem with that was, from your point of view at
least, that the work on the bridge was to remain
defferred because it had halted, had it not.
A. That's correct.
Q. Whilst the Government investigated the possibility of
building a bridge on the barrage.
A. That's right, yes. The suggestion of the barrage bridge
had been made on numerous occasions over numerous years.
It wasn't a new idea as such. The E & WS Department
were dead against it.
Q. I think it was around about this time that some movement
was made by the opposition groups which affected your
financial arrangement with your bankers.
A. Very much so. It had a two-pronged effect. One, it was
obvious now when you look at the chronology, perhaps
less obvious at the time, but the anti-bridge people had
failed in every other way to stop the bridge and it
became very clear to them that if they could get Westpac
to withdraw funds from us, or put pressure on us, that
was the best way of stopping the bridge. During March
1994, you will find there is a very concerted effort by
the union, the Conservation Council, the Aboriginal
people to have a very focused and intensive effort to
get Westpac to pull out of the bridge. It went on
radio, television. They absolutely played it hard and
fast and it was -
Q. I think, for instance, on 15 March, the Conservation
Council publicly announced they had written to Westpac.
A. That's correct.
Q. Did you hear that announcement.
A. We certainly did, yes. It was, to us, concerning
because the effect was that it made it then impossible
for us to have any negotiations with other financiers to
pay Westpac out, because it had become such a huge issue
that nobody would finance us with the bridge in a state
of go or no-go with the group haranguing Westpac, our
financier, so publicly. And you could read it all
across the nation. That they really were in a position
of trying to completely knock the block from under our
feet and we were caught in both ways. We couldn't
refinance and we couldn't - you know, we had Westpac
then who very quickly reacted to all of this and put the
company into receivership.
Q. The Conservation Council made a public announcement.
Did any of the other opposition groups.
A. The CMFEU went public.
Q. In particular -
A. They - not only this, they had written to Westpac, they
had said this publicly. They also, on the day of a
rally on 24 March, which was extensively shown on
television, the union representatives went across to
Westpac with a group of other people, flags flying and
megaphones and the like, and read a letter publicly in
the banking chamber of Westpac to get them to withdraw
funds from the development.
Q. On 15 March, I think, the Government announced that the
bridge work would recommence.
A. That's correct, yes.
Q. There was a media release to that effect from the
Minister of Transport, was there not.
A. That's correct, yes.
Q. That's document no.55 in the bundle.
A. Yes.
1 Q. It's a media release dated 15 March 1994 from The
2 Honourable Dianna Laidlaw MLC.
3 A. There was the one the month earlier from her as well.
4 Q. Yes, that is the one canvassing the bridge across the
5 barrage.
6 A. Yes.
7 Q. Which had proven to be not a viable possibility.
8 A. Yes.
9 Q. So, the media release we are looking at in document 55
10 is dated 15 March 1994, which is the release where the
11 Government makes it clear that the bridge is to go
12 ahead.
13 A. Yes.
14 Q. I think that was followed by a rally in North Terrace at
15 Parliament House on 24 March.
16 A. That's correct, yes.
17 Q. Aboriginal people took part in that.
18 A. Yes.
19 Q. Were you there.
20 A. No.
21 Q. But that was televised.
22 A. Yes. Prominently, yes.
24 Q. CFMEU were involved.
25 A. Yes.
26 Q. I think it was on 30 March 1994 that Westpac served a
27 demand for payment on Binalong.
28 A. That's correct. And we became aware later that Victor
29 Wilson, Doug Milera and Matt Rigney had had a meeting, I
30 think, on 23 March, or thereabouts, in North Adelaide
31 where they decided to canvass various Aboriginal
32 organisations around Australia to withdraw funds from
33 Westpac, unless Westpac withdrew funds from the
34 Chapmans. And they put some very considerable effort
35 into that particular situation; which I say culminated
36 in 30 March Westpac's serving a demand for payment.
37 There was no logical, commercial reason for Westpac to
38 serve us with a demand for payment or do anything at
that stage when the Government had announced the bridge was going ahead. It was absolutely illogical in the extreme.

Q. I think it was on the same day that Binalong, that is 30 March 1994, that Binalong obtained interim injunctions under s.45D of the Trade Practices Act.

A. Yes.

Q. Against the various persons and entities involved in that process.

A. We were very concerned with the campaign that had been found in March against Westpac to take funds away from us. We had to do something to protect ourselves and this was the only avenue open to us at the time to take action to stop these people from putting pressure on remove banking facilities from us. And, of course, we tied into that the supply of water and we took those injunctions out against the organisations which were involved in the Westpac issue, certain white picketers. It was no intention of ours to in any way take any action against the Aboriginal people that we knew because we saw that they were not party to this incredibly intense period of effort and issue going on to get Westpac out of the equation.

Q. The hearing to confirm or discharge those interim injunctions was set for later in April, wasn't it.

A. That's right. That is where those were held.

Q. I think it followed in March 1994 -

MR MEYER: That was a misleading question. It was not an application to discharge an interim injunction, the injunction on 30 March was interim in nature and the full argument came on in mid-April or so. So, it was still the same application for a permanent injunction rather than an application to discharge that it came on in mid-April.

COMSR

Q. Do you agree with that.

A. Yes, I have to agree. It's over my head. Certainly, that is what happened that we were successful in holding
the actions in the Federal Court.

MR MEYER: I was counsel on the first occasion on 30 March. I wasn't counsel on 15 April, or thereabouts - the 18th - Mr Mansfield QC was. Having been involved as counsel, I was aware of what the application was. I didn't want there to be a factual misleading point about the presence in the Federal Court.

MR SMITH: To be certain then, because, as I understand it, the statement says `and a hearing to confirm or discharge the interim injunctions was later set for 18 April', does Mr Meyer take any issue with that?

MR MEYER: I did not hear the words `confirm or discharge'. I heard my friend refer to `discharge'.

MR SMITH: No, I did say that.

COMSR: After all of that, you are not taking issue in the way that the matter was put?

MR MEYER: No, I apologise.

Q. In late March, there was an incident which occurred at approximately 6 p.m. in the tavern at the marina.

A. That's correct.

Q. A lady spoke to you, a lady by the name of Joy Harvey.

A. Yes, that's correct.

Q. Joy Harvey is one of the anti-bridge people.

A. She and her husband Dr Harvey were well known as anti-bridge protesters. A number of meetings had been held in their house at Goolwa. However, they would normally come over on a Thursday evening to what is known as `happy hour' at the tavern and have a drink there. And she came to the table that Wendy and I were sitting at and, in the course of a conversation, she said `You will never get a bridge, because you can't put piles into the bed of the river because it will hurt the Aboriginals'. Now, my personal reaction to that was: What was she talking about piling, we'd discover or interfere with skeletal remains?

Q. That topic gets a mention a bit later on.
A. Yes.
Q. That was the first time you had heard anything like that.
A. That is the first time we heard anything about the riverbed, and it prompted me to do - we looked at it later and that it was just impossible.
Q. What you did later was to seek out an admiralty chart to show that what you had explained earlier in your evidence; namely, there has always been water in the area of the bridge crossing.
A. That's right, and low water.
Q. At least since 1876.
A. And a lot earlier I would suggest.
Q. On 6 April 1994, there was a page, one lead story in the Advertiser reporting that Matt Rigney of ATSIC, Adelaide's Regional Council Chairman, threatened to have Aboriginal groups withdraw one billion dollars from Westpac if it did not pull out of the marina project.
A. That is correct, yes. And that horrified us, that article.
Q. That article's appeared already in evidence. You had dealt with this topic of the campaign, if you like, against you through Westpac before.
A. That's correct.
Q. And this was some detail about that.
A. And was repeated on other media. And you will find that was repeated the next day and it was repeated again in June. I can't - it was a topic that was never let die.
Q. On 6 April, all that had happened was that Westpac had, on 30 March, served a demand for payment to obtain a loan.
A. That's correct, but that was the precursor to what they were going to do.
Q. 6 April in the press was that article about Matt Rigney and ATSIC, and then I think on the following day the Advertiser carried a story that sacred site claims were being prepared.
A. Yes.
Q. In case Dr Armitage allowed the bridge work to proceed.
A. That's correct, yes.

Q. There was a repeated reference to Mr Rigney calling on Westpac to withdraw funds from you.
A. That's correct, yes. I think also to say the speed in which Westpac were working at, there were a couple of things that were significant. I believed they gave us 21 days to refinance to pay them out. They didn't give us that time, they gave us eight days - and Easter was over part of that time. They were desperate to try and get Tom and Wendy Chapman out of the equation.

Q. So that activity culminated, I think, on the next day, 8 April, when Westpac appointed receivers and managers to Binalong.
A. That's correct.

Q. And to its related company which operated the marina; namely, the Marina Services Co. Pty Ltd.
A. That's correct, yes. We then took them to court arguing the validity of the action, which we weren't successful in. But I think the significance of that was that in the course of evidence that they gave in the Supreme Court, they quite misleadingly, I believe, said that Binalong had not made any payments to them. In fact, we'd made millions of dollars of payments to them in that year; and that was quoted in the press the next day, once again further damaging our credibility.

Q. The next event was, I think - and I'm not putting these Advertiser articles to you because they are already before Madam Commissioner in Exhibit 105. The Advertiser of 12 April quotes Dr Neale Draper. That is an article by Colin James. Dr Draper in that article is describing sites and relating the features of the landscape, et cetera.
A. Yes.

Q. You remember that article.
A. Yes.

Q. I won't show it to you. That is in Exhibit 105. It is the case, isn't it, that Dr Draper's reported remarks...
did not indicate any change, at least from him, in terms of the Aboriginal significance of the area.
A. Certainly the impression I got reading the article there was no change at that particular point.
Q. That is from your point of view at least.
A. Yes.
Q. In early April I think you learnt from the bridge engineers that the Minister of Transport was making moves to allow the bridge construction to proceed.
A. That's correct.
Q. Namely, seeking the appropriate authorisation.
A. Yes.
Q. Under the Aboriginal Heritage Act from the Minister, namely, Dr Armitage.
A. That's correct, yes.
Q. Your statement sets out that, on 18 April, the interlocutory injunction application against the anti bridge protestors -
A. Yes.
Q. You had the interim injunction granted.
A. Yes.
Q. And I think the result of that is as indicated there, Heerey J in the Federal Court ordered interlocutory injunctions, permanent injunctions against seven of the ten defendants.
A. That's correct, yes.
Q. And discharged the other three.
A. That's right.
Q. At this time - and we are into April, here - you and your solicitors were endeavouring to negotiate, were you not, with the Aboriginal interests who had come out in protest against the bridge.
A. Yes.
Q. I think, as a result of discussions between your solicitor and Steve Palyga and the Australian Government Solicitor, Peter Walsh, acting for ATSIC, a meeting was set up.
A. That's correct, yes.
Q. That was the meeting which we have already heard about in the cafe at North Adelaide.
Q. Yes.
A. That's correct, yes.

Q. You went to that meeting, didn't you.
A. Yes, I certainly did.

Q. With your lawyer, Mr Palyga.
A. Yes.

Q. And the other two people there were Matt Rigney and Peter Walsh.
A. That's correct, yes.

Q. The purpose of the meeting was, broadly speaking, to do what.
A. Steve had had discussions with Matt Rigney and Matt Rigney had led, I believe, Steve to the conclusion that it was worth us talking. And, at that time, we were, you know, naturally happy to do anything that was going to expedite a conclusion to the problem that had arisen.

So, he and I set off to ATSIC's office in North Adelaide and we were met on the balcony outside and taken to the forecourt down below and we sat at a table, the four of us, and had what was a pleasant discussion ranging over a number of topics. And, out of that, I came away with two bits of information I wasn't aware of before. One was that Matt Rigney had talked about the shape of the island, Hindmarsh Island, that is. And he had also mentioned tree burial sites.

Q. Tell us what he said about the shape of the island.
A. He said there was something in the shape of the island. He wasn't clear about what he was - I don't think, what he was talking about, at the time, except that it was in general terms that it was something to do with that and it was women.

Q. And women, did you say.
A. Yes, he mentioned women.

Q. What, that the shape of the island was evocative of a woman.
A. I don't think you could say he was exactly clear. It was a women's issue and it had - Hindmarsh Island had a
significant part in that. And the waters around it. He
was forthcoming, to a degree. Enough for me to go and
ring Rod Lucas.
Q. Another topic was mentioned about the significance.
A. The other was the tree burials and burials generally,
along the alignment, I took it, of the bridge. And,
from photographs or lithographs of the area that were in
our possession, it was clear that that was an exposed
cliff face from the time of European settlement and it
was hardly likely that there were any trees there of any
significance for tree burials. So, I couldn't see any,
you know, point in that comment, at all. But he did
come back to the point, the two ferry option, as a
compromise. He did suggest that. And, you know, I
wasn't able to get out of him why he was so keen on a
two ferry option. Once again, two ferries going
backwards and forwards would be far more obstructive
than a bridge built upon an alignment that had already
been destroyed by European activity for 100 years or so.
To put a second ferry in would mean major earthworks,
particularly on the Goolwa side and, therefore, more
likely to seriously impinge upon Aboriginal areas. But
that didn't seem to bear any fruit, as far as he was
concerned.
Q. The meeting lasted for how long.
A. I think it lasted - it was pretty late in the afternoon
when we finished. I think it was about sometime around
5 or just after and I think we went there around about
2.30 or so. So, two and a half, three hours.
Q. You came away from that meeting and that caused you to
contact Dr Rod Lucas, you said.
A. Yes, Rod Lucas was as the environmental - I mean, our
anthropologist and I had made contact with him
previously after some considerable difficulty of trying
to track him down and I rang him and said 'Look, this is
what I have been told. Surely you would be aware of
something like that, if you were - you know, you had
done an anthropological survey, a detailed one? You
have been to various places, the museum and the like.'

Q. Did you put the two issues, its Aboriginal cultural
significance issues to him.

COMSR: Are these both matters of public record?

MR SMITH: There is no problem with these.

A. I spoke to him about the two issues, but primarily the
women's issue.

XN

Q. As conveyed to you by Rigney.

A. Yes, and he assured me he had heard nothing of that at
all or nothing like that at all. Then - well, the tree
burials that he - you know, I would rather put my theory
to him I think about it was highly unlikely. Then
rang Vanessa Edmonds.

Q. What response did he have to the question of the tree
burials.

A. He just said he had never heard of it and he felt it was
unlikely. Extremely unlikely. Later on I had a phone
call with him where I followed that up and said 'Did you
take up any field notes or could you show me in your
field notes that you discussed with the Aboriginals were
there any other issues?' And he assured me that there
were no other issues, because I had become concerned
about it. But that was a subsequent phone call, I
believe. I rang Vanessa Edmonds about the tree burials
and she was quite caustic and concerned about the issue.
And she said, well, the area is so over-researched now,
archeologically, I think she meant, that it is, you
know, just extremely unlikely. I don't think she used
the word 'impossible', but that's what I think she was
meaning. But she was quite testy of the fact that
someone would come up with something, after she had been
through the area.

Q. That meeting with Rigney had concluded on the basis that
it was worth arranging another meeting.

A. Yes.

Q. With members of the, for instance, Lower Murray
Aboriginal Heritage Committee.
A. Yes, I think the other thing, there were a couple of things perhaps important out of the Rigney meeting. One was that he said he was an elected member to ATSIC. He was representing what his constituents were talking about and wanted - because he was trying to say to me that this wasn't necessarily his view. And he wasn't going to tell me what his view was probably. But he was trying to push it back to the fact that his constituency were the people he was acting for. He was like a politician would be in any other context. He then said "Well, look, you have got to meet with the Lower Murray Aboriginal Heritage Committee. They are the people that are the people that are involved in this issue." I then said "Well, you know, we want to meet as soon as we can. In fact, I had a phone call with Henry Rankine some days before then to try and get a meeting going, but I wasn't successful." He said "I will arrange that." So, the next day, we had a meeting. I think it was the next day, we had a meeting that evening, in the Centrepoint building.

Q. This is 27 April.
A. Yes.

Q. That meeting your wife has already given evidence about.
A. That's correct, yes.

Q. That was a meeting which lasted some three hours from about 6 o'clock in the evening.
A. That's correct, yes.

Q. Who was present at the initial part of that meeting.
A. Doug and Sarah Milera, Jean and Henry Rankine and David Rathman.

Q. I think the meeting with all present lasted for some two hours.
A. That's correct.

Q. And there was a further meeting between yourself, your wife and David Rathman.
A. That's correct.

Q. Later or immediately following.
A. Immediately following in his office as opposed to the
meeting room the other one was in.

Q. I think you returned to your then home in Goolwa.
A. That's correct, yes.

Q. You were then living in Goolwa, and I think, the next morning, you and your wife typed up notes of the meetings.
A. That's correct, yes.

Q. Having typed up the rough notes, I think you put them in a more formal state to forward off to your solicitor, is that right.
A. That's correct, yes. I think that probably, from memory of what happened, Wendy was working on putting together some notes, the first lot, herself. I was doing something else. Then we sat down together and produced the second lot of notes immediately afterwards.

Q. Looking at Exhibit 169A and Exhibit 169B: Exhibit 169A, are they the rougher notes, that is, the notes that aren't so formalised and numbered.
A. That's correct.

Q. Then Exhibit 169B is a neater presentation in the sense that items are numbered, there is underlining and the like.
A. That's correct.

Q. Those two sets of notes were prepared by you and your wife jointly.
A. My memory was that the first set, I think Wendy probably sat down and put together what we had thought about in some rough notes earlier and just put it into type. And then from that we just then produced together, settled down and worked out the bits and pieces that came out of the consequence of that meeting.

Q. The second lot of notes, there is a little more elaboration there.
A. That's right.

Q. That was the set of notes you forwarded to your solicitor, Mr Palyga.
A. In fact, both sets were sent to him.

Q. Do those notes set out accurately, so far as you can
tell, in your view, what passed at the meeting.
A. Yes.
Q. I won't wade through those -
A. I think that the thing that is worth remarking on is
that you will find that, during that meeting, we - or I
did, in fact, say that I had copies of both the Lucas
report and the Edmonds report. And you will find that,
when Doug Milera was, in fact, confronted by the fact
that we had done the consultation that we were required
to do, that we had the approvals that we were required
to have, his reaction was to say to David Rathman `Have
the Heritage Committee got these particular reports?'
And David Rathman was unable to answer, at the time.
But I think the important issue was that, when you look
at the way Doug Milera started off the meeting, or he
started his side of the meeting, it was clear that he
was being pushed on the consultation issue by - that had
come out of Lucas report. But he didn't know the Lucas
report existed, as such. So, that led me to believe
that obviously the white picketers or somebody else were
feeding him with the lines that he was then coming to
these meetings with.
Q. Your notes show that Doug Milera started the meeting
off.
A. Yes, that's correct.
Q. He said that `The developer's consultation was wrong,'
A. That's correct, yes. And then you will find that, when
I countered it by saying `Yes, but here is the Lucas
report and here is the Draper things and here is what we
have done, we have been given approval under the
Aboriginal Heritage Act to do those things, and we have
to talk to the Aboriginal Heritage Branch, which Rathman
and Jean and Henry were not arguing about', he suddenly
then changed foot and said `Have we got these reports?'
So, he clearly didn't know that those reports existed,
at the time. He was being driven by an outside source,
who had access to those reports.
Q. Can you tell the Commissioner whether Milera was
addressing things that were in the Lucas report, was he.
A. He had to be over that consultation issue, because that
was the standard line taken by the white picketers, at
the time.
Q. Did he do that in a particular way. That is, the things
that he said betrayed the fact that some contents of the
Lucas report he knew about without knowing the -
A. No, I think it was purely this business of consultation.
Q. He raised that topic of the consultation in that
generalised way, did he.
A. That's right.
Q. And then do you say he was surprised to be confronted
with the Lucas and Edmonds reports.
A. Absolutely.
Q. Your wife pointed out to us that Sarah Milera, in the
course of this meeting, had become noticeably agitated.
So much so that she left.
A. Yes.
Q. That's correct, is it.
A. With considerable noise and mutterings, yes.
Q. Did Sarah have any input in this meeting in terms of
speaking out.
A. Yes, she had talked about I think from memory the
consultation issue as a peripheral issue. She seemed to
be very concerned about the fact that, you know, we had
an answer to the set line of Doug Milera over the
consultation issue. That obviously caught her on the
back foot, or put her on the back foot. She was
cconcerned about the issue of the 45Ds, her friends in
Goolwa.
Q. She made a point of that, did she.
A. Yes, she made a point of that, but, you know, we had
made it very clear, as we had on several occasions, that
those 45D issues, injunctions, were not aimed at the
Aboriginal community in any shape or form at all. They
were aimed at the people who had denied us or were
trying to deny us banking facilities and the bridge that
was going to bring water across to the development. Two
totally separate issues. But, you see, the people in
Goolwa were suddenly getting worried. They could see
that, you know, they had got into a situation which was
way out of their depth. And they were trying to put
pressure on to the Aboriginals to then put pressure back
on to us. It is as clear as anything.

Q. Can I ask you about that. Why weren't the 45Ds directed
to the Aboriginal opponents of the bridge.

A. Because we didn't see them as being in the position of
being directly opposing the bridge. They had been
clear, by what we had been able to read in the papers,
that they were talking about a site at Amelia Park. And
bearing in mind, when the 45Ds were talked about, it was
still talking, to our knowledge, anyway, talking about a
site in Amelia Park. It hadn't progressed, at that
time.

Q. Was there any hint of women's issues, at this meeting.
A. Not really. Except it was in vague terms. And I
suppose now knowing what we know today, it is easy
perhaps to put a different connotation on to it to the
connotation we put on it at the time of the meeting.
She used words such as 'This is a culture issue. It is
from within. History hasn't been written yet', which is
probably a most significant point. 'We are still
learning about it', which was also very significant.
'That some big special reason. It is more than meets
the eye.' They were all sort of terms that really
didn't tell you very much, but told you that she was
being driven by something else, I guess.

Q. Dr Draper was mentioned in this meeting, wasn't he.
A. Yes, that's right. She made it very clear that she
taught Neale Draper everything that he knew and I think
that meant everything he knew about Hindmarsh Island.

CONTINUED
Q. Is that the note of 'Draper taught by me'.
A. That's correct, yes. And I might add that that was reinforced by Doug Milera. He said that about Draper at a meeting I had with him later. She talked about the fact that she had been told by other people that we had mishandled skeletal remains.

Q. Can I take you back to this question of the 44D notices or injunctions against the protesters, your statement reads at p.18 at the bottom 'She was extremely upset about letters sent to protesters threatening litigation'.
A. Yes. What we did was arrange for letters to be sent to various known white picketers to tell them that if they continued to stop the bridge, then they stood the chance of being involved in major litigation. It was a very clear, polite thing to do. What else would you do? You don't let them wander along blind to the fact that they are about to fall into a caldron. I personally thought it was the right thing to do, and I guess I was the person that was keen to see that people were at least aware that if they went and picketed - we didn't mind what they said in the press or the media which, of course, they tended to say we tried to stop, which wasn't our intention at all, they can say what they like, how they liked, when they liked - but it was the fact that they were going to be physically caught up in major litigation at some time or other. As events had turned out, the receiver managers let those proceedings lapse, but the Chapmans, in due time, I am sure, will take civil action against those people.

Q. The focus of my question, however, is the exhibited concern by Sarah Milera about what you had done. At that meeting, tell us, how -
A. She made a number of comments about 'those ladies, their pensioners, their people, they don't have much money and you're threatening litigation'. She became quite agitated about litigation, litigation. We tried to explain the best we could - at least I did - that they
were in no way threatening Sarah or Doug or anybody like that. They weren't aimed at that. But if these people tried to stop our normal commercial operations, then they had to stand by their convictions. If the courts saw that their convictions were going to mean they were going to be up for very considerable damages, then that was something they needed to be very aware about.

Q. This is what you conveyed to the Mileras.
A. That's what I conveyed to the Mileras.

Q. You have said there that Sarah claimed these people to be her friends.
A. That's correct.

Q. What sort of emphasis did she lay on that.
A. She seemed to see them very much as her friends. I think later on you see that she talks about how they soon foresake her when she changed her mind at one stage. But she saw them, and I think they had put immense pressure on her and Doug to try and get us to withdraw those actions.

Q. Did Doug Milera join in that plea to you.
A. Yes, he certainly did. He wanted all those actions retracted. He was very strong about that, which made me very sure that it wasn't him speaking, but it was the people, the white picketers behind him, who were really using him or using the Mileras as mouthpieces to their concerns, because I think that suddenly it had dawned upon some of them that they had stood to learn -

OBJECTION Mr Kenny objects on the ground of hearsay.

MR KENNY: I have sat this morning and listened to this witness give his opinion on various matters that are completely outside his knowledge. It appears that it is almost an open invitation for him to slam any of the protesters, white or black, that he feels like.

COMSR: You are taking exception to the fact that this is hearsay evidence and inferences, it is his opinion?
MR KENNY: It is his opinion or he is saying what
the motives of what other people are. It is just so far
off the track. I think it is time that I at least
protested on that.
MR SMITH: On behalf of your clients?
MR KENNY: My clients were present at that meeting.
MR SMITH: Yes, that is right. I am sorry about
that. Perhaps there will be final submissions made by,
amongst other people, My Meyer, who can draw all these
threads together and make these comments.
COMSR
Q. What has been objected to is this, Mr Chapman, that you
are giving evidence of inferences or opinions of your
own, but not evidence of what occurred. It has been put
to me that can have no weight, your opinions or
inferences that you have been drawing, and Mr Kenny has
taken an objection on that basis. It is the case that I
can sift that out, as it were, at the end of it, but
evidence of opinion is not really helpful to me.
A. All right. Yes.

Q. Otherwise, the notes are in accord with your memory -
both sets of notes of what passed at the meeting.
A. Yes.
Q. Can you focus on the item headed 'Further discussion
with David Rathman'. I don't want you to say anything
about it, because the commissioner has suppressed
material under that heading. But would you perhaps just
look through that and ensure that you agree with that.
A. Yes, I agree with that.
Q. That is so, is it.
A. Yes.
Q. That's your memory of the meeting.
A. Yes.
Q. The meeting ended on the basis that you would do what.
What was the end result of that meeting.
A. The first part of the meeting finished on the basis that
Aboriginal Heritage Committee together, and they would
do that expeditiously, and they made it very clear that
they would do it as such. We said, on our part, that we
would be available to meet them anywhere, at any time,
and we were awaiting their notification. We are still
waiting.
Q. So another time was not set.
A. No.
Q. Did you chase that matter up at all.
A. Yes.
Q. Who did you contact in relation to organising the full
committee meeting.
A. I spoke to David Rathman on a number of occasions.
Q. Anyone else.
A. Not that I can particularly remember, but it was
certainly something that at the time we were pushing
hard. I am sure that it - I may well have had one other
phone call of Matt Rigney, but I'm not sure.
Q. I want to take you to the next topic, in particular, 1
May. We will come back to the council meeting after
lunch. On 1 May 1994 there was, as your statement
discloses, a rally of picketers and Aboriginal people at
Amelia Park. Is that right.
A. Yes, that's correct.
Q. That gathering was addressed by Matt Rigney.
A. Amongst other people.
Q. Turning to document number 57, that is the flyer, is it
not, for that Amelia Park meeting or picnic of 1 May.
A. Yes. There were some others as well, which I think you
have already got in evidence, haven't you?
Q. Yes, but this is the one in particular that was
addressed by Matt Rigney.
A. Yes, that's right.
Q. Did you go to that.
A. I went past it by car. I went across on the ferry, but
I was made aware of what was going on by other people.
Q. On 3 May there was a report in the 'Advertiser' of Sarah
Milera's views.
RF 37H

T.L. CHAPMAN XN (MR SMITH)

1 A. Yes.
2 Q. We have that in evidence. On 3 May Sarah Milera was
3 also interviewed on radio, is that right.
4 A. That's correct.
5 Q. On that day, 3 May, the Minister for Aboriginal Affairs,
6 Dr Armitage, made a ministerial statement, did he not,
7 authorising the bridge construction under section 23 of
8 the Aboriginal Heritage Act.
9 A. That's correct, yes.
10 Q. The ministerial statement is document number 58 in
11 Exhibit 178.
12 A. Yes, that's correct.
13 Q. On 3 May 1994, I think the council met with Matt Rigney
14 and members of the Lower Murray - that is the district
15 council -
16 A. Yes.
17 Q. Met with Matt Rigney and other members of the Lower
18 Murray Aboriginal Heritage Committee in an effort to
19 settle the bridge issue.
20 A. That's correct, yes.
21 Q. You know that, I think, from some documents and from
22 council officers.
23 A. Council officers, that's correct, yes.
24 Q. I think there is a record of all that was said by Matt
25 Rigney, or at least some of what was said by Matt Rigney
26 at that meeting, isn't there -
27 A. Yes.
28 Q. That you have been given.
29 A. Yes. We have certainly got access to them.
30 Q. On 4 May 1994, Westpac issued a notice to wind-up
31 Binalong.
32 A. That's correct.
33 Q. Notwithstanding that, as a result of the minister's
34 authorisation, the builders, Built Environs, got ready
35 to recommence bridge work, is that right.
36 A. That's correct, yes.
37 Q. It was obvious there was going to be trouble - not
trouble exactly, but some protest at the bridge
construction site, is that right.
A. We were led to believe there would be, but -
Q. But you now know that on 9 May there was a briefing of
picketers.
A. Yes.
Q. And the protest took place over at the construction site
on 10 May.
A. Yes, I was there.
Q. You were there.
A. Yes.
ADJOURNED 12.57 P.M.
RESUMING 2.21 P.M.

Q. We had got especially to the stage, I think, where we are at p.20, are we not.
A. Yes.

Q. The protest at the site of the bridge construction we saw on television and via the evidence of Sergeant Morrison which took place on 10 and 11 May.
A. That's correct, yes.

Q. You were there on both days.
A. That's right.

Q. It was on the next day, on the second day if you like, that work stopped as a result of the Tickner declaration.
A. That's correct.

Q. As your statement reads there, you witnessed Tim Wooley reading out a copy of the declaration to the assembled picketers.
A. That's right, yes.

Q. It's the case, is it, as you say in your statement, that from the time of your meeting with the Mileras and the Rankins on 27 April at the Department of Aboriginal Affairs, you really were met with the continued non-cooperation from the Aboriginal people.
A. Yes. I tried to - I wrote to Mr Tickner on three or four occasions asking for a meeting, or at least some information. I'd go to Canberra if it was necessary to meet with him. I got nowhere with that. Mr Palyga's already told the Commission that he wrote on our behalf as well. He wrote to various organisations. We had Vanessa Edmonds locked out - and we will talk about that later - and Lindy Warrell was also finding great difficulty. There was nowhere where we could find first-hand information.

Q. After Mr Tickner made his interim declaration on 11 May, you engaged Vanessa Edmonds to consult with Aboriginal people.
A. That's correct.
Q. To try and get some grasp of what issues she had to address.
A. That was primarily because we still saw the issue as one of archaeological significance and she was our archaeologist.

Q. She, as you say in your statement, came to South Australia on 23 and 24 May.
A. Yes.

Q. And she endeavoured to carry out your instructions.
A. That's correct.

Q. In fact, she met with resistance; is that what you were given to understand.
A. That's correct, yes.

Q. Looking at document 59, which I think is one of the last documents in the bundle before you, Exhibit 178.
A. That's correct.

Q. That's a report to your company Binalong for field work and consultation undertaken by Vanessa Edmonds between 23 and 24 May 1994.
A. That is correct, yes.

Q. That document sets forth all that Vanessa Edmonds had done on your behalf.
A. To the best of what we know, to what I know, yes, that is what she did. She's quite critical of a number of people in that paper which highlighted to us perhaps what we were being faced with or we were facing. I think that clearly shows the wall of silence that we were being met with.

Q. Can I take you to one portion of that document that deals with Dr Lindy Warrell.
A. Yes.

Q. Can I take you to p.2 of that document 59 of Exhibit 178.
A. Yes.

Q. Vanessa Edmonds there sets out that she's consulted on the telephone with, amongst other people, George Trevorrow. See that.
A. Yes. 'Stated my concerns', yes.
Q. And you will note that what is set forth there is as to
what George told her.
A. That's correct.
Q. Including an assumption that George said that Lindy
Warrell would be doing the anthropological report.
A. Yes. I think that ties in with the evidence that Wendy
gave, evidence where she said that Lindy was very
enthusiastic about being involved on our behalf. And
then a few days later after she had made some phone
calls and said that she had spoken to Trevorrow and
others, that she then said she didn't want to become
involved. I think that ties that in.
Q. I want to draw your attention to it for the sake of the
record. The document reads, it sets out what George
told Vanessa Edmonds of the involvement of Lindy Warrell
and what he assumed about the involvement.
A. Yes, that's correct.
Q. It was Dr Warrell, of course, who had been recommended
to you by Rod Lucas.
A. Yes.
Q. You then make the point at the bottom of p.20 that on 23
May, Professor Saunders had been appointed by Mr
Tickner.
A. Yes.
Q. And she advertised for submissions on 28 May.
A. Yes.
Q. You, through your solicitors, made a number of
submissions to Professor Saunders, didn't you.
A. That's correct.
Q. You make the point then on p.21, on 5 June, Mr Rigney
appeared on television and talked about the island being
the birth place of the Ngarrindjeri nation.
A. Yes.
Q. Then, there was some further call - there was a report
of Rigney calling, again on behalf of ATSIC, to withdraw
funds from bank accounts held.
A. That was a recurring theme, as I said earlier.
Q. On 8 June, the Advertiser ran an article releasing part
of the Draper report.
A. Yes.
Q. That is in evidence.
A. I think it's important to say that we had been trying
very hard ourselves through our solicitor. I had spoken
to Steven Wade in the Minister's office to get hold of
the Draper report of 29 April - which is what this
report talks about - and that was denied us at every
turn where an excuse was put up. And to this day, Wendy
and I have not seen it, and I think we are the only two
people in South Australia that haven't seen it.
Q. Yet it appears in the Advertiser on 8 June.
A. That's correct, yes, within a few days of it being
finished.
Q. On 5 June, there was the public picnic day at Goolwa.
A. Yes.
Q. Then, on 10 June, Mr Tickner extended his declaration
for another 30 days.
A. That's right.
Q. I think going back to that picnic and the family day at
Goolwa, that was run by the Ngarrindjeri Action Group
and The Friends of Goolwa and Kumarangk.
A. That's correct.
Q. I think the name of that organisation had changed,
hadn't it.
A. That's correct, yes.
Q. Because the proponent, the supporters of the bridge, had
registered the name of that group.
A. That's correct.
Q. So the opposing group became The Friends of Goolwa and
Kumarangk.
A. Yes. That happened some time earlier than that.
Q. The 10 June rally, I think there was advertising for
that, wasn't there.
A. Yes. This was a pro-bridge rally and I was not there.
Q. Looking at the last document in Exhibit 178, is that the
flyer.
A. Yes, that is the flyer.
2908

CJ 37J

T.L. CHAPMAN XN (MR SMITH)

1. Q. For the public rally in support of the Goolwa to
2       Hindmarsh Island Bridge.
3. A. Yes.
4. Q. You didn't attend.
5. A. No.
6. Q. Then, came the Rocky Marshall incident or letter, didn't
7       it.
8. A. Yes.
9. Q. Your statement sets out there the work you did in
10       relation to that. Can I just follow the chronology on
11       18 June. The Advertiser published the Rocky Marshall
12       letter to the editor.
13. A. Yes, that's correct. That was a reduced version of the
14       letter, the original version we found, which was in the
15       Goolwa Lions Club Community Newsletter for May.
16. Q. And Rocky Marshall was an anti-bridge protester.
17. A. Yes. He arrived in Goolwa just earlier in January or
18       February of that year, so he hadn't been there for long.
19. MR SMITH: The letter itself in the Advertiser is
20       Exhibit 37.
21. Q. The Rocky Marshall story, as set out in the letter,
22       actually raised a potential ground of claim, did it not,
23       for some sacred significance of the area of Hindmarsh
24       Island and the foreshore at Goolwa.
25. A. We really saw it - and at that particular time, bearing
26       in mind different knowledge today, we saw it at that
27       time as a story about Aboriginal women giving birth
28       beside the police station, the old police station at
29       Goolwa, and we set about to go right back through
30       history. We spent three or four days investigating the
31       Rickaby connections, which were his lineal connection to
32       his grandmother, and we were able to, we believe,
33       conclusively prove that he could not have been able to
34       do that.
35. MR KENNY: It appears that this witness is talking
36       about a supplementary submission that he made to
37       Professor Saunders that was used in relation to her
38       report and this information he is talking about
T.L. CHAPMAN XN (MR SMITH)

1 gathering was provided there. We have a difficulty with
2 that if we are to question that at all, we don't
3 have a copy of that supplementary submission made to
4 Professor Saunders. I'm not sure that we are actually
5 entitled in this position to obtain one either.
6 COMSR: I'm not sure of the status of that. I
7 don't know if Mr Meyer can enlighten us at all?
8 MR SMITH: There is no - Mr Kenny won't have
9 problems. The witness Mr Chapman has provided the
10 Commission with all the information relating to his
11 investigations of the Rocky Marshall matter. That will
12 be the subject of evidence other than Mr Chapman's.
13 MR KENNY: I'm happy with that.
14 MR SMITH: I don't think my learned friend needs to
15 have that for the purposes of asking Mr Chapman
16 questions anyway.
17 XXN
18 Q. That is correct, is it not, that you and your legal
19 representatives thoroughly investigated the allegations
20 of Rocky Marshall and his letter.
21 A. That's correct, yes.
22 Q. You have provided information relating to those
23 investigations to the Commission.
24 A. That's correct, yes.
25 Q. In fact, you addressed what you had uncovered in your
26 submission to Professor Saunders too, didn't you.
27 A. That's correct, yes.
28 Q. In 23 June 1994, Mr Marshall in the Advertiser retracted
29 his previous letter.
30 A. Yes.
31 Q. On the evening of 7 July, you received a copy of the
32 Saunders' report.
33 A. Yes, that came through a fax in our solicitor's office
34 about 8 o'clock that evening, if I remember correctly.
35 We went in there and read it at that time.
36 Q. You had an opportunity of sorts to comment on the
37 report, hadn't you.
38 A. Yes. Well, we were given that evening and the next day.
And we started off reading the Saunders' report and it seemed to us there were a number of things that were unusual about it. And one that really particularly comes to mind was there was a paragraph in the Saunders' report about, taken out of the Fergie report appendices which apparently had no connection with anything else and which talked about the fact that Hindmarsh Island -

COMSR: Is there any problem about this?

WITNESS: It's in the Saunders' report. It was out of the secret envelopes and it made clear -

MR SMITH: Pausing for a minute. Mam you will remember that there were two secret appendices: one with the basic secret sacred women's business in it; then, the second secret appendice was a document of Dr Fergie's where she proffers some explanation of the secret sacred women's business. It's that secret appendice or part of it which has formed part of the Saunders' report; in other words, Professor Saunders actually set out some material -

COMSR: So, this is as reported by Professor Saunders.

MR SMITH: Yes.

COMSR: We are talking about her report?

MR SMITH: Her report. Her report accesses one of the envelopes, but you need not be -

MR MEYER: A quoted matter in the body of the report.

MR SMITH: It's quoted in the body of the report. It does actually come from one of the envelopes.

MR MEYER: We can clear that up to ask Mr Chapman if he has had access to any of the envelopes and the appendices. I think he will no. I will be stunned if he says yes.

MR SMITH: I don't think there is any need for concern there.

XN

Q. You're addressing that.

A. We had a look at the Saunders' report and went through
it and there were a number of things that highlighted to
us that there was a document that was hastily put
together. And I just think it was one -
Q. Interrupting you there. Could you please try and avoid
making those sorts of comments.
A. It's obvious it was hastily put together to me. Anyway,
getting back to this particular point, Dr Fergie
reported that the waters of the Goolwa Channel mediated
or separated, words to those effect, Hindmarsh from
Mundoo Island. That is just plain wrong in geography
and anything else. You only have to look at that map up
here. It seemed to me at the time, or it was clear to
me at the time that if she's so wrong in a simple fact
of geography that was clear, then the whole report was,
you know, likely to be riddled with these sorts of
things.
CONTINUED
And that is what was a basis of the complaints that we
made to the Minister, or some of the complaints that we
made to the Minister. That it was factually wrong in
facts of geography.
Q. I think you had an opportunity to respond to that.
A. Yes.
Q. And later in that day, that is, 7 July, you were offered
a copy of Dr Fergie's report.
A. Yes.
Q. Is that right.
A. Yes.
Q. Who by.
A. Originally a fax was sent to Mr Tickner's office. I
think Sue Key of his office faxed back and said the
Minister had no objection to a copy of the Fergie report
being made available, providing Dr Fergie was agreeable
to it. My wife then rang Dr Fergie, if I remember
correctly. She said yes. And we got the Fergie report.
We then became aware of the fact that there were
appendices to it. We tried to get those. Dr Fergie
said to my wife ‘Well, they don't belong to me. They
belong to the ALRM.’ We tried to get hold of Tim
Wooley. He was on the phone, busy and we didn't get an
answer in time to be contacted - to be able to make any
worthwhile response. And, of course, he probably would
have said no, at that time, anyway.
Q. Nonetheless, you actually obtained some assistance from
Dr Lindy Warrell, didn't you.
A. Yes, we did.
Q. Going back to that attachment that I drew your attention
to where Vanessa Edmonds had set out, amongst other
things, that George Trevorrow told her that he thought
that Lindy Warrell was going to be giving
anthropological advice in respect of the island.
A. That's correct.
Q. Do you see there on p.2.
A. Yes, I see that.
Q. Were you alert to that, that Lindy Warrell had had some
T.L. CHAPMAN XN (MR SMITH)

1 contact prior to this time with one of the members of
2 the Lower Murray Aboriginal Heritage Committee.
3 OBJECTION Mr Kenny objects.
4 MR KENNY: I don't know how this witness can answer
5 that question. It was the way the question was framed.
6 It was suggesting it wasn't what he knew. It is a
7 question did he know whether somebody else knew. What I
8 am asking is, what did this witness know?
9 COMSR: What is his means of knowledge?
10 MR SMITH: I will go back over it again.

Q. You obtained Dr Lindy Warrell's assistance to deal with
12 the Saunders and Fergie reports in a last minute
13 submission to Mr Tickner.
14 A. That was correct, but that was the second time we had
15 spoken or had contact with Lindy Warrell. There was an
16 earlier time.
17 Q. I refer you then to attachment 59, which is a report to
18 you from Vanessa Edmonds in May of 1994 of field work
19 and consultations undertaken by her on 23 and 24 May
21 A. That's correct, yes.
22 Q. Set out in that report which you had.
23 A. Yes.
24 Q. Around about -
25 A. We got it that day, the 24th.
26 Q. Set out in that report from Vanessa Edmonds was the fact
27 that she had spoken to George Trevorrow.
28 A. That's correct.
29 Q. And set out in that report was that George Trevorrow,
30 amongst other things, indicated to her that he was under
31 the assumption that Lindy Warrell would be doing the
32 anthropological report.
33 A. That's correct.
34 Q. And set out in that report was that he, George, had had
35 a chat with Lindy and, assuming she was going ahead with
36 the report, had told her to get in touch with Doreen
37 Kartinyeri and Val Power.
1 A. That's correct, yes.
2 Q. When you got that report from Vanessa Edmonds setting
3 that out, on 31 May 1994, did it click with you that
4 Lindy Warrell, at least so far as George Trevorrow was
5 concerned, was doing an anthropological report.
6 A. Yes, it did, because she had told us that she wouldn't
7 do it. In the meantime, we had found out. So, this did
8 surprise us.
9 Q. When had she told you that she wouldn't do it.
10 A. From memory, the first contact we had with her was 20
11 May and - or was it the 19th? Anyway, it was around
12 about that period in time. Wendy discussed it over an
13 open telephone with her, that we needed to find an
14 Aboriginal - I mean, an anthropologist, female
15 anthropologist and it had been recommended to us by Rod
16 Lucas that Lindy Warrell was the person worth
17 approaching. That she had the attributes that were
18 necessary in relation to what we knew, at that
19 particular time. She then considered the matter and
20 seemed pretty excited about it to start off with and
21 then she rang back two days later, I think it was, and
22 said no, she couldn't do it, or she wouldn't do it.
23 Q. Is that the occasion she had been warned off by Neale
24 Draper.
25 A. Whether it was Neale Draper and others or Neale Draper I
26 am not sure.
27 Q. When you read that there in the Vanessa Edmonds report
28 to you of 21 May you assumed it was the same
29 anthropological report that you had discussed with her.
30 A. Yes, and that we weren't - that she wasn't going to do
31 it. Because, after she said no to us, I think Steve
32 Palyga put a proposal to her "What would happen if Mr
33 Tickner or Dr Amitage appointed you? In other words,
34 you do it from a neutral perspective?" And she, I
35 think, was receptive to that idea.
36 Q. At that stage, you actually successfully employed her
37 again.
38 A. Yes, right at the last minute.
Q. Right at the last minute.
A. Yes.
Q. You did not then have any knowledge of the fact, or did you, that Lindy Warrell had had some contact with
t Trevorrow.
A. Not prior to this, obviously, this night, because she
had said she had spoken to people involved down there,
which, you know, was - didn't mean much to who or what.
And, in that period, while she was doing that
investigation, the first investigation, she had a
meeting with Rod Lucas and Dr Deane Fergie and they
discussed that issue. That was the first time, between
the time she was enthusiastic and the time she said no.

Q. What is the source of your information concerning that.
A. When she rang to talk to us.

Q. What in August of this year.
A. No.
Q. Earlier.
A. Back in -
Q. In May.
A. The first time, yes.
Q. Then you obtained two reports, if you like, from Lindy
Warrell.
A. Yes.
Q. Which you submitted to Mr Tickner.
A. One on the Friday evening, which was just within his
time limit or just outside it. And one the next day, on
the Saturday morning.
Q. On 10 July, you had heard, via the media, that Mr
Tickner had made a final declaration.
A. That's correct.
Q. Five days later, on 15 July, you were evicted from the
marina at Goolwa, weren't you.
A. That's correct, yes.
Q. After being given five hours notice to shift.
A. What happened was we found the locksmiths had turned up
and they didn't say what they were there for, but we worked that out quickly enough. And then one of the media helicopters turned up and they seemed to want to watch what was happening. And we were put through the agony of being thrown out in less than five hours.

Q. On 8 August, Westpac successfully placed Binalong in liquidation.
A. That's correct. And they actually, you know, served liquidation papers on us earlier, as I reported earlier, without even notifying the receiver/managers or talking to them. It just became a totally separate issue to them. And the only thing I can understand is that that meant that we couldn't act as directors and we lost a certain footing, in that regard.

Q. On 28 July 1994, there was a celebration at Goolwa of the anti bridge protestors.
A. That's correct, that was reported locally.
Q. That was reported locally, was it, and you, of course, didn't attend that, I wouldn't have thought.
A. No.

Q. What you have set out in your statement is a result of what you read in the local reports, is it.
A. That's correct, yes.

Q. Rather than first-hand knowledge.
A. That's right. You have got to rely on the media, you know.

Q. Just to get the chronology straight, during the latter part of 1994, you were involved in the Federal Court proceedings challenging the declaration of the Minister.
A. Yes, that's right.

Q. On 10 July.
A. That's correct.

Q. O'Loughlin J handed down his decision, on 15 February 1995, this year.
A. That's correct.

Q. I think you learnt again on the radio -
A. Yes.

Q. So, again, in the media, on 23 May, that there had been
2917
KC 37K

T.L. CHAPMAN XN (MR SMITH)

1 a fresh application for a s.10 declaration, by the ALRM.
2 A. That's correct.
3 Q. On 26 May, you made an application to the Federal Court,
4 or at least you attended the Federal Court, seeking an
5 order of O'Loughlin J in relation to the preservation of
6 the secret envelopes.
7 A. That's correct. There was media speculation, at the
8 time, on their safety.
9 Q. I take you now to 5 June.
10 A. Yes.
11 Q. You had a telephone call, on 5 June, from Kym Denver.
12 A. That's correct.
13 Q. Kym Denver was well-known to you, by this time, wasn't
14 he.
15 A. That's correct.
16 Q. He was, just to put it on the record, a large land owner
17 on Hindmarsh Island.
18 A. Yes.
19 Q. And a supporter of the bridge project.
20 A. That's correct.
21 Q. Through the bridge disputation, you and he had become,
22 what, friends.
23 A. Yes, and also he was aware of what we were doing, as I
24 guess we were aware of what he was doing in relation to
25 it. And I think I will also point out that it was his
26 father who submitted the design of the bridge back in
27 1987, or whenever it was, that we referred to earlier.
28 Q. In your statement you place that time of the call from
29 Denver at 3.15 p.m.
30 A. Yes.
31 Q. How do you fix that as the time.
32 A. I was listening to Question Time in Federal Parliament
33 and it had gone on to that particular time when I
34 received the phone call.
35 Q. I think it was as a result of that telephone call that
36 you went to the Middleton Tavern.
37 A. That's correct.
38 Q. And met there with Kym Denver and Milera, Doug Milera.
A. That's correct.
Q. I think the events of that day you noted.
A. Yes.
Q. Did you not.
A. That's correct.
Q. When did you do that.
A. That evening.
Q. In your own handwriting.
A. Yes.
Q. That evening you made those notes and do you have a copy of those with you and in front of you.
A. Yes, I do.
Q. The notes embrace what period of time. Do they deal with the entirety of the day's activity.
A. No, they only relate to purely this activity.
Q. The activity being.
A. Being the call by Kym Denver and then going to the Middleton Tavern and then, when I left the Middleton Tavern, that was the end of it.
Q. I want to ask you about what happened then on that day as far as you were concerned. And by reference to your notes, when you need to.
A. Yes, I had a phone call from Kym Denver. He rang. I answered the phone. He said that he had Doug Milera at the Middleton Tavern and Doug Milera wished to speak to me, or speak to Wendy and could one of us or both come over there, as soon as we possibly could. After discussion with Wendy, I decided I would go over there there and then. We were in the middle of doing something else, at the time, but - so, I went. It would have been at least quarter to 4, maybe a little later before I would have got to the Middleton Tavern. By the time I got myself going, got down to the ferry, waited for the ferry and crossed to Middleton would, I would suggest, make the time at least half an hour or more. I went into the tavern. They were the only two people in there, apart from the proprietor of the tavern, I think, from memory. They were sitting in the corner in the
southern corner of the large area there. I went up to
them and shook both their hands and sat down. Then Kym
just said 'Well, you know, I got a phone call.' He said
he had got a phone call from his mother saying would he
please give Doug Milera a ring, which he had done. And
it is well-known what then went on. And he eventually
picked Doug up and turned up at the tavern at some time
earlier and had been talking to him when Doug had said
that he wanted to talk to the Chapmans. He was very
concerned that he had heard that we were going to be
thrown out of our house. And that it was just another
ingredient that was happening, because of the bridge, that
was not a good thing for anybody. He told me that he
had been trying to ring me on at least three different
occasions. That he couldn't get us and we don't have a
listed phone number. So, in final exasperation, he
tried to get hold of Kym and couldn't get him and then
thought to ring his parents. And that's how he made
contact. So, it was clear to me that this wasn't just a
flash in the pan. He had made up his mind that that's
what he was going to do. He was extremely agitated and
dreadful about what he was doing, because he talked about
how he wanted to clear the whole issue up. He was sick
and tired of the bridge. Sick and tired of the whole
issue. They had got into it, out of hand, as far as he
was concerned. So, he said that the bridge was the
future, to employ people and so on. And he was very
sorry what had happened to us. I let him talk. He had
a small notebook which he had phone numbers in and
people's names and he said 'I've got to get around to
certain people to talk to them to tell them my side of
things and why I'm doing what I am trying to do now.'
So, I said 'Well, you know, what do you want do?' And
he said well, he would like to go into town at some time
soon to see Don Smith and Matt Rigney and talk to them,
because they were, in his view, very important to the
issue. And he needed to talk to them, about what he was
doing. He also wanted to ring Allan Campbell in Sydney.
I gave him my phone. He had a phone call that lasted over half an hour to Allan Campbell. He said later that Allan Campbell didn't believe him at first. Then did. He rang John Campbell at Wellington and he seemed perhaps a little more relaxed as the afternoon progressed, but things were happening slowly. He was virtually talking about his concern and his worries at what was happening.

CONTINUED
Q. Had he told you what this meeting was all about yet.
A. At the tavern - the Middleton Tavern?
Q. Yes.
A. Firstly, it was to say how upset he was that we were being thrown out of our house because of the bridge issue, and he was somehow implicated. He was very sorry about that. He kept me aside so Kym Denver couldn't hear his apology. He was self-conscious about it. Then, as I say, he then went into a stage where he wanted to ensure that he could talk to other senior Aboriginal men, and talk to them about what he was doing and what he was proposing to do. What he was proposing to do was to talk to the media about it.
Q. But at this point in time you had not yet any idea about what he was going to disclose.
A. No. An apology was what I was getting at that particular stage. Then it was a case of, from reference to his book, who he wanted to see and how he wanted to get to town to see various people to put his position, but he said enough was enough.
Q. Looking at your notes, in the third paragraph you say 'I asked him how the mess could be sorted out now', and you go on there in your notes.
A. Yes. That was after he had got to the point where he made it very clear that the bridge had to be built, that was the future. I said 'Okay, how are we going to sort this mess out now? Particularly, how are you going to get it to a position where people like Doreen and Sarah are going to get out with some sort of dignity into the situation, because they are obviously' - at this stage he had said that he was involved in pointing to the map, and I was aware at that stage he said it was fabricated.
Q. So he conveyed that to you.
A. That's right.
Q. By this stage, had he.
A. Yes. It was a case then of really trying to help him do whatever he felt he wanted to do. He was the person really talking. There was not much point in us having
anything to say or do - myself. He was keen to talk to
the people I have mentioned. As I say, he had at least
half an hour on the phone to Allan Campbell.
Q. Is this the sequence of events - tell me if I am wrong -
that he apologised to you and made the position clear
that he thought the bridge should go ahead.
A. Before that, he had made the point very clear that he
tried to ring us on at least three occasions. I don't
know whether that was over the last three days or over
the last week, but it was a relatively short period of
time, I gather.
Q. I am trying to place in the course of the conversation -
A. That is at the beginning.
Q. When the disclosure about the map and the fabrication
occurred.
A. He got into the situation where the bridge needed to be
built, and that's when he started talking about the fact
that he had pointed to the map on the wall.
Q. So your notes don't record absolutely every word then
that was said.
A. Heavens, no. This was done that night. This is only a
precis of what happened obviously.
Q. He has disclosed to you the material about pointing to
the map.
A. Yes.
Q. The fabrication, et cetera.
A. Yes.
Q. Tell us what he said about that, if you can remember.
A. It really happened in passing. He just said that he had
been involved in the Mouth House, and I was aware of the
Mouth House issue from other sources, so that wasn't a
surprise to me. One of the reasons why Kym Denver got
me over there was he was talking about things Kym wasn't
aware of, but he thought I would be. And he then
suggested that something needed to be done to change the
situation, the bridge had to be built. He had totally
changed his stand - status on the whole thing.
Q. I would like you to tell us what he said about the Mouth House at the Middleton Tavern.

A. It was in passing, he just mentioned that at the Mouth House he talked about - pointed to the map and talked about 'that was women's issue', and that was where it was left. There was very little said about it at all.

It wasn't the focus of this discussion at all really. It was really how he was going to move - having declared his position that he wanted the bridge built, how he was going to do it.

Q. Did you see, in the course of this conversation, that that was the paramount issue, his involvement in this Mouth House episode.

A. No, I don't think it was. I think really it was a case - it was a combination. He had been and he had told us he had been there since October, and he had been brought down, he was at Signal Point, and they hadn't paid him. A whole series of little episodes of what made up - what would be a bigger position for him, and I don't think he saw that perhaps - it was part of the whole sequence of events that went on in his mind at that particular point in time.

Q. What was the big disclosure he was making to you.

A. That he wanted the bridge built.

Q. What was the -

A. And, therefore, it didn't really matter what happened in his view. I don't think. He wanted the bridge built because that was the future. Forget anything else.

Q. That really wasn't the story.

Q. Go on then.

A. Then I asked him, you know, who had been involved in the issue. He didn't know about Noel Roscrow. He certainly knew about Ann Lucas, who attended meetings that he had been at. He knew Richard Owen, who he said was the Chairman of the Friends of Goolwa and Kumarrangk and was the main person behind the anti-bridge group. He said that he thought a number of people knew what was in the envelopes now. He had been to Deane Fergie's place -
house with the women and had heard about the story. He was upset with Frank Tuckwell at Signal Point. He had not been paid for anything. In fact, he still owed Frank Tuckwell $50, but he couldn't repay him because apparently he hadn't been paid by him. It was a meeting that, as I say, canvassed a whole series of issues, minor issues, but a lot of the time was taken up talking to Campbell - the Campbell boys - men.

Q. Do you know anything about why Frank Tuckwell and Signal Point had to pay him.

A. It was well known - it was in the local press that Sarah and Doug had been appointed to the management committee of Signal Point, to be paid out of a grant that had been given by, I think, the museum's - whatever it is that give grants - and also money from the Signal Point Management Board, to increase the Aboriginal interpretive display within Signal Point. So he had a close contact with that area. I think probably, in fairness, Sarah had a much closer contact, because she is quoted as saying elsewhere that Frank Tuckwell gave her all her information that she knew. So he was obviously concerned that he owed Frank Tuckwell money, $50, but he couldn't repay it because Signal Point hadn't paid him for the work they were meant to be doing.

Q. Your note records that Milera had said that he had been to Deane Fergie's house with the women and heard about the story.

A. That's correct, and that's all he said. He said `I've been to Deane Fergie's house and I went with the women'. There were lots of little grabs that you got from him.

Q. Your wife comes over, doesn't she, at some stage.

A. Yes. That was around - just around dark or a little after. It might have been 6 o'clock, I think. Actually, I've got 6.30, so I guess that was right.

Q. Did he talk about Granite Island.

A. Yes. He made the point that they now had the power to do what they wanted to do with anything, and he said he
could get a fence, for instance - and he used it as an
example - put around Granite Island or Hindmarsh Island
if he wanted to. Then he talked about the Granite
Island deal, the unions and the arrangement was not yet
right. I don't know what he meant by that, but that's
what he proffered at the time. Maggie Jacobs didn't
understand why she was so involved. He didn't know
that. He was very cross about Draper, and he made the
point to me that he had taught Draper everything - that
is, that Draper knew on Hindmarsh Island, I take it to
mean. He went on then to say that, in his view, the EIS
was correct and the right people had been spoken to, and
the bridge should get underway. He talked about Henry
Rankine being a good man. Then he went on to say that
building the bridge would do far more for reconciliation
than has happened to date. Peter Rigney, the brother of
Matt Rigney, was the leading anti-bridge person. Then
he said he'd do anything to save our house and we should
get everything back from Mr Tickner. He thought Tickner
was finished. The Telecom cable under the river was
held up by the women.
Q. Sorry, 'held up by the women'.
A. By the women. Telecom wanted to put a fibre optic cable
under the river near the ferry crossing. There were
newspaper reports on that in the newspaper cutting
books, and that was held up because the women hadn't
agreed to it. He was concerned about the letters that
he had signed and been sent to Mr Tickner. They are the
letters that you have got in evidence, I presume. The
ones that were sent, particularly from Mrs Millard's fax
machine. He thought he could get Val Power on his side.
He said that Sandy Saunders was hardnosed. He said the
Pit women should not come down and be involved. He said
that Sarah was taken over by the lights and had begun to
believe it all. He thought Doreen may now even believe
her own story. He made the very strong point that he
would never come back onto Hindmarsh Island again.
Q. This led to the contacting of Chris Kenny, the journalist.
A. That's correct, yes.
Q. How did that come about.
A. He got to the point in the conversation which, as I say, had been going for some time, where he said he wanted to make it public and he wanted to go on television and make it public. It was at that time that Kym Denver rang Chris Kenny. He was the person that made the suggestion. It was certainly not of my suggestion or Kym's. He was very keen to do it. We kept a - I particularly kept a very neutral stand on what was going on.
Q. Why did you do that.
A. I was concerned in the back of my mind that we were still in a Federal Court case, and I just wanted to be very careful in what I was involved in, very careful.
Q. Your wife arrived at the Middleton Tavern, didn't she.
A. Yes.
Q. At about 6.30 p.m.
A. That's correct.
Q. Your phone had gone dead by this time, had it.
A. Yes, it had been hammered.
Q. With your wife, was Kym Denver's daughter, is that right.
A. Yes, yes, that's correct.
Q. Then Helen Denver arrived too.
A. Yes. She came from Victor Harbor, where she works, and Wendy brought young Georgie across from Hindmarsh Island. Wendy had to go from our place down to the Denver's house, pick up Georgie, who is quite young, and then pick up a phone battery for Kym as well, and then come back to the tavern.
Q. By the time that group had gathered, if you like, at the tavern, had any arrangements been made about the journalist, Chris Kenny.
A. Yes, that had been made by that time, and therefore Helen took young Georgie back to Hindmarsh Island, and
at the end of the - a few minutes afterwards, Wendy and
I left and we went back to Hindmarsh Island, and Kym and
Doug then drove to Victor Harbor.
Q. About what time did you leave, you and Wendy.
A. I would have thought some time probably just after 7,
because Doug had been also extremely upset and made a
particular effort to apologise to Wendy in much the same
way as he apologised to me, and he took her aside and
spoke to her for some few minutes about the difficulty
and the upset and, you know, what had been caused to us
individually.
Q. Just looking back now, you arrived at the tavern at
about what time.
A. Some time - probably just after quarter to 4.
Q. And you left at about 7.
A. It may have been a bit later than 7, but it was in that
order, I would you suggest. Wendy came over at 6.30 so,
you know, she was there - by the time that she arrived
and talked and everything else and the time we went,
half an hour to three quarters of an hour would easily
have slipped by.
Q. When you first arrived, Denver and Milera were seated in
a section of the tavern.
A. That's right.
Q. Were they drinking.
A. They - well, Doug Milera had a bottle of - you know, a
small stubbie of beer, and Kym had a lemon juice.
Q. You were together then for about three hours, or
thereabouts.
A. Yes.
Q. Did you continue to drink throughout the afternoon.
A. Only spasmodically, because - yes, to the best of my
recollection now, Doug would have had another two
stubbies of beer, at the most. Kym and I both drank
softdrink because we were driving cars.
Q. Who paid for these rounds of drinks.
A. Kym paid for one and I paid for the other.
Q. There is some evidence about Doug requiring cigarettes.
A. Yes, that wasn't - I think that must have happened before I'd come.

Q. Prior to you leaving, did either you or our wife get asked for money by Doug Milera.

A. Yes. As we went outside, the four of us - that's Kym, Doug, Wendy and myself - he asked whether he could have some money, I gather for some cigarettes. In the end, Wendy gave him $5, because when you are on the dole you don't have money to hand out, I can assure you. And I would add, that Wendy was extremely reticent about doing it.

Q. Before I go on to 6 June, can I take you back into the bundle of documents, Exhibit 178, to that copy document that we addressed under the heading `Amelia Park', which is document 56. If you come back one document, you see there is details of a meeting held on 21 April.

A. Yes.

Q. And handwritten underneath that are the words `Meeting with Matt Rigney, 10.30 at council, 3 May, no result achieved.'

A. That's right.

Q. You learnt about the fact that there was such a meeting from some officers of the council, Vic Mills, or Errol Commane, for instance.

A. Yes, that's right.
2929

CJ 37M

T.L. CHAPMAN XN (MR SMITH)

1 Q. I think you have obtained notes of that meeting.
2 A. That's correct.
3 Q. Which notes are to deal with a discussion between the
4 councillors and Matt Rigney.
5 A. That's right.
6 Q. Looking at this record produced to you, first of all, do
7 you recognise the handwriting on that document.
8 A. No. I haven't actually seen this set of - I haven't
9 seen that. I was aware of the meeting. I knew what
10 happened at the meeting. I haven't seen these before.
11 Q. I will take them back from you. I don't want you
12 guessing at it. Can I take you then back to the
13 chronology of events. I will take you to the second to
14 last topic really which is the event of 6 June 1995.
15 That is the day following your attendance at the
16 Middleton Tavern.
17 A. That's correct.
18 Q. You knew very well, I suppose, by the morning of the 6th
19 that Milera had given a televised interview to the
20 journalist Chris Kenny at the Appollon Motel.
21 A. Yes.
22 Q. I suppose Mr Denver had told you that.
23 A. He had told me, yes.
24 Q. I think you had some contact with Doug Milera on the
25 morning of 6 June, did you not.
26 A. Yes. Late-ish in the morning, I got a phone call -
27 because I had given him my phone number at that stage on
28 the night before - and he rang and said that he wanted
29 to get from Port Elliot to John Campbell's place at
30 Wellington and could I do something about it.
31 Q. Had you reported these events to your solicitors at this
32 stage, at that stage of the morning of 6 June.
33 A. I had given a very short precis of what had transpired.
34 As I say, I was concerned that these, I might compromise
35 myself.
36 Q. Doug Milera wanted a lift to Wellington.
37 A. Yes.
38 Q. What sort of trip did that involve.
T.L. CHAPMAN XN (MR SMITH)

Q. He rang from Port Elliot.
A. Yes.
Q. What did you do about that.
A. Well, because of the situation that I didn't want to be involved in it, I thought about who I could get to do it. And I then suggested that Mr Roger Searle, in my mind, might be able to do it. I rang him, explained my situation to him that I wasn't in a position to do it, and he said, yes, he would do it. And I said `Well, to make sure that the situation works out all right and that Doug Milera knows who you are, I will meet you at the location and introduce you and I'm going back to Goolwa'. And that's what happened.
Q. Roger Searle is a caravan proprietor in Goolwa.
A. On Hindmarsh Island.
Q. He is in favour of the bridge, is he not.
A. Yes, he is.
Q. He, in addition, I think appeared before Professor Saunders, for instance, and made a submission indicating his -
A. Yes, he did.
Q. You asked him to do for you what was rather a significant favour.
A. That's correct.
Q. He agreed to do that.
A. Yes, he did.
Q. He left his business.
A. He had to find somebody to, you know, stand in the shop while he actually did this particularly, so it wasn't without some effort on his part.
Q. So, the two of you drove to Middleton in tandem as it were.
A. Yes, that's right.
Q. And what time are we talking about here.
A. I would think around about 11 o'clock.
Q. Do you know whose place it was that you went to at
CJ 37M

T.L. CHAPMAN XN (MR SMITH)

1 Middleton.
2 A. Gary Kropinyeri.
3 Q. Did Doug Milera give you the address.
4 A. Yes, he did, instructions on how to get there.
5 Q. When you got there, you introduced him.
6 A. Knocked on the door, was met at the door by, as I now
7 know, Gary. Went inside with Roger Searle. Doug was
8 there. I explained that I wasn't able to drive him to
9 Wellington, however, Roger Searle would do so. And I
10 said that I had to leave. So I was there for a matter
11 of minutes and that was all.
12 Q. I take it Mr Searle reported back to you that he had
13 indeed done that.
14 A. Yes, he did.
15 Q. Your statement at p.24 and the last page, p.25, deals
16 with really, amongst other things, the media coverage
17 since 1990.
18 A. That's correct.
19 Q. The Advertiser articles and the like are already in
20 evidence, but you, yourselves - that is the Chapman
21 interests - had been responsible in the course of time
22 since 1990 for several full page advertisements in the
23 print media.
24 A. That's correct.
25 Q. Depicting the bridge as a favoured access from the
26 mainland to the island.
27 A. Yes. It was a full - half a page coloured photograph in
28 one advertisement of the bridge.
29 Q. I think that is in Exhibit 170, the clippings produced
30 by your wife in her evidence.
31 A. Yes.
32 Q. There was also considerable television and radio news
33 coverage dating back to as early as 1990, or earlier.
34 A. Yes. Very extensive.
35 Q. For example, on 12 April 1990, the day of the planning
36 approval for your development.
37 A. Yes.
38 Q. Including the bridge, there was every commercial
A. As I remember, but particularly the News carried an article in it and I think the Advertiser carried an article in it. Then, with the opening of the Barkers Lagoon area by Mr Bannon, there was very extensive media coverage of that. It's time and time again. There wouldn't be a place in South Australia that wouldn't have been affected by the evidence. Nobody could have escaped it, there was going to be a bridge built.

Q. By the time the ER & D Committee was established, media interest had increased from a high level to a higher level.

A. Higher level, right.

Q. The debate about the bridge dispute then took place in the media.

A. That's right.

Q. And is still going.

A. Yes.

Q. I think the balance of your statement deals with just that topic, doesn't it, the way in which the media followed the dispute, through to the dispute at the site of the construction of the bridge.

A. Yes.

Q. Towards the report of Mr Sam Jacobs QC.

A. Yes.

Q. And to the present time.

A. I think those media books that we gave to the Commission earlier and there are tapes of the video tapes given to the Commission, the audio tapes that we can give, it's just a huge amount of material. It's a vast amount. We couldn't ever say that we have got it all by any means. What we see is only a portion of it.

CROSS-EXAMINATION BY MR KENNY

Q. Do you have a copy of your statement in front of you.

A. Yes.

Q. Have a look at p.5 of that statement. The 4th to last paragraph you say there, I think you were talking of Late 1989 'At this time we were not pushing for the
bridge'. Is that correct.
A. Yes. Well, late '89, but at that stage it had become a
necessity.
Q. By late 1989.
A. Yes.
Q. I understood, in fact, from what you were saying there,
that your suggestion really was that a bridge wasn't
needed and that a second ferry might - I withdraw that.
There was a range of other alternatives.
A. That is what we were negotiating with the Government,
but they said `No, a bridge is required', which is what
I say there.
Q. To clarify that further, in late 1989, you were
negotiating with the Government, what, for the
Government to build the bridge.
A. No. It was a case of what the form of access to the
island was, what was being discussed at this particular
time.
Q. It wasn't necessary that at that stage the bridge was
going to be built; is that correct.
A. The Government was saying yes. We were trying to say
no.
Q. I take it that the reason you were saying no is because
you would appreciate that the cost of building a bridge
would impact significantly on the financial viability of
your project.
A. Well, I gave evidence to that effect. It's a matter of
timing, not a case of the principle.
Q. In late 1989, your main concerns, I suggest - and
particularly when looking at the Environmental Impact
Statement - your main focus was really on your marina;
is that correct.
A. No. Access came first. If we didn't have access, we
didn't have the extension.
Q. If we can go back to your first meeting with Henry and
Jean Rankine at Murray Bridge.
A. Yes.
Q. In your evidence, I think you said you did discuss with
them the bridge.

A. Yes.

Q. Can you recall any of the specific conversation you had with them about the bridge.

A. As I gave in earlier evidence, we talked about the situation with Signal Point and the bridge.

Q. When you say you talked about Signal Point, do you mean you talked about Henry's involvement.

A. No. If you remember what I said, it's very clear.

Q. Can you perhaps remind us what you said.

A. That I talked to him about the situation that the bridge was required, that the Government was saying we had to have a bridge, that we had decided to deflect it to the Crystal Street alignment. Remember me talking about that?

Q. Yes. But as I understood, that didn't come until a later time. That wasn't a matter that was raised in your first meeting at Murray Bridge with Henry Rankine.

A. I only had one meeting with him.

Q. You mean you only had one meeting in 1989 with them; is that correct.

A. With Henry Rankine over the issue at this particular time. I talked to Henry Rankine on occasions.

Q. You have talked to Henry Rankine.

A. Yes, but in the context of this and the evidence that I gave, that was the conversation I had which was in Murray Bridge, and I've told you what we discussed and I've told you why we discussed it.

Q. I suggest to you, in fact, at that meeting at Murray Bridge with Henry Rankine there was no discussion about a bridge or the building of a bridge at that time.

A. They're your words, they are certainly not mine and that wasn't the case.

COMSR Are you suggesting that something was discussed at that meeting Mr Kenny?

MR KENNY: No. I'm suggesting to this witness, in fact, that there was no mention of the bridge during that meeting.
COMSR: Are you suggesting that there was no conversation, or some conversation?
MR KENNY: No, I'm not suggesting there was no conversation, but simply the conversation revolved - perhaps if I ask the witness.
XXN
Q. The conversation, in fact, revolved around your marina development on Hindmarsh Island.
A. Well, as I think I explained to you before, the access was the number one issue that we had to face. That is what we were talking about.
Q. Did you make any notes of that particular meeting.
A. No, not that I have here.
Q. Did you make any.
A. Yes, but I don't have them at the moment. No, I don't have them. We have lost them.
Q. You have lost them.
A. Well, there's a whole large amount of material went in the consequence of being tossed out by Westpac that has just gone missing.
Q. Do you recall now what you recorded in those notes at all.
A. Yes. That we discussed - I have explained to you, I went through it in quite considerable detail this morning what we discussed. You remember Granite Island.
Q. I'm particularly asking if you remember.
A. You obviously don't remember. I'm trying to tell you.
Q. The question I'm asking you is: Do you recall what you wrote in those notes.
A. Yes.
Q. If I can take you to your discussions on the Carmo development. You told us that you believed -
A. Which page?
Q. P.10 of your statement. You have told us that Henry and Jean Rankine inspected that site.
A. Yes, that's what I've been told.
Q. Can you tell us who told you that.
A. Yes. Alan Jones.
Q. Can you tell us who Alan Jones is.
A. He lives adjacent to the site. He was an objector to
the Carmo development.
Q. You state there that you understand that there were no
Aboriginal objections.
A. That's what he told me.
Q. That was from him alone.
A. Yes. Well, he told me that there was a group that were
very much against the Carmo development as there had
been against the Fricker development and they have the
Aboriginal people involved to come down and just check
the site out. And he went on there then to talk about
how the Rankines talked about there were skeletal
remains under houses further back on Admiral Terrace
going back to the west at the front, and so there was an
extensive conversation that I had.
Q. I presume he was telling you that on the basis that he
understood you also objected to that development.
A. Yes, but we objected on totally different grounds.
Q. I appreciate that.
A. Yes, there were a number of meetings held over that
issue.
CONTINUED
Q. At the public meeting on 8 October 1993 at Goolwa I understand you to say that you weren't present.
A. No, I wasn't present.
Q. Your comments reported of Henry Rankine are hearsay.
A. They were given to me in writing by three separate people.
Q. Can you tell -
A. It is in the statement.
Q. You have named three there.
A. Yes, that is who it is.
Q. You were told by those three separate people.
A. Yes.
Q. Do you have copies of the notes that they gave you in writing.
A. Not here, but I do, yes. As I understand, one of those people is going to give evidence, is that correct? One of those three. There is one of them coming to give evidence anyway.
Q. Is that person - can you identify who that is.
A. Michael jolly.
Q. Has he asked you for his notes back.
A. No.
Q. If I asked for those notes, would you be able to produce them.
A. Yes.
MR SMITH: Perhaps my friend could direct those questions to me. I will endeavour to obtain those.
MR KENNY: Yes, I would seek to inspect those notes.
MR SMITH: I don't object to my learned friend just pursuing that question of notes. I don't have them. If the witness has got them, then I will take some steps.
COMSR: I understand that Mr Chapman said that he did have them, but not here.
MR SMITH: Not here not in Adelaide?
WITNESS: Not in Adelaide.
MR MEYER: I will take the matter up with Mr Chapman. And I will fix it up.
MR KENNY: I simply seek to inspect the notes. I don't anticipate - they are not notes written by this witness, in any evident.

WITNESS: They only cover this one comment. That is all.

MR KENNY: In any event, they are not notes written by this witness.

COMSR: No.

MR KENNY: I don't anticipate I will have any questions arising out of it. I simply wanted to inspect those notes.

XXN

Q. Taking you to p.14 of your statement, you tell us there in the third paragraph that you met with, amongst other people, Robert Day senior.

A. Yes.

Q. That was on your subdivision.

A. Yes, they were introduced to us by Neale Draper.

Q. They were obviously, at that stage, carrying out an inspection of the area with Mr Draper.

A. That's correct, yes.

Q. Pursuant to his enquiries.

A. They were driving around in a four-wheel drive vehicle.

Q. I understand, at that time, you had some discussions with them about the work that they were undertaking, is that correct.

A. Yes, we talked to them. They really were not very much involved in the conversation. It was really Neale Draper that was doing the talking. They came and went through the conversation, as it went on. You know, as you moved around, it was moving from place to place.

Q. A moving conversation.

A. Yes, and I think you would probably know what I am talking about better than most people. It is hard to get a definitive fix on somebody.

Q. During that conversation, did they discuss that essentially they were doing a surface survey, simply seeing what was on the surface in the general area.
A. Yes, what really surprised us, I suppose, was that they, Neale Draper had told us that the area was cleared, anyway. And then they had come back again, some weeks later. And, bearing in mind that Vanessa Edmonds had also been through the area, on two previous occasions.

Q. But, in fact, it wasn't entirely clear. They did, in fact, find a couple of sites of significance on your land.

A. I don't think they were significant. And they had come about through some erosion of the top cover. In one spot.

Q. When you say that, what you really mean is they became visible and apparent, due to that erosion.

A. One was a scatter of small shells. So, you know, it is not the sort of thing that you become aware of. You wouldn't notice it. I wouldn't notice it, as such.

Q. But it may have had significance to Mr Draper and the Aboriginal people with him.

A. They didn't seem to think it was of - anything of major issue, to the point that they said, well, the thing would be to, I gather, sieve the area and pick up the bits and we would use them in an interpretive demonstration somewhere else on the site, because the area was scheduled to be covered.

Q. When you speak of the 'bits', you mean any artefacts that may have been -

A. They are not artefacts. They are just little bits of broken shell. Because the area will be just covered, so the thought was it might be worth just sieving the area, picking up the few bits and using them somewhere else, so people generally could understand what an area looked like.

Q. Was it agreed, at that time, that there would be some form of an interpretive display at some other location around the marina.

A. I suggested that that was one way of using that sort of material. That I believed people generally, I am talking about the general public, are very interested to
find out, you know, a history of - or, not history, but
the life style of the Aboriginal occupants of that area
in previous years. And that it is something in a
development that I have proposed for that area, where it
is very much a case of trying to make it as Australian
as you possibly can. Where you only have native trees
and things like that. That, to have an interpretive
situation, goes along with that. And it is what I had
been involved in in setting up Signal Point. So,
whether it was on the marina side or whether it was over
at Signal Point was really something that didn't even
gerent discussed. at that time.
Q. Was there any discussion, at that time, of what might
happen to any artefacts, apart from the shells, that may
have been found.
A. There weren't any.
Q. I am not saying whether there were or there weren't, but
I am simply enquiring whether there was any discussion.
A. No, it was purely a case of these few minor bits and
pieces.
Q. I think you said they returned to the site on a later
occasion, as well, is that correct.
A. Yes, I don't know whether it was the same people, but -
and I think they made another visit. I am not sure of
the date now. But, yes, there was one.
Q. You didn't speak to them on that occasion.
A. No.
Q. But you did observe them on the marina area, is that
right.
A. Yes, I was aware of them.
Q. Did you take some photographs of them on that day.
A. Not to my knowledge. In fact, I was only aware of the
vehicle going past the marina building. I didn't see
them, at any other time. But, you know, we would get
something like 200 or 300 vehicles a day go past there
during the selling time. So, who was there and who
wasn't there, often you wouldn't have the faintest idea.
When people came and when they didn't, I wouldn't know.
So, it is a bit like saying `Who did you see in Rundle Mall today?'

Q. On 26 April 1994, that was your date of your meeting with Matt Rigney and others.
A. Yes.
Q. At North Adelaide. Do you recall that.
A. Yes.
Q. On p.17 of your statement you indicate that Matt Rigney advised you that the issues were to do with Aboriginal women.
A. Yes, that prompted me to ring the next day to Rod Lucas.
Q. Mr Rigney, I take it, mentioned to you something about the relevance of the shape of the island, is that -
A. Yes, it was the outline, okay, shape, yes, I suppose it means the same.
Q. Or outline.
A. Yes.
Q. Simply your statement says `the shape'.
A. Yes.
Q. So, he, in fact, said something about the outline of the island.
A. Yes.
Q. Did he say that that was the only issue that was involved.
A. It rather confused the issue when he spoke about the smoke, you know, the trees, or the burial trees.
Q. But did he talk about any other women's issues.
A. He just said that there was women's issues involved in it and it related to the shape of the island. And then he made the comment of the tree burials. That was in the context of a reasonably long conversation over a large number of issues of which some of them are related in that statement.
Q. But -
A. They were the main issues.
Q. He made it clear to you that the women's issue was of some significance.
A. It obviously played a significant - it was significant
in his mind, at that stage. It certainly wasn't
significant in my mind. It hadn't got to that point.
Q. I appreciate that, but what I am saying is it certainly
appeared to you -
A. Look, he mentioned it with no great height or depth or
whatever the term is than the tree burials. So, you
could now say he was having a bet both ways,
archaeologically and anthropologically.
Q. Did you get the feeling there was more than one issue to
do with Aboriginal women.
A. No, he didn't mention it.
Q. You didn't quiz him further on that point.
A. No, I didn't see it as an important issue.
Q. At that time.
A. At that time, yes.
Q. You would, of course, concede that it has become an
important issue since then.
A. In the mind of some people, but I don't think everybody.
I think you can tell my thinking, at that time, was very
clearly on both sides, because I rang our consultant
anthropologist and our consultant archaeologist after
that conversation. So, I was obviously clearly thinking
it was - could have been either issue.
Q. On 27 April again you had a meeting. This time with
Henry and Jean Rankine and the Mileras.
A. Yes.
Q. The question of women's issues was certainly raised
again, at that stage, wasn't it.
A. I don't think so, on those terms. It was raised by
Sarah in terms which could have meant anything.
Q. But she was - it would be fair to say that -
A. Could I have a look at that exhibit? Because that uses
the terms in there that she used.
COMSR: What exhibit are we referring to?
XXN
Q. I think you repeat it on p.18 of your statement, if you
want to look that the -
A. Yes, right down the bottom, yes. She was using terms as
I set out in there that `from within', `the history
hasn't been written yet', `still learning about it',
'the bridge was taboo for some big special reason'. And
`It is more than meets the eye.' They were quotes that
she was making, but it certainly didn't seem to me that
it was an issue of women.

Q. You didn't appreciate, at that stage, that what she may
have been talking about was an issue concerning what you
might call women's business.

A. No, I still very clearly had the impression that they
were talking about skeletal remains on the line of the
bridge. Because later on she was talking about how she
taught Draper everything, which was obviously a
reference to skeletal and those sort of issues.
archaeological issues. Then she talked about the sword,
which was the piles into the bed, which, once again, I
took as I previously had with the Joy Harvey issue that
it was piles through skeletal remains.

Q. Again, that was your interpretation of what her comments
there -

A. Yes, but bear in mind I am not an archaeologist or an
anthropologist either.

Q. Turning to p.19 of your statement, in the middle of the
page there you refer to the meeting between the local
council, Matt Rigney and members of the Lower Murray
Aboriginal Heritage Committee.

A. Yes.

Q. You said you sought from the Council and obtained a copy
of the minutes of the meeting.

A. That's right.

Q. You haven't seen a copy of those minutes, though, is
that correct.

A. Yes, but I have got the set that you have got in the
minutes. They are the same date, I think, but not the
long, comprehensive ones. I haven't seen those.

Q. It is the long, comprehensive ones.

A. No, I haven't seen the long, comprehensive ones.

Q. You have had a copy I think.
A. Of an abbreviated version of them.
Q. This abbreviated minutes of that meeting, can you tell us where you got those from.
A. As I say, I got them from the Council.
Q. You don't know who kept them or who wrote them out.
A. No.
Q. What, the Council minutes.
A. The notes of the meeting.
Q. The notes of the meeting, were they written out by the Council, is essentially what I am asking.
A. The Council.
Q. You understood they were written by the Council.
A. Yes, and I don't think anybody would dispute that that is what it was.
Q. The longer, handwritten notes that were presented to you, you told us you hadn't seen them before.
A. No, I hadn't seen those, no.
Q. Are you aware of what they were, whether they were the long, handwritten notes of that particular meeting.
A. I haven't seen them.
CONTINUED
Q. You have told us that you were aware of what has become known as the Mouth House meeting.
A. Yes.
Q. Can you tell us who told you about that.
A. Doug Milera told me.
Q. But you had heard of it before that.
A. Yes. It had been circulating around, and I had become aware of it. Exactly how or what, I don't know without looking to my records, which I don't have here.
Q. Before you spoke to Doug Milera, what did you believe had occurred at that meeting.
A. Well, I was pretty aware that what he said was -
Q. I am asking you what you were aware of before you spoke to Doug.
A. I was aware that there had been a meeting held at the Mouth House, that the issue of - that it had been discussed, that he had pointed to a map apparently. I was pretty aware - there was nothing new that I learnt from Doug Milera, put it that way, at that particular time.
Q. Were you aware of any of the statements of Dorothy Wilson at that time.
A. Whether I was aware of them then or after, I'm not sure at the moment. I would have to research our records.
Q. You have got to understand, we got barraged with so much material on this issue that, for you to ask a particular question, it is very difficult to isolate like that.
Q. You mean it is very difficult for you to isolate when a particular piece of knowledge came -
A. Came into being, yes. Bear in mind too, it has come from two or three different sources possibly and, therefore, which is the first one? I can't -
Q. I was simply seeing if you could clarify that point.
A. Before Doug spoke to you, did you think that he was the person who fabricated or suggested a fabrication of the women's issues.
A. I think it would be fair to say that it was a case of putting a big jigsaw together at that stage, and whether
he was part of that or not part of it, totally involved
or, you know, whatever, I cannot tell you now how I saw
him on that particular day.
Q. But I would suggest to you, in fact, that his statements
to you at the hotel were very significant to you
because, for the first time, you would have had
first-hand evidence of a fabrication.
A. I think, in answer to that, had that been the case, they
would have been noted in my notes, whereas I tended to
note other issues that I saw at the time as being more
important. I saw it probably a case of him - you know,
that was reinforcing what I knew.
Q. But I suggest to you it would appear from what you have
told us, that he is the one providing you with what may,
if it was true, be damning evidence against,
particularly, the Lower Murray Heritage Committee, and
Tim Wooley.
A. He, at that stage, I think was reinforcing material that
I was already aware of independently, and just
reinforcing the issue. He didn't tell me anything that
was new to me at the time, and he didn't tell me
anything that broke down other information that I had.
He reinforced it.
Q. But, at the same time, I suggest to you that is really a
critical piece of information, if it was in fact true.
Would that be fair to say.
A. It was reassuring to hear him say that, because it
confirmed what I already knew.
Q. But, if what he said was actually true, it would be the
first time you could produce some proof -
A. Put two parts of a jigsaw together.
Q. Yes.
A. Yes.
Q. I understand at this stage you were already, I think you
have said, involved in the Federal Court hearing.
A. Yes, that's right.
Q. But, despite all of that, as you have pointed out to us,
you have made no mention of that in your notes.
A. Because there were - to my thinking at the time, there
were more important issues that I needed to note down,
apart from the fact that I was well aware that he was
reinforcing what I had already been told. Back in
August last year we knew that there were people
dissenting, Aboriginal women saying that it had been
fabricated. So I think you have got to see it from our
perspective, which was probably very different to other
people’s. We already then - in November we had another
senior Ngarrindjeri woman come out in the media and tell
us, that we came across. So you might see it as
important at that time, but certainly I think in our
perspective it was seen as just confirming already
information that was well known to us.
Q. I think you have given us evidence that Doug owed Frank
Tuckwell $50 at the time he spoke to you.
A. Yes.
Q. Did he say he had any other debts.
A. No.
Q. He did ask you for some money, as you have told us, just
before you left.
A. He didn't ask me.
Q. In your notes you said on the second page ‘When we left
the tavern, Doug asked if we ‘-
A. No, he asked Wendy.
Q. He actually asked Wendy. He didn't ask -
A. Yes. That’s the royal ‘we’.
Q. Had you spoken to Doug about money before.
A. No.
Q. But it was quite clear to you, I take it, that he had no
money.
A. No, he made it clear. I asked him ‘What clothes have
you got? What do you want to do?’ because he suddenly -
as I told you earlier, he wanted to go down to Adelaide.
I said ‘How are you going to get there? You need some
clothes and things like that.’ He said ‘Don't worry
about that’, he was self-contained. He said ‘I have
done it before, and I don't mind doing it again. I will
go out and live on the street, if necessary.' It was a

case of what -

Q. Was there some expectation that he expected you to drive

him to town or some suggestion of that.

A. No, as you know, I wasn't about to do that.

Q. Did you make that clear to him, that you weren't going
to drive him to town.

A. It didn't get to that point.

Q. When you talk about money, is this the $5 for
cigarettes.

A. Yes, that Wendy gave him.

Q. Did Doug say anything to you about him owing rent at
Goolwa or having financial difficulties.

A. No.

Q. I think you said in your evidence that he was giving you
lots of little grabs.

A. Yes.

Q. It appears from your notes that the conversations jumped
from one topic to another.

A. Yes.

Q. Is it fair to say, during his discussion with you, he
appeared to be continually jumping from topic to topic.

A. He certainly jumped around, yes. He was in a nervous,
agitated state of mind, I believe, as to how he was
going to meet with his peers.

Q. I think you said he wanted to go to Adelaide and meet
with some people. Did he say who he wanted to meet
with.

A. Yes, I told you that in the evidence. It is in there
somewhere.

Q. That is Don Smith and Matt Rigney.

A. That's right. I don't know who Don Smith is. That
means nothing to me, but means something to you, does
it?

Q. Did he say to you why he wanted to ring Allan Campbell.
A. No, but he was keen to, and he had his phone number, so
I gave him the phone. Then he rang Allan's brother
John, Johnny Campbell.

Q. Did he say to you anything about what those
conversations were about.
A. No. He had them - he went out of the room and had them
on what you would probably call the sundeck, overlooking
the ocean. So Kym and I were not party to what they
were talking about. We made it our business not to be
near him, to pressurise him, or do anything.

Q. The next day when you went to Gary Kropinyeri's place -
A. Yes.

Q. How long did you stay there.
A. Ten minutes, I suppose, at the most.

Q. Did you make any observations of Doug on that occasion.
A. No. I went there, introduced him to Roger Searle, and
he told me that he had gone over there late that night,
and I don't know what he had been up to.

Q. Prior to that -
A. I made my - you know, went in, did what I was going to
do, and got out just as quickly as I could. I wasn't
there to talk.

Q. Did he look like he had a hangover.
A. I would say that he had been drinking, yes, but whether
that was because he hadn't slept, or hadn't anything to
eat or anything else, I really couldn't say.

Q. But he looked to you like he could have been drinking.
A. He could have been drinking, but whether it is caused
through drink, lack of sleep or anything else, I'm not a
doctor, I couldn't tell you.

Q. Did you smell alcohól on his breath.
A. No. On the other hand, I didn't get close enough to
find out.

Q. This morning you gave evidence of a meeting, or a call,
if I remember, that was made by Matt Rigney and I think
you also suggested Victor Wilson, that Westpac should
withdraw funding.
A. And Doug Milera. There were three of them.
Q. I take it the effect of your evidence was that those three people were pressuring Westpac to withdraw funding from your project.
A. Yes, and that's been confirmed by - on three different occasions to us.
Q. I think your suggestion really is that, as a result of that, and without any commercial reason, Westpac then put the receivers in.
A. That's correct, together with the support from CMFEU and the Conservation Council, too. It wasn't just those three, but I am sure they played a very significant role in it.
Q. Did you attend any of the court hearings in relation to the application to appoint receivers.
A. Yes.
Q. Would it be fair to say you attended all of them.
A. No, I don't think so.
Q. But you were well aware at all times what was happening in those court proceedings.
A. I don't think - I am not a legal person, so how could I say I was aware of it?
Q. I am not asking you whether you were aware of all of the legal implications, but some of the factual implications.
A. Yes, I was concerned that Westpac's barrister made the statement that we hadn't paid any money to Westpac during the preceding year, when in fact we had paid them, I don't know, 3 or $4 million, and there were wild errors in fact.
Q. In fact, that is reported in an 'Advertiser' article of 12 April 1994, which was -
A. And it wasn't corrected the next day.
Q. Document number 12 in Exhibit 105.
COMSR: We have traversed this ground, but I take it it is leading up to something to do with the parties you represent, this line of questioning, is it?
MR KENNY: Yes. This witness is suggesting that one of my clients put pressure on Westpac and, as a
result of that, they put the company into liquidation.
I just wanted to correct that impression.
COMSR: I understand the part leading up to the
court proceedings, but we have now got onto the court
proceedings.
CONTINUED
MR KENNY: That is where most of the evidence comes out as to why Westpac undertook the course of action they did. To clarify the situation, I will ask this question.

XXN

Q. I take it that you read that article of 12 April 1994 in the Advertiser.

A. Yes.

Q. If I can also quote from that article, that's document 12 of Exhibit 105, in the middle of the second paragraph: ‘Westpac's lawyer Mr Bruce Lander QC is quoted as saying "For months now the plaintiffs Binalong have been on notice that they must refinance and must repay their debt and they simply have not done it because they can't do it", he said. He went on to say "It is a fact that these companies Binalong and the subsidiary The Marina Services Pty Ltd are terminally ill and their call for life is coming to an end"'.

A. Yes. That was totally wrong, of course.

Q. You are saying that there was no request from Westpac that you refinance your debt.

A. No. Westpac asked us to refinance and asked us some years before to refinance. They knew as well as anybody else that until we had the bridge under way, we couldn't refinance. And that was what I said this morning.

Q. You do admit that you had been asked to refinance.

OBJECTION Mr Meyer objects.

A. You have to understand that Westpac were more than happy to stay there until they got the pressure. Their position changed dramatically when that happened and didn't tell us what was going on and couldn't tell us.

Q. Mr Lander is quoted as saying ‘Westpac told the Chapmans last November to actively pursue the sale of the marina development by November’. I presume that is November 1993.

A. And Westpac were aware that that couldn't be done until the bridge was under way at that point of acknowledgement.
Q. Westpac had asked you to actively pursue the sale of the
development.
A. No. When it was ready to refinance, that is what they
asked for, which we took steps to do but couldn't get
anywhere because of the adverse publicity of the bridge.
Q. In that article, it's also stated that 'Binalong's
lawyer, Mr David Meyer, accused Westpac of succumbing to
public lobbying by groups that have acted illegally and
improperly'.
A. That's right.
Q. Despite those submissions by Mr Meyer, Justice Matheson
refused to grant your injunction.
A. That's correct.
Q. Essentially, he found that there was no reason to
support an injunction, despite what you say.
OBJECTION Mr Meyer objects on the ground that the
witness is being asked to interpret the
judge's decision.
OBJECTION UPHELD
Q. In fact, on 14 April 1994, again in the Advertiser,
there was another article, this time by the receivers,
and it's an article in Exhibit 105. There, it is
quoted, just to clarify the point: 'On the 15th of
December, Westpac asked Binalong to actively explore the
sale of the development' - no, sorry 'Explore sale of
development by December 15, 1993'; is that correct.
A. Yes. But proceedings, things, had continued on when
they realised that the bridge was going to start. They
hadn't pushed us at all.
Q. That article of the 14th of the 4th, 1994, in the
Advertiser goes on to say: 'Westpac offered to give the
Chapmans until February 28th to refinance its loan from
PPL. The offer was not accepted'.
A. The offer was not accepted but no-one would refinance us
until the bridge got under way. This is going around in
a circle. I don't know where you are going?
Q. There was continuing pressure by Westpac for you to
refinance your loan or sell the development so that you
could repay the moneys that were due and owing to
Westpac.

A. I don't think that that was any different to 1989. We
had a very good relationship with Westpac until that
last month when the pressure was brought to bear.

Q. What I suggest to you, in fact, is that your
relationship with Westpac was deteriorating.

A. No, it wasn't.

Q. There were sound commercial reasons for Westpac
appointing receivers to Binalong Pty Ltd.

A. Absolutely none, not with the bridge starting the next
week. Absolutely illogical.

Q. Even with the bridge, I suggest that you would have had
the -

A. How would you know if you don't have privy to the
valuations and other material that are necessary to put
together a financial presentation? You really wouldn't
know. And what you are doing is picking up media
speculation that is totally false.

Q. If I refer to another report of the Advertiser of the
8th of the 8th, '94, this is document 66 in Exhibit 105.
It suggested there that: 'The company Binalong Pty Ltd
had been liquidated with debts of more than 20 million
dollars'.

A. That is my very point. You don't know what the
valuation of the assets of the company are. That is
just a meaningless statement.

Q. Have any reports been issued by the liquidators as to
the assets of the company.

A. No, not that I'm aware of. And that's meaningless. If
you don't have a bridge, you don't have any value, so,
once again, that is not getting us anywhere. All that
proves is that we have a major claim against somebody.

Q. It also suggests that: 'Acting Judge Boehm in the
liquidation of Binalong Pty Ltd said "That Binalong was
hopelessly insolvent"', and that was as at 8 August
1994.

A. Yes, that is after the bridge had been stopped. So,
therefore, the asset was entirely valueless. So, all
that proves is that we have a mammoth claim against
probably other people, including yourself - your clients
I mean.
Q. I take it that you are not suggesting a claim against
me.
A. No, I will let you off the list. A slip of the tongue.
I think I made it very clear that in the sequence of
events, what happened caught us in a movement of two
ways which were moving against us, stopping us from
refinancing and/or doing anything with the property. It
was just driven into the ground. And there has also
been evidence that other people were well aware of
values of property generally on the island have been
diminished significantly, so.
Q. I'm not denying or suggesting that you didn't lose
significant funds of your own.
A. But to say the company was insolvent through that is
just silly and extreme in my view and comes about
through people not understanding the circumstances of it
at all.
Q. If we can just follow up on that question of
compensation. As I understand it at the moment, the
company has not finally been wound up; is that correct.
A. That's correct, yes.
Q. It hasn't sold the marina assets.
A. No.
Q. That is still unsold.
A. The logic of the whole thing is to get the compensation
and pay the liquidator out and go straight back in
again.
Q. The claim for compensation is a claim by Binalong Pty
Ltd.
A. All the other companies and ourselves privately. Don't
forget that Binalong was the owner of the property.
COMSR: I am puzzled how this is going to assist
me to follow up this line of examination?
MR KENNY: It's right, that's of marginal
relevance. But, in my opinion, it does concern me that this witness is suggesting that one of my clients has caused his financial demise.

COMSR: I think you have taken that aspect as far as you can. Now to follow it up and speculate to what might or might not happen in the future, it's not going to assist me to determine any question of fabrication.

MR KENNY: I will take the questioning no further.

Q. During the digging of your marina and the general excavation works in the area, were any skeletal remains found by you or any of the contractors employed by you or the companies.

A. I covered that in evidence.

COMSR: I thought the witness told us about that.

Q. I'm seeking a final confirmation on that.

A. I said I covered it in evidence this morning. My position hasn't changed. We haven't dug anything more since this morning.

Q. You are saying that you didn't find -

A. We didn't find anything.

NO FURTHER QUESTIONS

COMSR: Would there be any further cross-examination of this witness?

MR MEYER: I have some brief questions of him. I take it that he would be here tomorrow morning and that is as convenient a time as ever.

MR SMITH: Before you rise, the transcripts of those two video cassettes that were put in the day before, Friday I think, late. The Ray Martin interview with Doreen Kartinyeri and the Sandra Saunders' interview was marked Exhibit 171, I think. I've handed to your clerk a copy of the transcript. Could I suggest that they be marked 171A.
VIDEO CASSETTES OF RAY MARTIN INTERVIEW WITH DOREEN KARTINYERI AND SANDRA SAUNDERS TO BECOME PART OF EXHIBIT 171

AND BE MARKED 171A

MR SMITH: Then, the Channel 10 interview, the
interview of Doreen Kartinyeri of 7 July 1995 which is
Exhibit 153, I've handed to your clerk the transcript of
that and I ask that it be marked 153A.

TRANSCRIPT OF CHANNEL 10 INTERVIEW OF DOREEN KARTINYERI HELD ON 7 JULY 1995 TO BECOME PART OF EXHIBIT 153 AND BE MARKED 153A.

MR MEYER: We have prepared a transcript of, if it becomes relevant, the 7.30 Report of last night and have handed a disk of that to Miss Simpson. If that is of any assistance to the Tribunal for checking and reproducing.

MR SMITH: I have got that.

ADJOURNED 4.30 P.M. TO THURSDAY, 28 SEPTEMBER 1995 AT 10.15 A.M.
Q. In going through the chronology of events, there was a telephone call between yourself and Henry Rankine on 20 April 1994, is that correct.
A. That's correct, yes.
Q. We didn't deal with that in your evidence, did we.
A. No.
Q. Not in detail, in any event. That came, just to put it in context, at a time when negotiations were occurring between your solicitors, on your behalf, and people like Matt Rigney and the Aboriginal interests. Is that right.
A. That's correct. We were trying very hard to find out who we should speak to and try and get a discussion - at least a dialogue going.
Q. So 20 April was a prelude, for instance, to the meeting you had, first of all, with Matt Rigney at North Adelaide on the 26th.
A. Yes.
Q. And then on the next day with David Rathman, the Mileras and the Rankines at DOSA.
A. That's correct, yes.
Q. Can I take you then, just to complete the picture, to 20 April 1994. You made a telephone call to Henry Rankine.
A. I made a telephone call to Henry Rankine, and I believe he rang me back. He wasn't available at the time. He rang me back a little later in the day and we had a conversation. The important part of the conversation, I guess, was I was keen to get a meeting going with Henry and anybody that he believed that we should meet with.
He said that he felt that it was important that we met
with himself, Victor Wilson and Matt Rigney, and then he
went on to say that, however, he didn't believe that
Victor Wilson would meet with us because of litigation.
I then explained to Henry Rankine that that was a
totally separate issue, nothing to do whatsoever with
our negotiations that we would have with Henry and other
Aboriginal males. I explained that that was tied up
very much with people who were trying to stop the bridge
and stop finance to us. He said he would discuss the
matter, and that was the last I heard of it. And then,
at the same time, Steve Palyga, of course, was having
discussions through Mr Walsh, and we finally ended up
with a meeting on the 27th. Out at the meeting on the
27th there was one other point that I think is worth
recording - is that I rang Wendy after that meeting of
the 27th, because she was at Goolwa and I was in
Adelaide after the meeting, and one of the points that I
made, that I haven't brought out before, was that Matt
Rigney was keen to say that the scale of the bridge
concerned him because you could see burial sites from
the bridge.

Q. As at 20 April, what was the litigation that was in
train.
A. It was the injunctions that we had obtained in the
Federal Court under the 45D's of the Trade Practices
Act.

Q. Against the picketers.
A. Against the picketers.

Q. None of those injunctions were against Aboriginal
people, were they.
A. No, absolutely not.

Q. Via Henry Rankine, Victor Wilson expressed concern that
he wouldn't meet with you.

OBJECTION Mr Kenny objects.

MR KENNY: I don't think it is a matter of `via'.

This is simply the witness giving evidence of hearsay
now. I don't think my friend can express it in terms of
Victor was actually expressing concerns about the litigation. This witness doesn't know. All he can report, at best, is hearsay information that was given to him, and I don't think it should be couched in terms of Victor was expressing -

COMSR: I am not excluded from taking hearsay evidence. The weight to be attached to it, of course, is a separate issue.

MR KENNY: The other thing is it also appears to me that what has happened here is this witness has said that Victor - Henry Rankine said that, if I remember it correctly, he didn't think that Victor Wilson would speak to him because of the litigation. He didn't say. That he wouldn't, and he didn't say that Victor Wilson said anything to Henry Rankine. Henry Rankine is purely expressing an opinion. So I object to it being put on the basis that Victor Wilson was expressing an opinion. It is not Victor Wilson's opinion. It is Henry Rankine's.

COMSR: You better lay a foundation.

QUESTION WITHDRAWN

REXN

Q. Could you tell us what Henry Rankine said to you about the current issue of the litigation.

A. Yes. He made it clear that Victor Wilson would not speak to me because of the litigation that was pending under the 45D's. He didn't say `the 45D's', but that's what he meant. He gave me Victor Wilson's phone number to see if I could make some progress directly with him, because he was clear that Victor Wilson wasn't going to meet with us, and Victor Wilson didn't meet with us.

Q. Did you use the phone number.

A. No.

Q. Did you chase up -

A. I tried on one occasion, and I didn't get anywhere and events overtook it.

Q. There is one topic that I started with you, but didn't complete because we obviously moved onto something else
before I completed it. You told us that you arrived at
the Middleton Tavern at about quarter to 4, is that
correct, in the afternoon of 5 June.
A. That's my assessment.
Q. And you told us that you left some time after 7 p.m.
A. And once again, that's an assessment. I can't be exact
on that. The arrival time is more accurate than the
departure time, but it was certainly dark and had been
for some little time.
Q. At the time you left.
A. At the time I left, that's correct.
Q. When you arrived at about quarter to 4, you told us that
you saw Denver and Doug Milera seated in the tavern,
together.
A. Yes, in the south-eastern quadrant of the -
Q. Milera was drinking a stubbie of beer.
A. That's correct.
Q. You sat down and joined, as it were, the two men.
A. That's correct.
Q. And conversation then ensued.
A. Yes.
Q. I began to ask you about the topic of Milera's sobriety
at that stage, but we didn't explore it in any detail.
Can you tell us the state of his sobriety as at the time
of your arrival at the tavern at quarter to 4 or
thereabouts.
A. I would say that there was nothing wrong with it
whatsoever. He was definitely agitated and worried and,
I think that is shown by the steps he was trying to take
to communicate with various people, how he could get to
town, that is to Adelaide, to talk to people that he
believed were important. That seemed to be highest on
his mind, and I don't believe his speech was any
different to the speech that he was using - or I
remember him using on the meeting of 28 April, whenever
it was, in David Rathman's office. He has a particular
type of slow speech.
Q. In your experience of life generally, you have seen people drunk, sober, and in intermediate stages, would that be right.

A. That's a leading question, isn't it? I'm not that type of person. I don't believe he was affected by alcohol at all.

Q. What about as the afternoon progressed and, in particular, when you and Milera parted company after 7 p.m. at the Middleton Tavern.

A. I don't believe there was any difference in that state at all. He was not affected by alcohol, I believe, at all. He was, however, nervous.

Q. I think you provided the commission with a number of photographs which I failed to put to you yesterday. I would like to do that now and get them into evidence. Looking at this bundle produced to you, marked 1 to 8, would you deal with them one by one and tell us what the.

A. Photograph number 1 - and these are all taken, I believe, on the 9th of this month - is a close-up photograph of the original bridge between Hindmarsh Island and Mundoo Island, showing it in the form it is today, with the earthworks on the right-hand side and the timber piling and the main bearers still left in place, and in the distance is the existing works of the barrage. Photograph 2 is of the same structure, but taken further away, giving its length and showing the east and the west causeways to it - or embankments to it. Photograph 3 was in fact taken a month earlier, but it is an aerial photograph of the same structure showing it is in tact from side to side. It was last used, I believe, by vehicles in 1955 when Mr Peter Grundy drove a tractor across which fell through part of it, and after that time it was not used commercially. Photograph 4 is an aerial photograph, not as well focused, but of the same structure. Photograph 5 the same. 6 is another aerial photograph looking back across Hindmarsh Island. Photograph 7 is taken from the
sea looking north, an aerial photograph showing the
current barrage in the middle ground, and immediately
beyond that, the structure of the original - what was a
Hindmarsh Island/Mundoo barrage and bridge structure.
And photograph number 8 is a structure which joins
Hindmarsh Island to Lucerne Island with Mundoo Island in
the background.
EXHIBIT 180        Bundle of 8 photographs tendered by Mr
Smith.  Admitted.
Q.  Would you come out of the witness box for a moment, and
by reference to Exhibit number 80, which is the map on
the wall here, would you first of all indicate the
Mundoo barrage.
A.  This is the Mundoo barrage here, marked 2 (INDICATES).
Q.  And then the Mundoo bridge which is primarily the
subject of those photographs, 1 to '.
A.  That's right, it's marked `Old barrage' and it is
clearly marked on the map (INDICATES).
Q.  The Lucerne Island bridge.
A.  That is shown just here (INDICATES).  It is shown `Ford'
there, but it is in fact now a bridge structure.
Q.  Is Lucerne Island actually an island as shown there on
Exhibit 80.
A.  Yes, this part is, yes.  I think that's actually the
structure there (INDICATES).
Q.  Yesterday you took exception to something in Deane
Fergie's report which was geographically incorrect.
Would you please demonstrate that to us.
A.  Yes.  In Deane Fergie's report she talks about Hindmarsh
Island is separated or mediated from Mundoo Island by
the waters of the Goolwa channel.  If you look at this
map, it clearly says the Goolwa channel - as does every
other one - comes to here, and then you start from the
other side of the mouth, the Coorong channel.  It is
clear that Goolwa channel doesn't reach Mundoo Island.
What, in fact, separates the two islands is called - on
the sea side, the salt water side, is commonly referred
to as the Mundoo channel.  On the fresh water side it is
commonly known as Holmes Creek, and they are clearly identified on that map, and I would imagine on that (INDICATES OTHER MAP), and certainly on the navigation maps - charts.

NO FURTHER QUESTIONS
WITNESS RELEASED
MR MEYER: Whilst my friend is getting ready to
call his next witness, it seems to me it might be useful
for the commission to know which counsel appear on
certain days. I have no idea if you have some system of
keeping a roll.

COMSR: A record has been kept. I haven't asked
counsel to announce themselves each day.

MR MEYER: It only occurs to me because Ms Pyke
wasn't here yesterday afternoon and hasn't been here
today. I have no idea whether she had any interest in
cross-examining Mr Chapman at all. She has
cross-examined other witnesses. It may be relevant to
note it, if you are happy noting it.

COMSR: I understand we have been noting who is
here, not noting who isn't specifically.

MR MEYER: That achieves the same end.

COMSR: Yes, that achieves the same purpose. I
take it Ms Pyke has been notified in any case of -

MR SMITH: Such as that reference to Deane Fergie's
report, you mean?

COMSR: Yes.

MR SMITH: Yes, we have actually a book that we
keep here with such matters in it, and they are followed
up at the end of every day. Since we are having an
off-the-cuff discussion about it, it might interest the
media to know that the lawyers' jamboree -

COMSR: That we see to television so frequently.

MR SMITH: Yes, we have the opening day depicted
every time and we have heard what a lawyers' jamboree it
is. It might be interesting to note that, for a long
time now, the state of the hearing room has been much
like this.
MR SMITH CALLS
ROGER STUART NORMAN SEARLE SWORN
EXAMINATION BY MR SMITH
Q. You are the owner of the Hindmarsh Island Caravan Park, is that right.
A. Yes.
Q. As part of the caravan complex, that has a deli and liquor store.
A. That's correct, yes.
Q. I think you have been in business on Hindmarsh Island since 1984.
A. That's correct.
Q. So you are going into your 12th year.
A. Yes.
Q. In a sense, you have been a witness and participant in the Hindmarsh Island Bridge dispute, have you not.
A. Yes, indeed.
Q. In connection with this inquiry, you have supplied a statement to the commission, have you not.
A. Yes, I have.
Q. Looking at this document produced to you of 6 pages, do you recognise that as your statement.
A. Yes, I do.
EXHIBIT 181 Statement of Witness Roger Searle tendered by Mr Smith. Admitted.
Q. The Hindmarsh Island caravan park, just to make it clear, is actually on the island itself, is it not.
A. Yes.
Q. There was a caravan park or camping ground on Liverpool Road, is that right.
A. That's correct, yes.
Q. Is that still there.
A. No.
Q. So is that the only caravan park in the area of Goolwa and Hindmarsh Island, the one that you operate.
A. No. There are two other caravan parks in Goolwa itself.
Q. You are, I think, a supporter of a bridge being built connecting Goolwa to Hindmarsh Island, are you not.
A. I am indeed.
Q. When did you first become publicly involved in the support for the bridge.
A. When a public rally was organised in the Main Street of Goolwa.
Q. Was that a public rally where a land owner on Hindmarsh Island, Kym Denver, marched down the main street of Goolwa.
A. Yes, that was it.
Q. Have you also had an association then with the group known as the Friends of Hindmarsh Island Incorporated.
A. Yes, I have.
Q. Were you an initial member of that group.
A. No.
Q. The Friends of Hindmarsh Island Incorporated, as opposed to the Friends of Goolwa and Kumarangk, are a pro-bridge organisation, are they.
A. Yes, indeed.
Q. I think you took office in that incorporated association in February 1995.
A. Correct, yes.
Q. The group had been in existence for how long at that stage.
A. About - they had been in existence since October 1993.
Q. There were regular meetings during the time that you were associated with them.
A. We had two meetings between February and now.
Q. You became secretary, as your statement says, in February 1995.
A. That's correct.
Q. As the bridge dispute hotted up, if I can use the vernacular, there were weekly meetings of your group, were there not.
A. There were, yes.
Q. They were held in Rankine's tavern on a Wednesday evening.
A. They were not official meetings of the Friends of Hindmarsh Island Incorporated as such. They were weekly
meetings of people who were in support of the bridge.
Q. Were they, however, preceded by a meeting of the body
A. From my observations, before the meetings commenced, a
   group of the Friends of Hindmarsh Island Incorporated
   would have a meeting in the kitchen of the tavern, and
   then they would come out and the general meeting would
   commence.
CONTINUED
Q. You became secretary, as your statement says, in February 1995, and the president at that time was Mike Jolly.
A. Yes.
Q. You were the secretary.
A. Yes.
Q. The treasurer was Bill Barton.
A. Yes.
Q. And the vice-chairperson was Bob Hockey.
A. Yes.
Q. And the committee were: Kym Denver and Anne Hockey.
A. Yes, Tom Chapman and also my wife.
Q. You make the point that The Friends of Hindmarsh Island Incorporated, was not only concerned with the bridge but had other concerns.
A. That is correct.
Q. What were they.
A. We had meetings and discussions regarding land care, fox baiting and we also had a meeting where we requested the proposed councillors for the local government to come along and address us and tell us what their views were, not only the bridge but the island, and what could be done about it.
Q. Those weekly gatherings of pro-bridge people at Rankine's Tavern, did you go to most of those.
A. To most of them, yes.
Q. During the period when the bridge dispute was at its height, what sort of people, how many people went to those meetings.
A. The meetings varied from 40 to 50 people, up to 150.
Q. To put it generally as you have done in your statement, what you were doing, at least in connection with the bridge, was rallying support, writing letters, organising public meetings and that sort of thing.
A. That sort of thing. Also, I didn't mention in the statement, there was a certain amount of fund raising to assist with the cost of paperwork and postage, and so on and so forth.
Q. Was the dispute relating to the bridge, and in particular the picketers and the protesters, having an impact on your business.
A. It certainly was, yes.
Q. In what way.
A. We were finding some of our customers were ringing up and cancelling their bookings due to the adverse publicity when picketers were shown on the media quite often, and we also had people who came to the park and complained of the treatment they had received at the hands of the picketers at the ferry approach. And they - some of them were telling me they had signed petitions against the bridge purely and simply to get the picketers out of their car.
Q. Did you come to know Doug and Sarah Milera.
A. Yes.
Q. When did you first meet them.
A. Doug Milera and three other Aboriginal gentlemen came on to the island in a search for sacred sites and they rented a house just around the corner from the caravan park.
Q. Do you know who the other gentlemen were.
A. I know two of the gentlemen, Robert Day and Robert Day, I assumed, senior and junior.
Q. When you say - were there three or two gentlemen, sorry.
A. There were four Aborigines including Doug Milera, and initially they were accompanied by Neale Draper who introduced himself to me and asked permission for them to go on to our property.
Q. The house that Doug Milera was renting near you was whose property, do you know.
A. Yes, Bob and Kate Harris.
Q. That's near your caravan park, is it.
A. Yes, it is.
Q. How long were they there.
A. They were there for four weeks.
Q. Is that just Doug and Sarah Milera, or the group.
A. The group of four, I believe, stayed in the house.
Sarah appeared to come and go daily; I think probably to provide food.

Q. Did Doug Milera become a regular customer, if you like, of yours.
A. Yes, indeed.
Q. In what sense.
A. Well, each day as they finished their search of the island, he would come to the liquor store and purchase beer and sit outside and drink it.
Q. You would talk with him.
A. I did on a number of occasions, yes.
Q. Did you, yourself, meet Neale Draper.
A. Yes. Neale Draper introduced himself and asked permission to go on the property.
Q. That is your caravan park property.
A. Yes.
Q. Would you step out of the witness box for a moment and show us where it is on Exhibit 80.
A. Yes. The caravan park is situated just here. (WITNESS INDICATES ON THE MAP THE SPOT INDICATING 'CARAVAN PARK').
Q. What's the extent of the property there.
A. 22 acres.
Q. Quite extensive.
A. Yes.
Q. I think you had a conversation, as your statement indicates, with Robert Day junior.
A. Yes.
Q. About whether or not any sites of significance had been discovered on your caravan park property; is that right.
A. Yes, that's correct.
Q. Can you tell us about that.
A. I asked Robert what they were actually looking for and said that he was only learning, he was being taught how to identify sites and that they hadn't found anything at all in the caravan park.
Q. Did he give you a hint of what he was looking - what they were looking for.
A. He said that they were looking for shells.
Q. I think the next time you met Doug Milera, apart from
that contact over a month, was a chance meeting in
Adelaide.
A. Yes, that's correct.
Q. You just said 'Hello' to him; is that correct.
A. That's it, yes.
Q. The next occasion after that was, I think, the day that
Channel 10 screened an interview between the journalist
Chris Kenny and Milera himself.
A. That's correct, yes.
Q. Can you tell us of the events of that day.
A. Yes. I received a telephone call from Tom Chapman
asking was I available to pick up Doug Milera from Port
Elliot and take him through to Wellington. Tom
apologised for such short notice, but said it was rather
important and that he had no-one else to call upon on
such short notice to transport Doug to Wellington.
Q. That was going to take up how much of your time.
A. Well, initially it was going to take about an hour and a
half, but it did drag on a lot longer than that.
Q. You agreed to do that.
A. I did, yes.
Q. Was any explanation proffered to you by Tom Chapman as
to why this would be happening; that is, that you were
picking up Doug Milera and taking him to Wellington.
A. At that time, he didn't say why, but he said it was
important that Doug be taken to Wellington.
Q. This was at about what time in the day that this
telephone call came.
A. This telephone call would have been approximately 11
a.m.
Q. I think you made arrangements with Tom Chapman and he
would drive in tandem with you to, was it, Port Elliot.
A. Port Elliot, yes.
Q. You did that then after.
A. Yes.
Q. What happened when you got to Port Elliot.
A. I followed Tom to a house opposite the drive-in theatre of Port Elliot and we knocked on the door and we were admitted to the house. Doug Milera was sitting at the table. And the owner of the house, I understood, was Doug Milera's nephew. I was introduced to him, but I don't recall the name.

Q. What happened then.
A. Doug didn't appear to immediately recognise me and Tom introduced me and then Doug sort of said 'Oh yes, I know, you've got the caravan park'. He remembered me then. After a few minutes, Tom left. He had somewhere he had to go and he said 'I'll leave it with you', and Tom left us. And I then waited for Doug to become ready to go through to Wellington.

Q. Would you describe what sort of physical state Doug Milera was in at this stage.
A. Doug looked as though he hadn't slept. He was drinking beer at that time. This was, by then, possibly noon. He looked tired.

Q. You were talking with him from time to time at this juncture, I take it.
A. Yes.

Q. Was he coherent.
A. Yes.

Q. You mentioned that he had with him what appeared to be a flagon in a brown paper bag.
A. They weren't with him, they were in the nephew's car outside. When we actually left the house, he asked me would I put the flagon and the carton of beer in my car to take with us through to Wellington.

Q. Apart from Doug you have mentioned that there was in that house a person you believe to be Doug's nephew.
A. I believed to be so, yes.

Q. And I think there was also his wife there; that is the nephew's wife.
A. Yes.

Q. And three children.
A. I believe three children, yes.
Q. You were telling us about what you suspect was a flagon in a brown bag which was out in the nephew's car.
A. Yes, it was.
Q. Doug Milera got into your car eventually.
A. Yes.
Q. And did he have any luggage with him, anything else.
A. Nothing at all.
Q. Did he take anything with him.
A. No.
Q. There was a carton of beer that came out of the nephew's car into your car; is that right.
A. It was actually 18 cans were in the carton.
Q. You drove then from Port Elliot to Goolwa, did you.
A. No, we turned off at Middleton and went through the Airport Road to Currency Creek.
Q. Onward to Tailem Bend.
A. Onwards to, supposedly, Wellington at that stage.
Q. So, is it the case then that Doug Milera changed his mind about going to Wellington.
A. He did, yes.
Q. So, you drove, first of all, to Tailem Bend; is that right.
A. That's correct, yes.
Q. En route to Tailem Bend, you and Doug engaged in conversation, did you.
A. Doug spoke at length. I was perhaps more of a sounding board than a conversationalist.
Q. Was there a period of him being rather quiet to start with.
A. To start with, he never said a word.
Q. And you didn't bother either.
A. I didn't.
Q. Were you curious as to why you were seconded to make this journey.
A. I certainly was. And to this day I honestly do not know why he was going to Wellington.
Q. I take it that you watched the Channel 10 programme that night, did you.
A. I did, yes.
Q. Tell us about the journey to Tailem Bend and what eventually passed by way of conversation between yourself and Doug Milera.
A. As I said, it wasn't so much of a conversation, it was more Doug talking to me. He addressed a number of topics. He informed me that in 1978 he had written a book. He informed me that he was widely travelled. He informed me that he had saved three lives in the Darwin Cyclone Tracey. And he eventually brought up the issue of the bridge. He told me that he had helped fabricate the story of the women's business. That the problems had cost him his marriage. That he and Sarah had separated. That it was all a lie and he was `Going to get those bloody women and Sarah'.
Q. Did he use the word `fabricate'.
A. Yes, he did.
Q. There was a point in the conversation where it began raining; is that right.
A. It was a wet day and in order to see clearly behind me, I reached forward to switch on the rear windscreen wiper and washer, and Doug became quite agitated and asked me was I taping the conversation.
Q. You said no you weren't.
A. I said `No, that's purely and simply the rear wiper'.
Q. Then, can you go on. Anything more said. Did he mention, for instance, the topic of what he had done the night before.
A. He asked me at one stage had it appeared on TV yet. I must make mention here that at the house in Elliott, mention of the interview with Kenny was made there, so I knew then what he was referring to. And he asked me had it been on the television yet and I told him, no. That at this point he became silent for a number of minutes and he was deep in thought. And he then said `I have to go to Tailem Bend', and I said `No, we are supposed to be going to Wellington'. He said he wanted to go to Tailem Bend `There are people there who I must tell what
I've done before it appears on television'.

Q. That meant, did it, a substantial change in the route that you were taking.

A. In actual fact, no. It meant going through Wellington, across the punt and then into Tailem Bend, and then returning back across the punt to Wellington.

Q. Your statement records that Milera also asked you if you spoke Ngarrindjeri.

A. He did.

Q. Can you tell us in what context that came up, what was he talking about there.

A. He was saying that he feared for his life over the statements that he had made and he asked me could I speak Ngarrindjeri, and I said no. And he told me what was going to happen to him, but he spoke in, I assume, Ngarrindjeri language.

Q. You complied with his request to go to Tailem Bend.

A. Yes.

Q. Did you stop at a particular address at Tailem Bend.

A. Yes. Stopped at two separate places in Tailem Bend. The first one there was no-one home.

Q. The second one.

A. The second one was, I believe, to be no.33 Karoonda Road in Tailem Bend. Doug got out of the car and said 'Come in', and he walked down the driveway. I got out of the car and followed him, but he walked straight in and the door slammed and I never went any further and I turned and went back to my car.

Q. Some time elapsed.

A. Possibly 10 to 15 minutes, and then Doug came back out.

Q. Unaccompanied.

A. He walked out and a few paces behind him another Aboriginal man, young-ish, walked out down as far as the gate.

Q. Did you recognise that Aboriginal man.

A. No, I did not.

Q. So, you set off again with Milera in your car.

A. Yes.
Q. Any change - did you notice any change in his demeanour, or whatever, after this visit to this house.
A. No, he still appeared agitated, trying to collect his thoughts.

Q. Any conversation of note in that time.
A. The first thing was he wanted me to do was stop and buy a packet of cigarettes for him.

Q. Is this still in Tailem Bend.
A. That is still in Tailem Bend - which we did. A further conversation from there back to Wellington, he again repeated that he was, he feared for his life.

Q. From Tailem Bend, you set off to Wellington.
A. Yes.

Q. You went to, what location did you go to in Wellington.
A. It was on Karpany Road. I understand the property belongs to John Campbell, but it was identified by a huge Aboriginal flag flying outside.

Q. I think when you arrived there, there was a Channel 10 vehicle already at the premises.
A. That's correct, yes.

Q. Who were the occupants; did you see the occupants of that vehicle.
A. Yes, a male and a female. When we arrived, the female was on the telephone and a few minutes later the male came up to us and introduced himself, but I don't recall his name.

Q. You don't know even now who he was.
A. No.

Q. What about Doug Milera. So, you have just arrived at the Campbells' house at Karpany Road.
A. Yes.

Q. Did Milera get out.
A. No, he didn't. I got out of the car. Doug seemed somewhat reluctant to get out. He had the passenger's door open and for a while was talking to John Campbell.

Q. Do you know why he wouldn't get out, having asked you to drive him there.
A. I believe that he wanted to have a quiet word with me
because he wanted to borrow some more money so that he could give some money to the children of this house.

Q. While Doug Milera was talking to Campbell, I think you were taking his gear out of your car.

A. I removed the brown paper bag with the flagon in it and the beer and placed it on the front verandah.

Q. When you left, Doug Milera was on the verandah of the house with John Campbell; is that right.

A. Yes. He was sitting on the verandah and John is standing in front of him and the gentleman from Channel 10 also and they were talking.

Q. Can I return to the topic then of the money. Milera asked you for some money.

A. Yes, he did.

Q. When did that occur.

A. He asked me for $10 at Port Elliot, which he left on the table presumably to pay them for whatever fare he had enjoyed there, the packet of cigarettes which I purchased for him and then money to give to children at the house at Wellington.

CONTINUED
KC 38C  
R.S.N. SEARLE XN (MR SMITH)

Q. $10.00 you gave him when you were at Port Elliot, which he left on the table.
A. Yes.
Q. You bought him some cigarettes at Tailem Bend.
A. Yes.
Q. That is just a packet of cigarettes, is it.
A. One packet of cigarettes, yes.
Q. At Karpany Road where we are, at the moment, at Wellington, he asked you for some money for the kids, he said.
A. Yes, that's correct.
Q. What did you give him.
A. I gave him $6.00 and he wanted more, but I wouldn't give him any more.
Q. You then returned to Hindmarsh Island.
A. I did, yes.
Q. Did you ring Tom Chapman.
A. I did, yes.
Q. And reported that you had taken Milera to Wellington.
A. Yes.
Q. Did you report to Tom Chapman what he had said to you in the car.
A. I mentioned to Tom and to Wendy some of the things that he had said to me. Not all of the things.
Q. In all, Milera was in your car journeying with you for how long, do you think.
A. Approximately two and a half hours.
Q. You told us earlier that he had said that he had fabricated the story.
A. Yes, he did.
Q. About women's business.
A. I beg your pardon, he said he had assisted in fabricating it.
Q. Can I take you back to that topic: did he give you any detail about that, more than that just general assertion.
A. No, he didn't.
Q. Did he, for instance, name any names or any places or
any particular occasions.
A. No.
Q. I think one of the other notable events in connection with this dispute was your appearance before Professor Saunders.
A. Yes.
Q. You were one of many people who met with Professor Saunders at The Old Police Station at Goolwa.
A. I was, yes.
Q. I think that occasion was 23 June 1994, is that right.
A. Yes, it was, yes.
Q. And you shared that appointment with a man by the name of Gary Knott.
A. I did, yes.
Q. And Mr Knott owned a premises called Knott's Landing, which is a general store at the marina on Hindmarsh Island.
A. Yes.
Q. I think you were involved in the Federal Court proceedings and gave evidence in the Federal Court.
A. Yes, I did.
Q. As secretary of The friends of Hindmarsh Island at least from February 1995 onward, was it your duty to keep the minutes.
A. Yes, it was.
Q. And your duty to take charge, I suppose, of the minute book.
A. It is, yes.
Q. I produce to you this red Collins account book or minute book. I think you recognise that as the book in which the minutes are kept.
A. Yes, I do.
Q. The minutes begin in a formal way at least in October 1993.
A. Yes.
Q. And are kept throughout October to at least 20 October 1993.
A. Yes.
Q. And then the next minute is November 1994.
A. That's right.
Q. You were not an office bearer of The Friends organisation in that period, were you.
A. No, I was not.
Q. You can't help us with if there were any minutes and where they are in that period between October 1993 and November 1994.
A. No, I can't help at all.
MR SMITH: In case any counsel want to make something of the minute book and inspect it, I will perhaps ask that it be marked for identification rather than be something that you have to struggle and come to terms with. I haven't taken copies of that, but I will facilitate counsel inspecting that.
MFI 182 Minute book marked 182 for identification.
CROSS-EXAMINATION BY MR KENNY
Q. I think you have told us that when you first met up with Doug at his nephew's place you said he was drinking at that time.
A. Yes, he was.
Q. Is that correct.
A. Yes.
Q. There was the flagon, did you see what sort of flagon it was in his car.
A. I have no idea, but it was full going by the weight of it.
Q. You suspect it was full.
A. Yes.
Q. Just going by the weight. You didn't know what it was.
A. I had no idea.
Q. You didn't know what was in it.
A. No.
Q. Or he made no comment about it.
A. No.
Q. Did he drink any of that flagon.
A. No, he didn't.

Q. I understand it took you about one and a half hours to drive from Port Elliot to Tailem Bend, would that be about right.
A. Yes.

Q. Did you observe Mr Milera drinking during that time.
A. Yes, I did.

Q. What was he drinking.
A. He was drinking cans of beer.

Q. Do you know what sort of beer.
A. West End Draft.

Q. How many cans did he consume during that drive.
A. I believe four.

Q. After you left Tailem Bend did he continue drinking.
A. He consumed four in the total journey. I can say definitely four from the point of view that I believe there to have been eighteen cans in the carton when we left Port Elliot and, when I put the carton on the verandah, there were twelve cans still in the carton and two loose cans on the back seat of the car. So, he would have consumed four during the whole of the journey.

Q. On p.4 of your statement, you indicate that, during the one and a half hours approximately that it took to drive from Hindmarsh Island to Tailem Bend, I take it what you really meant there was Port Elliot to Tailem Bend, is that correct.
A. You are correct.

Q. Then you go on to say 'I saw Doug consume four cans of beer.'
A. Yes.

Q. Did he consume those four cans before you got to Tailem Bend, or did he just -
A. Yes, before he got to Tailem Bend. He didn't have any more -
Q. After he left Tailem Bend.
A. After he left Tailem Bend, no.
Q. From there you simply took him back to Wellington.
A. To Wellington, yes.
Q. Did he say who he wanted to see in Tailem Bend.
A. No, he did not.
Q. Did he give you any indication as to why he wanted to speak to them before the story came out.
A. He appeared agitated and, as I did mention, he lapsed into silence for some four or five minutes and then said ‘I have to go to Tailem Bend.’ And I said we were not, we go were going to Wellington and he said ‘I have to go. I have to tell people what I have done.’ I can say no more than that.
Q. In your evidence-in-chief you have given evidence that on at least four occasions he asked you for money. Just to refresh your memory perhaps I will run through them for you.
A. Yes, indeed, that's correct.
Q. The first occasion was at Port Elliot.
A. Yes.
Q. The second occasion was at Strathalbyn.
A. Yes.
Q. The third occasion was Tailem Bend.
A. Yes.
Q. And the fourth occasion was when you arrived at Wellington.
A. Those are correct, however the first occasion was he asked for money. The last occasion he asked for money. The other two he asked for - at Strathalbyn he wanted a cooked chicken and then a packet of cigarettes. So, it wasn't in actual fact cash he was asking for on two of the occasions.
Q. On any other occasions did he mention money.
A. No.
Q. He didn't make any reference to him obtaining money.
A. No.
Q. Did he make any comments about his then financial state.
Q. As far as you were aware, he had no money at all.
A. That I took to be the case, yes.
Q. I think you said that at Wellington he appeared reluctant to get out of the car, get out of your car.
A. That's correct.
Q. You understand that he was waiting to ask you for some more money.
A. I believe that to be the case, yes.
Q. Was that before or after you gave him the three $2.00 coins.
A. He did not get out of the car for a while. When he did get out, he pulled me to one side and took me round the front of the car and then asked me for the money.
Q. I think you also said at Wellington he had a conversation with John Campbell, is that correct.
A. Yes.
Q. Did you hear any of that conversation.
A. No. When I say `no', I did hear the introduction or the commencement of the conversation when John said `Hello, Doug, and how are you?' And Doug replied, but, by then, I was going round the other side of the car to get the liquor out of it and put it on the verandah.
Q. At Wellington did you observe Doug drinking any alcohol before you left.
A. No, when I left he was sitting on the verandah, but, no, he was not drinking then.
Q. In your statement and in your evidence you have told us that Doug said to you that he was going to get the bloody women and Sarah.
A. Yes.
Q. Did he tell you why he was going to get them.
A. He had helped to fabricate the story and he had obviously admitted this and he was going to get the women, because they were telling lies.
CROSS-EXAMINATION BY MR MEYER
Q. I understand that one of the matters that was discussed briefly in the motor car when you were travelling with
Doug was some reference to the construction of the
Tailem Bend road.
A. Yes, correct.
Q. I think Doug mentioned to you that there had been
discussion with the Government or the Highways
Department or somebody in relation to that.
A. Yes.
Q. Did he make any reference to a sum of money in relation
to the Tailem Bend road.
A. Yes, he did.
Q. Can you now recollect what that was.
A. The sum of money that he mentioned was $3 million.
Q. What did he say about the $3 million.
A. We were on a new section of road, which was over a
slight rise -

COMSR: Has this got something to do with the
matters before me?
MR MEYER: It only ties it in. The relevance of
the questions was that there has been some evidence from
Mr Chris Kenny and some brief evidence from Mrs Chapman.
The relevance of the question was only from the point of
view of Mr Milera's credit, to show some consistency in
relation to matters that he raises on various occasions
with different people. And merely to try and give you
some indications that you can assist yourself with as to
Mr Milera's credit. That is all. No other relevance,
at all.
COMSR: Yes, because it is not a matter I can
explore.
MR MEYER: No, it is only a question of what Mr
Doug Milera has said on a number of different occasions
and is there any consistency in what he said? That is
why I didn't lead this witness, but sought from him the
sums of money, etc., having introduced the topic.
XXN
Q. Can you just finish that off for us.
A. Yes, we were on this new section of highway, going over
a slight rise, and Doug said `Did you know that this was
a sacred site that we are now travelling over?" And I
said no, I hadn't a clue. And he said that they had
asked how much the road was going to cost to go around
the sacred site and the figure of $3 million was
mentioned. And he said `We have agreed that the road
can go across the sacred site. $1 million to go to the
Meningie people. $1 million to go to the Murray Bridge
people. And the million dollars for the road.'
Q. Was that when you were on the stretch from Wellington -
COMSR: Are we going to -
MR MEYER: I was only going to establish which bit
of the road.
Q. That was when you went from Wellington to Tailem.
A. That was in between Wellington and Tailem.
Q. You operate the caravan park on Hindmarsh Island.
A. Yes.
Q. Did anybody on any occasion make any report to you that
if the Hindmarsh Island bridge was built that it would
be blown up.
A. That report was made to me, yes.
Q. Did you do anything about that report.
A. Yes, I did.
Q. What did you do.
A. I reported the matter to the local police officer so
that, in the event of anything untoward happening, it
would be recorded.
Q. Do you know who it was alleged to have made that threat.
A. Yes, I do.
MR MEYER: I am happy to leave it at that. If
counsel assisting thinks it is important he can find out
and if he doesn't think it is important he can leave it
alone. I don't know whether it is relevant or not.
I don't need to know the name of the person. I ask
the questions merely to for the purposes of validation.
It could be provided confidentially by Mr Searle.
COMSR: You didn't ask the witness did he know
who it was, you asked did he know who it was alleged to
MR MEYER: That's right, because the instructions I
have got is that it was reported to him.

WITNESS: That's correct.

MR MEYER: By a second person, rather than
first-hand. I am happy to leave it on the basis.

Q. Are you prepared to give that information confidentially
to Mr Smith.

A. Indeed, yes.

MR MEYER: I am happy to leave it at that.

MR SMITH: I have no further questions. In any
event, I need to speak with Mr Searle about that matter
just raised by Mr Meyer, but there is another matter
that I might explore, but not at this time with this
witness. So, I don't ask you to release him, but excuse
him, for the moment.

COMSR: Do you anticipate you might be recalling
Mr Searle? I suppose he would be interested to know
what the situation is.

MR SMITH: Yes, I will speak with him later in the
day. So, subject to that, could he be excused for the
time being?

COMSR: Yes.

Mr Searle, you are excused then, for the present
time.

WITNESS STOOD DOWN
MR SMITH CALLS

MICHAEL GEORGE WILLIAM JOLLY SWORN

EXAMINATION BY MR SMITH

Q. I think you are a land owner at Hindmarsh Island, is that correct.
A. Correct.
Q. You grew up on the island as a young person, did you.
A. Yes. I was - yes, I was virtually born on Hindmarsh Island.
Q. You were born on Hindmarsh Island, grew up on the island.
A. Yes.
Q. So you are a fourth generation Hindmarsh Islander.
A. Yes.
Q. You have been on the island, as it were, then throughout the Hindmarsh Island Bridge dispute.
A. Yes.
Q. And the events on both sides. In connection with that matter, you have provided a statement to the commission about certain events that you witnessed and participated in, is that correct.
A. I did.
Q. Looking at this statement produced to you, do you recognise that as the statement that you provided to the commission, signed and dated by yourself.
A. Yes.
EXHIBIT 183 Statement of Witness Michael Jolly tendered by Mr Smith. Admitted.
Q. In 1988-89 you lodged a plan with the Planning Commission to develop an area of land on Hindmarsh Island. That's so, isn't it.
A. Yes, that's correct.
Q. The preparations for that proposed development were made by you in 1986-87.
A. No. I think it was slightly after that, probably more 1987-88, but I think the whole idea of development on Hindmarsh Island and the proposed bridge was announced in 1986-87 at a meeting in the Hindmarsh Island hall.
Q. You can have a copy of your statement before you. For your development, I think there was a meeting of the Planning Commission on Hindmarsh Island, was there not.
A. Yes. The Planning Commission expressed a wish to come down and actually investigate the proposed site. They came down by bus, and we had an afternoon meeting - morning meeting, I think it was, on the actual site.
Q. In broad terms, what was your proposal.
A. It was a canal development, strictly residential, which was approximately 300 actual allotments that were scattered around a depression which was to be dug out and the water let in.
Q. Could you come out of the witness box for a moment. On Exhibit 80, can you just indicate where that development was to be.
A. On the northern shore here, sections 52 and 63, Hindmarsh Island (INDICATES).
Q. You are indicating on the map just above to the north of the words `Narnu Bay'.
A. Yes.
Q. Perhaps you could put your initials `MJ' right on the spot.
WITNESS MARKS MAP
Q. I have introduced you as a land owner on Hindmarsh Island. I take it you are a farmer, are you.
A. Yes, and a fisherman.
Q. Your statement asserts that, at all stages, the Planning Commission advised that no titles would be granted for your proposed development until the Hindmarsh Island Bridge was built. Is that correct.
A. Absolutely. They said that no titles or any development on Hindmarsh Island would be allowed until the bridge was built.
Q. It is your position that you are a supporter of a bridge development, aren't you, as proposed.
A. Obviously, yes.
Q. Putting your development aside, if you can, were you a supporter in that sense.
A. Absolutely. I mean, I think you would find that any person who has lived and made a living from Hindmarsh Island and had to use that outdated ferry for a number of years, the people that have been there for a number of years -

Q. Mr Jolly, I am not dealing with the question of whether or not a bridge should or should not be built. I can understand your sentiments that you are expressing, but it really is no part of my Terms of Reference to determine the merits or otherwise of the construction of the bridge. I gather that that is what you are going into really.

A. No, with respect, I was just merely trying to answer his question, that what he was saying was that, given the development aside, did I personally wish to have a bridge.

Q. Yes. I think you said yes.

A. Yes, I did.

Q. It is the case, isn't it, just to set the background, you decided to await construction of the bridge before proceeding to the cost of going ahead with your development, such as having environmental impact statements and engaging other consultants. Is that the case.

A. Yes. We had spent considerable money up to that stage, and the very large cost of environmental impact statements, et cetera, were looming before us, and if - at that stage we had doubts whether or not the bridge could be constructed by Binalong and the government, and we actually decided to wait until the bridge construction had taken place before proceeding with the application.

Q. So you watched the events involving Binalong. For instance, the proposals for Binalong being put on public display, and that sort of thing.

A. Absolutely.
Q. Could you tell us what area of land you own on Hindmarsh Island.
A. 920 acres.
Q. In the area of Narnu Bay, is it.
A. 600 acres in that area and an adjacent property as well.
Q. So on the north side of the island.
A. 600 acres in one block.
Q. I think a number of surveys of the island were conducted, and, in particular, one by the archaeologist, Vanessa Edmonds.
A. Aboriginal surveys?
Q. Yes.
A. Yes.
Q. Did you take an interest in Vanessa Edmonds' survey of your property, for instance.
A. Absolutely, yes.
Q. I think she told you that your land was of little archaeological significance.
A. No, she didn't tell me. Actually, the report wasn't supposed to be released. It was released to the council, but she just gave me an indication it was - there had been Aboriginal presence there by the presence of crushed shell and some burnt rock, and a few fragments of quartz, and she said that - well, she did say that she felt there was not much there, but it would have to be assessed for - like by the government. So she reported back to the government. The government released a - as I understand, the government released a report, which was given to the council at Goolwa and I just happened to see that report.
Q. Mr Rod Lucas was also commissioned to do a survey, an anthropological survey, of the island and its environs, was he not.
A. As I understand, yes.
Q. Did you actually meet up with him or did you just learn that.
A. No, no.
Q. There was yet another investigation conducted by Neale Draper. That's right, isn't it.
A. Yes.
Q. That involved your property.
A. Yes.
Q. That was at a time, can we say generally, just before the Federal Government or the Federal Minister interfered to stop, for 25 years, the construction of the bridge.
A. Yes.
Q. Did Dr Draper come to your property, and if he did, with whom.
A. Yes. He came to our place with Sarah and Doug Milera, Robert Day junior and senior, his wife Del, I think it was.
Q. That's Dr Draper's wife.
A. Yes.
Q. Did you meet up with these people and talk with them.
A. Yes, yes. Neale came into our house and talked to us.
Q. In fact, your statement records that you had lengthy conversation with this group about your school days and Aboriginal people with whom you went to school.
A. With Doug.
Q. You went to school with Doug.
A. No, I'm sorry. I had a lengthy conversation with Doug concerning the people - because I'd lost track of these Aboriginal people, and Doug being secretary of the council, whatever it was, at Murray Bridge, he knew just about everybody that I knew and went to school with and I'd lost track of for quite a few years that lived in Goolwa.
Q. Had you met Sarah Milera before.
A. Yes, I had met her at the ferry, and I'm not sure of the

date, but it was the date that a fire broke out on

Hindmarsh Island, and - actually the channel - things

were pretty emotional over there at that time.

Q. Can I interrupt you there, because we are coming to the

fire later because it happened later, didn't it.

A. Right, yes.

Q. I am really dealing with the situation when this group

of people came to your property. You had met Sarah

before.

A. Yes.

Q. The event of the fire, was that before this incident,

was it.

A. Yes.

Q. Can we return to that in a moment.

A. Yes.

Q. So you met Sarah before. Was she talking to you on this

occasion, that is, the occasion when this group with

Neale Draper was at your property.

A. Yes. We spoke - made a point to go and speak to her and

Del.

Q. What did Sarah say in your presence.

A. Well, she mumbled on something about people had been

here for many centuries, and virtually rambled on in

that sort of fashion, and I talked to her about a Mr

Walker, who - I knew she had been related to the

Walkers, but they were Aboriginal - of Aboriginal
descendants, but this Mr Walker was a white man up the

other end of the island. She said `I would like to go

and see him because I am probably related to him', and I

said `I don't think you are because he's white'. And

she said `Of course, there was a shortage of white women

earlier in the colony'. So it was left at that.

Q. Was Sarah coherent in her conversations with you.

A. She tends to lose concentration and drift onto other

things pretty quickly.

Q. You would say that about her conversation with you.

A. I would say that about it, yes.
Q. I think it is the case that you took Dr Draper to a site on your property - I don't want you to tell us where it is or identify it in any way - but you took Dr Draper to a site that Vanessa Edmonds had identified to you.
A. Yes, I was being co-operative with him.
Q. You and he discussed it, and he suggested that perhaps you might fence it off. Is that right.
A. He said that he thought it may be, not a sacred site, but a site of some significance. They would investigate it further. I may have to fence it off. It may be registered as a site of significance with the government. I asked him 'Who's going to pay for the fencing? Am I going to be the unpaid custodian of it ad infinitum?' He said 'We can probably contribute towards the fencing'. I asked him what else was I to do with it. What is its future? Was I allowed to farm it? He said 'No, and you wouldn't want to build a house on it like you did with the other one'.
Q. He inspected the cliffs on your property, did he not - cliff faces.
A. Yes.
Q. It was the case that the Mileras and the Days were going around with him and appearing to look at the property or inspect the property.
A. Yes. Yes.
Q. Did they find anything in the sense of at least letting you know that they had discovered anything on your property.
A. No. I was with them when they were inspecting it, and - I mean, the only thing that they came up with were some crushed cockle shells and a few burnt stones, and that's about all. The same as you can find in a thousand other places.
Q. At least so far as you were concerned, they didn't convey to you the location of any sites on your property. Is that the position.
A. No. No, they couldn't find any others. Other than the ones that - that one that I showed them.
Q. Some time later, I think you received a telephone call from Dr Draper, is that right.
A. Yes.
Q. You and he had a discussion on the telephone about some exciting news, is that right.
A. Yes.
Q. What was said.
A. He rang one evening and said that he had some exciting news for me, that his wife had found some colonial glass, and that it had been shaped obviously by Aboriginals in order to be used as sharpening implements for spears.
Q. What did you say to him.
A. I said I thought he was trying very hard.
Q. What did you mean by that.
A. What I meant was, by this stage - early in the piece, because he had known my aunt, I virtually had a friendly introduction towards him, and I showed him every ounce of help that I could in showing him various sites that I knew, even to the stage of sending him back a second time to look harder, and gave him quite a bit of information on what I knew about it, and I soon learnt very quickly, over this site on my property, that he was very much against the bridge, anything happening, and very anti - how would I say? - very pro-Aboriginal feelings.
Q. Can you be a bit more specific about that. To convey that to you, he must have said some things, did he.
A. Virtually the tone of his voice, with that remark about - I mean, you haven't mentioned this before, but there was a hint on one of those old maps that my house -
COMSR: Is this going to go into something that -
WITNESS: I think it is relevant.
COMSR: Just a moment. Is this going to cause any problems?
MR SMITH: It does approach a topic which needs some care. Could I perhaps ask you for a five minute break just so that I can ensure that nothing comes tumbling out that you shouldn’t be hearing without an authorisation.

ADJOURNED 11.50 A.M.
RESUMING 11.55 A.M.

Q. We got to the stage where you had told us how you showed
Mr Draper and his party on your property and co-operated
with him, and you then told us of a change of attitude
or mood, or something. Would you give us a bit of
detail about that.

A. Yes. Well, I'd previously spoken to Dr Draper on the
telephone and had quite very amiable contact with him
and was looking forward to meeting him because he had
been introduced to me through an aunt of mine and they
had been connected with stopping some proposed
development at Cape Jervois. And when Dr Draper met me
and we spoke of these various things, there was great
amiability, but I noticed a very, very strong mood
change and he had become quite - well, quite - when he
found out that I was pro, you know, wanting the bridge,
he became quite unfriendly.

Q. You were a member, I think, of a body called the Coorong
Consultative Committee; is that right.

A. Yes. I'm an inaugural member of that now.

Q. What was that body.

A. Well, it was a body of interested people, interested and
connected people, with the Coorong that was formed by
the Department of Environment and Planning, at that
stage, to formulate a draft management plan for the
management of the Coorong.

Q. Plans, such as the plans that went before this committee
at an early stage.

A. Yes. They were - actually, I thought it necessary to
place both the plans of our development and the
Chapmans' development before the committee, yes.

Q. Does the committee have some input then into the
committee's deliberations, does it.

A. I'm sure the views of the committee would have been
taken very much into consideration, yes, especially on
the environmental matter.

Q. You were a member of that committee in 1988 and 1989; is
M.G.W. JOLLY XN (MR SMITH)

Q. Were there any Aboriginal people on that committee.
A. Yes. George Trevorrow and Henry Rankine.

Q. You presented your plans to the committee, didn't you, for your development.
A. I tabled them, yes. It was about at the time Mrs Harvey mentioned that there had been a letter come from Mrs Joan Blanchard on Hindmarsh Island expressing her concern about Hindmarsh Island being developed before the Supplementary Development Plan was in place for Hindmarsh Island, and she said - I remember her saying that she was very pleased to see it tabled because this letter had just arrived, so,

Q. So, you came to know George Trevorrow and Henry Rankine then, did you.
A. Henry never turned up to any meetings. George did, but Henry never turned up to any meetings.

Q. How often did this body, this organisation, meet.
A. Heavens, I should say almost bi-monthly I should think.

Q. What period are we talking about.
A. From then until now.

Q. From 1988/1989 until now.
A. Yes, I should say. I don't know just off hand when the inaugural meeting was. I should have thought about the end of 1986, and it's still meeting.

Q. Are you still a member of it.
A. No. I had to resign because of commitments.

Q. When did you do that.
A. That would have been in 1989.

Q. You presented not only your plans but the plans for the Chapmans' marina.
A. The proposal, yes.

Q. The proposal to the committee.
A. Yes, the complete proposal.

Q. In your statement, you make the point at p.3 that at one of these meetings you told George Trevorrow about a burial ground on Hindmarsh Island.
A. Yes.
Q. Did he know about that.
A. No.
Q. The minutes of meetings are kept, are they not, and provided to all the members of the committee.
A. Yes.
Q. Looking at this large volume, I think that includes the minutes of that body; is that right.
A. Yes.
Q. You identify that volume as enclosing the minutes of the meetings of the Coorong Consultative Committee.
A. I do.
COMSR: I take it that it's not all the minutes.
MR SMITH.
Q. It is the minutes of the meetings of the Coorong Consultative Committee from February 1986 through to February 1991; is that right.
A. Yes, I should think so. I think there's actually 1994 minutes in there as well.
MFI 184 Folder containing minutes of Coorong Consultative Committee marked 184 for identification.
Q. The point is that the minutes relating to your development, your proposed development, and the Chapmans' proposed development, the minutes of that body record the tabling of your plans and the Chapmans' plans, do they.
A. I've looked in them this morning quickly. I haven't been able to get them. I was supposed to get them this morning actually and I didn't realise until 6 o'clock last night the time I had to be here. The Community Liaison Department of the Department of Natural Resources were going to get the minute out for me. I've looked quickly through there and just in the book room and it does make reference to the two proposals on Hindmarsh Island, so I can't be any more specific at the moment.
Q. When you tabled the plans for the proposal for the
M.G.W. JOLLY XN (MR SMITH)

1 Chapman marina, did that include the bridge.
2 A. Well, yes, because - yes it did, yes.
3 Q. Those minutes are sent out to the members of the committee such as yourself.
4 A. Yes.
5 Q. Although you cannot say it categorically, you would have expected Rankine and Trevorrow to have received a copy of those minutes.
6 A. Yes. The minutes were recorded by Vicki Natt, who was the minute secretary at the meetings, and then those minutes were sent to Adelaide and distributed by the Community Liaison Unit at the DNR, Natural Resources, and they are sent out to every member for using the facilities of the environment, Natural Resources.
7 Q. Can I take you to the fire, on the topic of the fire on Hindmarsh Island. I think your statement shows you can't recall exactly when it was.
8 A. There were two fires and, I mean, it was not a great day in my life, but I can't remember the day, the actual day, no.
9 Q. Can you place it in terms of whether it was before or after Minister Tickner made the 25 year ban on the bridge construction.
10 A. I'm not sure. I can't remember. I think it was before.
11 Q. What, shortly before, or, you know -
12 A. No, I can't be sure.
13 Q. The fires are documented as to the time when they occurred.
14 A. Yes.
15 Q. There were two separate fires, were there.
16 A. Yes.
17 Q. I think this was on the occasion of one of the fires that you met Sarah Milera for the first time.
18 A. Yes.
19 Q. Can you tell us in what situation you met her.
20 A. We had been - sentiments were running fairly high that day of the fire because of the slowness of the - we all thought it could be our property burning and the bridge
issue was high on everyone's thoughts. And we thought, well, you know, it's really not adequate this whole situation. What happened was that we heard that a Channel 7 or 9 helicopter was coming to the ferry to actually record what happened on this day of this fire and we had been pretty upset by the amount of coverage that the anti-bridge lobby had been getting over various things, so we decided we'd better go down to the ferry and make ourselves heard as a group of concerned people from Hindmarsh Island about the lack of services, et cetera, that the island had. We went down. We thought it was our chance to air our views virtually. So, when we arrived at the ferry and the helicopter was there, there was quite a few anti-bridge people arrived because there were picketers on the other side handing out leaflets, et cetera, to cars and it became a confrontation between the people living on the island who wanted the bridge and the picketers. It was quite an argument ensued. And after it all calmed down a bit, Sarah and another lady was standing there and I spoke to them and I said 'Hello, who are you?' to be blatant, I suppose. That is what happened. She introduced herself as Sarah Milera and her auntie who was Doreen Kartinyeri.

Q. I think a discussion ensued between the three of you; is that right.
A. Yes.

Q. Tell us what was said.
A. We started talking about the island and what you know about the bridge, and I asked them what their thoughts on it were, and they said 'Well, it's our island' and, you know, 'Nothing's going to happen, no bridge is going to take place', and a few things like that, and.

Q. What did you say about this.
A. Well, I said that I thought a bridge should take place and that, you know, I thought it was up to the people of Hindmarsh Island to decide what should happen, not all these anti-bridge protesters who some - most of them
3000

M.G.W. JOLLY XN (MR SMITH)

didn't even own land on Hindmarsh Island. And she then
said -

Q. Go on.

A. She said `Oh well, we've got the right to say because
it's our land and it's sacred to us', and I said `Well,
I don't know, it's sacred to me too. I've - we've lived
here for four or five generations'. She said `We have
been there for 5,000 years'.

Q. Who is speaking at this stage, you and -

A. And the three of us were getting a bit -

Q. When you said `she said', was that Doreen Kartinyeri or
Sarah.

A. No, actually that would vary because she said about she
was related to the Walkers who owned all that land. I
said `Well, I've got a right to the land, I feel, just
as much as you have because I was born there and have
lived all my life there. You haven't been near it. You
left it.' And I said that we have an affiliation
`Doesn't matter whether you're black or white. I have
an affiliation with the land and that's why we still
live there'. And that is how it became fairly heated.

Q. Looking at Exhibit 170, which is a book of press
clippings, see there there is an article, an Advertiser
article I think, `Burning-off blame for island fire',
Advertiser, 26 November 1993. Just have a quick look at
that article. Does that help you identify the fire as
being the fire in November 1993.

A. Yes, I think that was the one. There was one on one day
and another on the second day, and I'm not quite too
sure which one it was. I think it's the first one.

Q. How close were the fires together in point of time.

A. The next day.

Q. So, we can safely say, can't we, that if that article is
correct and assuming it had been reported correctly,
that is said to have occurred on about 26 November 1993.

A. They occurred on the same property in the same pine
trees, so it's a little bit difficult to say.

Q. Being November then of 1993. We could settle on that.
The bridge, the ban of the bridge hadn't occurred at that stage.

A. No.

Q. I think there has been recorded a fire in 1994 where a fire engine fell out of the ferry.

A. Yes.

Q. That is a separate one altogether, isn't it.

A. Yes.

Q. To this November 1993 fire.

A. Yes.

Q. What was the first date 1994; I'm suggesting that the -

A. The last fire that took place, the ferry driver didn't latch the ferry properly on and the fire unit drove into the river, or drove portion of it into the river.

Q. Which is the event you are talking about when you had the heated conversation.

A. That was the earlier one.

Q. Can I take you to - there was a committee, the Environment Resources and Development Committee at Goolwa.

A. Yes.

Q. Who investigated the business of the bridge and came up ultimately with a suggestion that perhaps there should be an attempt to put a bridge on top of the barrage; is that right.

A. I think they did have some thought about it.

Q. Did you appear before that committee.

A. Yes, I did.

Q. I think your statement sets out that your involvement in The Friends of Hindmarsh Island island Incorporated, you're president of that organisation at the moment, aren't you.

A. Yes.

CONTINUED
Q. Did you, like Mr Searle, the previous witness, appear before Professor Saunders when she came down to Goolwa.
A. Yes, for about five minutes.
Q. I think you witnessed activities or protest activities by Aboriginal groups and union groups at the bridge site, did you. You saw, from time to time, protests.
A. Yes.
Q. A lady by the name of Auntie Pearl is a relative of yours, isn't she.
A. Yes.
Q. How old is she.
A. She is ninety-three.
Q. She is presently alive and living in Goolwa, is she.
A. Yes.
Q. I think she knew Rebecca Wilson, did she not.
A. Yes.
Q. To what extent were she and Rebecca Wilson friendly.
A. Rebecca Wilson - my auntie and uncle had approximately 200 acres of grapevines at McLaren Flat and - I think it would have been about 45 years ago. And they - as was the - as they used to do in those days, Uncle Jim used to go to Point McLeay and they would second a group of Aborigines to come and pick the grapes. Through the vintage season they used to work picking the grapes.
Q. How often, for instance, would your Auntie Pearl and Rebecca Wilson be in each other's company and socialise with one another.
A. I think over a period of years they came every vintage and Auntie Pearl struck up quite a good friendship with Rebecca. That they used to sit and have cups of tea and talk about relations and various things that were going on around the place.
Q. Do you see your Auntie Pearl regularly.
A. Yes.
Q. I think your statement sets out that she was a bit upset about the evidence of Betty Fisher. She conveyed that to you.
A. She felt that Rebecca Wilson wouldn't have been the
person. She was a very quiet, reserved person and she
wouldn't have come out with a first - all that
information at a first, chance meeting.
Q. Is your auntie, bearing in mind that she is
ninety-three, is she frail in any either physical or
mental way.
A. She is frail in the way that she is crippled with
arthritis, but she is certainly not frail mentally.
Q. She has a number of Aboriginal friends down in the
Goolwa area.
A. Yes, particularly the Rankines. Point McLeay?
Q. Yes, Point McLeay.
A. More than Goolwa. Mrs Grace I think and quite a few
people.
Q. She is reluctant to be involved in -
A. She is reluctant to - that she might say anything that
would betray her friendship with the Aboriginal people.
Q. Can I take you to one last topic: a meeting at Goolwa in
October 1993 between the anti bridge people, the CFMEU
and some Aboriginal groups.
A. Yes.
Q. Where was that meeting.
A. That was held in the Centennial Hall at Goolwa.
Q. That was advertised, that meeting, was it.
A. Yes, it was a public meeting, yes.
Q. You went to it, did you.
A. Yes.
Q. Was that notable in some way, that public meeting, in
terms of Aboriginal interest in it, I mean, so far as
you know.
A. It was - well, Premier Brown was present, sitting up on
the dais with the CFMEU. That was rather interesting.
The conservation groups were there, being represented.
And the - both the Camp Coorong people and the Point
McLeay people were there, together, which was fairly
unusual, too.
Q. Who were the Camp Coorong people represented by.
A. George Trevorrow.
Q. And the Point McLeay people.
A. Henry Rankine.
Q. Were they on the stage, as it were, at this meeting.
A. Yes.
Q. In the hall.
A. Yes.
Q. I think there was some question asked from the floor of one of those Aboriginal men, was there not.
A. Yes.
Q. Tell us what it was.
A. Someone happened to ask that was there any reason, as far as the Aboriginals knew, were there any sites of significance that were in the, well, the bridge corridor or the bridge approaches. Were there any sites of significance that could hold up the construction of the bridge. That was asked from the floor of the meeting.
Q. By some person you -
A. By some person I couldn't see.
Q. Was there a response to that and who made it.
A. Henry Rankine made the response. George Trevorrow wouldn't answer. He said 'Oh, well, I'll let my brother answer that one', meaning Henry Rankine. And Henry said 'Not that I know of', he said. 'But', he said 'I'm sure, if we have a look around, we can find something.' I left the meeting in disgust.
Q. I think you reported that to your fellow supporters of the bridge, including the Chapmans, did you.
A. Yes, I did. Actually, I think that meeting was video taped, so - by someone.
Q. Was there any talk, at that meeting, about consultation in the context of the bridge. In other words, that you remember.
A. I think perhaps George Trevorrow might have said something 'It is about time that the white brothers and the black brothers, sort of, got together and talked a few things out.' I can't really give you - there was a hint from George about consultation, that 'We are all men together and we should be able to work
Q. You mentioned before that, and am I right, that you conveyed to the Commissioner that it was somewhat unusual to see the Camp Coorong people represented at a public meeting on the same platform or stage, as it were, with the Point McLeay people.
A. That was the trouble, was the Consultative Committee, that Mrs Harvey, who was the Chairperson of the Consultative Committee, was always having trouble getting these people to attend, because one wouldn't attend while the other one was there, etc. They were virtually having a - waging a power struggle, at that stage, in order to see who should represent the Aboriginals. There was quite a power struggle going on between Point McLeay, Tendi I think it is, and the Camp Coorong people.

CROSS-EXAMINATION BY MR MEYER
Q. What is the surname of your Auntie Pearl.
A. Maidment-Wilson.
Q. Does she live in Goolwa.
A. Yes.
Q. Has she lived in the Goolwa area all of her life.
A. No.
Q. On those occasions when you were talking about grape growing and matters like that, whereabouts did she live then.
A. At McLaren Flat, yes.
Q. You said that you were a fisherman. As I understand it, your fishing activities are associated with, in fact, catching, if that is the right word for it, cockles.
A. Yes.
Q. As a result you travel the area in the vicinity of Hindmarsh Island and the Coorong extensively.
A. Just about every day, yes.
Q. And have a detailed knowledge of matters associated with cockles.
A. Yes.
CROSS-EXAMINATION BY MR KENNY

Q. You have said your Auntie Pearl knew Rebecca Wilson.
A. Yes.

Q. Did you ever meet Rebecca Wilson.
A. No.

Q. You never actually saw her Auntie Pearl with Rebecca Wilson.
A. No.

Q. Before Betty Fisher came on TV, in more recent days, had your aunt ever mentioned Rebecca Wilson.
A. Yes.

Q. In what context.
A. She had mentioned that her and her husband used to run the general store. I mean, at Point McLeay.

Q. That is the only time you had heard her mentioned.
A. No, there was several times I have heard her mentioned, but auntie talks about Aboriginals all the time.

Q. In your statement on p.4 when you say however that your Auntie Pearl knew Rebecca Wilson intimately, that is probably a bit of an exaggeration, wouldn't you say.
A. No, I would not say that. She knew her intimately.

Q. Are you aware of what contact there was.
A. Just as two friendly people who talked quite often. That is the only - that's the only -

Q. While I understand that Rebecca Wilson was one of the people who came and picked grapes presumably on your Auntie Pearl's property at McLaren Vale, is that correct.
A. Yes.

Q. And that occurred on a number of occasions.
A. Yes, over about probably a three or four week period. And they actually stayed on the property and Rebecca and her built up a, I can say, a special friendship, because she was, as Auntie Pearl put it, 'a very special person'.

Q. Your Auntie Pearl was aware that Rebecca Wilson was - would it be fair to say that she recognised her as being different in some way to the other Aboriginal women.
A. She was a very quiet, nice person. And someone that was very, very likable. Quite a religious person. Did you know her?

Q. Do you know on how many occasions your Auntie Pearl employed Rebecca Wilson to pick grapes for her.

A. No, I'm not sure, but it was over a period of several years.

Q. When was that.

A. It would have been up until the - probably early 50s, I should say. Prior to the early 50s.

Q. Prior to the early 50s.

A. Yes, I should say between the 40s to the early 50s.

Q. 40s to the early 50s.

A. Yes.

Q. Somewhere around that area.

A. Yes.

Q. You talked about a power struggle between Point McLeay and the Tendi. This is, I take it, what you were told by someone else, is that correct.

A. Yes, by Mrs Harvey. That was the reason given for the nonattendance of George and Henry, because we sort of -

Q. That was the reason that she gave to you.

A. That was the reason she gave.

Q. The nonattendance of George and Henry at what.

A. At the Coorong Consultative meetings, yes. The other members asked where they were and that was the reason that she gave.

Q. When do you say that that explanation was given.

A. I couldn't say.

Q. I can refer you to the notes of the minutes of the meeting of 20 July 1992 of the Coorong and district consultative committee. It appears from those minutes that you weren't present at that particular meeting.

A. I had already left the Consultative Committee by then.

Q. Did you continue to get the minutes of the meetings.

A. No.
Q. If I can just perhaps read to you what those minutes say
and asked for your comments on it. And, on that day,
under 2.5 Aboriginal Members. Mike arranged a meeting
with George Trevorrow and Henry Rankine to inform them
their continued active membership on the Coorong
Committee was considered important and their involvement
in the Consultative Committee process of value. They
were very receptive and indicated they would like to
continue participating as members. Mike indicated he
was not keen on members having a proxy, but due to the
fact they were extremely busy people, he was prepared to
consider it. I suggest perhaps that that is the reason
that they may not have attended other meetings.
A. What was the date of that?
Q. That they were simply busy. That was 20 July 1992.
A. 1992. I couldn't comment on that.
Q. When do you say that there was this power struggle going
on.
A. That was earlier. That was probably -
Q. In 1988.
A. 1988?
A. Yes.
Q. It was only ever mentioned to you -
A. It wasn't - it wouldn't be in the minutes, I can assure
you. It was merely given as a reason why those people
didn't turn up.
Q. I suggest to you that really it is only on occasions
they didn't turn up. When, for example, on 9 February
1987 it appears that a Mr L. Jolley gave his apologies.
A. Was there a Mr L. Jolley on the Committee.
A. Yes.
Q. Who was that.
A. Lindsay Jolley.
Q. Is he a relative of yours.
A. No.
Q. It appears on a -
A. His name is spelt differently to mine.
Q. There is a Mr M. Jolly recorded as being present and Mr G. Trevorrow being present.
A. Yes, was that the one being held on the Coorong?
Q. That was on a field trip to the Murray Mouth.
A. And that was the first and only time that he ever attended. That was the day I told him about the burial site on the Mundoo Channel.
Q. When you say that was the only time Mr Trevorrow attended, what you really mean is that is the only time he attended when you did, is that correct.
A. That is probably so.
Q. He may have, in fact, attended on other occasions that you are unaware of.
A. Can you see it there, can you?
Q. No, I am merely asking you a question.
COMSR
Q. How frequently did you attend the meetings, while you were on the Committee.
A. There were some meetings I couldn't attend towards the end, because I was under pressure. We had no cockles and we had to go to New South Wales in order to get them. And that is the reason why I left the Committee, because I couldn't attend the meetings.
CONTINUED
Q. When you say `towards the end', what time are you -
A. I am talking about towards 1989, I should say.
Q. Prior to that, how regularly did you attend the
meetings.
A. Fairly regularly. Probably missed maybe two out of the
nine - or eight or nine. But the non-attendance - Mrs
Harvey was desperate to involve the Aboriginal group in
that consultative committee and she was frustrated -
got to the point of frustration that she could not get
them involved in it, and yet their input was absolutely
critical to it.
XXN
Q. You are not certain though when Mr George Trevorrow or
Mr Henry Rankine actually became members of that
committee, are you.
A. No. I sort of understood they were supposed to be
involved in it as of day one, or certainly one of them.
Q. They weren't involved in the inaugural meeting, were
they.
A. I am afraid it is beyond my memory.
Q. You don't recall them being there -
COMSR: You mean present or involved?
MR KENNY: Might have just been present.
XXN
Q. I am looking at the minutes of 7 February 1986. I
notice `Mr M. Jolly from the South Australian
Professional Fishermen’s Association'. I presume that
was you.
A. Yes.
Q. There doesn't appear to be anyone representing an
Aboriginal group listed as being present. You don't
remember anyone being there on that occasion.
A. No. No, I can't.
Q. When I say `anyone' I mean any Aboriginal person. It
appears Monday, 5 May 1986, Mr George Trevorrow was
welcomed as a new Aboriginal member, and he was
represented by his brother, Tom, in his absence.
A. That's right.
M.G.W. JOLLY XXN (MR KENNY)

Q. In fact, that occurred again on a later occasion as well, didn't it, on 11 May 1987, I presume.
A. Which only goes to show that the aborigines were involved in that consultative committee.
Q. It looks like on 5 October 1987, Mr George Trevorrow was again present. You don't appear to have been present on that occasion.
A. Maybe so.
Q. On 9 May 1988, Mr Trevorrow is represented again by a proxy, presumably his brother, Tom.
A. Presumably.
Q. Mr Tom Trevorrow or Mr T. Trevorrow is mentioned, with a mention of a proxy alongside. So it appears to me, from looking at these minutes, there is a regular attendance by either Mr George Trevorrow or his brother, Tom.
A. What I was saying was that how many times can you see Henry Rankine on that list?
Q. I have got to July 1988 and there is no mention of Henry Rankine at all.
A. That's what I am saying -
Q. Can you hold on. There is no mention of Mr Henry Rankine actually being a member of that consultative committee yet.
A. And that was the frustration of Mrs Harvey, that she couldn't involve the two sides of the Aboriginal groups, because one wouldn't attend without the other one being there - if the other one was there.
Q. What I am saying to you is that doesn't appear anywhere in the minutes.
A. No, it probably wouldn't.
Q. In fact, again on 18 July 1988, Mr George Trevorrow is mentioned as being present and you are listed as providing an apology. Just for the record, 6 August 1988, Mr Henry Rankine and Mr G. Trevorrow both provided apologies at a meeting it doesn't appear you are present at. I think you have also told us that you are
currently the Chairperson of the Friends of Hindmarsh Island Incorporated, is that correct.

A. That's correct.

Q. Was that, essentially set up as a pro-bridge lobby.

A. It was set up in response to another group who called themselves the Friends of Hindmarsh Island, and we considered them not to be the friends of Hindmarsh Island, so we did something practical about it and registered a name in order to show who were the friends of Hindmarsh Island.

Q. So there was another group called the Friends of Hindmarsh Island.

A. Yes, there were.

Q. I take it that was the group that was against the bridge, is that correct.

A. The bridge was their sole commitment, to get rid of. We have embraced other areas, such as general welfare of Hindmarsh Island, rather than just the bridge issue.

Q. You, I take it, registered the name `Friends of Hindmarsh Island'.

A. Incorporated, yes.

Q. Incorporated.

A. Yes.

Q. Then I presume you stopped them using their name, is that correct.

A. Of course.

Q. Did you take court action over that.

A. Did they?

Q. Did you.

A. Take court action over that, no.

Q. How did you let them know that they couldn't continue to use that name.

A. Well, we registered the name. It was our name.

Q. What did you do about it after you'd registered it.

Q. Did you do anything about advising the other group, as it were, of the fact that you were now registered.
A. We considered our - us to be the friends of Hindmarsh Island. We notified them that we were using that name and we considered ourselves to be the friends of Hindmarsh Island, and we notified them as such.

Q. Did you arrange for solicitors to notify them.
A. We notified them. I don't think through solicitors.

Q. Do you know how you notified them.

OBJECTION My Meyer objects on the grounds of relevance.

MR MEYER: We are really straying now into matters of peripheral interest, aren't we?

MR KENNY: I am not taking it terribly much further, but it appears there were two opposing forces in relation to the bridge.

COMSR: I don't think there is any doubt about that.

MR KENNY: I was looking at the relationship between the two groups,

MR MEYER: Does Mr Kenny mean two forces opposing each other, rather than opposing the bridge?

MR KENNY: Yes.

MR MEYER: I think that's right. I am willing to concede that from the point of view of my client, if that saves Mr Kenny any further trouble.

QUESTION NOT PURSUED

Q. It appears from the minutes that have been tendered and marked MFI 182, that there was no meetings of the Friends of Hindmarsh Island between 20 October 1993 and 3 November 1994.

A. That's correct.

Q. So that there were no meetings during that period.

A. Not of the Friends of Hindmarsh Island.

Q. The last meeting appears to be 23 May 1995. Was that the last meeting that the organisation held.

A. Yes.
Q. I just note in here it was resolved to write to the Law
Society regarding lawyer involved in alleged conspiracy,
as referred to in the media. Was that a written letter.

A. Yes.

COMSR: Has that got anything to do with your
clients?

MR KENNY: I presume the lawyer they are talking
about is the lawyer who was representing my clients at
the relevant time.

WITNESS: If I can just tell you -

COMSR: Perhaps don't tell us at this stage. Mr
Smith can ask any question if he feels it needs to be
expanded upon in any way.

Q. Without telling us the details of that letter, I presume
that was a letter of complaint to the Law Society about
the solicitor's involvement.

A. It was asking the Law Society to -

COMSR

Q. Without giving any detail. You were asked was it a
letter of complaint.

A. Yes. EXHIBIT 182 MFI 182 tendered by Mr Smith.

Admitted.

EXHIBIT 184 MFI 184 tendered by Mr Smith.

Admitted.

NO RE-EXAMINATION

NO FURTHER QUESTIONS

WITNESS RELEASED
MR SMITH: I am now asking you to adjourn the hearing of this commission until next Thursday, 5 October. By way of explanation, I indicate that when the Section 35 authorisations were held invalid by the Supreme Court on 25 August of this year, the commission took the view that it could proceed for a week to a fortnight before reaching evidence which arguably required a valid authorisation.

In fact, we have sat now taking evidence for approximately a month. It is now necessary for the commission to pause, at least insofar as taking evidence in the hearing room is concerned. There is some investigative work to be done and a need to structure the next and final section of the evidence to be taken by the commission.

So I ask you then to adjourn the hearing of taking of evidence in the hearing room until Thursday of next week, 5 October 1995 at 10.15 a.m. I indicate that counsel and interested parties will be notified of a tentative program in the interim.

COMSR: Yes, because, of course, we are not in the situation of knowing the outcome of the application for Section 35 authorisation. The commission doesn't have one, of course.

MR SMITH: No. At this juncture, as I understand it, the consultative process is finished. The Minister hasn't communicated his decision to the commission about the authorisation.

COMSR: Before we adjourn, is there anything in the evidence of the last witness which potentially ought to be considered confidential?

MR SMITH: Yes. Thank you for reminding me of that. The statement of evidence of Michael Jolly -

COMSR: It just might. As we are situated as we are, I would prefer to be overly cautious, and it certainly will not interfere terribly much with the publication of the evidence of the witness if I indicate
that I think it advisable to suppress specific mention
of sites and locations.
MR SMITH: Perhaps I can pinpoint them for you. It is Exhibit 173, the statement of Michael Jolly, page 2.
COMSR: I suppose I could really only suppress the statement for the time being.
MR SMITH: Of course, the statement does not, because of the confidentiality undertakings, go beyond counsel and solicitors in terms of seeking instructions from their clients. So it is not as if a statement is going to enter the public arena in any event.
CONTINUED
But you might perhaps suppress from publication, it's really -

Any evidence which might tend to specifically indicate sites.

The location of sacred sites on Mr Jolly's property.

I take it there is no objection, for example - I'm only trying to help the press - no specific problem to a reference to Mr Jolly giving evidence that there were sites on Hindmarsh Island?

No, I'm saying anything which might tend to specifically identify the position is what I have in mind at the present time. Is there any problem as far as the press is concerned in understanding what I'm referring to? I doubt if it was going to feature in any case, but just out of an abundance of caution it would be desirable to make that order at the present time.

Now, you are asking for an adjournment until Thursday of next week?

Yes, Thursday, 5 October.