

DETECTIVE SENIOR CONSTABLE GRAY

Q1 This is an electronically recorded interview between Detective Senior Constable Stuart Gray and Mr Anthony Mooney at the Australian Yachting Federation in Kirribilli, Sydney, New South Wales. The time on my watch is now 1.50pm. Also present and seated to my right is Senior Constable Dave Upston from the New South Wales Water Police. As I've already explained to you, Mr Mooney, we're making inquiries in relation to the 1998 Sydney to Hobart Yacht Race and involved with that, we speak, we are speaking to a number of people in the yachting fraternity, crews and other people who were involved with the yacht race, either directly or indirectly, and part of our inquiry is to come and speak to you today in relation to what assistance you can give us with your knowledge in, in ocean racing. So, firstly if I could just start, if you could just give me your full name?

A Anthony Joseph Mooney.

Q2 Your date of birth?

A 18th of the 10th, 1937.

Q3 And your current address?

A 10 Davidson Avenue in Forestville, New South Wales.

Q4 O.K. And your occupation?

A Technical Manager of the Australian Yachting Federation.

Q5 O.K. If I could just start with, can you tell me what the Australian Yachting Federation is?

A It's the co-ordinating, some people like to think, controlling, we don't like to have that word, but the co-ordinating authority for the sport generally throughout Australia. And that means from little boats to big boats. We also are involved in training activities both in power boats and in sail boats, and then windsurfers fit within the sail boat range as far as we're concerned. So, we are involved with boating generally and people like volunteer coastal patrols, for example, run our training programmes for the general public. So, we're involved in not only the administration of the sport, but also to a fairly large degree, in the recreation side of this, of the activity.

Q6 Right. O.K. Now, you're an ex-sailor yourself, or a sailor yourself, would you be able to give me some background so far as your sailing experience is concerned?

A Well, I started when I was 10. My regret now is I didn't start earlier, but I sailed in small boats, dinghies, VJs, 12s until I went to the Yachting Association of New South Wales employment which was 1969. Then in, about 1974, I moved into keel boats and into ocean racing. We got second in the first quarter-ton cup in Australia, ocean racing in 1974, and third in the one-ton cup in 1976 in a, then a boat called Invincible, which was a Far 1104, a number of which competed in the Sydney-Hobart race. So, since probably

about 1986-87, my time has been involved in a lot in training activities in visiting states and other places on weekends, and I've therefore not had the time to be competitive in the sport that I would otherwise like to be, so. We bought our own boat and go cruising, it's a pleasant thing to do.

Q7 Have you yourself been involved in a Sydney to Hobart race?

A Yeah, 1976, which was reasonably rough, but not as bad as the '77 or '84, and certainly not as bad as '98. I remember Jack Brooklyn getting off the big Ballyhoo when he got to Hobart that year, 1976, "Oh, roughest I've ever been through". Anyway, we were a bit further back than he was.

Q8 O.K. Now, can you give me some background with your association so far as the Australian Yachting Federation is concerned?

A Well, I've been assisting the AYF since 1970 by way of ratings. For example, in IOR days, I was the rating officer for Australia, even though I was employed by the Yachting Association of New South Wales. And that's something that when I came to the AYF full-time in 1980, I just moved that house to here and I now do all the rating processes for, and am responsible for keel boats, IMS certificates, channel handicap certificates, class boats certificates, like for example, the Americas Cup, the 12-metre Australia 2, I signed the certificate back in February of 1983 to say

that it was legal. So when the New York Yacht Club were carrying on that I had no right to do what I did, we were able to satisfy them, international body, that indeed I was right in doing what I did. So I, I look after measurements generally on, on all sorts of boats.

Q9 O.K. Do you hold any professional qualifications?

A No. I left, I left school in 1956 and went to Woolworths for a job over Christmas and stayed there for 14 and a half years. And left there to go to the Yachting Association of New South Wales, so.

Q10 O.K.

A My qualifications are all seat-of-the-pants, self-learning stuff, that one has to go through in that sort of employment, because there's no one else to turn to.

Q11 Yeah. But within the field of racing or yachting, you would be considered to be an expert, so far as measuring - - -

A I, I - - -

Q11 - - - ratings is concerned?

A I'm not trying to blow trumpets, but I think internationally that's accepted that I, both from a safety aspect from my role in the Offshore Racing Council Special Regulations Committee, and I've been on that for about 1980 - - -

Q12 Right.

A - - - and, and in morale there's the IRU Racing Rules Committee which I'm a member of as well and have been since 1983. I think internationally that's fairly well

recognised.

Q13 O.K. Now, this little blue book seated in front of us which is entitled The Australian Federation Sailing Rules, '97 to 2000.

A M'mm.

Q14 Could you tell me about this document? Not specific things within it, but sort of what it's all about, that document?

A We started to produce our own rule books in 1969, and what we did was incorporated some safety regulations within the rule book, and what we tried to do was make that a compendium of yacht racing, so the people that want to go yacht racing had all the information they needed in the one document. That's something that other countries have looked at and have not followed yet, other than New Zealand. What we've tried to do is say, hey, everything you need is in there. That means, not only the racing rules that you must obey when you're on the water, which are compatible with international regulations for preventing collision at sea, but it also contains all the safety regulations for the various classes of boats that we administer. And that's from little dinghies through to ocean racing.

Q15 Right. Now, this book is put out four-yearly, is that correct?

A Correct.

Q16 O.K. So the next one is due in 2001?

A It is.

Q17 Now, you mentioned prior to the interview, in fact, that there was some things waiting to be implemented in 2001, and I think you mentioned - - -

A VHF radio was - - -

Q18 Right.

A I used that as an example.

Q19 Yeah.

A That when we drew this book up, and remember we're now already starting for the 2001 revision.

Q20 Yes.

A We had to have that finalised in fact by July of this year.

Q21 Right.

A What we've, what we try to do is to say, hey, we put you on notice, right, that in two years' or four years' time, these are the things that are likely to change. And when we produce this book, we were anxious that people have hand-held VHF radios on board for cat 1 races, particularly because there are times when you haven't got a mast and once your mast comes down, it's pretty hard to communicate on HF. So, but we couldn't do that unless we could have a waterproof set, and what we said was, we will require a waterproof VHF hand-held radio as of 2001. I understand as of discussions yesterday that they are now on the market and we will therefore introduce that as a mandatory requirement as of July, 19, July 2001.

Q22 O.K. So, basically, that means that to comply to go
in, say, a cat 1 race, you will have to have - - -

A Yeah.

Q22 - - - that item.

A Yeah.

Q23 O.K. Exactly.

A See and we, our safety regulations are based on, like,
people believe that it's a combined group of people
from all around Australia that make input into the
change process - - -

Q24 Yeah.

A - - - and the revision process. And someone said, hey,
this is a good idea, we ought to have that as
mandatory. And if that's a consensus of the Australian
population, then we included it as a mandatory
requirement.

Q25 O.K. So, putting that into layman's terms, what would
happen is, say, for argument's sake, a yachtsman from
Perth might send a letter - - -

A M'mm.

Q25 - - - to you - - -

A Mm.

Q25 - - - with a certain recommendation.

A M'mm.

Q26 You look at it first.

A Yeah.

Q27 Then is there a meeting organised?

A Not, not normally. What we try to do is do it by

correspondence to the extent that we can.

Q28 Right.

A And there will be a meeting in May, in Melbourne.

Q29 Right.

A Right, May the 7th, if I recall correctly the date.

Q30 Yes.

A Where the latest draft which will be circulated by the end of this week, will be sent and will be discussed.

Q31 O.K.

A And they will, so they'll get it now.

Q32 Yeah.

A The meeting will take place in May - - -

Q33 Yeah.

A - - - whereby the correspondence process and consensus of the correspondence, we've said, yeah, well we agree with this or we don't agree with that, and why we either agree or disagree, and in doing that, then the May meeting can say, eh, but you know, we really think that is a good idea. And if they convince them verbally, the other people that are present, then, and the majority say yes, then we'll include it.

Q34 O.K.

A Or a majority say no, we don't. It's - - -

Q35 So, is it a vote sort of thing?

A Yes.

Q36 Right.

A Each state will be represented.

Q37 By one or two members, or -?

A One.

Q38 One member, O.K. So they put it to the vote and they determine, it's determined as a result of that vote exactly - - -

A

Q39 And, I mean, what's the situation if, if it's not implemented, but someone feels very strongly about it? Is there a course of redress?

A No, there's, the course of that would be for that person in their own club - - -

Q40 Yeah.

A - - - to introduce that as a, an additional requirement.

Q41 Within their own club?

A Absolutely.

Q42 O.K.

A So we, or in their own state if they wish.

Q43 Yes.

A We, what we've tried to do is to come to a consensus on national standard, 'cause what we want, don't want to happen is a boat that comes from Brisbane to Sydney for a Hobart race or from Sydney to Brisbane for a Brisbane Gladstone race to have to put new bulkheads in or change rigging or, or do that sort of stuff. We felt, feel that the minimum standard is something that should be applied all round the coast of Australia. And if someone really feels strongly enough that all the boats they want to have ought to be painted black, then

that's their right as a club to increase the standard that's in there. They can't decrease it. We, by prescription, say, thou shalt not decrease that minimum standard, unless there's compelling reason to do so, and we haven't found, I haven't found one yet in the 30 years I've been trying to do it. So, that, that's the process, but then there is nothing to prevent a club like, for example, the Gosford Sailing Club are in the process now of trying to organise the Lord Howe Island race later this year, and they rang yesterday saying, "Is there anything out of the Sydney-Hobart race that we ought to think about?". You know, personally perhaps, personal lights for people, and my reaction was, well, you know, (a), we're not sure what the coroner's going to come out with or what the CYC inquiry's going to come out with. To me, it's a bit premature to say yes, but if you think that something is a good idea, then it's your right to do so, but don't go below what category 1 in the blue book says.

Q44 So, it's true to say that there's really no power of authority which can be sort of delegated down to separate clubs by the AYF?

A Not to reduce the regulations.

Q45 Not to, O.K, so the only power is to reduce - - -

A They can increase.

Q46 They can increase?

A Absolutely. I mean, it's, if someone thinks that as a committee that it's prudent that we have whatever it

may be and that all competitors really need this equipment, then it would be, it could be negligence if they don't act on that.

Q47 Right.

A Now, they might then propose that whatever that is be implemented nationally and then due process would take place and the normal democratic process of, of what government is.

Q48 Yeah.

A And that's what we are.

Q49 O.K. Now, as I said to you prior to the interview, we've spoken to a naval architect by the name of Mr David Lyons, who prepared a document for the CYCA in relation to a boat called the Business Post Naiad. I'll go through this document with you in a second, but I'm wondering if you could just basically tell me what the procedure is so far as certificates, IMS certificates, which is International Measuring Standards, is that correct?

A Yeah, International Measurement System.

Q50 System. Which are sent to you - - -

A M'mm.

Q50 - - - prior to a race?

A M'mm. What, what the process is, a boat requires an IMS certificate in order to compete in an IMS division of the Sydney to Hobart race and any other race. We are the measuring authority recognised by the Offshore Racing Council which administers the IMS rule. What

happens is that we delegate part of our measuring responsibilities to our member yachting associations who appoint local measurers for that purpose. The, in this case, the local measurer, I understand, went to a boat, to the boat, which was Naiad, and carried out some measurement as a result of some changes that were made to the boat. What those changes are I don't know. He then sends to us a data sheet which contains the measuring information in relation to the boat that we then process through the certificate. I should add that there's two parts of the measuring process. One is, we measure a hull, and from that we determine what's called the hull file, the offset file. What that means is that we can virtually represent what the boat is. Like I said, lines plans if you're building a boat and a set of house plans if you're building a house. We can represent what that boat looks like on our screen here on our computer, because there are a series of points taken in measurement that says, this is what the boat looks like. Having, having done that, there are then additional measurements that are required, some ashore, rig, or how big the mast is, what the sail area is and that sort of stuff, and there is also a measuring called an inclination and freeboard. And what that is, is the boat is floated on the, in the water and in a certain trim which is supposed to optimise the handicap, or maximise the handicap, to be more precise than optimise. And the

measurer then carries out this inclination and at the same time, measures the fore and aft freeboard stations which are marked on the boat. What he then does is to actually record all that on a piece of paper which we call a data sheet, and he sends that piece of paper to us. We issue, we punch the numbers, the new numbers, in through to the computer and we then issue a measurement certificate which is in accordance, the programme is the International Offshore Racing Council's programme. Our programme issues certificates. The programmes that designers have, such as David Lyons, would have, that's capable of asking, asking the programme questions, which ours isn't currently, of doing.

Q51 Right.

A Ours is purely, the process that rating officers around the world have is, we don't want to be involved in advising clients what they can do to affect their rating.

Q52 Yes.

A Our role is to issue a certificate so that they can get a handicap to go racing.

Q53 Right.

A And that's a variation in, but the, I think in computer language, they call it the engine of the two programmes are the same.

Q54 Right.

A The net result of what they achieve is slightly

different, although the numbers that they come up with should be the same.

Q55 Right. If I take you to attachment 1 of, excuse me, of David Lyons' report, you'll see a certificate here.

A Yeah.

Q56 Now, that's the final certificate which is sent from you. Is that right? Is that the way it's all - - -

A That's, that's my signature at the top there - - -

Q57 Right.

A - - - that says "rating office", and this certificate was issued on the 28th of July in 1997.

Q58 O.K.

A So that's an old certificate.

Q59 Right. That's still under the IMS?

A Still under the IMS, should be the - - -

Q60 Right.

A Each year the Offshore Racing Council, much to the, the owners' disgust, keep tweaking, if I can use that term, the rule, to try and more equitably handicap boats. I mean, during the course of the year, we find that this particular shape of boat might be going quicker or slower.

Q61 Mm

A And the ORC sit there and say, well, hang on, in order to fix that, we'll, we'll fiddle with these numbers in the equation and in the formula, and, and by and large it works, and my reaction is, I hope they keep doing that, because anything we can do to improve the

equality of handicaps between the boats has got to be good. So, each year, in May or thereabouts, we send out to the owners of current boats, an application to revalidate and they send their money in. We issue them a new piece of paper with the new numbers on for the new year. And you'll see that this certificate is issued, is amended to January, 1997.

Q62 So that's, it's, it expires - - -

A The certificate, the validity of this one - - -

Q63 Yeah.

A - - - expired in June, '98.

Q64 Right. O.K. Righto, before you do - - -

A Yeah.

Q65 So, basically, the figures that you get sent from the measurer - - -

A Yeah.

Q65 - - - produce the end products so far as all your figures are concerned.

A Yes.

Q66 So, if the figures are somewhat perhaps wrong from the measurer, you may get a different reading to what it should have actually been. Is that the way it works?

A Absolutely. I mean, we, we rely on what the measurer gives us.

Q67 Right.

A We, we're not there to act as policemen or check. I mean, if something looks absolutely crazy and it goes off the end - - -

Q68 Yeah.

A - - - like, falls off the computer, there are times when the computer says, go away, I don't want to rate this boat, it's wrong.

Q69 Yeah.

A Then we can interrogate the computer and find out why. But if it doesn't do any of that, then we issue the certificate. We process it and then issue it. And then we send it back through the State Measuring Authority in order that the measurer himself might check it and say, yes, well, O.K, it is all right. And make sure that either he or, or we haven't put a decimal place in the wrong place.

Q70 Right.

A I mean, it's pretty easy for us to do, or transpose numbers, you know, put a 3-7 instead of a 7-3.

Q71 Yeah.

A And, and, believe me, I've done it. And probably will continue to do it.

Q72 Yeah.

A So that's the process to make sure we, we check to the extent we can to make sure that what we've put in is right.

Q73 Right.

A Given what we're given. And then it's up to him to make sure before he issues it to the owner, that indeed we've put in what he meant to put in.

Q74 Right, O.K. Well, I'll take you to, so looking at that

particular certificate which is attachment 1, we see that the limit, the calculated limit of positive stability is in fact 112.9.

A Yeah.

Q75 Do you agree with that?

A Yeah.

Q76 And that sets it into - - -

A There are two numbers that can, that we, that we look at in relation to acceptance or otherwise of boats in the various races. One is the limit of positive stability, and the other is the stability index. Now, one is, and David is better at this than I am, 'cause he's the naval architect.

Q77 Yeah.

A I just punch the numbers. One is a degree whereby the boat can get to a point whereby it probably won't come back up. Right?

Q78 Yeah.

A And that's the limit of positive stability. So, if it gets to that particular angle, gets beyond that particular angle, the odds are it will be more stable upside down than it will right way up. The other is the stability index which also takes into account the righting effect after it does get to there.

Q79 M'mm.

A And so it take in more parameters than just the limit of positive stability. But what we've said from an Australian point of view is, we will accept the higher

of those two in relation to acceptance or otherwise of boats in a particular race, as long as they meet particular numbers.

Q80 O.K. Can you tell me the ratings for a category 1 race?

A 115 degrees.

Q81 O.K. Now, the Sydney to Hobart is in fact a category 1?

A Sorry, 115, 110, 115? I'd better check that in my drawer. You're right?

Q82 Yes, that's fine.

A Keep going while I find it.

Q83 You're right. Sorry.

A We changed it from, what we did some years ago, was put in a, a varying number.

Q84 Right.

A Yeah. Category 1's 115.

Q85 O.K.

A Category 2 is 110, and we shouldn't issue a certificate for less than 103. What we did was said, O.K, there's an inherent risk involved in what you're doing.

Q86 Yeah.

A We want to make sure to the extent that we can, that the further you go away from help, right, the more self-reliant you are. And we reflect that in the safety regulations, and we also reflect it in the varying degrees of stability index.

Q87 Yeah.

A So, if you're only going off, up the coast, for example, in the Sydney-Brisbane race, we say it can be 110 degrees. We say that the category 1 race, and I might add that anywhere else in the world, the Sydney-Hobart race would be category 2 - - -

Q88 Yeah.

A - - - not category 1, because the description of category 2 was close to shorelines, which is what the Sydney to Hobart race is. Sure, you're going 180 miles across the paddock.

Q89 Yeah.

A But the fastnet race, for example, is still category 2.

Q90 Right.

A So, CYC say cat 1, so 115 should be what category 1 requires.

Q91 Now, what is a category 0?

A Category 0 is like a Whitbread race, round the world.

Q92 Right.

A We don't run any of them in Australia, so we don't, don't reproduce the cat 0 rules, regulations in our book, although they're in that other document which is there on the table, the Offshore Racing Council Special Regulations. That includes cats 0 through 4.

Q93 Yeah.

A Right. We also go 5, 6 and 7, which includes other boats that even don't go to sea.

Q94 Right.

A Like boats in Sydney Harbour, Swan River and so on.

Q95 Right. Now, you mentioned before that you wouldn't issue a certificate below 103.

A M'mm.

Q96 Can you explain that to me?

A Well, what, what we say is that the, the limit used to be 93, but we can issue a certificate that, sorry, when I say issue a certificate, we can issue a certificate that the boat can't compete in a race, right, unless the stability index is in accordance with what's been advertised for that race.

Q97 All right.

A Now, a yacht's eligibility for entry in IMS races, this is in accordance with this rule, they were limited by the Notice in Relation to Sailing Instructions on the basis of their stability index.

Q98 O.K. Right.

A Right. Now, normally we say if it's less than 103, then they shouldn't be out there.

Q99 Yes.

A Right. It was felt that 105 was too much, which was the next limit down that was proposed for category 3 racing.

Q100 Yeah.

A Right. And then for category 4 they were going to propose 100. This was when they were looking at doing this some years ago.

Q101 Right.

A And eventually they said, hey, you know, let's leave it

at 110 because that's where people are most likely to go and get into trouble.

Q102 Right.

A The cat 3 and 4 races are fairly close to home, and therefore if they go base over apex, then someone else ought to be around to be able to get them out of there.

Q103 O.K. Now, you said that on the stability index, say, for example here we've got the Business Naiad, we've got a stability index of 110.3.

A M'mm.

Q104 We then look at the limit of positive stability, 112.9.

A Yeah.

Q105 Now, you said you take the greater of the two numbers.

A Yes.

Q106 Why is that?

A It's, internationally they say the stability index.

Q107 Yes.

A In other words, they rely upon the, in this case, in case of Naiad, the lesser number, not the greater number.

Q108 O.K, yeah.

A The limit of positive stability was around a lot longer than the stability index has been.

Q109 Yeah.

A And when we looked at the boats that were affected by the change in numbers, right, for example to 110 or 115 degree, we said, hey, this is silly, because a lot of the boats that we knew from history and tradition and

they've been out there and done all that, that were capable of doing those sorts of races, failed because of the requirement then of the stability index.

Q110 Yes.

A Right. So we said, if, if they meet what they've always been able to meet - - -

Q111 Yeah.

A - - - up till the time they changed it - - -

Q112 Yeah.

A - - - right, why should we now say, hey, it was safe for you to go last year, but you can't bloody go this year.

Q113 Right, O.K. Now, looking at this document again, this attachment 1, is it right of me to say, O.K, we've got 112.9. From your experience and your, your background, should that limit of positive stability rating be permitted to sail in a Sydney to Hobart Yacht Race?

A In my view, no.

Q114 Right. And that's based on the regulations.

A I get into trouble for being black and white and no shades of grey.

Q115 Yeah.

A At least the world knows where I stand.

Q116 Yeah. But so far as you're concerned, that is - - -

A The regulations say.

Q117 The regulations are - - -

A 115 degrees and as far as I'm concerned, that's what it ought to be.

Q118 O.K.

A And indeed, I withdrew from a CYC international jury on, it might even have been a national jury, some years ago and wrote a letter to the commodore saying why, because they accepted a boat as an entrant in a Sydney to Coffs Harbour race that in my view, because of the stability index should not have been allowed to go. And I wrote saying, hey, I'm out of here if I've got no control over the entries that you are accepting - - -

Q119 O.K.

A - - - I'm not going to play.

Q120 What year was that?

A Jeez - - -

Q121 Do you have a copy of that document?

A No, but I understand that Greg Halls from the CYC founded a similaroffice not all that long ago when he was

Q122 O.K. That's fine.

A And so, it was, the name of the boat was Wild Thing. It would have been five years ago at least.

Q123 O.K.

A The commodore was Leigh Myneghan, so that will reduce the, the, the period to a three-year period when he was commodore.

Q124 Right. Do you recall offhand what his reply to you was about that?

A There wasn't one.

Q125 There wasn't. Did you feel that, with your own mind

that it was safe for you to hop out at that point because of the potential of problems?

A Safe for me to hop out, was, I - - -

Q126 Did you feel you needed to hop out of that situation -
- -

A Yes.

Q126 - - - in case, did you sort of - - -

A I, I'm, I was worried, I mean, back in, in about '77, '78, a boat called Cisca failed to meet the international screen which was I refused to issue his certificate, because he failed to issue the screen. He went off here at the start of the Hobart race five minutes before the fleet, got to Bondi and put the spreaders in the water. Now, in my view, I felt so strongly about the stability requirement of Wild Thing, that I wasn't going to put myself at risk personally, being an official in the event, in the event that something happened to the boat.

Q127 Yeah, that's fair enough, too.

A I mean, my comment was, my ass is worth more than that.

Q128 O.K. Well, are you aware that the Sydney to Hobart Yacht Race has a grandfathering setup - - -

A Yes.

Q128 - - - where they have boats between 110, 115?

A Yes.

Q129 What are your views on that?

A It shouldn't be allowed.

Q130 On what base?

A Well, internationally there's a minimum standard.

Q131 Yes.

A In my, my heart and my head - - -

Q132 Yes.

A - - - both say, stick to the minimum standard and you can't get into strife.

Q133 Right.

A Reduce the minimum standard and I believe you'll leave yourself open.

Q134 Yeah. So is that a thing which has been set up, I mean, you may not have the details, need some more knowledge of this, but as far as you're aware, is that a thing which has been set up by their club to allow it to happen?

A Yeah. The, my understanding for their reasoning is that we would have declined, we being they - - -

Q135 Yes.

A - - - we would decline some boats that have been going to Sydney-Hobart races for years that we believe that, that we should allow them to continue to go. Now, be that as it may, in, in, as a member of the Offshore Racing Council's Special Regulations Committee, we tried very hard internationally to make sure that boats are capable of doing what the category of racing says they're supposed to do, and that is be self-sufficient.

Q136 Yes.

A And if we allow boats to go out there that are likely to go base over apex, that's not a real good place to

start them being self-sufficient.

Q137 So, would you agree that this is a situation where a club or an organisation involved yachting, has gone below the minimum standards?

A Well, if that's what they've done, if they've, they've accepted entries, and I understand that to be so, that don't reach the international standards, in my view it's apparent that they've allowed people to go that don't meet international standards.

Q138 Very interesting. O.K. I'll take you to the next IMS certificate on the Naiad, which was obviously sent in October, 1990, sorry, which was issued in October 1998, measured September 1998, and your signature appears there again.

A Yes, it does.

Q139 And we see on this document that we have a stability index of 102.6 - - -

A Yeah.

Q129 - - - and a calculated limit of positive stability of 104.7.

A M'mm.

Q140 What can you tell me about that, looking at that, in your view and experience, in your position?

A Well, I mean, 8 degrees variation from one year to another, is, is not usual. If it was just revalidated, the process was just no change to the boat. But when people change boats, I mean, we've had a tendency for people in recent times to cut holes in the bottom of

the keel, taken led out and stick lead in the bow and put balsa in the hole in the keel, in an attempt to decrease their righting moment and decrease their positive stability, because there's a perception, and indeed the reality, that they get an improved handicap. You know, internationally at the IOC meeting last November, when we took steps to fix that, but the cat was already out of the bag for one year and we didn't want to let the cat, or leave the cat out of the bag for another year.

Q141 Yeah.

A So, internationally, we've taken steps to try and increase the righting moments of boats without penalising their handicap, and therefore increase their stability and therefore increase the safety. I mean, to me it's crazy, if that's what the boat is designed as, to cut a bloody hole in the keel and put the led inside the boat. I mean it's the wrong place for it. You want it out here where it's designed to be, not some place else.

Q142 Yeah.

A But certainly it's unusual for a boat to jump eight degrees. Well, it's almost eight degrees.

Q143 So you queried the measurements, when this measurement came through?

A We, I, I didn't because I had no reason to do so, because I didn't know what the boat was doing. I mean, if he's doing races up the Tamar River, then obviously

it's of no concern.

Q144 Yes.

A But when I sent it back, the measurer rang me and said, "Hey, I think we've got a problem". I did some new numbers for him on the basis that he believed he may have transposed the forward and aft figures, and remember the boat's in the water somewhere and he's in an officer somewhere and so am I. I said, "That can't be", looking at the numbers, "But I'll run it for you as a test to find out whether you, whether that's feasible or not", and the answer came back considerably worse in one direction or other, I can't remember what direction it went, but the answer was no, that's, that's not the answer, can you go and recheck the freeboards on the boat? So he said, "O.K, I'll go down there on the weekend or the weekend after", and a couple of weeks later, he rang me and said, "Yeah, well, the numbers are right", we could only issue it with what we've got. So we issued the certificate that had been issued, that we processed.

Q145 O.K. Now that, sorry?

A After that, as far as I know - - -

Q146 As far as you, that's right, it's none of your business, is it? It's not your business to - - -

A It went away. I mean, I, I didn't know he was in the Hobart race until the drama hit.

Q147 Yeah.

A And, I then went back in my head and thought, we had a

problem with that.

Q148 Yeah.

A And I then looked up the certificate when I got back to work, which was on the 4th of January.

Q149 Yes, so if we look at the, the international requirements of stability index 102, that's certainly

- - -

A You wouldn't let him out of the heads.

Q150 No, that's right. O.K. Did you see these documents as well, the proposal plan on the boat - - -

A Yeah.

Q150 - - - attachment 3?

A That's a requirement.

Q151 Yeah.

A That looks in fact like our copy. That's my handwriting there.

Q152 Right.

A That looks like our copy, not the copy that the boat would have because when we see, when we give it for the boat, we stamp that and sign it.

Q153 O.K.

A Right. So the boat's copy of the certificate and we, or I call the shopping list, it's a measure and inventory saying what equipment should be where.

Q154 Right.

A And that's why we call it shopping list. And we, we put an OY stamp on there and our signature.

Q155 Right.

A So I would have provided that to David Lyons too, presumably.

Q156 Yes. Do you have records of all these boats at the yachting federation?

A Yes.

Q157 And how far do you go back, to the beginning of the boat?

A We, yeah, in IMS the answer is we've got hard copies of all that, but remember once we change the data on the computer, then the updated data's on the computer, not the previous stuff.

Q158 O.K.

A But, but we can go back through through years and locate certificates of boats back to when IMS started and to a large degree when IOR started, although a number of our IOR files have been taken for storage because they're, they were just taking up room here. I mean, we can get access for them, to them if we need it, but -

Q159 Would we be able to do that, particularly on this boat?

A Yeah. I don't know when it first got IMS but we can go back through, run through the records to, to find her history and IMS certificates in the event that there are any.

Q160 Yes.

A And in fact it would have had prior to that, an II certificate.

Q161 Yeah. Are there plans of the boat, that these

documents, that, I understand plans - - -

A No.

Q162 No.

A But what, what, all we have is that I can run through it on the computer with you in relation to measuring, how we measure the hull. That's the closest we get to plans.

Q163 Right, O.K.

A And it's, but it's a measuring process that we do after the boat's built.

Q164 So, do you have on your computer hard data in relation to - - -

A What the boat looks like?

Q164 - - - what the boat looks like?

A Sure.

Q165 Could you make that available to us?

A Sure.

Q166 O.K.

A How I do that in print form I'm not sure.

Q167 O.K. Can't be printed that you know of?

SENIOR CONSTABLE UPSTON

Q168 Can it be placed on, on floppy and perhaps then we can have it?

A It can, but you need the OIC programme - - -

Q169 O.K.

A - - - to make it look like something other than a bunch of numbers. I mean, I can give you a bunch of numbers which are a table of offsets, and people can sit there

and -

Q170 If we gave those, those figures to David Lyons, perhaps, would he have the equipment, do you know, that would be able to transpose those figures into drawings?

A I believe that David has a copy of the offset file, because in order for him to come to the conclusions that he did in relation to the report that I think that is, he needed the offset file and he got that from me, as I recall.

Q171 And would the measurer perhaps have a copy of the plan drawings - - -

A No.

Q171 - - - of the vessel?

A No. See, under the international system, those drawings are actually the copyright of the, of the designer. So, even though you've designed the boat and I've bought the design off you, and I've built the boat from it, you, you still own the copyright by law. So, we have, we're in a position here where we don't release plans of boats, files of boats, unless it's with the express permission of the designer. Now, in this case, I didn't wait for Bruce authority, because David Lyons was going away and I just gave it to him. In the circumstances, I think that was right and proper and I'm sure Bruce, in those circumstances, and I know it, I'm sure Bruce would agree. But I didn't have any hesitation in giving them to David for the purpose in which he was, he wasn't interested in

designing a boat from it, it's an old design now anyway. And he was doing it, doing it for a purpose.

DETECTIVE SENIOR CONSTABLE GRAY

Q172 Do you know much about the Far 40? I mean, have you ever heard anything about the Far 40?

A No, not, I mean, they were a good boat in IOR when they were around. There was a boat that that Appleby had, called Sagacious, that was very competitive. The Far 40s internationally have been fairly well, have been round the traps for a while. In IOR days were pretty competitive boats.

Q173 O.K. Now, are there any, anything you'd like to point out to me in this particular book on safety standards that you think are sort of pertinent for us, that we should know about?

A I think one issue is, and I've alluded to it before, is that in any, in any other country, put your teeth back in Tone, the Sydney-Hobart race would be cat 2, not cat 1.

Q174 Right.

A So the CYC to that extent have increased the standard, so I guess if we look at the stability requirements in relation to what the race would normally be elsewhere, the stability requirements would be 110.

Q175 The time by my watch is 2.30pm. This interview is suspended for change of tape.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q176 This interview between Mooney and Gray is continued. The time is 2.42pm. I think we were just, prior to the change of tapes, we were discussing the international categories and then the categories the over here.

A Yeah, well, the point I made was that in other parts of the world, the Sydney-Hobart race would be a category 2 race, like the Fastnet races in UK for example. And like the Around The Islands Race used to be in Hawaii, which was a hell of a way round in a heck of a strong breeze. And that might be seen as some justification for reducing some of the safety requirements for a category 1 race. I don't necessarily subscribe to that view. I think if it's, if they believe in all honesty that it's a category 1 race, then it's a full-on cat 1 race. I don't think you can have a bit of this and a bit of that. If they want to downgrade it and decrease the stability and have more boats in it, then by all means they go to a cat 2, which is what the rest of the world say. And when you read the description of cat 2, that is what the Sydney-Hobart race is.

Q177 Right. And those definitions for, for the categories are in that.

A They're in the blue book.

Q178 In the blue book.

A How, how they were if you were racing, yeah. And they are based on the international standard of the Offshore

Racing Council's - - -

Q179 Right.

A The offshore, in fact the chairman of that committee internationally, is Alan Green, who's the events director of the Royal Ocean Racing Club that runs the Fastnet race.

Q180 Right.

A Admirals Cup and so on.

Q181 O.K. Now, so far as the measure is concerned for the Naiad, I believe you might have dealt with the person by the name of Mr Fisher?

A Richard Fisher, yeah, he's been a measurer of ours for, yeah, five, six years, maybe even more.

Q182 Yeah.

A As I understand it, he's in the surveying game and we look to surveyors, engineers, that type of person, for measuring because they are used to dealing in millimetres and not close-enough, near-enough, which some other people might do.

Q183 Yeah.

A So it's, he fitted the bill. He went over, as we normally do, the process of measuring qualifications is that you work with the senior measurer in the state, and the senior measurer in Tasmania is a guy called John Honeysett who's been a measurer for as long as I can remember, so that certainly, 1969, and I believe he was a, an RO, RORC measurer under the Royal Ocean Racing Club Rule before the International Offshore Rule

came, even prior to that, so he's been around a while in the measuring business, and we then receive recommendations from the state measurer before we rubber-stamp, if you like, the appointment.

Q184 O.K. Now, so far as Mr Fisher's concerned, his reliability as far as you know, has been - - -

A I've never had any problems, either personally or reported back to me.

SENIOR CONSTABLE UPSTON

Q185 Yeah, grandfathering, that's not a recognised thing internationally, as far as you are aware?

A No. It's something that, that, there are provisions when we look at rules generally, that we might grandfather, as indeed we have with our own arrangement with the limited positive stability and said, hey, you know, in those circumstances, we'd rule out some boats that were allowed to go last year. That was, that was just silly. So we, we didn't, we elected to use the, the maximum and not, so that we could include boats that traditionally had been included. You know, they're decisions that are made nationally or internationally. I don't believe that they're decisions that ought to be made as the result of whatever local pressure there may be. I mean, my experience in this game is the more you bend to a minority, that the bigger disadvantage you do to the majority.

DETECTIVE SENIOR CONSTABLE GRAY

Q186 Have you since the 1998 Sydney to Hobart race had any inquiries apart from David Lyons, from the Cruising Yacht Club of Australia, so far as the Naiad's concerned?

A No.

Q187 Are you of the opinion, or is it your view that for a boat with that particular rating to have been allowed to enter that race, in your view, is definitely not correct, not right to do?

A I don't believe it is.

Q188 O.K. That's all.

SENIOR CONSTABLE UPSTON

Q189 With, just rehashing back on the, the Sydney to Coffs Harbour Yacht Race and the vessel Wild Thing - - -

A M'mm.

Q189 - - - was there any inquiry or was there any reason to bring up about the stability of that vessel?

A It, it's some years ago and it's, my recollection is that because we issue the certificates, I probably looked at the number when I issued the certificate, and in my view at the time, obviously it shouldn't have gone. It wasn't suitable in the terms of the numbers that appear in the rule, to have been a boat that should have been entered. And I remember at the time, I was pretty upset about it, actually, because I felt that here, here again we were thumbing our nose, if you like, at what the international rule provided.

Q190 Mm.

A And I don't think that that's a way, I mean, it's great saying, O.K, we need more entries, we need more participants and we need more players, but my memory of, of that incident was that it was a boat that didn't meet the stability requirement of the event, and if a club was prepared to allow that to enter, and it wanted me to serve in my honorary capacity as a volunteer as, as I do with all these juries, be it Olympics or anything else, that, that I wasn't prepared to put myself at that sort of a risk. I mean, it was, it just coincidentally happened that I work in AYF shop, whereas other people on the jury work in solicitors shops or butchers shops or any other shop that may be.

Q191 Mm.

A So I knew the numbers on the boat. My memory is that it didn't comply.

Q192 And yet it was still allowed to race?

A Yes.

Q193 And also you did mention the, the vessel Cisca. Was it that - - -

A That, that they couldn't accept because we couldn't issue the certificate, because it didn't meet the limit that allowed us to issue the certificate.

Q194 However, that did race - - -

A The boat itself - - -

Q194 - - - or did leave - - -

A It left Sydney five minutes before everybody else, so

Roly Tasker, being typically Roly Tasker, two fingers vertical and a red flag on the back, and took off when the preparatory signal went for everybody else, straight out through the middle of the channel that everybody nicely keeps for it, turned right at the heads and put a spinnaker up and my understanding is, he put the spreaders in the water down at Bondi a number of hours after he left the heads. And I think my understanding of my comment at the time was, well, told you so.

Q195 So that's a good example, or another good example for the reason of keeping the, the index stability as it is?

A Sure. I mean, it's, well, internationally we don't make rules just to be bastards. We, there's usually pretty good research goes into the rule-making process. Sure, there are times when there's knee-jerk reactions and knee-jerk law is bad law, and we've proved that over and over again. And we screw up from time to time. But by and large, something that's been in existence for four or five years in it's current, current form, it's stood the test of time and it's stood the international ramifications that come from those things, and it's, it's still in the book. So, if it's still in the book, why are we not taking any notice of it?

Q196 Was there any action that you know that was taken by the AYF against Cisca or by the, the Cruising Yacht

Club of Australia against Cisca for, for interfering with the race, perhaps?

A No. She, she couldn't have interfered. All she did was went through the, I mean, if anything, the waterways could have nabbed her for being an unauthorised vessel in an exclusion zone, but I think the general reaction was, you know, bugger him.

DETECTIVE SENIOR CONSTABLE GRAY

Q197 So, from a common sense point of view, do you think it would be fairly, a risk, a serious risk taken by a racing committee or an organisation to allow a boat with an IMS under 110, I'm not talking 104, 110, into a race where it's required to be 115? Or between 110 and 115?

A I, if I was on the committee, I'd jump up and down and say no, and probably resign from the committee if I lost. That's, that's how strongly I feel about it. I mean, it's not construction standards, that's another issue that people are unhappy about with the APS requirements, but they're there, they're a minimum standard and whatever we, whenever we got the rule, we either change the bloody rule, right, or we stick to it.

Q198 Mm. Do you think it would be incumbent upon a committee to say, hey, no, you're not going?

A I'm not sure that the committee itself knew. I mean, other inquiries would have to that.

Q199 It being you?

A I mean, normally committees accept what they're told by the staff. I mean committees are volunteers, so, they've got limited time to do what they can do for the club, and in normal circumstances they employ people to do certain things. Now, the problem with delegation is I was taught in my Woolworths days many years ago, was delegation doesn't mean anything unless you check back to make sure that what you've delegated has been done.

Q200 Mm.

SENIOR CONSTABLE UPSTON

Q201 So after you finished and issued the certificate, the certificate then would be forwarded to the CYCA, and who in particular would get that certificate?

A We don't actually forward the CYC the certificate, that's the owner's responsibility.

Q202 O.K.

A We issue the certificate back through the state YA to the owner.

Q203 Yeah.

A The owner then has to sign it in the little dotted line box to say, yes, I understand my responsibilities, and that then becomes his responsibility to forward it to whichever club he's entering the race for.

Q204 And then those certificates would then be forwarded on to the CYCA for checking?

A The deal is that when you enter the boat race, you should have a number of pieces of paper that are accompanying your entry, right, or are subsequently

given to the CYC before the boat's allowed to start. There's your IMS certificate which includes the measurement inventory which the page 3 we looked at, over your shopping list. There is also another document that normally is asked for, and that is a safety equipment compliance form to, that some Fred's checked the 24 band-aids or whatever else it may be, and then yes, you've got your two anchors, and yes, the chain is the required link. So normally there's those three pieces of paper that you need, as well as, in the case of long races like the Hobart, your crew lists, your next of kin lists, and various other pieces of paper that are needed. And the, each of those is my understanding, that, that the CYC at the briefing on the 24th, would have, in normal circumstances at least while I've ever been there, have sent off right way, we're missing these bits of paper from these boats.

Q205 Yes.

A And you've got till midday to put them in or stay home.

Q206 So it would be a fact that they would go to the CYCA and supposedly checked by the race director?

A I, or someone.

Q207 Or someone.

A Or someone. It would be - - -

Q208 So that if there is an anomaly - - -

A It should be an administrative process that all due care, in my view, is taken to establish the bona fides of an entrant.

Q209 Yes.

A And that's how, how they do that - - -

Q210 Yeah.

A - - - in the structure of the CYC or any other club is entirely up to them, but it would be my understanding that if I was a member of the committee I would need to know that that was in place.

Q211 Right.

DETECTIVE SENIOR CONSTABLE GRAY

Q212 O.K. Is there anything further you'd like to tell us about in relation to any recommendations or views that you have so far as the recent Sydney to Hobart Yacht Race?

A I think there was some concern expressed about life raft manufacture.

Q213 Yeah.

A There was also a report in the daily press that the occupants of the life raft, took a knife and cut a hole in the bottom, but whether that's accurate or not, who knows? I would expect the raft to fall apart if it had a hole in it, and you know, I thought, geeze, what would you do that for? But then, unless you're there, you don't know. It's like any reactive thing, you know, even when you're driving, you're reacting. Sometimes you win, sometimes you lose. In relation to construction or standards of boats, we have the American Bureau of Shipping, even though it's not now administered by the ABS, we internationally are trying

to get them to release their intellectual property rights in the, in the product, because our other classification societies would be anxious to take it on. We now administer it through process of a designer's self-declaration that, yes, I've designed the boat in accordance with the code, and the builder still signs a declaration that, yes, I've built the boat in accordance with those, those plans that have been designed in accordance with the code. So, again, it's a minimum standard that the world has accepted and still does. I mean, in true terms, if you built a boat to Lloyds A1 classification, you'd never be competitive. You'd have a beautiful boat, but you'd never be competitive. So, the ABS was introduced after the '79 Fastnet and then all the classification societies were asked to help and ABS was the only one that said, yes, we're prepared to do so. Whether it's right or wrong, at least it's something. We didn't have too many boats break up, as I understand it, until something happened. I mean, Winston Churchill broke up. She wouldn't have been ABS anyway, 'cause that was something that didn't happen until 1986 and she was designed well before that. I understand that Sword of Orion had a crease in the back. The hull she fell off, and from what I can understand, that, that could have happened to any boat as well. So I think we've got that sort of reasonably well taken care of. I think history will say that some of the boats that were, that

everyone was taken off, may well have still been sound. I mean, even Naiad for example, the fact that a number of people were taken off goes to a statistical analysis that, yes, it contributed to the 54 or 55 that were rescued. The boat was still floating and was still recovered some days later, by Nemesis, as I understand it. So, had the rescue facility not been there, those people, and, and/or, two people dead on board, those people would have been all right if they'd have stayed there, I guess is what I'm saying. And the same thing happened in the Fastnet race in '79. A lot of people got off the boat and in the life rafts before there was a real need to do so. That didn't happen here. The people that got in the life rafts bloody needed to be in them.

Q214

Mm.

A

The others stayed on their boats until rescue was here and if there's a little whirlybird hanging around in the air, and you feel as sick as what I'm sure a lot of those guys did, yes, please, I'll grab your piece of string and haul me up. But in real terms, there was probably no need for a number of the people that have actually got off the vessels that they got off. These are just observations and also the observation that we mentioned before we started recording, that the boats that, by and large, the boats that got into trouble were the boats that actually had given up racing. And, and that certainly is the same statistic as what

happened in the '79 Fastnet race, that, that the boats that really got into trouble were the boats that had given up. The boats that got through it O.K were the boats that kept sailing in one form or another. Whether they kept racing or not or whether they just kept sailing in the general direction. I mean, I read a report by a guy called Ross, off a boat called Yendys, where he said he was heading for New Zealand, and you know, I had a guy from 4 Corners background, ring up to say, you know, why didn't they come closer to shore? And he turned out being a surfer, and surfboards and stuff. I said, "Well mate, was it start breaking while you were out on your surfboard, do you go to the shore or do you get to sea?". He said, "I go to sea". I said, "Well, we do the same thing". I said, "It's safer at times to be 40 miles off the coast than it is to be four miles off the coast". That's just seamanship. Anyway, I'm telling you guys things that you don't need to know.

Q215 Whatever you like to tell us.

A It's just an observation.

Q216 You mentioned something about in the final washup, that it would be pertinent for us to look at, not big overwhelming issues, that we sort of come to some conclusion where everything's capable of being implemented and, and, do you know what I'm saying

A I think we've got to be realistic in what we're doing.

If, if, and I'll just repeat what I said earlier, that if every good, good, good thought in regard to safety, particularly in regard to equipment, if every good thought was implemented, then the boats would need to tow a caravan behind with all these good ideas in it. The, there has to be a point where common sense says, this is where you stop. It was a thought some 10 or 12 years ago that we're actually driving our radios to Hobart instead of driving the boats, because the radio communication process got so convoluted and complicated that you used to spend more time fiddling around with your radio set than you did driving your boat probably. That changed and we introduced streamline procedures and a few other things happened. But, that's the example of the way things can happen if we're not careful. And, you know, again, the, the deal on, on why we called, why we have to call what used to be called life jackets, personal flotation devices. It was because two people got drowned in wearing what was then a life jacket and the coroner said, well, it didn't save your life, therefore it wasn't a life jacket. They're things where we need to be, I think, realistic in, in what findings we come out with, not try to hide anything, we're not trying to bury anything, but to, to put it in terms that, O.K, whilst these would be good ideas, there may be a reason why not.

Q217 Keep an open mind on it. O.K. Anything else you'd

like to say?

A No. I think unless you've got any more questions

- - -

Q218 No. Time is now 2 minutes past 3.00. This interview
is now concluded.

INTERVIEW CONCLUDED