

DETECTIVE SENIOR CONSTABLE GRAY

Q1 It's an electronically recorded interview between Detective Senior Constable Stuart Gray and Mr Richard Fisher on Wednesday, the 1st of December, 1999 at the Royal Prince Alfred Yacht Club, Newport, Sydney. Time on my watch is now 7.57am. Also present, seated to my right is Senior Constable David Upston from the New South Wales Water Police. For the purposes of the record, Richard, could you please state your full name?

A Richard Daniel Fisher.

Q2 And your date of birth?

A 2nd of the 9th, 1967.

Q3 Your current address?

A 3 Daniella Court, Trevallyn, Tasmania.

Q4 And your occupation?

A A land surveyor.

Q5 O.K. And also you double up, well, you have in recent times as a yacht measurer. Is that correct?

A Yes, that's right.

Q6 And in fact you measured the boat the Naiad in 1998?

A That's correct.

Q7 O.K. Now if I was to tell you that we interviewed you first on the 15th of March, 1999, at Launceston C.I.B. Do you recall that?

A Yes, I do recall that.

Q8 O.K. Now there's just a couple of things that we just want to ask you to clarify since your last interview. Now from the paperwork you have here the Naiad was

actually measured by you on the 18th of July, 1998. Is that correct?

A That's correct.

Q9 O.K. And those figures were that you, the figures from the measurements were placed onto a - - -

A A standard pro forma.

Q10 All right, which is the I.M.S. measurement data sheet?

A Yes.

Q11 And that was then forwarded to - - -

A Tony Mooney of the Australian Yachting Federation.

Q12 O.K. Now on the day that you measured that boat, what procedures did you go through so far as what was inside the vessel?

A The first thing we did was get on the boat with the owner, Bruce Guy. There was only Bruce Guy and myself present. We went below and we went through the standard pro forma check list to check the inventory, conditions of tanks and so forth, basically everything was on, that was on the inventory.

Q13 O.K. Was there any sails on board the boat that day?

A I don't, I don't believe so, and I think you asked me the question before. I can recall going down the companionway stairs and sitting on the starboard side of the boat and I can recall looking aft down that tunnel bunk, but I did not look down the tunnel bunk on the other side but I believe there were no sails on board.

Q14 O.K. Now what were conditions like on that day?

A Very, very calm - - -

Q15 O.K.

A - - - it was early morning, you know, literally glassy calm and little, to no wind at all.

Q16 You've had a look outside here where we've got Nadia 4
- - -

A Yes.

Q16 - - - and you've seen the water conditions there?

A Yes.

Q17 Similar to that?

A Very similar to that.

Q18 O.K. Was there any breeze at all?

A Negligible.

Q19 O.K. Now after the, the measurements and the pro forma were forwarded to Tony Mooney, did you receive a phone call at some stage from - - -

A I received a phone call from Bruce Guy, not from Tony Mooney.

Q20 All right. And what was the subject of that discussion?

A Basically Bruce said he'd received the certificate back from the A.Y.F. from Tony Mooney - - -

Q21 Yeah.

A - - - and that he had some concerns about his crew weight - - -

Q22 Yeah.

A - - - and said that his crew weight wasn't up to the number that he wanted or he'd specified and he asked the question why.

Q23 O.K. And what happened then?

A I wasn't able to give him an answer at the time, and I said I'd contact Tony Mooney at the A.Y.F. which I did - - -

Q24 Yes.

A - - - and Tony explained to me that it was, the crew weight had been limited based on the numbers that had come out of, of the velocity prediction program - - -

Q25 All right.

A - - - the measurement software and effectively was limited because of the current trim of the boat.

Q26 All right. Did he at any stage, that's Tony Mooney, discuss the change in stability with you, that you can recall?

A Not that I can recall. I can recall Tony saying the, the boat was sitting oddly in the water or he, he thought that it sat oddly in the water - - -

Q27 Yes.

A - - - and I said that well, there was, they were the numbers I took Tony - - -

Q28 Yes.

A - - - but I don't recall the discussion directly about stability.

Q29 O.K. Then did he ask you to remeasure the boat or was that something that you did yourself?

A What actually took place was my, my first thought was that I transposed the forward freeboard measurement for the aft freeboard measurement and I asked Tony if he could run a, a test certificate, just literally swapping the two numbers around. He rang me back after doing so and said, No, it's just, you know, that's just silly - - -

Q30 Mmm.

A - - - it definitely wasn't that, so we'll just check, try and check for a blunder that way - - -

Q31 Mmm.

A - - - and we basically agreed between us that we should, that I should go and remeasure the freeboards.

Q32 O.K. And it was approximately the 11th of October, 1998, just some 3 months since the first measurement?

A Yes, that's right, it was, it was actually the opening day of the Port Dalrymple Yacht Club.

Q33 O.K. And what did you do that day?

A Completed sailing on the boat that I would normally sail on. Came ashore, gave them a quick hand to pack up, so it was reasonably late in the afternoon. Got into the club dinghy with two others, being my wife and a bloke by the name of Sam Edmonds - - -

Q34 Yeah.

A - - - and we went back out to the Naiad, which was laying at mooring and rechecked the forward, sorry, the aft and forward freeboard measurements on the starboard side.

Q35 O.K. And did you record those figures anywhere - - -

A Yes, I did.

Q35 - - - on that occasion?

A I actually had the, the same page that I'd taken on the, on the first measurements still in my notepad, so I wrote them against the, against the boat, to the sketch of the boat that I had there.

Q36 All right. O.K. And what were the conditions like when, when you did the second measurements?

A The conditions certainly weren't as ideal as the first - - -

Q37 Yeah.

A - - - there'd been, the normal sea breeze that afternoon so there was some residual slop, you know, slight wave movement and the breeze would have been down by that stage to, you know, round the 5 knots or less, something like that, there, there wasn't a lot of wind left.

Q38 Mmm.

A We, when we went back out to the boat, we went up to the starboard side, there was three of us in the dinghy and I was at the aft end and we measured the aft freeboard but we made, I made sure that the, the dinghy was on the, the up wind side of, of where I was taking the measurement so that, you know, reduced the, the slop somewhat - - -

Q39 Yeah.

A - - - the waves that were there. Then we proceeded forward and did the same thing at the bow. As soon as I measured the aft one, I saw that it agreed with, with the numbers that I had taken previously - - -

Q40 Mmm.

A - - - so I was, I was happy at that point in time that I hadn't transposed fore and aft - - -

Q41 Mmm.

A - - - went forward and measured it there and saw that what had, what had appeared to have occurred was I transposed the, the leading two numbers after the decimal point - - -

Q42 Mmm.

A - - - and that was my assumption that I, the error I'd made - - -

Q43 Mmm.

A - - - and that's what I wrote on me, on the pad.

Q44 O.K. And that was forwarded once, those figures were forwarded once again to Tony Mooney?

A Yes. I, I sent Tony a fax that I've got in front of me, dated the 15th of the 10th - - -

Q45 Yeah.

A - - - with the forward measurement and the aft measurement written on it - - -

Q46 Yes.

A - - - and Tony had obviously recomputed the, the certificate and he faxed that back to me directly and

I faxed a copy of that with a note through to Bruce at his place of business.

Q47 Did Bruce Guy ever get in contact with you again in relation to stability or anything else?

A I spoke to Bruce, I can't remember how long later - -
-

Q48 Mmm.

A - - - within a matter of weeks or so and I recall asking Bruce whether, whether his entry had been accepted for the Hobart because, you know, I had expressed some concerns to him that there might, there may well have been a cut off number at the time in, in relation to stability and he told me that it, that it had been accepted and that it was all O.K.

Q49 Are you aware if Bruce was aware of the cut off of the stability?

A Am I aware if Bruce was aware of it?

Q50 Yeah.

A Um - - -

Q51 Or do you assume he knows?

A I don't, I don't think he was aware of it at, at the time that I faxed his second certificate through to him
- - -

Q52 All right.

A - - - because I know we had a, we had a discussion revolving around that there might have been a cut off and that my recollection was that it was 115 based on my experiences with the 50th Sydney to Hobart - - -

Q53 All right.

A - - - and I said I don't know what it was at the time -
- -

Q54 Mmm.

A - - - and Bruce didn't indicate to me that the cut off
was - - -

Q55 All right.

A - - - 115, which we now know.

Q56 All right. Now, we'll look at these figures on your
bit of paper here. The 1.322 and the 1.320, they're
your original - - -

A That's correct.

Q56 - - - measurements. And written above those you have,
above the 1.322, you have 1.232?

A That's correct, yeah.

Q57 And above the 1.320 you have 1.230?

A Yes, that's

Q58 That's the corrected number as well?

A Yeah, and I believe, I believe what I've done there is
as we've slid up the starboard side of the boat, I've
measured the right hand one and seen that it's 1.230,
rather than 1.320, so I've written that one in and I've
assumed what I've done was transposed both of them, so
I've written in the other one, I didn't actually take
the port measurement at that time.

Q59 All right. So do you know what the difference in,
those figures equate to in weight?

A No, I don't.

Q60 All right. O.K. Now on the time of the second measurement, are you aware, or did you check to see if the boat was empty?

A No, I didn't the boat was, was locked up at mooring.

Q61 O.K.

A But I don't, I don't believe it had been sailed up til then, so I assumed at the time there were no sails on board and the, the status of its inventory had been, remained unchanged.

Q62 Have, I mean, this is sort of, you know, supposition here, from your experience. Had all the sails been put back on the boat and full inventory was back to the way it was, do you think, well, you know, would the measurements have been a lot different, a lot different?

A I don't know, I honestly don't know, I, I don't know the implications of putting sails on - - -

Q63 All right.

A - - - as to what, what would have changed.

Q64 O.K. Now you said earlier that the possibility of the mistake could be related to the way it was moored on the second occasion?

A That's correct, yeah. Obviously on the second occasion because it wasn't absolutely perfect conditions, I wasn't with, with measuring it with the tape, we weren't in a position to chase millimetres as such and so I was looking for the gross blunder rather than the actual, absolutely fine measurement and my assumption

was that on the first day I measured it, because it was ideal, that I had the millimetre measurement, if you like, the third decimal place correct, so I was looking for the gross blunder. At the time I checked the aft measurement and that agreed very well with what we'd already taken, so I assumed that the boat was sitting more or less how it was sitting in its original form and then measured the forward one, because it wasn't a, a, a incredibly windy day and because I don't believe there was a lot of tide at the time, I don't think it was pulling at its mooring too hard, but I guess there, there is some possibility that it may well have been in a bow down position.

Q65 All right. And do you recall if you could, I mean this is some time ago obviously, do you recall initially, initially looking at the boat that you could see the rudder in fact out of the water, some part of the rudder out of the water?

A I think I do recall seeing the, you know, the top inch or so of rudder floating out of the water.

Q66 Yeah. Did you notice anything about the water line mark or, it being above the water line considerably or not or, I know it's a long time ago?

A It is a long time ago. Look, I, I wouldn't, I wouldn't stake my life on it but I seem to recall that, that it generally floated a little bit high and I assumed, well, O.K. when you put the crew on it and so forth and load down with gear - - -

Q67 Yeah.

A - - - it was coming down. I mean it wasn't something that I considered seriously at the time - - -

Q68 Yeah.

A - - - but I seem to recall that that it floated a little bit high and I seem to recall, well, always thinking, yes, that's an I.M.S. boat because you could see how it sort of, the bustle if you like, flowed in around towards the rudder. So I think, yeah, I'd think it be fair to say I do recall seeing the rudder out of the water.

Q69 Now you've seen the boat that we've got down at the wharf here?

A I haven't had a close look to it, but, yeah.

Q70 O.K. David?

SENIOR CONSTABLE UPSTON

Q71 When you, when you measure the boats, do you generally release them from their, their mooring blocks so there's no weight from the bow?

A Yes, normally we'd, we'd hang them from a pylon with a, a line, you know, a very short, maybe 6 feet of line, but generally it hangs pretty slack and horizontal.

Q72 Do you recall when you measured the Naiad that, 'cause it was on the mooring. Is that correct?

A The second time? Yes.

Q73 The second time. Was the, is the, was, was the mooring block heavy? What I say by that was that was the, was there a great deal of tension on the, on the line?

A I don't believe so, David, I, I can't say that I went an grabbed the mooring line and pulled it up and had a look but as I said earlier there, three wasn't a great of wind, there wasn't a great deal of tide at the time and the boat, was moored in an area that you'd often get a little back eddy in there anyway. I, it, it would be, it would be difficult for me to quantify how much load there was but I'd, I'd certainly grant you that there would be some load there.

Q74 Do you recall whether the tide was full or was the tide low?

A I've been out that many times off that marina - - -

Q75 Yeah, and I, I do appreciate that it was some time ago now but - - -

A My, my guess, my guess would have said it was around about the half tide mark or maybe a little bit, maybe three quarter tide, but certainly, look a tide table would show what tide it was - - -

Q76 All right.

A - - - if you wanted to check it.

Q77 Whereabouts was the boat moored at the time of the measuring?

A On it's alleged that - - -

Q78 Geographically?

A Geographically, it was at Beauty Point.

Q79 At Beauty Point.

A At, at the Port Dalrymple Royal Yacht Club.

Q80 O.K.

A Do you want the location of the mooring there?

Q81 No, no, no, so it's, it's close to the mouth of the river?

A That's correct, yes.

Q82 O.K. Can you recall what the weather conditions were like at the first time of measurement? Was there a lot of rain about, was - - -

A No, I can't recall if there was a lot of rain.

Q83 All right.

A Um - - -

Q84 Well, had it been raining a lot prior to the first measurement?

A I, I can't recall, David.

Q85 O.K.

A Weather records would check it for you.

Q86 Yeah. Can you recall the second time when you measured it was there a lot of rain prior to the measurement?

A I can't recall that either.

Q87 O.K.

A Too, too long ago, unfortunately.

Q88 No, that's fine. Now do you recall taking a specific gravity of the water?

A No, I don't, David. I did not take a specific gravity reading of the water at the time. I used the figure of 1.024, I think you'll see that is borne out in the, in the pro formas.

Q89 Yeah.

A Why did I do that, or why didn't I take the specific gravities is more, is more the point? I didn't believe it to be necessary and the, certainly I believed it to be necessary to have the number but I didn't measure it at the time. The previous measurer to me, Ian McKilrey, had, had indicated to me during times of training with him, that something along the lines of really only, only worry about it if you're up in Launceston, where there's a lot of fresh water, but generally speaking down at the mouth of the river, there's plenty of tidal flow and he always used that number, so that's what I did.

Q90 And, and that figure equates to the normal specific gravity of, of salinity of, of the sea water?

A I believe, so, yes.

Q91 Yeah.

A Although I did, I did recall having a discussion with John Honeysett back when we were measuring boats for the 50th in Hobart, that the sea water seemed a little bit saltier in the Derwent River, when we were measuring in Hobart, that, that was the figure he was, I think he was using 1.027, or something like that down there.

Q92 O.K. Nothing else.

DETECTIVE SENIOR CONSTABLE GRAY

Q93 There's nothing else?

A No, that's all, thank you.

Q94 O.K. Time by my watch is now 8.15am. This interview
is concluded.

INTERVIEW CONCLUDED