

MR TATE: Thank you, your Honour. I call Senior Constable Joshua Kinghorn.

Your Honour, there's a Power Point presentation that goes with the Senior Constable's evidence. I should indicate that the next witness after Senior Constable Kinghorn is Sergeant Law. Now, if we were in a.....

CORONER: Please come in, Senior Constable. Just come over to the witness box, if you wouldn't mind. We're just having a little discussion.

MR TATE: If we were in a different jurisdiction, it might be said that Sergeant Law is a corroborator of the senior constable in the sense that they're working together underwater taking measurements.

Now, I don't know whether my friends wish me to call the Sergeant separately and have him outside the room, or whether it's more convenient to have him in the room. My expectation is that were he to listen to this witness' evidence, he'd say, "I was there, I was completing the task with the senior constable. I agree with everything he says. But I'll just your Honour to see what view my friends have.

MR ZILLMAN: It's a matter more for - although your Honour conducts the Court, but ordinarily witnesses do remain out of a Court and the reasoning behind that is so that they're not influenced by anything that's said by any other person. I don't know that all of this evidence is going to be simply restricted to the statement or there might be other things that come up, so my submission would be it's preferable that the witness is not being called while someone else is giving evidence. But it's a matter for your Honour.

MR TATE: I'm content with my friend's view, your Honour.

CORONER: Thank you, I'll follow that.

JOSHUA KINGHORN, SWORN AND EXAMINED:

MR TATE: Thank you, your Honour. Name, rank and station, please, Senior?.. My name is Joshua Kinghorn, I'm a member of the Australian Federal Police, previously a member of the Queensland Police Diving Squad, I was a senior constable there.

Now, I think as a result of a request by Sergeant Campbell, you and some of your colleagues from the Queensland Police Diving Squad, were tasked to assist in a re-enactment of a diving incident that occurred at the Yongala dive site on the - in October 2003?.. Yes, that's correct.

Now, have you prepared a - a statement dated the 13th of January, 2007, setting out the various steps and measurements that you recorded as a result of that re-enactment?.. Yes, I have.

I think you've also indicated in your statement that there are various exhibits that you're able to prove today? That's towards the - the end.....?.. Yeah, exhibits in terms of some video, notebook entries.

Things of that.....?.. Yes.

Things of that nature. Now, Senior, are there any changes to your statement that you'd like to make today; any additions, deletions, alterations?.. No.

It's true and correct to the best of your knowledge and belief?.. Yes, it is.

Now, would it be convenient for you to sit here where you can access your Power Point?.. Yes.

Your Honour, might that be permitted please?

CORONER: Yes, that's - certainly. Please make yourself comfortable.

MR TATE: Senior Constable, bring your statement and whatever other documents you've got. Come and sit over here, make yourself comfortable and his Honour's clerk will just make sure that we can pick you up on the sound recorder.

CORONER: Now, if anyone wants to organise themselves so they can see this better, please work around - whatever you like.

MR TATE: Would your Honour pardon me for a moment. Senior, I'm in your hands?.. Okay, basically we - the Dive Squad, was requested in July 2006, to review some statements that were made in relation to the incident that occurred that this Coroner's Court is looking into. As a result of that, I reviewed some statements made by Mr Gabe Watson that he gave to police, and we came up with a list of tasks and objectives to do out on the Yongala Wreck.

Now, I might just stop you there, Senior. When you say that you were asked to review some statements, that's all right - if you'd like to look at me, that's fine. If you want to just listen to me from the other way, whatever you're most comfortable with. Do you have a note at this point in time, of what statements you were given? Now, I don't want this to be a memory test, so if you need to look at your running sheet or some other document to tell us what you had to review, I'm sure that would be fine?.. Yeah, from - just from memory, it was a - it was a transcript of a record of interview with police and Mr Gabe Watson and also a statement he made to police on the day of the incident.

All right. Now, from reading those statements, what was your understanding of what Mr Watson had said occurred during the course of the fateful dive?.. Initially - well, first thing that - that came to mind when I've read his statement, was one thing I noticed he - he mentioned, he referred to clearing his mask underwater and losing his regulator out of his mouth.

Yes?.. And then having to locate his mask, clear his mask and then he had to find his regulator and then put the regulator in the [indistinct]. Initially, when I read that, I didn't think that could possible.

Yes?.. It couldn't be done, and I do - I believe in my statement I did say - and I did try to replicate it in a situation like when I was sitting underwater, you know, in a - in a controlled environment obviously.

Now, let's - let's just stop there for a moment and go through this. As I understand it, what you did is that you noted that he said that the regulator

had come out of his mouth?•• Yes.

And that there was water in his mouth - in his mask?•• Yeah.

That he cleared his - his mask?•• Yep. The way - the way I read it is his mask actually came from his head.

All right?•• He had to locate his mask, put it back on, and then locate his regulator.

All right. Now, you tried to replicate that in a swimming pool?•• Yeah.

Why did you choose a swimming pool?•• Well, it was a safe and controlled environment, I wasn't going to do it in the open ocean against current or against any sort of - any sort of thing that could be - any risk that an ocean can give, so.

All right. And what did you find about trying to reproduce what he said he did?•• Initially, the way I did it, I started finning - I knocked it off my head and I - and I did it with - I suppose at a high - a high anxiety level. Now, where I'm trying to get to with that is, later I've come back since then, since writing the statement and tried it in a controlled environment and it is possible you can do it if you're breathing, take your regulator out, know where the regulator is, take the mask off and then recover the mask. You've got a full lung of air and then you can clear it or adjust it, then you've got to locate the regulator as well and put it back. So, you want to have that regulator very close by.

All right. And what inference did you draw from those two tests or simulations?•• Well, initially when I first did it with the finning, I couldn't do it - couldn't do it, as just swimming along, breathing normally in and out, and then obviously - so I couldn't do it the first time and then some time after this I've gone back and tried it, tried again as best - as controlled as I possibly could, and it can be done.

And I'm sure someone else will take that up with you. If the mask itself was not totally knocked off but rather had filled with water, would that make a difference?•• Well, it takes - well certainly it cuts the time of looking for the mask [indistinct].

Now, am I right in saying that from paragraph 1, that you're a highly qualified commercial and recreational diver?•• Yeah, well, I've completed up to level 2 of the commercial diving course, which comes under the Australian Diver Accreditation Scheme and I completed that training down at New South Wales with the New South Wales Police. And the training was done, more so focussed on police diving then started commercial diving using tools and cutting equipment and all that sort of thing.

Yes?•• All that sort of thing.

And as at the time that you'd undertaken these tests, approximately how many dive experiences had you had?•• Like, work dives or police diving, probably 150, 200.

And in total including recreational and other diving?•• Probably 240, 250.

So at the time that you were trying to recover the mask, the regulator and to undertake those simulations, would it be fair to say that you were a highly qualified diver with police experience who had completed in excess of 500 dives?•• I wouldn't have completed in excess of 500 dives.

400?•• No, 250.

All up?•• Yeah.

Thank you. The reason I've asked you that is, are you able from your training and experience to draw an inference about how easy it would be for a less qualified diver who perhaps had advanced to the stage of a rescue divers certificate and perhaps some 50 dives to be able to reproduce the regaining of the mask as you were able to do on the second occasion?•• I - I suppose once again it comes down to just how comfortable you are in the water. I mean, if - if - if it came down to your - if your life was [indistinct] you - you certainly - I - I believe you can push yourself, you know, even further than what you think you actually can, and you would - you would - you possibly could do it if - if you were highly qualified and extremely comfortable and confident in the water.

Senior, I probably distracted you from the flow of your statement, so if you can return to what you're telling us now.

We'd reached the stage, I think where you were noting issues that you'd isolated from the statements that you'd read from Mr Watson?•• Oh yeah. And then - so yeah, there was - there was that one initially which - which I had noted.

Now, senior, I'm getting a little bit worried that this is becoming a memory test. Have you got some other documents whether they be exhibits or other documents that you could refer to, to refresh your memory where - where necessary?•• Yeah, I do.

All right well?•• •••••[indistinct] arrange to•••••

Perhaps - perhaps?•• •••••[indistinct]•••••

•••••you might tell us what you're referring to•••••?•• Yep.

•••••and please use the running sheet, if that's what it is•••••?•• Yep.

•••••just to ease yourself into the narrative about what it is that you and your colleagues did in this re enactment?•• Yep. So after we've - we've [indistinct] the series of objectives what to do in relation to for the series of dives in relation to items that were noted on the statement - all statements provided to police. The initial one was to conduct some drift dives and we - a list of - first of all we wanted to identify where the deceased was - was located on the

floor, and we had access to that photo which is up there on the wall there.

All right. No senior, let's - perhaps we might approach it this way; so you had the photo and you had some other documents at a meeting, I think in Brisbane, is that correct?•• Yes.

And you had Wade Singleton present there?•• Yes, that - this is later down the track, yeah.

All right. So at the end of the day, what you did is to use the information that you'd been supplied•••••?•• Yeah.

•••••to try and ascertain how you might be able to do an re enactment•••••?•• Yeah.

•••••including looking for windows of opportunity to ensure that you were able to replicate as closely as possible•••••?•• Yeah.

•••••the conditions of the day of the fateful dive?•• Yeah.

Now, in terms of being able to undertake that exercise, what did Mr Singleton tell you, and what were you told by other people about the conditions on the day?•• Okay, we initially - and that was all in this initial process when we've worked out what tasks need to be carried out, and part of that was we got in contact with the Australia Maritime Institute of someone's and it was - think Mr Richard - or it was Mr Richard Brinkman•••••

Mmm-hmm?•• •••••and we gave him a date that this incident occurred on and a time, and then he came back to us with a series of times or windows of opportunity to dive on the wreck which will - which should be to his knowledge, I know I'm not an expert, but he - he's told us that - and he gave us four days as being a window of opportunity to dive on the wreck where would be - it should be similar conditions.

And I think you indicate those dates in paragraphs 9, 10, 11, 12 and 13 of your statement on•••••?•• Yes, that's correct.

•••••on page two?•• Yes.

Now, do you have a copy of the annexure B with you there?•• Of the?

Of your statement, you can see there on paragraph eight you talk about appendix B?•• Yeah.

Do you have a copy there?•• No, I don't.

It's just there, there. So just - we'll get you that. Now, can I show you this document which is Exhibit 106, your Honour. And I'll just give you the plastic bin, replace it in Senior when you're finished, so we don't get our Exhibits mixed up. Now, can you identify that document, please and tell us where it came from?•• Yes, this is just some e-mail correspondence between myself, Richard Brinkman, Scott Cornish and [indistinct] and [indistinct] list of four days of four separate time frames.

Now, that I think is - the four time frames is on page two?•• That's correct. It's got some time frames for August 2006, some time frames for September 2006 and some time frames for October 2006.

All right. Now, we may hear more about this in due course, but I think at the moment it might be just worthwhile to ask you to tell us what the - what significance is there in the forecast high tide, the forecast tidal range to low tide and the proposed dive times?•• My understanding of this is that it's - it should be near - near the same conditions in terms of flooding tides, the height of high - the height of the high, the low, the low of the low and the amount of water that floods in and out at a period of that time.

Right. So if we go to the sticking on that page and go to the paragraph commences, "The great eastern current, is a south ward flowing current that are strongest along the outer reach of the Great Barrier Reef, the current penetrates the outer reefs of the GPR at a number of places, most noticeably in the region off shore from Townsville and drives a southwards flow in the GPR lagoon. In general, the southward surface flow of the EAC peaks in November and December and is at it's minimum in April, May due to the continuation by the increase in south easterly trade winds.". It then goes on to talk about the various other components of tidal and current information. And then in the fourth paragraph, it says, "The wreck of the Yongala lies in a region where we know from satellite imagery to be in the zone transition between wind driven generally northerly and EAC driven southerly flow. Thus, the current regime at any given time will due - will be due to the interaction of the wind driven coastal flow and the lagoon flow of the EAC.". So, I take it you read all of this?•• Yep.

And formed a view about what you had to do with your re enactment?•• Yes, that's correct.

Is that correct?•• Yes.

All right. Now, maybe you'd like to tell us what decision you've made about what you had to do?•• Okay. And then so we decided to go with the timetable in September giving us the four days there.

Yes?•• And the reason for that being, we had the four days, August only had two days.

Yes?•• So we went with September 2006•••••

Yes?•• •••••'cause it had the four days, and the time frames were just a tad later for the proposed dive time than what they were - and logistically that was going to be the best option for us.

Yes?•• So we chose in that time period.

And did you then do after having chosen that time period?•• After choosing that time period, we then set out a list of tasks to be completed, and•••••

Now, you can just put that on Senior Constable there's a vacant table next to you, if you put that over there. If you need to refer back to any document, you'll know where it is?•• Yep.

All right. Yes, Senior, thank you?•• Yeah, so, we listed as serious task to be conducted after that and made the logistical arrangements with the Australian Custom Service to have all our dive team transported out with the equipment and

the relevant investigators.

Now, I think I you report that in your statement and indeed in paragraph 18 of your statement you talk about the group of police divers arriving at the customs vessel, Dame Roma Mitchell, with all of the dive equipment, is that correct?•• Yes, that's correct.

And that's the boat that you took out to the wreck site?•• Yes, that's right.

I think during the course of the whole re-enactment you were in charge of Tina's equipment?•• Yes, I was.

And you've talked to us in your statement about how, at all times, the equipment was secured under your watchful gaze, as it were, being the only person with the keys?•• That's right. It's a - a Lockwood lock that was on the box and we have a big steel chest that we store all our diving equipment in•••••

Mmm-hmm?•• •••••that are exhibits and that was what - that was certainly in this case. Prior to going up to Townsville I'd signed the exhibit out and I'd taken it with us the whole time.

Now, I think you then tell us a little bit more in paragraphs 19 and 20 about getting out to the wreck site. And you say that you arrived at the Yongala on - at 9.20 a.m., I assume, on the 20th of the 9th, 2006?•• Yes, that's correct.

And in the next paragraph you introduce your running sheet?•• Yes.

I'll just - just show you that exhibit. Now, I'll just show you, if I may, Exhibit 104. Now, that's the running sheet that you've been talking about?•• Yes, that's correct.

And you have a copy of that same document, I think, that you're referring to?•• Yes.

All right. If you just put that over there. Now, in terms of the running sheet, Senior, can you take us through to where we are currently?•• Okay. Now, the running sheet is - starts or commences when we start our operation, which is when we start on the vessel, the Dame Roma Mitchell - Dame Roma Mitchell.

Yes?•• So, we - all members are on board the vessel and we leave the - leave for the [indistinct] at 730 hours.

All right. Now, I'll just stop you there. So, as we come to read this document, so that we can understand it, I notice on the left-hand item there is an item number 1, meaning that it's the first entry, is that correct?•• Yes, that's right.

You have a time?•• Yes.

Now, does that record the time that the entry was made or is it just noting a fact?•• That was the time the entry was made.

All right. And we also have the date which is the 20th of the 9th, 2006?•• Yes.

All right. Thank you. Now - now, I think, at this time you also had a - a conversation with Wade Singleton?•• Yeah, at the - oh, at the completion of the first dive.

Yes?•• Yeah.

Now, the first dive did what?•• Well, the first dive was to identify the - where the deceased laying point was. Now, that's why we used Mr Singleton. That was one of the reasons why we used Mr Singleton. The other reasons were when we - as I'll come to later down the track, when we did the drift dive we wanted Mr Singleton to be there because he was the only person that was there on the day that we did - on the day of the incident. So, we wanted him, I suppose, to quality control the conditions that were on the day that we did our dive and as to the day of the incident.

All right. Now, Senior, are we up to the stage where you can show us your PowerPoint or is there further setting up of the exercise that you'd like to tell us about?•• Yep. Basically - well, the first dive isn't going to be on the PowerPoint. That's when Mr Singleton went down and identified the deceased laying point.

Right?•• He went down with Constable Murdoch.

Now, you can see - you can see there we have picture A on the board?•• Yes.

I take it that is the - one of the pictures that was used to confirm with Mr Singleton the position of the deceased?•• Yeah. I'm fairly sure it is. Yeah.

Yes. All right. Thank you?•• Yep. So, they went down there and put a marker, being marker number 1, on the estimated point.

All right. Now, I read a lot about markers, what do they look like and how should we understand the marker?•• Okay. I'll be able to show you on the video, however, a - the marker's about the size of the CD.

Yes?•• And it's got a white face.

Yes?•• And a black number.

All right. So, that looks to me to be about 150 square, 150 length?•••••?•• That's about right.

•••••150 depth. Is that about the right measurement?•• Yeah, that's about correct. And then it's got about a 30 centimetre pegs?•••••

Peg?•• •••••that goes into the ground.

All right. Thank you. So, I take it a peg was put in the position that was believed to be the resting place of Tina?•• That's correct.

All right. Thank you?•• And that was marker number 1.

Yes?•• And then they also placed a - a marker, which is marker number 6, below the bow of the vessel.

Yes?•• And?•••••

Now, I had some difficulties understanding where that was. When you say, "Underneath the bow of the vessel."?•• Yes.

What exactly do you mean?•• Can I - if you don't mind I can walk up and show you and have a look. Okay. Marker number 6 would have been directly below.

Now, I'll just.....?.. About there.

All right. Just a moment, Senior. That's diagram B?.. Yes.

And you're point to an area directly below the picture of the Yongala and the marker number 6 was placed in a vertical drop line from the.....?.. The bow.

The bow?.. Yes.

All right. Thank you. And was that attached to the ground or how was that attached?.. That was basically - it's just get driven into the ground or into the ocean floor.

I see. All right. Thank you. And then marker number 7, while I'm up here, basically was placed - you can see on the photo here that the - there's a stack - or this is what I'll refer to later as a stack.....

Yes?..and marker number 7 was placed at the end of that stack.

Now, I'll just ask you to move one pace to your left and can you point out whether or not you can see in that photograph the point where marker 7 was put?.. Just here in the bottom right corner.....

Bottom?..in number A.

Bottom right corner in picture A. Thank you, Senior?.. And they also took a depth reading at the marker number 1.

Yes?.. At 28.5 metres.

Yes. Thank you?.. Now, when they returned to the surface, this is Constable Murdoch and Singleton, they reported this to me and then I entered it onto the running sheet or log of events.

All right. Now, just as a matter of interest, how did - how do you measure the depth of the column of water?.. We have depth gauges or depth watches similar to those two there.

Oh, I see. All right. Thank you. Yes?.. Following that dive then Constable Jones - or Senior Constable Jones, Constable Doyle and Constable O'Brien conducted a dive. They went down and set up a square with four other markers.....

Yes?..around number 1. Now, the reason for the square to be set up initially was in case that number 1 position was slightly in accurate.....

Yes?..then we could say, "Well, it's within that square."

Yes?.. However, later down the track what we did do was go to where Dr Thomas [indistinct] and found a much more accurate way to deal with that. So, the - the square in hindsight was probably irrelevant.

That's all right. But tell us a little bit about it. It was a square that was what, a metre by a metre or two metres by two metres?.. Well, the square - the measurements of the square.....

Take.....?..I believe it's about 10 feet by 10 feet.

All right. Now, is there - I don't want you to - to try and do this from memory. It's not a - a university test. So, if there's an item number take us to the item number?•• Well, we're at item number 4 now.

Item number 4, thank you. Yes. All right?•• Okay. So, basically that square went around and they were marked - the square was marked 2, 3, 4 and 5.

All right?•• Now, exactly where those markers were, marker 2, marker 3 and marker 4 and marker 5, the diagram's been written in my notebook by Senior Constable Jones•••••

Mmm-hmm?•• •••••which I have here with me at the present time. And they also took some measurements, photo marker 1 to 4.

Yes. You right?•• Yep, sorry. So, they took some measurements. So - sorry, photo marker 1 to 2 was 3 metres.

Yes?•• Photo marker one to four was 4.5 metres. Photo marker one to three was 6.2 metres. Photo marker one to five was 5.4 metres.

All Right. Now, I'll just stop you there for a moment. When, Senior, do we get to your PowerPoint?•• After this.

All right. Thank you. All right, keep going?•• Photo marker one to seven was 8.7 metres, one to seven being at the - at the stack on the bottom right corner of Exhibit 8.

All right. Now, what I'm going to ask you to do is to take your running sheet and go and stand over there and just give us a feel as against that particular diagram B, one to seven or where these measurements are being taken from, just so that we're all with you, okay?•• Okay. As - as I said earlier, seven's here and if we can assume number 1 is the deceased laying point here. So, one to seven is the distance there. And then there was a square setup around there, all that area, and they were taken say from corner to or from the marker so on each corner had a marker number and they were just taken to the marker 1.

All right. Now, from the marker which is the stack through to where police believe the deceased was what is the measurement in metres?•• 8.7 metres.

All right. Now, in terms of the photo square that you've talked about, what are the measurements there? Just take us through. Senior, the important thing is you've done all of this so it's - it's very clear in your mind but you've got people who can't add up like me•••••?•• Yeah.

•••••in the Courtroom so you've really got to take me through so that I can understand your measurements?•• So, which - what did you want me to do?

Well, you talked about measurements and photo - photo squares?•• Yep.

Well, you've lost me. So, where's the square, what are the measurements and why are they relevant?•• Okay. Can I use a pen on this?

CORONER: I have another copy?•• Okay. Markers were placed on the crosses as such there.

MR TATE: Yes?•• One being where the deceased laying point is.

Yes?•• Two being - so, the distance, when I say one to five, one to two, one to two, that is the distance between there, there, there and there.

Right. All right?•• Now, when the square was set up we had lines that were attached to weights.

Yes?•• Or that were put in there. Like that.

Thank you. All right?•• So, and initially we didn't have access to Doctor Thomas Stieglitz, we later found out that we could use his services and exactly what he did.

Mmm?•• And he's far more knowledgeable in mathematics than what I'll ever be but he - basically when we got his information that - that square's become irrelevant.

Now, and you'll tell us about that in due course but at the time that you were doing the re-enactment•••••?•• Yep.

•••••this was the methodology you were using?•• That's correct.

All right. Thank you?•• Yep.

Senior, you can probably go back. I just want to make sure as we go through that we're following you or at least I'm following you.

Now, before I disturb your narrative you were - you were saying that as part of this particular dive the square had been set up, the measurements had been done and so you were trying, I assume, to pinpoint by reference to - to various markers, where things might have been and what might have occurred?•• That's - that's right. What - basically what we're trying to do is try emulate•••••

Yes?•• •••••the exact position.

Right. Okay?•• As best we could.

Yes. All right. Thank you?•• So, from there those divers did their job, they recorded that information, Senior Constable Jones recorded that information at the completion of the dive with me on the running sheet.

Yes?•• And also he wrote notes in my notebook at the time.

Yes?•• And that's notebook H022449.

All right?•• On pages 55 to 58.

All right. Thank you?•• And that's where I got those - where - which number correlated to which marker.

All right?•• Or which corner•••••

Thank you. When you finish your evidence, Senior, what we might do is just,

unless we already have it, just get a - a photocopy of your relevant pages because I'm sure people will want to see those?•• Okay.

So, if we can just continue though?•• Okay. And that renders into the phase of where myself and Sergeant Law commenced our task and that was to descend down onto the wreck of the Yongala via the diver access point which is diver access point number 2 which comes directly onto the bowel of the vessel.

Yes. Now, I think we're into a item 5 with your?•• Yeah, sorry, we're on to item 5.

Thank you?•• And what we did there was run a heritage line or that's what I describe it as, a heritage line. Now, that was a line that indicated at 15 metres along the deck of the vessel and the reason why we did that, we used that in conjunction with statements we read from Gabe Watson and the statements to police and also the information that was going from his dive computer which was - believe that he was at 15 metres.

Mmm-hmm?•• And that's where from the information we read that - that - that Mr Watson and the deceased has separated.

All right. Now, I'm just going to stop you there again, and ask you to go up to diagram D, if this is a good diagram, and can you just show us where you layed the heritage line at 15 metres?•• That's probably not a good diagram.

All right?•• I'll - I've got a better one here.

Senior Constable, I've been waiting with bated breath for this thing to be charged up?•• So, this - this document is a document which I got off Thomas Stieglitz. I came up in February of this year, had a meeting with Doctor Thomas Stieglitz and provided all the measurements that we took and then he compiled - or he didn't compile the diagram but he put the information onto the top of the diagram.

All right?•• What the diagram is, it basically is a sonar ran across the top of the wreck so this should be - the measurements on the ship are exact according to Doctor Stieglitz. And it's basically just a sonar that ran across the top and took all the measurements so in effect this is basically like x-ray of the wreck.

Yes. Now, Senior, if I can just get you stop for a moment?•• Yeah.

Your Honour, that was the document that was handed to your Honour and - and to my friends this morning.

CORONER: Yes.

MR TATE: Which I read into the record as compilation of spatial observations made by Queensland Police Dive Squad on location.

CORONER: It's Exhibit 16.

MR TATE: Thank you, your Honour. All right. Now, Senior, thank you?•• Okay. And can I get up to just show exactly where the heritage lines laid on the•••••

Provided - provided we can record you I'm sure your Honour would allow.....

CORONER: I don't think there'll be a problem if you just speaking clearly that'd be fine, thank you. It'll be picked up by Mr Atkinson's microphone in any event.

MR TATE: Your Honour, I - I just wonder whether it might be also convenient to turn off a couple of the lights, it might make it a little bit easier - easier to see?

CORONER: Well, that's going to be an experiment. Is that better?

MR TATE: Thank you, your Honour.

CORONER: Or perhaps we could try a different set of lights. No, we couldn't do that.

MR TATE: Thank you, your Honour?.. Okay, the - the black line here indicates what - where the heritage line is laid, now, that's at 15 metres. The reason why we know that that's where the heritage line is laid is because these colours represent a depth. Now, Dr Stieglitz can explain that in greater detail that me, so he came up with that line being at 15 metres. Now, we checked that with our dive computers when we laid that line. It was tied off to the diver access point, which is at the front of the bow here, it runs from there going up to the surface. The diver access point is the access point from the surface rock directly onto the - onto the - onto the ship.

Yes?.. It was tied off at the back on this stack, there's a stack here, it's stick up there, that's where the heritage line was tied off at that point.

Thank you?.. And just to go back to that photo, this is the stack that's lying down there and that's marker number 7 which is in the bottom right of that corner there.

All right. And I think there's a depiction within a yellow circle on that particular map?.. Yes, that indicates marker number 1, or the deceased's laying point and then that's marker number 6 here is basically where that point was.....

Mmm-hmm?..marked. Now, the circles indicate the measurement taken from number 7 to number 1 and that's a circle, with number 7 being in the middle, that's a circle of that distance around so, if - if we - if we by chance got the placement wrong of that it could have been - of the deceased's laying point it could have been on that circle there. However, it was triangulated with the circle from number 6 which the distance was measure from one to six there so - and that's where the triangulation point comes there so that places the deceased at that point there.

Thank you?.. That's - that's - that's with the measurements that we've taken.

Right, thank you. Senior, if you go back and take us through. Now, just so that we're clear, the purpose of the heritage line is what?.. The heritage line was to replicate the travel footpath or the flight path of both the deceased and Mr Watson according to the information that we read in his statement and the transcript of his interview.

All right, thank you?.. Now, that's a video. Now, this is a - this - what I'm

playing here is a video that we took - well, I didn't take but Sergeant Reid is taking the video footage.....

Yes?.. ..and it's of myself and Sergeant Moore and Senior Constable Cornish on our first dive that we did which is - and the - the task that we carried out. And that again relates to item number 5 of the running sheet and that shows us going onto the - or coming down the diver access point. Now, that's - that line on the screen there that's the diver access point.

Yes?.. Or the line comes down onto the vessel.

Now, I'll just stop you there. Just so that we're clear as we watch this video, what would your estimation be of the clarity of the water? What's the visibility?.. On - on the first day we - we were - we were the fourth - fourth dive - or the last dive towards the end of the window of opportunity on the last day. Now, for me when we went down I would say probably about 10, 15 - 10 to 15 metres.....

Mmm-hmm?.. ..visibility.

All right. Now, just coming down the line we see a blob.....?.. Yeah, that's.....

.....in the middle, what's that?.. That's basically a - well, it's just basically a floating - well, it's something out - it's buoyant and that you can tie off the - that line comes from the surface.....

Yes?.. ..onto that blob or - or the buoy.

Would it be fair to call it a submerged buoy about five metres from the surface?.. Yes.

All right, thank you. So, we're with you know because we've heard evidence, you see, about that?.. Okay. So, I'll play - do you want me to play.....

Thank you?.. ..that video now?

Yes.

VIDEO PLAYED

MR TATE: Now, Senior, I'm very happy for you to give us a narrative. I want you to think of this a bit like a movie where you're explaining to people who are watching what it's all about?.. Okay. Now, this is us descending onto the dive - obviously you can - you cannot descend at a rapid rate of knots because you can do some serious damage to your ears with the pressure. So, you just come down clearing your ears as you're coming down onto the vessel.

What are we seeing here?.. This is the - or the bow of the vessel here, coming onto it. Now, that's looking from the bow down to the stern of the ship.

Which is approximately 106 metres away?.. Yes.

And who's that we're seeing?.. That's Senior Constable Cornish, he's just taking

a series of photographs. The dive computers that we wear are the ones on his right wrist there, that's the computer that we use to determine the depth we were at.

And that line is still the diver access line?•• That's right. Now, that's a heritage line that's being laid at the present time by myself and Sergeant Moore. We've headed towards the stern of the ship.

Now, it seems to be laid along a - inclined or vertical surface, is that right? Might like•••••?•• We•••••

We might just stop it for a moment?•• Yeah, when•••••

DURING THE PLAYING OF THE VIDEO

MR TATE: Just - just so that we're clear, our understanding is that the Yongala wreck is not sitting proud on the surface but•••••?•• No.

•••••is on an incline?•• That's right.

Now, where you're putting the heritage line, is that on the deck side or the hole side?•• No, it's on the - it's on the - it's on - it's on the deck side.

Yes?•• And all the work that we've done is on the deck side. We never went over onto the hole side of the vessel.

All right, thank you. And just before you start again, is there some reason why you didn't go onto the hole side?•• There is basically a - we didn't have time, we - because it's at 30 metres we've got an opportunity of 15 minutes bottom time•••••

Right?•• •••••to do our work so, we - we didn't have the time to go up and over onto the - onto the hole side of the - onto the vessel.

All right, thank you?•• We were there to - basically all our work we just worked on the front half of that ship.

All right, thank you.

VIDEO CONTINUED TO BE PLAYED

MR TATE: And as we're watching this•••••

CORONER: Could - could I ask you what - what's the angle - keep going, what's the angle of the - the deck to the bottom? Is there one - we've got a vessel lying on it's side?•• Yes.

Can you give me an idea of the angle to the vertical or to the bottom of the deck either, approximate?•• Just maybe - mentioning in this document here, I - I don't know, Mr - Dr Stieglitz will know exactly what - he's - he's somewhat of

an expert on the Yongala with the way it lies and the way the wreck is, and how it landed.

I'll read that over lunch and see if there's something in it, so I didn't really want to interrupt your video.

VIDEO CONTINUED TO BE PLAYED

CORONER: Keep going?•• Now, the line at the present time, that's - it hasn't been pulled forward or anything tied up as yet. It's still attempting to be tied off. That's the cargo hold and that's the stack where we've tied it off from in the - basically the left - you can see where it's tied off just a quarter of the way down the screen on the left there.

MR TATE: And that aspect, Senior, are we looking back now or•••••?•• That was still looking at where it's tied off.

Keep the narrative up please, Senior?•• We're still looking towards the stern. Now, we're looking down towards where that's stack comes to the - on the bottom or marker number 7 which was marker number - this is the stack here that is crashed off and marker number 7 comes down there or with this load put down at the end there, but there's a lot better footage coming up in the second video when - for the next day's exercise.

CORONER: So, that's about where that marker was being put down, where the diver is now?•• Yes, he's going down to the marker, marker number 1.

Thank you.

MR TATE: Has he reached marker number 1 yet?•• I'm unable to - no, he hasn't. Okay. That's the - that's - this is marker number 7 here, you can just see it in the screens, it's a bit hard when it's paused, so that's the square marker just there. Again - now, coming up here is markers. Now, that's marker number 4 and when I said that we put ropes out to - they were just basically a visual to indicate where that square was for us and they'll all be pulled towards - shortly pulled to a straight line there just a bit. They're not too straight there just at the moment. And that's what the diver there is doing. He's just pulling it and making the square straight.

Now, just as a matter of interest while we're looking at this, Senior. Keep playing it. I - I notice that you don't have a separate mask and regulator. Is it an integrated face and mask•••••?•• Yes, with - what that - we use what's called an AGA mask system and that's marker number 7 at the bottom of the stack there and how we got - like how we identified that as being the bottom of the stack in that photo there was from what we had found at the bottom of marker number 7.

CORONER: So, the stack is quite a substantial piece of equipment; is it?•• Yes, it is.

And the - the marker is right at the base of it?•• That's right, yes.

I see what you mean, yes?•• And that's - that square is just getting worked on here at the present time, we're just pulling - making sure it's all straight, secure.

Mmm?•• And that's the deceased's laying point, marker number 1 there and there's sort of a square around it now. And basically what's happened here is the video footage has been taken of the markers, that's marker 6 just up here and that's basically - the bow would be straight up from that marker there. Yes, and sorry going back to the - the mask that we're talking about - our breathing apparatus system and that provides us with communications in our - in our headset underwater.

MR TATE: All right, thank you?•• And also to prevent carbon dioxide build-up within the mask. So, where we are here, we're off to the starboard side of the vessel and still that's the side where the deceased was - her laying point was. Now, we're just looking at the square there and that's basically myself - what I did there was lay down to simulate - is that that point. No, that's not it, sorry, but later on it shows - I lay down as - similar to what was in the photo on that point.

And is the visibility at this point the same as the visibility earlier on?•• Yeah, it - at times it can vary. At - you'd - certainly at that point you could always - from the mid deck of the ship you could always see where all that - you could always see the square where the markers were so that's where I - I would say it was at least 10 metres and probably about 15 metres in visibility. So, you can see at this point there that's basically - I think it was marker number 2 and you can see the marker number 7, number 2 is down in this bottom right corner. That's marker 7 [indistinct].

And who is that in the picture and what's he doing? If you don't know off the top of your head say, "I don't know."?-- Yeah, I don't•••••

And what's he doing?-- I've got no idea.

And what's he doing?-- He's at marker number 7 and he's just hovering at marker number 7 at this stage. They may be taking a measurement. That would be - at that point in time a measurement was taken from - from marker number 6 to marker number 7, which is from the bow to that point. Now, I believe that to be Sergeant Law and I went to - I swam out to the tape to marker number 6, although•••••

And he appears to be swimming up the stack, is that correct?-- Yeah. We're basically - we're at the end of our time here, so we - we've got a maximum time of 15 minutes to do what we have to do.

Why's that?-- That's just in relation to - so we don't go into decompression.

Right?-- All our dives are done without decompression which makes it a far safer way to dive.

When you say "decompression" you mean stops on the way up, or do you mean having to go into a hyperbaric chamber when you get up?-- It can mean both, but in

terms for us that would mean - like, if we - if we stay down there for 20 minutes then we'd have to go into decompression stops. Now, when you're working at 30 metres you've got limited air which means you'd have to - well, what we call lazy shot and drop a cylinder half way up and have to change air cylinders. And because we're working as well, like, we're not - we're not there on a wreck dive, we're actually working, swimming around doing several tasks, the - the anxiety level's a lot higher.

CORONER: The consumption of air would be greater, would it?-- That's correct. Yes.

MR TATE: So we're back to the now laid heritage line at 15 metres?-- That - that's right, and we're now heading back towards the bow. That's the - that's the cargo hold that we're over the top of there at the moment.

How would you describe the current at this point of the dive?-- Well, I didn't think the current was very existent at all. I didn't feel any strong current there. We - we went out, we did what we had to do, I wasn't affected by the current at any stage.

I suppose if we had a strong current we might see movement of things, would that be right?-- Yeah. If we - if we had a strong current probably - basically what you'd see is the coral - you'd see it basically - it'd be all in one way, so you'd see - it'd be on a horizontal or an angle. And when I say "coral", not the hard coral, the soft sort of stuff you can see. The soft sort of stuff that look like - all that stuff floating around. And this the diver access point here that we're about to head up. Now, this is the way you access the dive - or the - the wreck. And basically what this is, it just shows us we've come up to - that's the submerged buoy and we keep going up to - we had a lazy shot with an air cylinder that we left half - left - dropped about 3 metres and we just sat there for 5 minutes as an extra safety precaution.

Just - just stop it there for a moment. Now, what we've just gone by, I take it, is again, a picture of the submerged buoyancy device at 5 metres?-- Yes.

Thank you?-- I'll just try and get back there. Did you want me to go back to it?

No, no. Just wanted to understand what we're seeing?-- Yes.

VIDEO CONTINUED TO BE PLAYED

DURING THE PLAYING OF THE VIDEO

WITNESS: So that's - that's it coming up there. I did actually go back. Yeah, that's it there.

MR TATE: And that's at 5 metres?-- Yes.

And we seem to be joining onto another rope now?-- Yeah, that's a - sorry, this is probably the one that's at 5 metres.

Right. Now, I'll just get you to stop it there for a moment. Now, I'm just a little confused and I don't want to be confused. We're now at a stage where we seem to have two lines?-- That's right.

The one coming up is at the greater angle - the lesser angle and is to the forefront.....?-- Yes.

.....that's the diver access point?-- That's right.

And the line going from that to the bow of the ship?-- That's right.

VIDEO CONTINUED TO BE PLAYED

DURING THE PLAYING OF THE VIDEO

The - there is another line in the background.....?-- This one.

.....where does that go and what - what's that one all about?-- That line just there, I believe you can pick it up as we come back up here.....

CORONER: You can see there.

MR TATE: I see?-- Yeah. Now, that goes basically to the bottom.

In - in front of the bow?-- Yeah, it - directly in front of the bow. So that line - this line will put you straight onto the - will take you straight down onto the - onto the deck of the ship.....

Yes?--and that one will take you to the bottom.

I see?-- Now, they both connect here and then this is your 5 metre mark coming up shortly.

So that's the 5 metre mark, is it?-- That's the 5 metre mark, yes.

Right?-- And then - I don't know if you want me to go further, but it just basically shows us at that stop. Now, that's what we call - well, we term it as a lazy shot or, you know, basically that's our - that's just a cylinder for us so we can - if - if we do exceed that 15 minute bottom time we can stop there and go into decompression there and have an extended stop without worrying about air.

All right. Thank you.

CORONER: Okay, we're now about getting on for quarter past 1, I think we're going to adjourn now, but I just want to work out also what timeframe we're going to use with these two witnesses from the Police Force who are Federal Police and need to get back today.

MR TATE: Yes.

CORONER: Will we be able to - if we're going to get them through before 4

o'clock, and we've got some witnesses calling from overseas.....

MR TATE: Yes.

CORONER:it'll be necessary for us to.....

MR TATE: Your Honour, I think arrangements have already been made for the two Federal Police officers to return tomorrow.

CORONER: Okay. All right.

MR TATE: Or will be. I gave them the bad news earlier this morning.

CORONER: All right.

MR TATE: That's fairly right, isn't it, Senior?

CORONER: Well, what time did you want to resume, at half past.....

UNIDENTIFIED SPEAKER: [Indistinct] yesterday.....

MR TATE: All right. Well, we'll see what we can do.

UNIDENTIFIED SPEAKER:4.45 flight to Canberra this afternoon.

CORONER: All right. Well, what time do you want to resume, half past?

MR TATE: Your Honour, I think quarter past 2.

MR ATKINSON: Your Honour, I can indicate I won't have any questions for the witness, so if that helps.

CORONER: Okay. We'll resume at quarter past 2 then, thank you.

THE COURT ADJOURNED

THE COURT RESUMED

JOSHUA KINGHORN, CONTINUING EXAMINATION:

CORONER: Yes, Mr Tate.

MR TATE: Thank you, your Honour. Now, Senior, am I right in assuming that that concluded day one?•• That's correct, that completed day one and [indistinct].

Right. Now, the purpose of day one, it seems to me, was to clearly sort of peg out where everything was?•• Yes, that's correct and to prepare us for the next two days of [indistinct] operation.

Now, obviously one of the important things about day one is to establish with as much degree of accuracy as you could, very clear indicators about where the deceased was, where the ship was, where the heritage line should be, putting that in at the right metrage, that sort of thing?•• Yes, that's correct.

What was the source information that police relied upon to place the particular points and - I might just ask the Senior Constable if he can turn around. What was the source information that allowed you to pinpoint that particular point in the square and I think that might have been marker one, wasn't it where the deceased•••••?•• That's right, marker one.

What - what source information did police go on to come up with that particular point?•• We used - we relied on a - the witness Wade Singleton identifying that position, and also we - I suppose, double checked it to a degree as best we could with that photo with Senior Constable Cornish who went down, I believe, with the photo and had a look and just tried to determine exactly where that - the - the - the [indistinct] was stacked was [indistinct] photo and just looking out from that position there.

All right, thank you. Now, day two was about what?•• Okay. Day two•••••

And what page are we going to?•• We go to now item number 16.

Yes?•• Sorry, item number 15.

Yes?•• Now, day two the - what we did there for day two, once again, there was all dive [indistinct] so the actual location - we had the window or the time frame to dive in for that particular day was between 1040 hours and 1140 hours. And that was the information he's got from [indistinct]. And our particular task or the major task for that day was to conduct a series of drift dives•••••

Yes•••••?•• wearing the deceased's diving equipment which is a - just here before the Court.

Yes?•• I was selected to do the re-enactment of Miss Christina Watson and Sergeant Law, due to his size, was picked to do Mr Watson.

Right?•• So, I donned in the - donned in the deceased's diving gear with the BC - the buoyancy control device. I used the purple mask [indistinct] and I also used the first stage and second stage regulator of the deceased's equipment and I used my wetsuit and I used my own air cylinder.

All right. Now, that air cylinder is on - on loan as it were just to give us an indication it's not the deceased's cylinder?•• Yes.

Now, when - you obviously did your pre-dive checks and what have you. When you entered the water with the - with Tina's dive equipment, was it all in good working order? Were there problems with it? How would you describe it?•• It's probably some of the best of [indistinct] underwater•••••

Mmm-hmm•••••?•• and that was at 30 metres. I thought it's - it's in very, very good condition. So, actually I couldn't fault anything on it.

Right. So, do we now move to the second video? And before we start, I might

just see whether Mr Watson would like to come back over to this chair where the - he will be able to see what - what's - what's coming [indistinct]. Now, just before you start running this, what does this video depict?•• This video - I'll just press pause, this video basically depicts myself wearing the deceased's diving equipment•••••

Yes•••••?•• we'll see - it'll see myself and Sergeant Law go out along the heritage line•••••

Yes•••••?•• he made the previous day when we [indistinct] out. You will see us turn around and then we'll- initially it'll show us simulate a bear hug•••••

Yes•••••?•• and that'll be Sergeant Law giving me a bear hug and that - the reason we did that was one of the witness statements - I believe from Detective - we were informed by Detective Sergeant Campbell what - one of the witness statements [indistinct] information that someone somewhere during the dive had been seen in a bear hug type movement, so we conducted that just to show•••••

All right•••••?•• [indistinct] that it could be quite easily done.

Now, we know because we've read the statement that that's Doctor Stutz - or Schultz, at least. Did you have an opportunity of reading his statement before•••••?•• No.

•••••no. So, at this point, you're going off information that you'd received from Detective•••••?•• Detective Sergeant Campbell.

•••••Sergeant Campbell, all right. Thank you?•• Okay, so•••••

Now, before you start, your Honour, would it be convenient again to just•••••

CORONER: Yes, I'll do that.

MR TATE: Probably just a little bit easier, I think. Perhaps, you prefer Mr Watson over here to see it.

UNIDENTIFIED SPEAKER: Thomas - Thomas.

VIDEO PLAYED

MR TATE: Thomas, I'm sorry?•• So, this is us we're just descending onto the boat going down the diver access point.

Yes?•• So there - obviously it's a lot better footage today - on this particular day.

Does that mean that the visibility is better?•• I - it was slightly better. I think with the first day the operator of the camera - with - with the camera housing that we've got, you can - there's a slide - like a - it - it reflects the light underwater if you pull the slide down, I think, that's what we - the issue was on the first day. This is coming onto the wreck of the boat - oh sorry, onto the wreck, and you can just see the angle of which the wreck's lying there.

And that's the bow?•• And that's the bow, that's right. So - and the heritage lines are clipped off basically you can see it running to that [indistinct] there, so you've got clear visibility from that diver access point to the first stack.

And you look to be - the divers look to be swimming at approximately 13 or 14 metres? Would that be right?•• That's correct, yes.

And if you could keep up the narrative, please?•• Yeah, so we just - that's just going along the - we're just hovering above the - that diving - or the heritage line, and we're just going towards the end there and then what we'll do when we get to the end we'll turn around. That's myself on the left with the deceased's diving equipment•••••

Yes•••••?•• and Sergeant Law on the right.

We're coming - we're coming up to stack?•• We're coming up to the stack.

And how would we describe the currents today?•• It was pretty much the same as - as the day before.

Are we looking at slight, more than slight, medium?•• I wouldn't - there wasn't much current at all.

All right?•• Very, very minimal current.

And which way was the minimal current running?•• It would have been - it was running from the bow to the stern.

All right?•• Here we turn around, we'll just go along the heritage line.

Now, I'll just stop you there for a moment?•• Yep.

Now, just to the right-hand side of those divers we're seeing what appears to be the soft coral that you're talking about?•• That's right.

And it doesn't seem to be moving, is that consistent with a very sheltered no current situation?•• Well, that - that is, the way the current - the way the - the way the wreck is, it's lying on its side, so logically - and this - this is what I found, was by it laying on it's side the current that comes from that direction - I don't know whether that's - that'd be coming from the west - west, I think, I'm not 100 per cent sure. But it - you're basically protected along the deck. So, you're not going to get any current coming that way because you're protected by your wreck going up like that.

Right, okay. I understand. So, it's really a double whammy in the sense that firstly, the current is going from the bow to the stern and secondly, if there is any side current, the positioning of the ship - the wreck itself, shelters you on the deck side from any cross current that there may be?•• That's right.

All right?•• If - if there's any cross current•••••

Yes•••••?•• it would come from that side and push you into the wreck.

Yes?•• Or up and over.

I see, all right. Thank you?•• Okay, so there we - and now we're just going to simulate the bear hug here. I've - I've got my back or I'm onto the left side

of the screen.

And that's Sergeant Law I think who's giving you the bear hug, is that right?•• That's right. And then we just did another one where it can show that you can hold everything basically in one piece and still have control of the other diver while fiddling with the air cylinder.

Now, I'll just stop you there. Now, I take it you're about to go into what I might describe as "freefall."?•• Yeah, shortly.

Exactly where are you on the wreck, so that we can have an understanding of where you are and where you end up, because I understand that was the point of this particular day's activities?•• Yep. So basically, after this, you'll see on the video, I'll turn and head towards the bow of the ship and then probably about - I go along the heritage line till I can see the diver access line in full view, like I've got a clear view of it•••••

Yes?•• •••••that's probably about two metres from that back stack.

Yes?•• And then I just drop and I basically dropped directly into the cargo hold. Like I don't move, I hardly move at all.

Now, just so we're clear, the two divers demonstrating the bear hug, how many metres in front of the stack along the heritage line would you say you were?•• Two - two metres.

Two metres. All right, thank you?•• And that's with me with my arms in front at that point.

Yes?•• And that's just to show that that it was still possible.

So you're really attempting to recreate a number of bear hug possibilities?•• That's right. Then this is when - that's the - that's - when I say "cargo hold", that's the cargo hold there.

Yes?•• You can probably see it at the top of the screen. So that's basically coming along, probably two metres from that big stack, and then that's me. I just go into a freefall there.

Now that's with your BCD not inflated?•• Empty. The air's emptied out of it.

Right. Now whereabouts have you landed?•• And there I've landed onto the - onto the intercargo hold.

Yes?•• So•••••

Just before - don't start yet. Now, I see a structure in the far upper right-hand corner; are you able to identify that structure?•• No.

It's not•••••?•• That's part of the - well, I think that's part of the - that's just part of the ground, the ocean floor.

Can you see the point that I'm meaning? Can you circle it with the

mouse.....?.. Yeah.

.....just to make sure that we're talking.....?.. Over here, or are you meaning this down here?

No, not that bit?.. No.

That there. Yes. What - what is that?.. I'm pretty sure that's the ocean floor.

All right, thank you. It's just so that we don't get confused with the stack, you see?.. Yeah. Well, basically, it runs - it'll just run in a line along here.

Yes?.. And what - what I can basically show with that is that drift dive. Then if we can refer to the document from Thomas Stieglitz.....

Yes?..I can show you exactly - we know with that part of the footage - okay.....

Again, you're taking us to photo number 3, which is on page 4, which is talking about the drift dive?.. Exactly.

Yes?.. And where I was with the drift dives, I've come along the heritage line there.....

Yes?..and I commence my drift dive at this red triangle along the black line.

Yes?.. And I basically just dropped straight into this point here.

All right?.. With the second triangle.

And those triangles are marked on that particular photo that I've referred to?.. The commentary explains exactly what.....

Indeed?..what that - basically that picture represents.

Senior Constable, it's.....?.. And obviously - and then it just shows you exactly where marker number 1 is.....

Yes?..with respect to where that drift was conducted.

Now, the triangle where you indicated you finished and the marker where the deceased is, how many metres is that distance? Was that something that was checked by police?.. Yes, we did measure that, and I'll just refer to the running sheet. It was exactly 16.7 metres.

And where do we find that calculation?.. If you go to item number 15.....

Yes?..and it says halfway along the heritage line facing the DAP, diver access point 2, measurements conducted drift [indistinct] point to photo marked 1 was 16.7 metres.

Right?.. And as the video goes, it'll show - it'll show that.

All right?.. Where we.....

Thank you?..carried out those measurements.

All right, thank you?•• So now here comes Sergeant Wall with the tape. I hold the tape in position and he - he goes out to - to the number 1 - marker number 1. Probably that bit that you were asking before was probably that stack. You can see where that stack is.

Yes?•• It goes down. That's where number 7 is. Now this is the second drift dive conducted and•••••

And is that from the same spot or from a different spot?•• It was slightly forward. It - it was probably - I wouldn't say exactly the same spot, but it was within a metre•••••

All right?•• •••••of the last one.

So we're about - that drift dive was two or three metres along the heritage line in front of the stack?•• That's correct.

Thank you?•• And now that's depicted here in Dr Stieglitz's diagram. This is for drift dive 2.

Yes?•• Once again, on the triangle and - at the start and the triangle at the end•••••

Yes?•• •••••is the start and finish point of the drift dive.

Now, I'll just stop you there. That's on page 5 and it's figure 4, which is the second drift dive?•• Yes.

Thank you. It's just that I - it's important for the transcript that we just record what photos you're talking about, otherwise we'll get terribly lost by the end of January when we come to re-read them?•• I just actually did make a mistake before. That measurement from the drift dive 1•••••

Yes?•• •••••I said 16.7 metres; it was 16.6 metres.

Yes. And I think the second one is in fact 16.7 metres?•• That's correct, the second one is 16.7.

So, realistically, we're talking, if I understand it correctly, landing within about 100 millimetres - is that right?•• Yeah, pretty much.

10 centimetres?•• Yeah. It could be just a matter of - like it's a very minimal difference because, could be a matter of my hand might have been in a different place.

Yes, I understand?•• Going then - just taking the measurement from this point there.

So again that's a measurement going out to the point where the deceased is believed to have been found?•• Yes, that's right.

All right?•• And just up here, that's the stack•••••

Yes?•• •••••going down.

Yes?•• And again that line was at 15 metres for that day•••••

Yes?•• •••••as well.

That's the heritage line?•• That's correct.

Now what does that depict?•• The heritage line basically is the - is how we determine from reading the statements the flight path of both the deceased and Mr Stieglitz.

And that's the stack, I take it, from•••••?•• Sorry, Mr Watson. That's the stack, yeah.

Now, can I just stop it there. One of the things that I'm very keen to clear up is this, and you've been down there on two or three days, albeit a little time later: what I observe in the foreground, that is to say near the wreck and near the stack, seems to be a lot of stones, under sea vegetation, things of that nature; is that correct?•• Yes, that's right.

All right. Now, when I looked at the photograph which we've been calling photograph A, which is one of the markers that you used to identify, along with Mr Singleton•••••?•• Yes, that's [indistinct] photograph A.

Yes, that's right?•• Yes.

One of the things I noticed is that when one looks at the sea bed near where the deceased is, near where Tina is, there's not as much - or apparently there are no - no - or very little vegetation, stones and other things. Is that consistent with your observations when you were under water?•• As you go like further out•••••

Yes?•• Yeah, if - it's not as - there's not as much debris further out from where the actual wreck itself is and that's - that - that would be basically because there's a lot more fish life on the wreck and there's a lot more organisms and all that sort of thing living on the wreck and just basically coming out from the wreck.

Now, I suppose from your perspective, Senior Constable, the fact that we have a change in the floor and stones and what have you on the sea floor, was also used as confirmation to support the locating of Tina's final resting place on the ocean floor?•• Yes.

So, your drift dives and indeed the placing of all of the markers and what not did not rely solely on a belief that the stack was what we could see in the far right-hand corner. You used a lot more information rather than that one clue, is that correct?

MR ZILLMAN: Well, I object to this extent, your Honour. This is just putting words into the witness' mouth and with respect, we're not going to be assisted very much by that. If he rely on much other information, he should tell us.

CORONER: Yes, well, I think that's right, Mr Tate. I know you're trying to get things speeded through, but we really•••••

MR TATE: Yes.

CORONER: •••••have to do it this way.

MR TATE: If your Honour pleases?•• Basically what we did rely on was in that photo, the bottom right corner you can see up close, this - there's a jagged bit - jagged bit on the stack that comes out, that's what that [indistinct] right there. And that's what we've determined is that point on that photo in the bottom right-hand corner.

Yes?•• And then the other information we relied on was the information from Mr Singleton.

All right, thank you?•• Continue on?

Yes, please.

CORONER: Yes, please.

MR TATE: And who is this diver now or divers and what are they doing?•• These divers are - that's me going out to the deceased laying point now, and the camera's on the - is back on the deck of the ship and it's just about taking a or [indistinct] shot me lying or similar recreating to the position that the deceased was lying in that photo•••••

All right?•••••[indistinct].

So you're going out to where - where Tina was found?•• That's right, marker number one.

All right, thank you?•• And that's coming - obviously the camera's coming forward.

And that is depicting now?•• That's - is just a general shot of - think we're about to start making our back to the•••••

Mmm?•• •••••back, or we're about to exit the - or come back to the surface. So that's - that's basically looking from above us•••••

All right?•• •••••right down.

Am I right in assuming those bubbles are going straight up or do they deviate or?•• No, they basically going straight up•••••

If this?•• •••••[indistinct] side view.

If - if there's a current, does something else happen to the bubbles?•• Yes, the bubbles - you'd see that as - that are going with the current obviously, so.

Is this now you lying where the deceased was?•• Yes, that's right.

And just stop it there.

CORONER: Can we just go back to that, please.

MR TATE: Now, senior, can you explain what we're seeing now.

CORONER: Now, we're just going back a bit?•• Is that far enough back?

Yes, I think so, yes.

MR TATE: Again, senior, if you can tell us what we're seeing?•• That's just the - myself [indistinct] deceased laying point and•••••

On the - on the ocean floor?•• Yeah, at the marker number one.

Thank you?•• And•••••

CORONER: Would that be just normal breathing as you're lying there, I'm just looking at the bubbles going up?•• Yes, that's normal breathing.

Thank you.

MR TATE: That again is the end of the stack?•• That's - that's the end of the stack there, yes.

And that is your square, I take it?•• That's right, yes.

And what's happening now?•• And that's us going back on to the deck of wreck. And that's probably the - a good shot to try and explain as I was explaining before how you're shielded from that side of the current because the wreck's sitting up basically like that•••••

Mmm?•• •••••as you can see in that position there, and we're literally having to swim straight up.

Is it a 60 degree angle, a 70, a 50, are you able to put an angle on it?•• No, I've - I've - I'd have no idea.

All right, that's okay.

CORONER: That's the cargo hole, is it?•• That's a photo of the hole, yes, or we have footage of it.

MR TATE: You're back to the Heritage Line?•• That's right, and then it'll show us going back towards the diver access point.

So, we're up now towards the bow?•• Yep•••••

And that's?•• •••••and on this - and that's the access, you can see the line going up?

Yes?•• And I think what I did fail before, Mr Singleton also came on this dive.

On the second dive?•• On the second dive. And he came on the next day as well, but the reason why we had him there was to just ensure or find out from him whether the condition were the same on the day or similar to the day that we dived when this incident happened to [indistinct] the other day.

Did he go on day one?•• Yes, he did go on day one.

Did he confirm with you, the accuracy of any or all of your markings?•• He did - well, accuracy in terms of marker number one. He - he was fairly confident from memory; he was extremely confident that day that he said he was pretty much on the spot.

Mmm?•• He was extremely confident about that.

Mmm?•• So that's - that's day two.

And then I think after - again, you secured Tina's equipment, you also made the necessary entries in your running sheet when you returned to the ship?•• That's right. And the - I did make a note on this day which I found just before, Mr Singleton did tell us that the conditions under water were near - on this day, were near identical to the day, how the current he thought was a little bit stronger over the top of the wreck today than that the day of the incident.

I see?•• And then we go into day three.

And the purpose of day three while you're setting it up, and - and what items are we now looking at?•• Day three; at the beginning we just ran some drift dives first.

Yes?•• And - and we after speaking with Detective Sergeant Campbell after the first day, we decided that we'd run some tests at the front of the boat, because•••••

Yes?•• •••••we were of the opinion that no matter how many drift dives we were going to do on that day from the Heritage Line, we were always going to come•••••

Straight down?•• •••••straight down.

Ah-huh?•• So we decided for the next day to try just something a little different to see some other options.

Yes?•• And this is where - this is what we did on the first day; we took it to the bow of the - bow of the boat•••••

Yes?•• •••••or bow of the wreck, and the first drift dive that I conducted, once again, it was myself in the deceased's diving gear.

Yes?•• And [indistinct] exactly the same gear that I went, and if I can also just take you back; at the end of the second day, I went to the forensic clinical medicine unit at the Townsville Hospital and had my weight taken•••••

Yes?•• •••••my height taken on that particular day, just•••••

I saw that in your statement, we can come to that in due course?•• Yeah. So anyway the second - the second day that I used the deceased's gear, that's the following day, we did the test from the front of the bow of the vessel.

Yes?•• The first one was done basically adjacent directly to the bow.

Yes?•• And then measurements were taken and that'll - that'll come up on the•••••

All right?•• •••••video here.

And I think Mr Singleton was with you again?•• Yes, he was.

All right. Thank you?•• And then we did another bear hug simulation and then we moved 10 - or we did that 10 metres out from the - the exact tip of the bow of

the vessel.

When you say, 10 minutes - metres out, do you mean 10 metres in a direction other than along the heritage line?●● Yeah, 10 - 10 metres basically from the deck of the vessel out to - on the deceased laying side●●●●●

Now●●●●●?●● ●●●●●or the marker number 1.

All right. Now, this is probably in many other places, but what I'm going to get you to do, just so that we have some clarity about all of this, particularly if I can find where they've all gone, is just to get you to mark on one of our accurate maps with the moorings, where exactly - I think they're all exhibits those ones?●● [Indistinct].

Yes. No, you're right. I'm sorry, your Honour, we've momentarily lost all of our maps.

CORONER: That's all right. We'll just turn on some lights.

MR TATE: No, it's all right, your Honour. I - I had them hiding underneath a document. Can I just show you this which you will see is one of our standard maps. It has the wreck, it has all of the vessel mooring points and I'm told that those measurements have some accuracy about them. When you say you were 10 metres off the bow, would you please put an X where the simulation drift dive commenced. All right. Thank you. And just on the top left-hand corner, if you can just write your name, please, Senior just so that we've got a handy●●●●●

CORONER: That'll be number 17.

MR TATE: Thank you, your Honour. Just wait for a moment, Senior, I'll just●●●●●

RECORDER: That'll be 19.

MR TATE: ●●●●●let everyone have a look at this●●●●●

CORONER: Nineteen.

MR TATE: ●●●●●so that we're clear.

CORONER: Sorry, 19.

ADMITTED AND MARKED "EXHIBIT 19"

CORONER: I must have put these back to front. I'll get copies made of that.

MR TATE: Thank you. Thank you, your Honour. All right. Now, thank you, Senior. If we can - if we can continue as soon as his Honour's ready. Why I've asked you to do that is so that we've got clarity in our mind about where that particular site was?●● Okay. Just - it might be easier just to show it on this as well. Basically, 10 metres which measures from here at the mid deck and we went 10 metres straight across for our●●●●●

Right?●● So, in this region here.

Yes. Thank you?•• Okay. So, plan - that was the plan for that day and then to do those two drift dives and then we came up on the - we did a third drift dive that day, which was basically where we'd done previous to going along the heritage line [indistinct] just to - just to confirm that that wouldn't be the case once again.

All right?•• [Indistinct] so this is us going down the diver access point again.

To the ship or the•••••?•• To the bow.

Yes?•• Onto - onto the bow.

And that's you and the - the sergeant, I think?•• Yeah, on the left of that - the bluish cylinder.

That's a bit tricky, Senior, they both look yellow to me. So, we're now seeing the bow?•• Yep, that's the bow and that's just basically the deck of the ship running down.

Right?•• You can see the stack in the - in the foreground.

Yes. So, that's the deck we're seeing now?•• Yep. And then•••••

Now, this is day - this is day 3 where we're going to see the dive from 10 metres off the bow?•• I think this is day 2. Okay, sorry that was day 2 we just - that was the video we have just - have seen.

Okay. Now, what's happening here?•• That's just showing the time or the date. Basically, we did that - we knew which - because we'd used the day before's tape.

I see?•• So, we just use that numbers to confirm the date. That's myself•••••

Right?•• •••••in the surface diving equipment.

Yes?•• And that's on the bow and•••••

So, you're 10 metres off the wreck when you did this?•• No. This was right on the wreck this one•••••

Right on the wreck. Thank you?•• •••••[indistinct]. Yeah, from there I did drift along [indistinct] - and that•••••

Now, that spot is - would that be figure 5 on page 5?•• Yeah. No, we're up to item 20.

Yes. All right. We'll go to item 20 first. And what are you telling us there?•• Okay. And we descended down to the boat and conducted a drift dive which resulted in a descent to the ocean floor, adjacent - or the drift dive was conducted adjacent to the tip of the bow and then I - as I lay - from that point, it measured 7.7 metres to the deceased's laying point.

All right. Now, can I take you to•••••

CORONER: That was 7.7 metres further away from where you are - away from the Yongala Wreck?•• Seven point seven metres - like, I - I basically did it just from the bow or the tip•••••

Yes?•• ••••dropped down and then landed on the ocean floor and I was 7.7 metres from marker number 1.

Okay. I understand that. Thank you.

MR TATE: Now, before we go any further, if we can go to Dr Stieglitz's report. Am I right in assuming that we see the result of this particular simulated drift dive on page 5, figure 5?•• That's correct.

And it's called, "Drift dive 3"?•• That's right.

We have two triangles again, I think this time it looks to be in green or some other darkish colour?•• Yeah, this one's in blue.

Yes. We have a start and an end point?•• Yep. So, the start point being a triangle.

Yes?•• And the end point.

Now, what - what is the distance between the two triangles, in a straight line?•• What, in a straight line, I couldn't tell you that but Dr Stieglitz certainly could.

Mmm-hmm?•• His computer program can basically - he just puts a marker on - start marker on there•••••

All right?•• I don't think he's•••••

So, what you can tell us is that you're 7.7 metres, I think you said, away from the position number 1 which is•••••?•• That's right.

•••••where Tina's believed to have been?•• That's right.

All right. Thank you. Now, we've seen the - the stack in that photograph?•• Yes, you can still see the stack there. So, we're a bit - the stack is that - in that position there.

Yes?•• And that's obviously the deck running along there and marker number 1's over there and this is where we measured 10 metres out from the bow, where I've marked it on a - the piece of paper and then we're conducting a - a bear hug in - just in open water here.

Now, is this where you're 10 metres off the bow?•• Yes, that's right. We're just - that's the measuring tape, so it's - we've measured 10 metres from the bow.

Mmm-hmm?•• And there's a - well, Senior Constable Cornish has got the other end of the measuring tape and now I go into a - into a drift there. Now, that's the - that's the bottom of the stack there, the stack comes down. On there, marker number 1 is about there.

And in the - this would be drift dive number four I take it?-- That's right.
Drift dive number four.

Now, I'll just stop you there. This - we've now moved to the - the good
doctor's report of the 21st of February, to page 6 and we're looking at a figure
6 which is drift dive four?-- Yes.

And what does this tell us?-- That is - indicates the start position and the end
position. Now, a measurement was taken again there from the end position.
Every - every time we've taken a measurement on these drift dives to marker
number 1 a circle - the end point is marked with the triangle and that was done
by myself and both Dr - and Dr Thomas Stygler with the video footage that we got
and also the measurements that we got, so that's how we could determine the -
basically the circle gets put on and then we can determine where the - where the
end point is.

Right?-- And it's about the same with about 10 metres is measured out. So I - I
could have really started that triangle 10 metres on the other side from there.
I didn't, but that's basically what the circle indicates, is 10 metres from the
- where the position was measured from and that's the start meeting point there.

All right. Thank you.

VIDEO CONTINUED TO BE PLAYED

DURING THE PLAYING OF THE VIDEO

WITNESS: That's the corner of the square there and then number 1 is in the
direction where [indistinct].

MR TATE: Now, can you just remind me, how many metres are you there from marker
1?-- From marker 1●●●●

Which is Tina's marker?-- Yeah, to that one, was 7.2 metres.

Thank you. Now, I think on this third and last day, as we're just watching
this, there's one further dive that you've told us about?-- That's right, that
was the final drift dive.

And you've gone back - you've gone back to the heritage line?-- Yeah, that's
right. So it was done over the heritage line, swimming towards the bow of the
vessel, or the wreck, and that'll come up here. That's the - that's going along
the heritage line again, 15 metres, swim line and then going to [indistinct].

You look to be just over the hold actually, is that correct?-- Yeah, that - all
those dives were done over the top of the hold.

All right?-- And that - those measurements there, from that drift dive, was 16.6
metres out to where the deceased laying point was. Now, that is depicted in Dr
Stygler's report here as drift dive number five.

Which is figure 7 on page 6 headed "Drift Dive 5". Now, I take it there's some robustness, Senior, in the fact that you've really had three simulated drift dives off the heritage line on two days and if I understand your evidence correctly, there's very little difference in the outcome of the simulations?-- On the - on the first two drift dives and the last one there's - there's hardly any difference at all.

And did Wade Singleton have any comments to make about this last day in terms of similarities to the day that Tina passed away?-- He did and that was the same again as what it was the previous two days. He said the conditions there were near the same.

All right. Now, can I ask you to go back please to figure 6?-- Figure 6?

Yes. Now, you might remember, this is the figure that you took us to when you told us about commencing the drift - the drift dive 10 metres off the bow of the - the wreck?-- Yes, that's right.

And that's where you've ended up?-- Yes.

If you can't answer this question, or if it requires speculation, I'd like you to tell me so, but quite clearly one of the questions that his of interest to his Honour is, where might you - how might you - how might Tina have ended up where she ended up? Now, from undertaking these simulations are you able to give any professional opinion as the - one of the diving experts called in the case, about where her drift dive may have commenced from 15 metres?-- In respect to the first three drift dives that was - when you say - I can't speculate because I don't know exactly where Tina was, but one thing I can probably - I could say with certainty is that she could not have been swimming along the deck of that ship to find herself out there, unless she somehow swam out.

Right?-- Or she's been taken out there.

Right?-- And that's evident with the drift dives that we conducted.

Right?-- And the reason why I say that is because of the way that she appears. It's on its - well, to me it's on its side and it looks on its side when you see the video footage, and logically you - you're in a protected area, there's no current, it's going to come across this way to push you - push you out there. Everything else - I mean I could speculate that she could have been - she could end up there if she's up around this - up around this region somewhere, but once again, I - that'd be speculating, so.....

All right. Now, can I take you to paragraph 62 of your statement. Do you - I just want - I don't want this conclusion to just go into evidence as a bold statement, I'd like you to explain the reasoning behind the - behind the proposition. You say, "After conducting this drift dive exercises and after reading all of the statements from Watson, including transcripts of conversation, there seems to be no adequate explanation why the deceased has ended in the position she has. There is no possible way if she separated from the defendant like he stated, in a limp position, from the mid deck area in approximately 15 metres of water, that the deceased could have ended in the position she did. I say this only after conducting the drift exercises over the few days and with Singleton's information in regards to the conditions."?-- That - yeah, that's correct.

And you continue on, but I'll just ask you to deal with that paragraph first?-- Okay, the reason why I say that is because in all the information that I've read

from his - all his statements he's given to police, he's indicated that he was going along the deck area of that - of that wreck. Now, with the drift dives, from what Mr Singleton said the positions are near the same to what they were on the day of the incident and with the drift dives that I conducted off the deck, I just - I can't find a logical reason to how she's ended up in that position if she has gone into a limp position.

Now.....?-- I'm - I would also assume that - and this is one of the reasons why I went to get my weight taken, that I would be more buoyant than what Ms Watson - than what Tina was.

Why's that?-- That I would - when I say "more buoyant", I would assume - I would assume she would have sunk a lot - a lot quicker. I was using her weights at the time and I generally use a fair bit of lead to get myself to the bottom and that's just, I think, because of my body mass.

Mmm. Understand. My learned friend has just asked me to have you help us out by telling us what your weight is. And so what I'll ask you to do is to take us to that particular paragraph in your statement?•• Or - what my weight was on the day?

Yes?•• Okay.

Now, you've already given some oral evidence about that but I just can't now recall which paragraph I saw you talking.....

UNIDENTIFIED SPEAKER: Forty-nine.

MR TATE: Forty-nine I think it might be?•• Yes. Forty-nine. "We returned into port and arrived and I could see the Townsville Clinical Forensic Medicine Unit. Had my weight and height officially recorded and I weighed 77.5 kilograms and that was in my underwear and 167 centimetres tall."

All right. Now, Tina, I think was a little less heavy than that.

UNIDENTIFIED SPEAKER: Sixty-three kilograms.

MR TATE: Sixty-three kilograms.

UNIDENTIFIED SPEAKER: And 174 centimetres.

MR TATE: Hundred and seventy-four centimetres. Do you see that as creating any differences that his Honour needs to know about.

MR ZILLMAN: Well, I object with respect. How on earth could this witness know that. He couldn't with respect. That requires scientific evidence, in my submission, your Honour.

CORONER: From what perspective are you asking the question, Mr Tate? Is it

from his experience as a diver or is some other?

MR TATE: Just the experience of the diver firstly. And secondly, just to have his assurance that he does not think that the differences should be something that your Honour ought be concerned about. He has been talking about his buoyancy, an assumption that Tina may have sunk more quickly. I'm not really asking him to draw the comparison in any scientific way. I just want his assurance as the diver in charge of the reconstruction that we can accept the validity of the simulated dives. If my friend objects to that.....

CORONER: I think - no, well, I think you can ask that question. I mean, he can't answer it from a - from a position of a scientist or any scientific basis. It's only his assessment. He can do that as a diver.

MR WALTERS Your Honour, whilst - whilst we're on this topic, I wonder if it can be established what weight the officer normally carries, weight wise, and what Ms Watson's - Ms Watson's weights were on the day.

CORONER: Could you answer that?.. Normally - well, I can't 'cause her weights are in [indistinct] and I haven't come across those type of weights before. Now, I use exactly what - what was there. Usually with all my police diving we are - we are negatively weighed. So, we just basically weigh ourselves 'cause we just hit the bottom straight away and we use - we use air into our BC. So.....

So, you don't weight up?.. If - if I was using the weight belt I would use probably five or six weights on a weight belt. Three pound weights.

Yes. So, normally you wouldn't weight up at all? You'd just use your - is that right? Is that what I.....?.. No, no, I use - sorry, I usually do - I - I go over the top - like, I put as much weight as I can possibly.....

So, that you can go - go.....?.. So.....

.....to where you're going to be?.. Yep. So, I would just hit the bottom straight away.....

I see?..and there's nowhere else to go.

So, you're not, in these cases when you've got specific tasks to perform, you're not trying to be neutrally buoyant at all. You just go to get where you go to go?.. Yeah. Usually not. Like I'll - I - I just find it easier to put air in my BC and use the air.....

To balance it up?.. Yeah. And to use the air and that way - because - all - our systems are all set up - any greater weights [indistinct] different - completely different type. So, they're basically in a square and we just put them into the BC and they clip in and so if we get into any trouble we can just go bang and they're gone.

I see. Well, when you were talking about you being more buoyant then here, what did you mean? Oh, she being more buoyant then you?.. Well, I've - sorry, she - I - I'd be more buoyant then her.

Yes?.. And what I mean by that is because I've got a bigger body mass. So, basically I'm pushing a lot more water when I'm in the water then what Tina - what Tina would have. So, I suppose the best way to explain it, I don't know if this is.....

Just explain it to me. I want to understand the logic of what you're saying?•• Yes. Okay. Say for instance if you're driving on a beach with car - your car tyres you let the air out in a four-wheel drive. So, you've got a bigger mass to push over the tyres. Whereas if they're a skinner tyre they sink right into the sand.

Yes?•• So, you let the air out and you become bigger. Now, I'm a wider sort of more solid person than what Tina is and considering that she - I would be more buoyant than what she is.

Naturally buoyant?•• More naturally buoyant, yes.

Because of your - yes, okay?•• Yes.

I understand. All right. Now, I think Mr Walters wanted you to explain basically what your natural - your normal weight was - is and what it varies and what else, Mr Walters?

MR WALTERS: No, I was just wanting - the officer said that he thought he wouldn't have sunk as fast as Tina 'cause he was using her weights on that day how she weighted herself and I just wanted to know - and he's already answered that. What he normally puts on weight wise•••••

CORONER: Oh, I see. Okay. That's fine.

MR WALTERS: •••••compared to her. And he couldn't tell us what her weights were exactly because of the integration but I - I think I got enough information to help me with what I want.

CORONER: Well, let's get back to your proposition•••••

MR TATE: Thank you.

CORONER: •••••Mr Tate.

MR TATE: Yes, if we can. Now, Senior, really all I'm asking you to confirm as the diving man who was in charge of organising this, you're satisfied that we're not in anyway being led astray by you being the person doing the drift dives as opposed to Tina? You're not expecting much difference or would you?•• No.

Okay. Thank you. Now, if I can just ask you to return to where we were which - now, you've - have you finished your comments in relation to paragraph 62?•• Yes.

Can I take you to 63 where you say, "In my opinion the deceased could only have gotten to that position", obviously Tina mark 1, "from the front of the wreck out from the side in open water similar to the simulation of drift dive number 4.". Now, just so that we're clear can you explain please what you mean by that?•• Okay. What I - what I mean by that is by the two drift dives that we did from the front of the vessel•••••

Yes?•• •••••that - that•••••

And you're back to figure 6, I think?•• Yes. Back to figure 6. Is - that can put you out - if you go out 10 metres that can put you in that vicinity. It could even possibly put you in that vicinity from around the bow of the vessel. And I suppose one other possibility which I - which I thought, I think, if it

does come up, is obviously if you swim out there you can get out there and if your taken out there or dragged out there or - you can end up out there but if - I just can't see how you'd end up out there if you go into a limp position from the - from the deck area of the vessel when the - the actual wreck is protecting the current coming over and pushing you out to that side.

All right. Now, I'd like you to, just with this particular slide being left up, consider what might be an alternate version or what might be a hypothetical situation, but you've been telling us, I think, that the current was mild or virtually non-existent.....?.. Yes.

.....on the day that you did it. I want you to assume that there is a strong current, all right?.. Mmm-hmm.

I want you to assume that that current is going along the - the wreck from the bow to the stern?.. Yes.

In those circumstances would that change any of the likely outcomes from your drift dives and if so, how?.. Well, it - it possibly could. From the bow to the stern it - it - it would push you more towards the stern.

Mmm?.. But still, it won't push you out.

What would you need to have in terms of current to be pushed out and left in the place where we see Tina's mark? What would you need current wise in order to end up out where Tina was if something happened along the heritage line?.. Along the heritage line?

Mmm-hmm?.. There's.....

CORONER: I don't know if he can answer that.....

WITNESS: No.

MR TATE: Maybe not.

CORONER: He said that there's - that the - once you're on the heritage line at that level you're protected from the current because of the nature of the ship.

MR TATE: Yes.

CORONER: But do you want to comment on that, Detective?.. Myself?

Yes?.. I - I - I - I can't see how the current would push - I can't see any current pushing you out there from the heritage line.

MR TATE: And again, your reasoning for that proposition is set out at section - at paragraph 64?.. That's right. With the way - with the way the wreck's lying you are - like it - it just protects every current that's coming - coming across.

Now.....?.. I mean, if you - if you're a fair - if - if you're a fair way off the deck and a current was coming against the I suppose the hull of the vessel

eventually it's going to come over and it will catch up to you. Now, exactly where - you'd have to be out here somewhere and then you'll end - you'll end up way further out anyway.

All right. Understand that. Now, Senior, can I take you back to where you left us with the video?•• Yep.

I don't know want you to necessarily start playing it again. But I'm going to ask you this, is there any need for us to watch the residue of this video or have we seen all of the important parts?•• That's all the important parts.

All right. Would your Honour pardon me for a moment? Thank you, your Honour.

CORONER: How much more of the video is to go?•• That's - just probably another five minutes.

Well, I want it played.

MR TATE: Thank you, your Honour.

CORONER: I haven't seen it and I think I should see the whole thing.

MR TATE: If your Honour pleases.

CORONER: I don't know whether other people have seen it so please can you play it? Thank you.

TAPE PLAYED

MR TATE: And again, Senior, if you can keep the commentary up?•• Just - just - we're just measuring the - the laying point from the right, this dive. And - and once again, obviously, with - if the current was ripping through there at any great knots the - the best indicator is the air bubbles, you'd see them going on an angle.

And I'll just stop you there. Can you describe the sea floor as you saw it? Is that an accurate depiction of it?•• Yes.

Thank you?•• And that's - and they just replicating the deceased laying point and that's looking onto the deck of the or onto the ship and that's probably not a good indicator on how it lies and it just sits up and protects you.

And again, Senior, if you can keep the narrative up so•••••?•• And that's just the heritage line and that's the diver access point there. And then that's just a bit of a shot, up onto the ship.

And that's depicting?•• That's just the diver access point again or the diver access line. And that's the end of the video.

Thank you. And I think, just finally Senior, you were in charge then of returning Tina's equipment to police property custody?•• That's right. We put that in our lock box and handed to police in the job and returned back to Brisbane.

Thank you, your Honour. Thank you, Senior.

MR ZILLMAN: Just wondering if we might have a few minutes before the cross-examination starts, your Honour, or.....

CORONER: Yes, surely, if you wish. The difficulty is going to be that this witness and his colleague are not going to get away today, are they?

MR ZILLMAN: Well, I don't think they would anyway. It's quarter to 5 your flight.

CORONER: Yes.

MR ZILLMAN: Never going to make it.

CORONER: And we've got a 4 o'clock phone calls. Are they still going to be maintained, those English phone calls?

MR TATE: There's some flexibility with the afternoon telephone calls and I understand arrangements have been made for the Senior Constable and the Sergeant to return tomorrow.....

CORONER: Thank you.

MR TATE:which I hope Senior Constable with confirm.

CORONER: Sorry to invite you to stay another day, Senior, but that's what - that's going to happen. Yes, well we'll stand down until you're ready, all right. Thank you, you all remain here.

THE COURT ADJOURNED

THE COURT RESUMED

JOSHUA KINGHORN, CONTINUING EXAMINATION:

CORONER: Mr Atkinson, thank you.

MR ATKINSON: Thank you. Senior, sorry, I know it's an awkward position. I only have two issues I'd like to address with you. The first one is that, you answered a question earlier by saying that the heritage line is at 15 metres?.. Yes, that's right.

And you also indicated to his Honour that when you're near the heritage line you have the protection of the - the Yongala?.. That's right.

When you're coming down from the surface at what point does the Yongala begin?.. About - I - I believe it's about - it's about 11 or 12 metres, I - I can't - I'm not exactly certain on that but it's about 11 or 12 metres.

So, you say you can't be certain but roughly two or three metres above where the heritage line was the - the Yongala starts to give the diver protection?•• That's right. Well, that's - that's - that's the top of the - the top of the wreck.

Sure?•• The top line.

The top of deck really, the top of the•••••?•• Yeah.

Sure. Now, one other question, one other issue, you mentioned in your statement that you did this exercise of trying to wear your mask without your regulator on?•• That's right.

The background, I understand, is that you understood that Mr Watson had alleged that his regulator and his mask had been knocked off?•• That's right.

And that when you went to put them again the sequence was that he put on his mask, he cleared his mask and then he put his regulator in?•• They had to find his regulator and then put his regulator back in.

And the immediate discrepancy from the diver's point of view, I understand, is that when you clear your mask the way you do that is by breathing air through your nose?•• That's right. You - you need - first of all you need a lung full of - lungs full of air and then basically you have the mask on and you put - tilt your head down and blow and that blows the air out and blows air into your - into the [indistinct] mask.

The immediate discrepancy for you is that if you don't have access to a regulator so that you can breath in is that - you think there might be trouble generating enough air to breath out through your nose to clear the mask?•• Yes, extremely - extremely difficult and especially when if you're not - if that - if you're not focused to do specifically that at 15 metres or so in - like in a - like in - in possibly a situation, I'm just - it's - it's extremely difficult.

Especially as, as I think you said earlier, if you don't have two lungs full of air?•• That's right. And I did it four metres in a pool when I was finning along knocking my mask off, I could - I - I couldn't do it. However after doing his statement I went back there. You can do it like - like I sat myself on the - on the pool, on the floor pool, knew where my regulator was so I had instant access to my air, mask came off and I had - took a breath in and then did it.

Right. So, you - you took a full breath of air before you started the exercise?•• Yes.

Put on the mask?•• Yep.

And at that point you had sufficient air in your lungs to - to clear the mask through your nose?•• That's right.

Otherwise you find it very difficult?•• That's right.

And even more difficult if you're under stress?•• Yes. Initially, and when I did it under stress the first time as I indicated I - I couldn't do it.

I have nothing further, your Honour.

CORONER: It might be more convenient if you go back to the witness box unless

they need you here to look at these things. Mr Walters, what?

MR WALTERS: I have no questions, your Honour.

CORONER: Would you need the witness to refer to any of these videos or statements, Mr Zillman, do you think?

MR ZILLMAN: Possibly but.....

CORONER: It's just that face - facing each other is just.....

MR ZILLMAN: No.

CORONER: I don't think it's a good thing. If you just go back to your witness box. If you need any of the materials we can come get them. Thanks.

MR ZILLMAN: Thank you.

MR TATE: I can ask the Senior Constable.....

CORONER: Sorry, Mr Atkinson.....

MR ATKINSON: No - I was about to suggest that but.

CORONER:I should have made that more convenient for yourself, as well. Yes, just take a seat there, thank you. Yes, Mr Zillman?

MR ZILLMAN: Just on that last issue of the mask and the - the regulator, within your statement you had endeavoured to or you refer at least in your statement to endeavouring to replicate that situation, is that right?.. Yeah, that's right.

Just excuse me while I turn over to your statement on this, please.

Did I understand - just before I take you to it, did I understand you to say when Mr Tate was asking you questions, that you achieved with some difficulty as you explained.....?.. Yep.

.....nevertheless that result on a second occasion you tried?.. Yeah, it was - well, I tried that on two occasions.

Yes?.. And then I tried it after making this statement again. And that - and it was a different - I was in a different - like, not a different situation, but I did it in basically - planted my feet on the ground, I didn't do it exactly how I'd done it the two previous times. That was, the first two times I was in the water, I was finning along at four metres, and then basically I just went like that with the mask to knock it off and then my regulator came out, so automatically as you're finning along, your regulator's out or the hose it out somewhere behind you; finning along, then you've got to find your mask and by that stage I had no air. And each - both of those times, I couldn't, so I'd

just go straight and put the regulator in my mouth.

All right?•• And then•••••

Well, one thing at a time?•• Yep.

Did you want to say something more?•• No, I was going to then say and then on the third - when I tried it, when I could do it, was when I did it in the controlled - I sat - I sat down and I thought about it. I took a breath in with my regulator, I put to my - to the side. I was - I wasn't finning along at all. And I put my - took my mask off like that and then immediately grabbed it, put it on, cleared it, regulator in the mouth.

All right, so there were three times you tried it; two didn't work and one did?•• That's•••••

Is that right?•• That's right.

In your statement, you say you tried to replicate it, and I'm reading from paragraph 4, it's on the second page. "I tried to replicate it in the pool during training days on several occasions and it's physically impossible."?•• Yes.

Well, the first thing we note from that is, you tried on several occasions. Well, we should really read that as two occasions, correct?•• Two occasions, yeah, on two separate training days.

The next thing is that you did achieve it on some day after your statement was completed?•• That's right.

All right. It would seem then - putting aside whether you were thinking ahead of trying to achieve this exercise as you told us you were, and I can understand that?•• Yeah.

It - putting that aside for a moment, it would seem to me the case that you would have a chance at least of doing it, if you'd just taken a breath when the regulator was knocked out of your mouth, as against, let's say in the course of exhaling, when the regulator was knocked out of your mouth?•• You - of course you'd have a chance.

Well, that's right, because•••••?•• Yeah.

•••••if you'd just exhaled, you've got no air and you couldn't achieve it?•• Yeah. But I - when - when I - like, you'd have a chance but everything would have to go perfectly right for you.

Well, it wouldn't would it? You'd just have to be able to think to do it and then retrieve your regulator?•• Yeah•••••

There'd be nothing more•••••?•• It's not a simple task.

•••••required to go right?•• Well, it's not a simple task by any means.

Well•••••?•• And especially when you're - when you're at depth.

I'm wondering what has to go right beyond the fact that you've just got a breath, at least so you can do it. What else has to go right?•• You'd want to know where your mask is and you'd want to have immediate access to your

regulator to start to get that supply there.

Well, they're affixed to your equipment, aren't they?•• They are affixed to your equipment but they're - you've got - it's fixed from behind, as you can see there.

Yes?•• And basically, you've got to come around and when you're in the water and you've - you've lost a regulator, it - it's not as simple as just, like, where is it, oh, here it is. You've got to literally go back, find the hose, or - or go right back, find where it is, then you've got it, and then bring it to your mouth. And•••••

Well, that doesn't require a great deal, surely?•• Well, you've got - well, it does.

Well, it's a matter of•••••?•• I couldn't - I couldn't do it on two occasions.

•••••reaching out to the ends of the hoses or the equipment, at least, to find them, isn't it, to locate them?•• No. I couldn't do it on two occasions and I consider myself a fairly competent diver.

Well, what - what was the difference? I thought you told us the difference was you were thinking more ahead of it, and you were in - as it were, you weren't swimming at the time you achieved it. Those are the two differences?•• Well, yeah, first of all I was sitting - I was basically sitting on the - on the floor of the pool.

Mmm?•• Second of all, I knew where my mask was and I could see in a chlorinated pool, as opposed to in salt water and thirdly, I knew exactly where my regulator was.

Mmm-hmm, okay?•• And I wasn't finning along.

I want you to explain these moorings, that is to the - the seabed and to the deck?•• Yep.

I was having some trouble following it, but if we start from diver access point and that's at the bow, that's the one I'm interested in, as we all are?•• Yep.

For a start, there's a buoy on the surface as we understand it?•• That's right.

CORONER: Would the other plans be better on the other side or - it just might - could you•••••

MR ZILLMAN: I might need them both, though, we'll see.

CORONER: Okay. Just have a look on the other side first•••••

MR ZILLMAN: That's - that's fine.

CORONER: I just thought the one on - the boat on the side might be more•••••

MR ZILLMAN: Yes. Yes, it might even be better to refer to the diagram on the - on the left. But whichever one you prefer. Now, there's a submerged buoy I think about five metres, is it, below the surface?•• Yeah, that's right.

And then was - at some point, I - you'll know - I don't, a division in the - the ropes?•• Yep.

The main rope, the descent line, goes down and is attached to the bow, isn't it?•• Yes.

Not to the very end or tip of the bow, but some distance back from the end of it?•• Yeah, it's about - it's within a metre back from the tip.

About a metre - within a metre?•• Yeah.

All right. The other line that goes off, goes to the seabed, does it not?•• That's right, yes.

Where does it go off in terms of the submerged buoy, relative to the submerged buoy?•• In - in depth of metres?

Well, no - with reference to the submerged buoy, above it or below it or where?•• It'd be below it.

Below it?•• Yep.

How far below it roughly, at least, do you think?•• It should be at that point.

At - basically at the point of the buoy?•• Yeah. So, basically the buoy•••••

CORONER: Just - just on that - one thing confused me, there seemed to be a floating device further down on that rope. You know, there's the buoy?•• Yeah, what•••••

You remember you said you came to something and that looked like it, and then you went further up and there seemed to be something further up. What - what was that second thing down•••••?•• I think what that was, was joining two ropes together. It was just a device instead of doing a bow line to tie the two ropes together, I think. And I'm not a hundred per cent certain but I - I think that's what they've done to join the two ropes together.

But that is the rope going down to the deck of the ship, isn't it?•• That's right.

So that's a joining device, it's not a buoy, it was just expanded out a little?•• Yeah. I - I'm fairly - I'm not a hundred per cent sure, but I - from what I can work out that's what it is, it just joins the two.

The one Mr Zillman's talking about is further up from that, isn't it?•• Yeah.

Further - closer to the surface?•• Yeah. If I can, I can write a diagram which might help explain exactly what you're talking about. Okay, so that's on the ocean floor and that comes up like that. And then there's a line•••••

Wouldn't that be the one to the vessel?•• No, I'm fairly sure that one goes to the ocean floor and then there's a line that's tied off on the vessel, so if that's the deck of the vessel there and that comes up to there, and then there's a - and that's - so you go down there and that's the - the buoy that comes up, that's basically - it's in mid-water, about five metres or so.

I - I thought the line to the vessel was more perpendicular than the other line. What you're saying is, there's a perpendicular line to the sea?•• Yeah.

And then one going to the vessel?•• Yes.

MR ZILLMAN: And they join at the submerged buoy, which is the round affair that you're just pointing at there, is that right?•• From memory, I think.

Okay. We're not•••••?•• I think they do; they join somewhere, close, near that point.

The circle above that, is that the buoy on the surface?•• That's the - yeah, that's the surface. I'm not the best drawer, but.

All right. Well now•••••

CORONER: So the join in the rope was the - between there and the ship, wasn't it, somewhere there?•• Yeah, there's another join somewhere there.

MR ZILLMAN: And so, it would appear that if the - let's get some distances here?•• That's not to scale, I•••••

It doesn't have to be?•• I - I've got no idea how•••••

No, no, that's all right. And so if the - the ship is about 15 metres below the surface it would be about 10 metres from the submerged buoy to the bow of the ship; is that right?•• It's about•••••

Assuming the submerged buoy is five under the - under the water?•• Yeah.

Right?•• Yep.

No trouble with that?•• Yep.

And the depth of the water is about 30 metres?•• Yep.

And so the - the line that goes from the submerged buoy to the seabed is about 25 metres in length?•• Yep.

And equally if one swam out from the buoy and you went up that line, as a descent line, that's the one that sank into the seabed?•• Yep.

You'd have to travel from the - if you took a line across from the bow you'd have to go up about 10 metres again to reach the submerged buoy?•• If you•••••

Took a line across from the bow•••••?•• Yep.

•••••to the - that line?•• Yeah.

I don't know what we call that line?•• Yeah.

And went up to the submerged buoy again, it'd be the same distance about 10 metres?•• Yeah.

All right?•• I don't quite follow you but yes.

Sorry?•• I don't quite follow you but•••••

CORONER: Well, her was just working on some arithmetic. If the buoy is five metres from the surface and the ship's 15 metres from the surface•••••?•• Yeah

And it's 30 metres to the bottom, if you do some simple subtraction and run a direct line - I know nothing runs directly•••••?•• Yeah.

•••••it'll be 10 metres•••••?•• Yeah.

•••••from there?•• And well the other - I'm not sure entirely because that is a slack line down - down onto the - onto the ship and you can see that we come down•••••

MR ZILLMAN: I know. And I wasn't trying to you to•••••?•• Yeah, I just don't know how•••••

•••••the hypotenuses against the right angle but it's•••••?•• Yeah.

•••••roughly each of them are about 10 metes?•• Yes.

Okay. Now, getting into the conditions when you went out and conversations you had with Mr Singleton, at least•••••?•• Yeah.

•••••and others, Mr Brinkman. Did you - did you receive some information initially about this prior to any contact with it - it is Dr or Mr Brinkman?•• Richard Brinkman, yeah, I'm not sure if he's a doctor.

Did you receive some information before you had any contact with him?•• In terms - what information?

In terms of this whole exercise, what - getting you involved in it?•• No.

Well, who spoke to who first?••Did he ring you up and say, "Look, I'd like to tell you these things.", or•••••?•• No, no, no.

Did you know something about this case•••••?•• N.

•••••before he became involved?•• Well, on that - on that document it's got - that was there, I think it's been exhibited earlier, that was the e-mail correspondence between us and Mr Brinkman and initially Senior Constable Cornish got in contact with him and then I followed him up for the dates but•••••

All I want to know is were you being asked to look at these things in some way before there was any engagement of Dr Brinkman?•• Before?

Yeah?•• Yeah, because we•••••

Thanks?•• We used him later to•••••

That's all I wanted to know. Did you get some information therefore from Mr

Singleton as to the nature of the conditions that he says were the case on the 22nd of October '03?•• No.

Did you have any information from him in that regard prior to your being advised as to the information that Mr Brinkman had?•• Did we - any information•••••

On Mr Singleton?•• To Mr Brinkman, no.

CORONER: No, to you?•• No.

MR ZILLMAN: Do you know - I think you say Mr Cornish was the one who had the contact, but do you know if Mr Brinkman was advised as to the nature of the conditions that Mr Singleton said were in existence on the 22nd of October?•• I - I don't think he was because the information that Mr Brinkman was given was basically the time and the date when the incident occurred and we wanted to - we wanted similar or replicate conditions of that particular day and whether or not he could do it. This was all something new to us at the time. We hadn't tried this before and it was just a line of inquiry went out.

One thing - and I'm having trouble with is - and you might be able to help me with it is this proposition. You see we've heard some evidence from Mr Singleton but he says the currents can change day to day, they can change on the day, very quickly, from strong to benign, if you like?•• Yep.

All within the matter of - well, perhaps within half an hour or even less to go from one thing to another?•• Yeah, and that's entirely possible.

Well, how did you understand if that is the case, and if that's so variable that Mr Brinkman could help you in terms of pointing you to a time when you'd go out there and find similar conditions to those that happened or that - that prevailed rather at about half past 10 in the morning of the 22nd of October '03?•• And as I just explained before it's something - something that we've never tried before so we've - the Australian Institute of Marine Science is considered the expert in relation to tidal flows and all that and how they're considered expert is they've actually got tidal metres that are in the water. Now, I don't know exactly where they get that information from where these things are put in the water. Mr Brinkman can give that evidence but I'm - as I understand it it was that information they relied off and the information that he gave us is in relation to the tidal floods. So, if it's a low tide a certain amount of water will flood, you know, into that area and he predicted that that was the date that the same amount of water would flood in therefore•••••

All right. Well, fair enough?•• •••••it was a high probability that the currents would be similar.

All right. I'll ask him. So, you didn't, as it were, pass on any information to Mr Brinkman that the current was strong or the current was virtually non-existent, as it were at the•••••?•• No.

•••••relevant time that we're trying to replicate?•• No.

All right. I want to go then to the - the landmark as its been referred to, as it were, in that photograph that you have beside you?•• Yep.

Has there been any scientific test at all of any kind that you were aware of to ascertain that the mark in the bottom right-hand corner is in fact the end or edge of the - the stack?•• Other than - other scientific other than my meeting with Dr Thomas Steiglitz who - he's considered a somewhat expert on the wreck of

the Yongala and by him looking at the video footage that I'd shown him and by looking at this photo.

CORONER: Can I just interrupt you for one moment. Are we having any problem - or going to have any problems with the time sequence of these photo - these calls from England. The reason I ask is Mr Zillman, I'm sure, doesn't want to have interruption of his cross-examination and if we're going to have those phone calls this afternoon it might be better for us to do them now and for Mr Zillman to do his cross-examination of his witness first up in the morning because one way or another we're going to be interrupted.

MR ZILLMAN: Yes.

CORONER: I mean it's up to you, Mr Zillman, I don't imagine it's going to.....

MR ZILLMAN: I'm right, whatever suits all others.

CORONER: How - it may be easier to get these two people out of the way this afternoon.

MR ZILLMAN: Yes.

CORONER: And have this witness come back first thing in the morning. Would you prefer that?

MR ZILLMAN: I don't mind, I'm happy with that. I'm happy to continue. I'm happy to.....

CORONER: Well, let's try and find if these people are available from overseas because I said what we'd try and do is cooperate with those witnesses. We might just stand down for a little - well, could you go and find out if they are available and we'll allow Mr Zillman to proceed and then as soon as they come in we'll stop your cross-examination there and resume in the morning; is that okay? Right, thank you. Can you set up the phones please in the meantime. Yes, Mr Zillman.

MR ZILLMAN: It's apparent from the video that we've seen or the various videos there's various kinds of rubble and/or debris and/or vegetation on the seabed?.. Yes, that's right.

And it's - it's more concentrated - close to the ship than beyond?.. Yes, that's correct.

But nonetheless there's bits and pieces even as you go out from the - the ship itself?.. Yes.

Can I suggest this. Just by looking at the photograph - putting aside Mr Singleton for a moment, there's nothing in the photograph at all that would assist you in terms of ascertaining with some degree of confidence where that photograph was taken if you simply went down and inspected the air by the side of the ship?.. Initially, no, but after I've - I've been down there and I suppose - and that's bias towards me, the information that I know now I could - I'm fairly - like with some degree of certainty that that is - there's a - a rod then sticks off the - the end of that.

I know but that's all dependent on Mr Singleton saying, "In my view this is where Tina was lying", and if that was so that mark could be the end of a stack, that's what it comes down to, isn't it?•• Like for me now, after being down there.

No, forget about being down there?•• I can't say it could be because I•••••

Because I'm suggesting that's irrelevant?•• Okay, so if I hadn't gone down there?

If you go down there or not I'm saying that could be any - anything on the seabed. It's - it's only conceivable that it's the end of the stack if you basically accept Mr Singleton as being accurate where he says Tina was lying? Otherwise that mark could be anything?•• It could be anything, yeah.

Well, that's right, it hasn't got a particular configuration that you can - with some confidence say is the same as the end of the stack, just looking at what's in the photograph?•• Apart - yeah, apart from this - the - the rod that sticks out there

Well, but again that could be anything. Given the amount of stuff you could see on the seabed it could be anything?•• Well, if - I know when I had the video up I particularly pointed out that that - this position here, and I think it was at six minutes 12 on the second video.

Yes, but - well, we're going round in circles, so never mind. The short point of it is there was no scientific analysis done of any kind that you were aware of that will tell us that that is the end of the stack?•• No.

All right. Tell me just to confirm this, and I think Mr Atkinson asked you some questions about this; assuming the - the upper edge of the deck is about 15 metres from the surface, right?•• Yep.

Any protection available from any current is only available if you descend past, as it were, that edge or rim?•• It's probably about 10 metres, 10 to 12 metres is the upper - the upper edge of the deck.

Oh, I see. Well, that•••••?•• We ran the heritage line at the 15 metres, yep.

Sorry, you're right, I think you said 11 or 12, I made a note of it actually. But that's where any protection will commence?•• Yeah.

CORONER: Hello.

UNIDENTIFIED SPEAKER: It's Charlotte, I've got a Karl Dickens on the phone.

CORONER: Thank you, could you put him through please?

UNIDENTIFIED SPEAKER: Sure, one moment?

CORONER: Thank you. Would you like - good afternoon, Mr Dickens, can you hear me?

MR DIGGINS: Yes, I can.

CORONER: Mr Dickens, my name is David Glasgow and I'm the Coroner enquiring into the death of Christina Watson.

MR DIGGINS: Okay.

KARL NATHAN DIGGINS, ON AFFIRMATION, EXAMINED VIA TELEPHONE LINK:

CORONER: Thank you very much. Would you please be comfortable, my counsel assisting the Coroner today is Mr John Tate, he will introduce himself and explain how these proceedings are going to proceed, thank you.

MR TATE: Thank you, your Honour. Karl, I take it it's morning over there?•• Yes.

My name's John Tate and I'm counsel assisting the Coroner, are you able to hear me all right?•• Yes.

Now, Karl, what we do with all of our witnesses is very similar to what I've just done which is we introduce each other. So, could I ask you please to let us know your full name?•• Yes, my name is Karl Nathan Diggins.

And are you still the hotel manager?•• Yes.

Did you have the same position back in October 2003?•• No.

You were in a different hotel manager's position?•• Yes, I am.

And what is your current address?•• My current address is 8 Ramsay Green Wellesbourne at Warwickshire DV359UE.

Thank you. Now, Karl, I understand that you were out in Australia back in October 2003 and you went out on the - the Jazz II to the Yongala wreck?•• Yes, I did.

Now, as we know terrible things occurred and Tina passed away and you came back into Townsville and I think you gave the police a statement on the 22nd of October 2003?•• Yes.

Do you have a copy of that statement with you?•• No.

Have you had an opportunity of reading that statement in recent times?•• No, I haven't.

All right. When you gave the statement to the police on the - the night of the tragedy, were you satisfied that it was true and correct to your best of - to the best of your knowledge and belief?•• Yes, I was.

Now, I take it that you were going out for a dive with a number of other divers from the Jazz II, is that?•••••?•• Yes.

•••••is that correct?•• It was, yes.

All right. Now, as you don't have a copy of your statement, I'll just read a relevant non-contentious part so that we're - we're talking about the same time,

"We left Magnetic Island around 7.15 and got to the wreck at about 9.30, 10 a.m. It's about a two - two and a-half hour journey." Now, I assume that means two and a-half hours?•• Yes.

"There were nine passengers and three crew including the instructor", and then you say, "We got into the water about 20 minutes after arriving and began the first dive."?•• Yes.

Do you remember doing that?•• Yes.

Now, you also tell us that there was another boat present?•• Yes.

And what I'd like you to do is to tell us about the dive that you went, I think with Mr Bennett, who was the instructor - I'm sorry, Mr Webster, who was the instructor?•• Webster, yes.

Now, could you tell us what - in your own eyes so that we can understand what happened, and you can appreciate in a Court situation we need to ask the people who were eye witnesses to tell us what they saw through their own eyes so that we can gain an understanding, does that make sense?•• Yes.

Now, take your time, keep your voice up and tell us in your own words?•• Okay. When we went for the dive we all got into the water, we then proceeded to go down the line towards the Yongala and obviously have, you know there's 10 of us as such so it took a while. While we were going down I myself saw two people rushing up to the surface. When Mr Webster saw this he went to ask if he needed assistance, helping them but basically all was okay so, he returned to us and then we proceeded to go down and continue with our dive.

All right?•• Which we then did until 40 minutes later, I believe, half an hour, we resurfaced.

All right. Now, you say you saw two divers, did I understand you to say, "going to the surface"?•• Yes.

Did you notice anything about the two divers what they were doing, how they were holding each other, were they separate?•• Yeah, one - one diver had the other one held trying to pull the other person to the surface by the - by the looks of it.

Mmm-hmm. Now, apart from those divers, and the divers that were in your group, at any time while you were underwater did you see any other diver - sorry, any other diver or divers?•• Not that I can recall, possibly but I can't guarantee I did.

At any time while you were underwater, did any diver come up and tell you that there were problems, that is to say•••••?•• No.

•••••a diver who was not one of your group?•• No.

All right. Now, what was it that Rob Webster, your instructor, do when he saw the two - two divers, did you see that?•• Yes, he swam away from the line towards them. He said - he signalled them, I can't remember what that signal - but the person had given okay sign back and then he returned to us.

Mmm-hmm. Now, I think also in your statement you say that you observed Rob find a weight belt on the floor of the sea and he picked that up?•• Yes.

All right. Now, am I right in assuming that you haven't given a great deal of thought to what happened on this eventful day after you returned to England?•• No.

Does no mean that you had given it a lot of thought or that you haven't?•• No, I - I tried not to really think about that.

In terms of being - giving is your advice to the Coroner that what you said in your statement is a true and accurate record of your memory of what you saw during the course of that day?•• Yes.

All right. Now, Karl, if you'll just wait on the line, there could be some other people that would like to ask you questions. They'll introduce themselves to you first and then they'll ask you questions.

CORONER: Mr Walters.

MR WALTERS: I have no questions.

CORONER: Mr Zillman, thank you.

MR ZILLMAN: Mr Diggins, Zillman's my name, I've got just a few questions for you?•• Okay.

Can you tell me how far from you the two people were as they passed you coming to the surface? I understand from your evidence, you were going down the rope•••••?•• Yes.

•••••making your way down in the company of your group when these two persons as it were, passed you on the way towards the surface, is that right?•• Yes, yes, it was, yes.

So how far from you were they as they went past?•• Maybe two, three metres.

All right. And I appreciate it you don't have your statement with you, but you made an observation that the male was using his spare mouth piece, and as you say in your statement, "And I saw it was in her mouth"?•• Yes.

Do I understand from that, his [indistinct] regulator was in his and his spare was in the mouth of the woman?•• I - I saw two mouth pieces [indistinct] could not tell you it was the main one or not.

But one was going to her mouth, one was to his?•• Yes.

Okay. When you saw them coming up, she was on her back, is that the case?•• Yeah, she was not - she wasn't assisting with the swimming.

Right. But I'm reading from her statement, you say relevantly these things•••••

CORONER: Sorry, you said "her statement" I think.

MR ZILLMAN: Sorry, your statement.

CORONER: Yes.

MR ZILLMAN: I saw her eyes were closed, her body was loose as he was holding up - her up, rather?•• Yes.

She was on her back?•• Yes.

Do I understand from that she was, if you like, parallel to the surface?•• I saw [indistinct] diagonally going up to the surface, but wouldn't have been straight up.

I couldn't quite hear you?•• Sorry. [Indistinct] was diving - they weren't swimming straight directly upwards, they were going quite diagonally upwards.

All right.

CORONER: To the perpendicular.

MR ZILLMAN: But was she more horizontal than vertical?•• Yes.

All right. Did you see the weight belt recovered?•••••?•• I saw it when Mr Webster picked it up.

Was - yes, but did you see it as he was picking it up, that's what I'm understand?•• I saw him with it - him - him picking it up.

Well, did you - did you see basically where he was when he picked it up?•• We were in the same location when he - he had it, so I assume he had picked it up when I was there.

Well, what I'm trying to find out, I suppose, is this; where the weight belt was relative to the Yongala. From what you saw, are you able to through any light on that?•• I would, if I can remember correctly, it was near the end of the - the end of the Yongala, so it be at the back of it, I believe.

When you say the end, do you mean?•• Well, we•••••

Wait on, wait on, I'll - we'll just try to get our bearings here. The line that you were going down when you commenced your dive?•• Yep.

Took you to the bow of the ship, do you know that?•• It did, okay.

Well, I'm telling you it did?•• Sorry, yes.

And there was another line at the stern as well?•• Mmm-hmm.

I want to know as best you can where Rob was when he picked up these weights relative to the bow?•• I would say that because [indistinct] because we went round the bow to start with and [indistinct] out on the stern to do a [indistinct], so by the time we returned, that would've been [indistinct].

All right. Well, how from the stern do you think it was?•• I couldn't tell you.

All right, that's okay. That's all I have. So just hold on for a moment, someone else might want to ask you something.

CORONER: I - I just want to know when he observed, which line was he coming down from - I - I wanted to clarify whether there was a line attaching the Jazz II to the wreck, there's an actual drop off point, there's a line that comes down to the stern, can we just clarify that with him?

MR ZILLMAN: Yes.

CORONER: I mean, it may be in the statement, I haven't been able to locate his statement, that's the.....

MR TATE: We may have a copy, your Honour.

CORONER: I'll find it.

MR TATE: Karl, just wait on a moment.

CORONER: I think just check that on the statement, I don't want to confuse him any further.

MR TATE: Your Honour, we - we'll be able to pull up.....

CORONER: I've got one here, if you can just tell me the number - couldn't find it.

MR WALTERS: On the bottom of the first page of his statement seems to be a description of the rope he was descending on, your Honour.

CORONER: Well, could we just read that out, please?

MR TATE: Yes.

CORONER: Thank you.

MR TATE: Karl, we're just trying to ascertain where - where you are with a bit more certainty?.. Yes.

My understanding is, and tell me if I'm right or wrong, was that there was a line going from the back of the Jazz II through to the bow diver access point?.. Yes, it - it took us to the main - going down point.

All right?.. There was one - there was one point [indistinct] where that we went down which we were attached to that [indistinct] gets you there - to the point - to the buoy that took us down.

That's all right. So, am I right in saying to you that your group with Mr Webster entered the water from the rear of the Jazz II?.. Yes.

Am I right then in understanding that you went along the line which was near the surface?.. Yes.

From the Jazz II through to the bow diver access point?.. Yes.

That's correct?.. Yes.

You then - am I right in then understanding that you went down the rope from the surface buoy diver access point?•• Yeah, that's correct.

Now, at some point under the water about five metres down, do you recall that there were two lines, one that went to the bow of the wreck•••••?•• Yes.

•••••and the other that went down to the ocean floor?•• Yeah.

Is that correct?•• Yes.

Now, which rope did you and your party go down, was it the rope to the wreck or the rope to the floor, sea floor?•• I believe rope to the wreck.

Rope to the wreck?•• [Indistinct] I - I - it's not clear in my head.

No. Not clear in your head?•• No. I believe it was to the wreck and then believe we were - we dived down to the sand ourselves, but I can't quite clearly remember that.

All right. Now, having got that far, would you mind if I read the relevant parts of your statement to see whether that refreshes your memory?•• Of course.

You say this; "There was a" - and I'll just paragraph phrase; "there was a boat at the wreck as well. When I got in the water for the dive, I saw that there were other people in the water from the other boat."?•• Yes.

"They were below us", do you remember that•••••?•• Okay, yep.

Now•••••?•• Yeah, I - I remember making that statement.

Yes. Now, do you remember today about those divers or is it just too long ago and you don't really have any recollection? If you don't remember•••••?•• I don't have any recollection now.

I'm sorry?•• I don't have any recollection of that now.

Now, you say that; "I was descending and we stopped at five metres and then went down to 10 metres"?•• Yes.

"The two boats are moored about 20 metres apart, but everyone uses the same rope to dive down to the wreck"?•• Yes, that's what I believe.

So that - that's lending support to your memory that you were going down the rope to the wreck?•• Yeah.

"We were you using the rope to go down and I saw a male person bringing a female person up. She looked as though she were unconscious."?•• Yes.

Now, when you saw that happening were - did you have your hand on the descent rope•••••?•• Yeah.

•••••or were you swimming further away? Whereabouts were you?•• No, we were - we were still on our descent rope - descent rope going down.

All right?•• We hadn't quite finished going down to the end yet.

All right. Now, I think you've said that you've given an approximate distance between yourself and two people going up?•• Yes.

In giving that evidence today, do you have any clear recollection at all or is it just a guess?•• The distance - I saw them clearly [indistinct] I believe though and it - it - you could see about five - eight metres, but they weren't that far away.

All right. So, it's no further than eight metres?•• No, there - the we could see down was about eight to 10 metres, I believe.

All right. And you feel that they were much closer than that?•• Yes.

Now, I think you said in answer to one of my friend's questions that they - and tell me if I have this wrong, that they were swimming up diagonally not•••••?•• Yeah, they weren't going straight up.

All right. Now, were - when you say, "diagonally," were they swimming up towards the - were they going towards the wreck or away from the wreck towards the bow, towards the stern or you don't know?•• They started on the - well, on the left of myself we were going straight across us as such and going towards the surface, so I'd say from the stern to the bow roughly but not straight - pretty much straight up but not.

All right. So am I right when - are you telling us that they were really keeping the same distance from the diver access point or were they coming towards the diver access point or you're not clear? It's just that we need to try and•••••?•• I'm not - I'm not - I'm not clear on that.

All right. Okay, thank you. But do you have a recollection about seeing any divers - any other divers except those in your party and the ones that you've mentioned in your statement? Did you see anyone else?•• I saw some divers on the surface.

Yes?•• But I can't recollect anybody under me until afterwards.

Thank you. Your Honour, I think that's probably as far as we can take it.

CORONER: Anything arising? Thank you very much for your time today?•• Thank you.

Now, have we got different phone call for the other person?

MR TATE: And it's Mr•••••

CORONER: Thank you very much for your time today, will you please, at your convenience, disconnect the phone?•• Okay, thank you.

Thank you.

WITNESS EXCUSED

MR TATE: Should be Mr Bennett, I think next, your Honour.

CORONER: Christian Bennett. Now, what's his number. I usually have these statements ready when they come and this time I couldn't - number 111, thank you.

CHRISTIAN BENNETT, AFFIRMED AND EXAMINED VIA TELEPHONE LINK:

MR TATE: Could I ask you please for your full name?•• Yeah, my name's Christian Bennett.

And Christian, what is your current occupation?•• I'm currently a roving underwriter for a company called Money [indistinct].

Thank you. And your current address?•• It's 8 Arthur Close in Bagshot, Surrey and the postcode is DU195MT.

Now, if I can take you back to October of 2003, I understand that your proper occupation was that of tourist and you were a - a backpacker going around Australia?•• That's correct, yes.

And you'd been in Australia about four months when you went out to the Yongala wreck on the Jazz 11?•• That's right, yeah.

Now, we know that Tina passed away that day and later in the - later in the evening you went back to Townsville and you gave - talked to the police and gave them a statement?•• That is correct.

Now, do you have a copy of your statement with you?•• Unfortunately I don't.

Have you had an opportunity of reading your statement in recent days?•• Not recently but the last time I read it unfortunately was when I was contacted originally which is probably a couple of years ago by the police. I can remember vaguely what was in it though.

All right. Now, you do remember talking with the police that evening?•• Actually, yes.

And I take it that you were open with them in your discussions about what you remember?•• Of course. Yes, absolutely.

And if you signed any statement you would have been satisfied that it was accurate and truthful?•• That's right, yep.

All right. Now, how's your memory today about those events in October 2003?•• It's - I - I - I'd like to think it's relatively clear to be honest with you. Unfortunately, I - it's obviously - it's four years ago but I mean - yeah, no - no, I believe I can - I believe it's relatively clear with the situation so it should tally to - to anything that - that I wrote in the statement so, yeah it's - it's - it's all right.

All right, good. Now, I'm going to read paragraph three of your statement so

that we're all on the same page?•• Sure.

And you tell us - you tell us this, "On the 22nd of October 2003, we left Magnetic Island at approximately 7.20 a.m. and went out to the Yongala wreck aboard Jazz II. I was wanting to obtain my advanced dive ticket. We have been doing our course with Pleasure Divers." Do you - do you remember talking to the police about that?•• That's correct, yeah.

Now, at approximately - you then say in paragraph 4, "At approximately 11.30 a.m. my buddy, Karl Diggins, and I entered the water and commenced our pre-dive checks. There was a whole group of us, approximately nine in total, that dived at the same time."?•• That's right.

Now, am I right in assuming that that dive commenced somewhere on the Jazz II?•• That's correct, yeah, that was our dive boat that took us out, so yeah, we entered the water from that boat.

All right. Now, can you tell me briefly, when you talk about pre-dive checks, was that done in the water or on Jazz II?•• A little bit of both, to be honest. You sort of - before you - before you enter the water, obviously there's a couple of checks, final checks, just to make sure your gear's all - all up, and then once you're in, just you sort of orientate yourself with regards to - to where the boat is et cetera. Last check is sort of your regulator, your spare regulator, and then - and then off you go really. So it's sort of a mixture of both.

All right. Now, was there a line from the Jazz II that you followed?•• Yes, yep.

All right. Now maybe you might like to tell us where - where you went. You followed that line and then what did you do?•• Yeah, basically, it's quite a - our boat, the Jazz II, as far as I can remember, is quite actually close to the - to the bit where we - where we began the descent really. So obviously there's a [indistinct] you follow to a buoy, and so once you're in the water, you grab hold of the line and you make your way across to - to the buoy basically, which is - the - the line takes you all the way there, and once you're there, there's sort of like a, you know, a final sort of, you know, "Okay, guys, this is it, we're going down", type of thing, from the instructor, and then it's literally a case of - of beginning your descent. So, taking the air out of your BCG, and

then - and then you just being your descent. So you - you submerge yourself and obviously it's quite a long - I think a 40 metre dive - so we just - just began our descent. It - it's very straight forward. So just swim to the boat, to the buoy and then - and then down we go.

Now, am I right in saying to you that there were two ropes, one that was going straight down to the sea floor and the other one a rope going off to the wreck, the bow of the wreck?•• I'm not a hundred percent, to be honest with you, on that. I couldn't tell you for sure. I - I would imagine so because of the buoy and the actual - I know that something was attached to the - to the back of the boat, which was the marker, but I couldn't tell you exactly there were two ropes or not.

You went down the bow diver access point?•• Say again, sorry?

You went down the bow diver access point from Jazz II?•• I can't - I couldn't tell you, I can't remember.

All right, okay. But so far as you recall, am I right in saying you went down the rope that was taking you to the wreck?•• Absolutely, yep.

Yes. Now, let me read this part of your statement out - it's paragraph 6 - or perhaps before I do that, in paragraph 5 you - you said this: "I would describe the conditions as being calm with a slight current. Visibility was extremely good, up to 17 metres or so. It was perfect weather really."•• Yeah, I'd say it was, yeah, very good. Under water it was - it was really [indistinct]. There was a slight - yeah, there was a slight current as you - as you got to the - when you left - right down at the bottom actually, but, yeah, no, it was great - great conditions.

And do you recall now where the current - you've told us towards the bottom - where that was going?•••••?•• No, no, the current all the way, all along, but I just - I remember at the bottom, when you came up over the boat, there was - it was slightly stronger, but, no, the current was - you were aware of it all the time that we were - we were descending.

All right. Now, you say this: "Karl and I got about 10 metres down. We were guided down by a rope. I observed a person, who I thought was a male, guiding a female person back to the surface. I observed that she was being made buoyant, her back was towards the seabed, and I observed that the male person was holding her regulator at her mouth for her. I observed that she was wearing a standard diving wetsuit. I could tell it was a female because she had long blonde hair. I did not recognise this lady and do not know her name."•• That's correct.

Do you recall - do you recall seeing that?•• Yes, absolutely.

Now, there appears to be quite a number in your group, about nine in all; do you remember where you were in your group? Were there more - sorry, that's not a good way of putting it. Of the nine, where were you placed in the queue going down the rope?•• Going down the rope?

Mmm?•• I - I couldn't tell you that, I've no idea. That's, yeah, a little bit too long ago for me to remember, unfortunately.

That's all right. Now, can you tell me this: do you recall at what point in the body of water you first saw the man and the woman going up to the surface?•• Well, I'd have to say - how far down they were?

I'm sorry, I didn't quite hear that?•• You mean how far - how - how deep they were?

Yes?•• Yeah, well they were - when I saw - when I saw them, when I - that paragraph in my statement, when I saw them, they were probably five, six, seven metres below me, maybe. So if I was 10 metres down, I'd say maybe 17, 17 metres maybe.

All right. And in terms of how they were going up to the surface, were they going straight up to the surface or were they swimming on some sort of angle?•• Well, I would say - I think - like I don't - I think he was attempting to go straight [indistinct] carry - he was - he had - he was - she was on her - with her back to the floor, so he was supporting her from underneath, I believe, so I think there was a slight diagonal ascent, but, you know, I think it was just a case of he was just sort of swimming up as much as possible. So it was a direct route, yeah, I'm just - I'm not really sure - maybe a tiny angle, two or three degrees, over, but, yeah, he was going, certainly going for the surface.

Now, from your perspective, did it look like a rescue dive? In other words•••••?•• Well, I remember•••••

•••••a rescue ascent?•• I remember - I remember at the time not really clocking it as - as anything particularly untoward. I remember, you know, being completely naive with it and just thinking she's actually doing a roll. Look, I didn't really - I wasn't focusing on the - on the surrounding areas, to be honest, so I saw her, that's all, but didn't really pay any attention to it for what it was, unfortunately. I naively thought that she was doing a - sort of like turning upside down to look above and he was just holding her regulator in. Obviously that's not the case. Common sense, she could have just bitten down on her regulator if she wanted to do that. So I literally - it was a glancing - a glancing sort of pass - I saw her, clocked her - just noticed that her - basically her eyes were closed and she had hair, enough to see sort of what I said in my statement with regards to the long hair, et cetera, but then that was it, it sort of - I sort of dismissed it, I wasn't really paying attention to it. So, looking back, you know, you can see that he was definitely trying to get them to the surface, but I didn't realise the - the preceding events, obviously, so I didn't realise at the time it was a rescue dive. But, looking back, and knowing, you know, the fact that she had unfortunately sunk to the bottom, then you could definitely say that, yes, he was taking her to the surface as a matter of urgency.

Right. Now, I think subsequently your instructor went off to try and help or some such. Did you see that?•• I didn't see that. I seem to - my - my main memory of that is actually when we sort of reached the - the bottom, her weight belt was - was there, and I think it was my instructor who actually picked the weight belt up. I'm not sure. I don't - I don't remember him actually going to - to - to help them, to be honest, but then I'm obviously under water and I couldn't remember - I can't remember - you look sort of - all look relatively similar. But I remember - I remember - I'm pretty certain it was my instructor who picked up her weight belt off the - off the sea bed.

All right. Now, I don't want you to guess on this and if you're not clear, you need to say, "Look, I'm not clear, but I can give you my best guess" or, if you're clear, you can say, "I'm pretty clear and this is where I reckon it was."?•• Okay.

Can you - can you help us understand where you saw your instructor pick up the weight belt from the sear floor?-- Yeah, well, I'm not 100 per cent clear, but

if I remember correctly - see the think is, what I can't remember is whether we were at the front of the boat or the back of the boat when we descended, so wherever that buoy took us to, which I seem to remember I - I thought it was the back of the boat, the back of the Yongala wreck that is, sorry, the bow was pretty much like directly sort of underneath there. It was sort of in line with - with where the line had taken us to the wreck, so say another - obviously the buoy is tied to the top of the Yongala and then there's the - the Yongala itself is probably, I don't know, 5 or 6 metres high to the seabed and it was roughly sort of in that vicinity there.

Would it be fair to say that you - you have some difficulty actually - without some aides over there, can you - can you be any clearer or.....?-- Well, like you say, unfortunately I - well, it was - it was by the boat, but unfortunately what I can't remember is whether we - we actually - we where - where we descended was the front or the back of the Yongala. If it was the stern of the boat, then like you say, the bow was, you know, in the stern - the stern region, just underneath basically. It was - it was in line with where we came down, where we descended to. It wasn't that it's got - it was further along, it was in line with where - where - where we descended to.

All right. Now, Christian, if you hang on there could be some other questions for you?-- Of course, yeah.

And whoever's going to ask you some questions will introduce themselves to you first?-- Okay, fantastic.

CORONER: Mr Zillman, I think you're the only one.

MR ZILLMAN: No, I haven't got any, thank you.

CORONER: Thank you. Thank you very much for your time today?-- Okay.

Thank you indeed. At your convenience could you please disconnect the phone, thank you?-- Of course, yeah. Thank you.

WITNESS EXCUSED

CORONER: Well, gentlemen, we shall adjourn until tomorrow morning. What time?

MR TATE: I think the consensus seems to be 9.30, your Honour. That seems to be it.

CORONER: All right. Okay. Well, at the end of tomorrow we

need to find out where we're going.....

MR TATE: yes.

CORONER:in relation to additional time and how much we think we need to set aside, but I'm fast coming to the conclusion that should be the week before the 28th. It should start on the 21st because that'll give us five days.

MR WALTERS: Your Honour, I've got a three day matter starting the 21st.

CORONER: Well, it's got to be the 28th then. It'll have to go along if it's more than four days.

MR ATKINSON: Well, your Honour, just to put on the record, I still think that it will take more than four days. When one looks at the - the schedule that's been helpfully prepared I've counted 24 witnesses for those four days and at the moment we've got a batting average of about four witnesses per day.

CORONER: Yes. But look, if we go into February we're really going to cause inconvenience to a whole lot of people in relation to other inquests that I know have been set down and other commitments that people have. Mr Zillman, have you got commitments in February?

MR ZILLMAN: February I have, but I can do the week of the 21st and the week of the 28th. Sometimes you have to rearrange your diary anyway when these things happen.

CORONER: Yes, okay. Well, the other thing that I'm concerned about is that witnesses that we know we have to deal with, the retired professor and also the young man from yesterday - or last week, they're available towards the end of the month and early - and not in the middle of the month and then they may not be available in February, so we're going to have to get them.

MR WALTERS: Your Honour, if we're left in a situation where it's difficult I'll just get somebody else to do that other matter which.....

CORONER: Yes, I think.....

MR WALTERS:or it might even be enough time that the Court might accommodate the change of date.

CORONER: Well, could - could you put that in motion 'cause.....

MR WALTERS: Yes.

CORONER:I think we should start really seriously looking at the week commencing the 21st. I hope we can finish in five days, but we'll go on the next occasion until we finish.

MR WALTERS: Yes. Look, I'll - I'll make alternative arrangements for that other matter.

CORONER: Thank you. Well, let's look for the 21st tentatively, okay? Thank you. I'll go and make some arrangements. We'll adjourn until 9.30 in the morning. Thank you for your assistance today.

THE COURT ADJOURNED

CORONERS COURT

GLASGOW, Coroner

TOWN-COR-00000124/03

IN THE MATTER OF AN INQUEST INTO THE
CAUSE AND CIRCUMSTANCES SURROUNDING
THE DEATH OF CRISTINA MAE WATSON

TOWNSVILLE

..DATE 27/11/2007

DAY 7

THE COURT RESUMED

CORONER: Please be seated, good morning. Yes, Mr Tate.

MR TATE: Thank you, your Honour. Your Honour, I think we've reached the stage where the senior constable is in cross-examination from my friend. Perhaps it might be helpful if I just indicate the proposed order of witnesses for today.

CORONER: Thank you.

MR TATE: Of course it is to conclude the evidence of Senior Constable Kinghorn. We then move to the evidence of Sergeant Law. Then hopefully we should be able to put in Robert Webster, who your Honour will recall was the instructor from the Jazz II.

CORONER: Yes.

MR TATE: There is then a further police officer, Senior Constable Ricky Murdoch who is also one of the police divers on the re enactment.

CORONER: Mmm-hmm.

MR TATE: Then depending on how time goes, Craig Haslett and lastly, Baront Paynter. So that's the.....

CORONER: Order of the day.

MR TATE: Well, certainly the possibilities.....

CORONER: Okay.

MR TATE:for the day, your Honour.

CORONER: Well, we intend to have the two witnesses, the police officers, the Federal police officers.....

MR TATE: Yes.

CORONER:do their evidence this morning and go.

MR TATE: That's so.

CORONER: Yes, that's good.

MR TATE: Yes.

CORONER: And I think we were at - at a stage where Mr Zillman was cross-examining.

MR TATE: I think that's right. If I may just before Mr

Zillman rises; just for the convenience of your Honour and also the parties, in terms of the dive re enactment, the relevant exhibits are these: the videos your Honour was watching yesterday is Exhibit 109, there are a number of still photographs that were also taken which have not been viewed in this process; they're Exhibit 108. The report from Dr Stieglitz that was discussed yesterday, your Honour, is Exhibit 103. The tidal information discussed yesterday is 106. The running sheet which the senior constable is taking us through is 104, and the only other document that hasn't been formally identified by the senior constable is Exhibit 105, which is the operational order which sets up the particular task. But I can just deal with that briefly when my friend finishes, thank you, your Honour.

CORONER: Thank you. Yes, Mr Zillman.

JOSHUA KINGHORN CONTINUING EXAMINATION:

MR ZILLMAN: I want to return to this issue of the tests that you did concerning the regulator and the - the mask?.. Yes.

Did you do that on the basis that the - well, you tell me, that's the easier way. You tell me on what basis; what - what assumed facts did you proceed on?.. Basically the facts that were given in Mr Watson's statement, the fact that he lost his mask, had to put his mask back on, find his regulator, bput the regulator back in.

All right. So the mask came off?.. The mask came off.....

Right?..and the regulator was knocked out of his mouth.

Okay?•• Then he located - he had to find his mask, found his mask, mask was put back on, the mask was cleared and then he - at - after he realised the - when he - when he cleared his mask, he realised he didn't the regulator in his mouth.

Yes?•• And then located his regulator and put it back in his mouth.

Okay. And when you say the statements he made, what statements or statement did you have for that exercise?•• They were - would've either been his record or interview or the transcript and or his statement.

Well, that doesn't help me much, I'm just wanting to know what you had?•• It was either - it was both of them.

Well, there's been a number of statements as it were or interviews, I just want to know which ones of - of•••••?•• Well, I don't know which one it was, it was over a year ago, well and truly over a year ago.

CORONER: I thought he said in his evidence-in-chief that he had the statement given to the - either the witness to the police in Townsville and he had the record of interview.

MR ZILLMAN: Okay. There were•••••

CORONER: And are two separate, [indistinct] I thought the record of interview was taken in the United States, well they call record of interview, the interview in the United States. That's the way I'd [indistinct]. And the - the statement that they gave to the police here in Townsville, but I maybe wrong. There were two statements.

MR ZILLMAN: Well, the interview in the United States wasn't until this year, so•••••

UNIDENTIFIED SPEAKER: I thought he•••••

CORONER: No•••••

UNIDENTIFIED SPEAKER: •••••may have been dealing with the second statement where he went•••••

CORONER: That's right, the record of interview was here, that's what they talked about, wasn't it. There was one statement he gave and then he came along and gave another statement.

UNIDENTIFIED SPEAKER: Yes.

WITNESS: Yes, that's correct.

CORONER: He wouldn't - they wouldn't had the one from the United States, 'cause it's with [indistinct].

UNIDENTIFIED SPEAKER: No, that's how I - I thought [indistinct].

MR ZILLMAN: Excuse me, I'm just trying to isolate those statements. Just for your information, senior, there's a signed statement of 22nd of October 2003, you have that document?•• I - whatever statement he made, written statement and the record of interview, that he came back a few days later and gave to police, I have the transcript of that.

Right. There's - beyond the statement on the 22nd of October, there was a recorded interview between he and Detective Senior Constable Gehringer on that date, did you have that one?•• If that's the - yep. If that's the record of interview, the transcript of that.

And the there was a further interview some days later on the 27th of October and - I missed - meaning to check, but that was between - again between Detective Gehringer and also involving I think Constable Lawrence, did you have that one as well?•• I believe - I'm fairly certain I had both. I had all the material that was - the record of interview that was done within the transcripts of that, and a statement, the written statement.

Did you ever attempt to test where the regulator was knocked or not in place, but the mask was in place, but with water in it?•• No.

I take it that would be an easier exercise from what you told, to clear the mask in those circumstances?•• Yes, it will be.

All right. With respect to the tests that were being performed, and I think there were at least four of them where you went into a limp state and then simply drifted away or sank on•••••?•• Yep.

•••••to the wreck line at the bottom [indistinct] might be, remember those tests?•• Yes.

The assumption, I take it, from what you did, was that at the point of tina's release from the hold of Gabe Watson, she was limp, otherwise not moving at all?•• When we did the - yes, that's right, yeah.

Yes. And so that assumption arose from - from what?•• From - just from the information that was in the statements given, in the material that we had.

So again, it was the - the same statements and interviews that you referred to before?•• Yes.

And I take it you're not able to isolate the passages now without reading through them all again?•• No.

So if we undertake the exercise of reading through them all, we would find the statement by him that she was seemingly if you like, lifeless at that point; in other words, not moving at all, just you know limp state?•• Yes, I'd believe so, yep.

Because again, and I'll come back to it, that was the very basis of your - your tests?•• Those particular tests, yes.

And the initial tests that you did, they were at a point above - directly above the - the wreck itself?•• Yes, they were.

And again I take it that was on the basis that you - or the assumption in doing the tests in that fashion, was that that's where the respective persons were at the times the event happened?•• Yes, that's correct.

But some other tests were done just in case that information might've been wrong, where you went up to the point beyond the bow of the ship, is that right?•• Yes, that was at the direction of Sergeant Campbell, yep.

But otherwise the underlying assumption was that when the events happened he was directly over the wreck.....?.. That's correct.

.....or the two people were?.. Yes.

And again in terms of the deck, as I think we've agreed already, there is a protection from the current once you swim down and go beyond the upper limb, if you like, of the ship?.. Yes.

Just pausing there, if the current was blowing directly bow to stern.....?.. Mmm.

.....that really wouldn't offer any protection; would it?.. No.

So, it would only offer protection if it's blowing, in some way, from the - basically to the west - to the east?.. Yeah, across the - yeah.

Across?.. Yeah.

And on this day was there a noticeable difference, at least, in terms of current flow. At that point you swam down beyond the upper limb of the deck? I should say on this day because there were a few days but.....?.. Yeah. I - like the currents on that day they weren't - they weren't strong by any means.

No, I'm not saying there were?.. So.....

I'm just wanting to know whether - your experience at least and appreciable.....?.. Yeah.

.....protection once you got down beyond the rim of.....?.. Yep.

Upper rim?.. When I got onto the boat I didn't experience any change in current or anything like that after coming down the diver access point and directly onto - or I don't recall any - any current on that day.

All right. Well, essentially.....?.. Or extreme.

In other words the conditions on the days you did these tests.....?.. Yeah.

.....were the same below the rim of the wreck - that's the upper rim of the wreck as against the - the space above the upper rim of the wreck?.. Yep, that's coming from in front of the wreck though down onto the wreck, yeah. It's a - yeah. I suppose if there was a current it's - it's a bit hard to judge when you're not - you don't have the wreck. If you're coming down you're basically in mid water coming down and because I was descending at the time and I had a focal point where I was heading to I - I did not notice any current from any - any direction.

Well, from that answer you seem to be leaving open effect that there was a current above the rim of the wreck that you didn't notice?.. I don't know - there could have been I - I don't know.

All right. Anyway you did your tests on the basis that at the relevant times they were below the rim of the wreck?.. Yes.

When - I know this - and just tell me if you agree with this. In the third drift dive, that's the one from, I think, the bow, you might want to check your order log?•• Yes.

Your - your arms, I suggest were making some level of movement at least as you were in the drift exercise; do you know that?•• I'd have to see the video again but•••••

All right, we'll do that. Would you mind setting it up and just looking at dive number 3, that's the one from the bow.

VIDEO PLAYED

WITNESS: That's this particular dive?

MR ZILLMAN: Yes. Do you see your arms move as you're going down? Do you see them again there?•• And they're moving at that point there as I'm leaning on the ocean floor.

They were moving before that though; weren't they?•• And one or two sculls and that was only to keep me in an upright position. All in all there are probably three - three - like three sculling sort of movements.

Yes, that'll do for the moment. You can stop it there. Did you have information for the purposes of your tests that she was sinking in an upright position?•• The information we had, from the purposes of our tests, is that she had her arms up like that, sinking together.

That again was on the basis of the interviews with Mr Watson?•• Yes.

In other words that she was sinking in a - when she was in a position vertical to the ocean floor?•• No, the way I read it she was side on.

Side on?•• Going like that, yeah. Arms above her head.

Did you ever do - well, can you just pause there and just go back to one - one other issue too at this point. The bear-hug type test that we saw on there as well•••••?•• Yes.

•••••that was one when you and the other diver were in a vertical position as well?•• Yes, that's right.

What was the information that caused you to do it in that way?•• We asked Detective Sergeant Campbell if we could simulate a - just a bear-hug type movement. So, that's - that's the way we did it.

Well•••••?•• There was no specific - there was no specific instruction on how to do it.

Wasn't there?•• Yep.

So, you didn't do any tests where he was in a position horizontal and looking down, as it were, to the ocean floor, and the other diver beneath them looking up•••••?•• No.

•••••again in a horizontal?•• No.

Didn't try that one?•• No, the - the ones that we did are the ones that are on the video.

CORONER: Were - were you instructed to do a bear-hug underneath the arms of - of the diver?-- No. But•••••

MR ZILLMAN: There was some fiddling with the - the tank on that re-enactment, wasn't there, in the course of the bear-hug?-- With - in our•••••

Yes?-- Yeah.

And do you know the relevance of that?-- That was just - we were asked if we could just - in the simulation, if we could show - or show that it could be done - that that could be done. He could get•••••

To reach the valve?-- Yeah, to reach the valve and get access to it.

And did you understand the relevance of that?-- Yes, I do.

In other words, there was a theory that Mr Watson had, in the course of some sort of bear-hug, reached around and turned off Tina's gas supply?-- That's correct, yes.

So that was why, essentially, we see that sort of exercise, where the hands are in contact with the area of the valve?-- Yes.

All right. The weight belt of Tina was, in a sense, an integrated system, that is, it was in the vest, is that right?-- Yes, that's correct.

What were the weights, do you know?-- No, I don't know. There was a - before - before I dived there was a photograph taken of me with the weights, all the weights laid out exactly what they were, were the ones that I used.

CORONER: Well, they would be one of those exhibits, won't they, that we heard about this morning, photographs 108?

MR ZILLMAN: You say you were - you saw, I think, 3 pound weights, is that right?-- Usually?

Yes?-- Yeah.

Do the weights come in other sizes or is it always 3 pound?-- No, no, they come in different sizes.

Do they?-- Yeah.

All right?-- All - they come in all sorts of sizes, so•••••

Okay. So your tests were done when you then weighed - was it 77 and a half kilos?-- That's correct, yes.

And your height was - what was it, 167?-- One sixty-seven, that's right.

And as we've been told, her weight then was 63 kilograms, is that correct?-- I don't know what her weight was.

And 174 centimetres. You obviously don't know that either. But using the same gear, is that right?-- That's correct, yes.

Excepting the tank, is that so?-- The tank? The tank I used was 88 litre tank which is similar or probably - looks exactly the same as litrage in that tank there.

Well, if you're saying it was an 88 litre tank, I assume then there's different size tanks?-- Yes, there is different size tanks.

What do they range from?-- Well, there's hundreds of sizes, but generally it'll be about a 63 - a 63 litre tank which is a smaller tank and then your second - well, this is in the recreation world I believe, you have the small tanks which are 63 litre or the larger tanks which are 88.

All right. Are there any others?-- Well, there's hundreds of others. You can have twin tanks that are 6 litre, 7 litre, 12 litre, 10 litre.

Well, okay, but single - where single tanks are worn.....?-- Yep.

.....you wouldn't be going down with a 10 litre tank, I assume?-- No.

So what are the ranges in size that a recreational diver would use where it's one tank?-- Generally it'll be either a 63 litre tank or an 88 litre tank.

Well, that's generally, but I want to know if that's absolute. Are there others that from time to time.....?-- There could be, I don't know. I don't go recreational diving with recreational dive companies all that often, so.....

Is there any size tank between a 63 and 88?-- Yeah, there's plenty of tanks between those sizes.

And is there tanks in sizes between say 88 and 100?-- Yes.

All right?-- They generally - tanks between 88 and 100 are fairly big - fairly large tanks and generally you wouldn't - they wouldn't be used. I wouldn't think so anyway.

CORONER: Well, the tanks in question were supplied by Spoil Sport weren't they?

MR ZILLMAN: That's right.

CORONER: So that evidence they gave was - whatever that tank was there was the type of tank that was used. What's that

size?-- That appears to be an 88 litre tank.

MR ZILLMAN: All right. I've nothing else, thank you.

CORONER: Thank you very much.

MR TATE: Thank you, your Honour. Senior Constable, could I just very quickly

ask you to identify Exhibit 105?-- Yeah, that's a operation order that I compiled and that basically deals with the logistics of this job, the persons involved, the travel, all that sort of thing, as well it lists a timetable of things to be done.

So in terms of the reconstruction, or the drift dives that you've done, my understanding is that there is a group of pictures that were taken underwater?-- Yes, that's correct.

There's also the videos which we viewed yesterday?-- Yes.

You relied, I think, on Dr Stygler's report and you talked about that yesterday in your presentation?-- Yes, that's right.

There's also the tidal information that was obtained previously?-- Yes, that's correct.

There is the running sheet which you've discussed and refreshed your memory from?-- Yes.

And finally there's the operational order. Now, can I just ask you this, underwater you've shown us in the video you and the sergeant attempting various forms of bear-hugs or hugs and turning off the tank and so forth?-- Yes.

Now, I take it the purpose of that was to test whether or not it was possible to be done?-- Yes.

And your conclusion, I think, from yesterday was, yes, it could be?-- Yes.

Now, was there a reason - did you have any information to suggest at that point in time when you were doing the reconstruction that you also should have tried to go under the arms?-- At that point in time we didn't have that information, we were only asked to go over the top. But, I mean, we could probably quite easily re-enact it here with the dive gear that's in front of us and Sergeant Law is outside.

All right. Thank you, your Honour, that is this witness' evidence.

CORONER: Thank you. Anything arising? Well, thank you very much for your time yesterday and today, we'll certainly get you away today?-- Thank you.

WITNESS EXCUSED

MR TATE: Your Honour, might I just ask for a couple of minutes, primarily to see when this man needs to catch his plane?

CORONER: Yes, okay. And you've got his colleague to come.

MR TATE: It may well be, and this might be a question from my friends as well, worthwhile asking the senior constable to put the equipment on and see whether or not we can advance the videos yesterday by seeing whether it's practically possible to do that. But it might be something that my friends wish to make submissions about.