

RESUMED

[2.14 pm]

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COMMISSIONER: Good afternoon. I welcome you back for a continuation of topic 13, Community Engagement and Nuclear Facilities. Counsel assisting.

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MR JACOBI: The witness, Mr Christopher Larkin is a Kokotha man with over 40 years of experience working in government departments and agencies delivering programs and services for community, housing, health and land management in South Australia; particularly those focused on Aboriginal interests and issues. He has worked closely with Maralinga Tjarutja and Anangu Pitjantjatjara Yankunytjatjara (APY) communities over many years

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and he's in the shop on the immediate left. To his right is Mr Dennis Brown.

Mr Brown is the traditional owner of the Maralinga lands and has worked as a project officer for the Maralinga Tjarutja since 1988. He worked closely with Dr Archie Barton AM, the Aboriginal leader of the Maralinga Tjarutja community during negotiations with the Commonwealth and state governments relating to the contamination and rehabilitation of land from the British nuclear tests.

Along side him is Dr Scott Cane, a consulting anthropologist. Mr Cane has over 35 years of experience working in the field with Aboriginal people around Australia. During the 1980s, Dr Cane performed anthropological work with the communities affected by the British nuclear tests at Maralinga. He assisted Maralinga Tjarutja during negotiations with the Commonwealth and state governments regarding the clean-up, compensation and establishment of the trust fund to administer the compensation.

Mr Patrick Davoren has, since the 1970s, held a number of positions in the Commonwealth government departments advising on nuclear-related issues and strategies. Mr Davoren was the secretary of the Technical Assessment Group (TAG) established in 1986 to advise the Commonwealth government on rehabilitation options for the lands contaminated by the British nuclear tests. He also served as the secretary of the government body established to plan and implement the clean-up at Maralinga and Emu. In these roles he worked closely with Maralinga Tjarutja throughout their negotiations with the government.

Along side him is Mr Richard Preece, the Maralinga Tjarutja Council general manager. Mr Preece has worked closely with Aboriginal communities in a number of roles within state and Commonwealth government departments and agencies over 40 years. During the 1990s, Mr Preece was involved in the Commonwealth and state working group which conducted negotiations with Maralinga Tjarutja regarding compensation for contamination resulting from the British nuclear tests. He served as the general manager of the APY Council in 2013 and is currently serving as the general manager for the Maralinga Tjarutja Council.

Finally, Mr Andrew Collett AM, barrister, is the counsel for the Maralinga Tjarutja and Yalata Community Incorporated. The Maralinga Tjarutja is a corporation representing the traditional owners in relation to the management, use and control of the Maralinga Tjarutja lands in the far western region of South Australia. Yalata Community Incorporated is an association aimed at promoting the development of the Yalata community and their lands. Both bodies represent the people belonging to the same Western Desert cultural group. Mr Andrew Collett AM is an independent barrister in Adelaide who has provided legal advice for the Maralinga people since 1984. This has included

advising and acting for the Maralinga traditional owners in relation to the Royal Commission into British Nuclear Tests in Australia in 1984 and all matters which arise from it, including compensation, negotiating with the British and Australian governments over the clean-up of contaminated lands, the establishment of a compensation trust fund and the hand back of the rehabilitated lands to the traditional owners.

The Commission calls Mr Chris Larkin, Mr Dennis Brown, Dr Scott Cane, Mr Richard Preece, Mr Patrick Davoren and Mr Andrew Collett.

COMMISSIONER: Gentlemen, thank you very much for joining us. In my work prior to the Commission I had the privilege of visiting the Maralinga lands on a number of occasions and we did so again when the Commission started earlier this year. I note from first-hand accounts that Maralinga Tjarutja Aboriginal people were deeply unhappy about being displaced from their lands, about the health impacts upon them of nuclear activities, and unhappy in terms of the initial efforts to clean up the testing and the trial sites. Whilst these are not matters that will be directly addressed by the Commission, there are many lessons to be learnt from this experience.

I acknowledge the express statement of the MT people that is neither opposed nor supportive of the activities being considered by the Commission. Today I hope that we can learn from the experience of the Maralinga Tjarutja people. Today's public session brings together a number of the key figures in the negotiations to relate a series of themes about the essential elements of building confidence and negotiating with remote Aboriginal communities on issues as complex and difficult as the Maralinga clean-up.

The public session today draws upon their submissions which address the negotiation process of the clean-up of the Maralinga lands conducted by the Commonwealth, the state and Maralinga Tjarutja. I am grateful for the willingness of the MT people who have provided this relevant information to the Commission so that we can draw upon the key elements of those negotiations.

If I could start with the questions so that we have some context and perhaps I could address this to Mr Collett. Can you give us a brief outline of the issues that you've needed to address since and during those negotiations of the lands of the clean-up?

MR COLLETT: These issues faced the Maralinga Tjarutja just about from the day it started. In fact the Royal Commission in the British Nuclear Tests was called in August of 1984 and the Land Rights Act was passed later in that year. At that stage the Maralinga people knew nothing about the nuclear tests or the contamination. So the first issue through the Royal Commission was to find

out as much as they could about the history of the tests, how they affected Aboriginal people and, as emerged in the Royal Commission, the state of the land.

5 At the start of the Royal Commission, Maralinga Tjarutja had one of about
50 reports that were available of the Commonwealth. At the end of the Royal
Commission that had increased to about 500 reports once the British doors had
opened and MT got that information over the first year. So the first issue was
to work out what the problem was and then how to deal with it. Over the next
10 six years, until the Technical Assessment Group report in 1990 which made
recommendations for the clean-up, the community had to work out what was
the extent of the contamination and the nature of the contamination and how it
could be fixed, bearing in mind that it was a traditional community. So that
was the first issue.

15 Once a clean-up was decided upon, there was then the issue of negotiating
compensation for about 30 Aboriginal people who had been injured or
seriously inconvenienced during the test period: people had been dislocated;
people who suffered injury. Then there were the negotiations about what form
20 of clean-up there would be and what compensation there would be for the lands
that couldn't be cleaned up. There was a big issue in that because a total
clean-up would have cost \$500 million, a partial clean-up obviously less. The
community had to consider what they did and they ultimately opted for a
partial clean-up on the basis that a total clean-up would have added another
25 environmental disaster to deal with the first one.

The compensation had to be negotiated in a way which set up a trust fund. The
Maralinga Piling Trust was successfully set up in 1995 and still exists with all
its capital and interest to this day. Maralinga Tjarutja then had to cooperate
30 with the South Australian and Commonwealth government in the clean-up and
the clean-up took three or four years. It had one or two ups and downs and
there was a lot of negotiation involved in that.

35 Then, as you will know, Commissioner, ultimately that led to the hand back of
section 400 after some very extensive negotiations giving indemnities by the
Commonwealth to the state government of South Australia and to the
Maralinga people. The last negotiation we had was in a sense righting an
historical record and having the Woomera prohibited area removed from
section 400. That took place about two years ago. So it's taken about 27 years
40 to get through all of those issues.

COMMISSIONER: Thank you.

45 MR JACOBI: I just wanted to pick up, perhaps with you, Dr Cane, the nature
of the negotiating challenge that was really confronted at the outset of the

negotiations with respect to the clean-up activities. I'm just wondering perhaps whether you can give some context about standing at that point and looking outwards to what needed to be done, what the scale of the negotiating task was and what the issues that you envisaged then that you were likely to confront.

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DR CANE: I wonder if I actually can. I wasn't involved so much. I mean I was there as a - this is a terrible saying about my myself but I always thought the anthropologist is a bit like a camp dog; you can always hang around the community but not necessarily central to the activity. A lot of that earlier clean-up stuff you were more directly involved in that I. I mean I participated later on, when the clean-up had been completed and the negotiations to get the - - -

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MR COLLETT: Just the clean-up or right from the start with the - - -

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MR JACOBI: No, what I'm seeking to get at is that at the time of the decision, before the decision was made as to whether you'd do a full clean-up or a partial clean-up, just what the scale of the negotiating challenge was that was perceived to exist at that time and then how one was going to begin to tackle the extent of that challenge.

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MR COLLETT: Bit by bit was the answer. It was really a matter of finding out what the problem was first and then only then did the scale become apparent. As an example of that, a really important part of negotiations for the part that Pat was involved in when the Technical Assessment Group made suggestions as to clean-up options, that helped us to understand what all of the options were; some we hadn't thought about. Once we had those roughly six options, we then sat down and got independent overseas advice and we could flesh out what the options were. So I think we were lucky that we were never too ambitious. We set targets. What's the problem? How do we fix it? How do we go about getting advice? How do we deal with the TAG report? So we just took it in stages.

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DR CANE: I can add a bit there, unless you wanted to - I mean I was around the fringes of some of those meetings and the strategy on the ground - I mean always these negotiations are contextual and so the generational circumstances change. But at that time Maralinga - and it's different now - had obviously very strong leadership and the durable leadership of Archie Barton. He was an Aboriginal man who got the politics and got the strategies and if he gave his word, he delivered right up until the end, really, and so you knew for sure.

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You also had a situation where you had the first generation people from the bush who had been moved onto the coast and they were moving back. So they had a really active interest in the landscape and their country. So it naturally filtered in the contamination discussion. So they listened; they were really

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receptive. There was no politics about that. It was, "What's happening? What's happened out there? How do we get back out to our country? What do we have to deal with to do that, where we can and can't go?" So there were very actively interested rather than having a political interest particularly.

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On the tribal front, you had people like - there was a man now dead called Huey (indistinct) His great-grandfather, King Billy, was the boss of Noongar and was actually probably a boyfriend of Daisy Bates and he was very bright man and he got the politics and he could translate it to the community. So someone like me would be there to talk to him, like Brownie and I would talk. Brownie and others play that role a bit now. So you get a sort of filtered - you've sort of got the expertise filtered through you guys to people like Huey and Archie, filtered back into the community, but in the context of really active reclamation of rights and land. In other words, there was kind of an organic component and a real sense of - I can remember one meeting at the end there where it had been cleaned up and there was this I think a year and a half discussion about what sort of signs to put up and Huey was getting in saying, "We're not stupid. I don't care what you put up there, we're not going there."

20 It was like there was this sort of element of commonsense with a certain synergy of interest. It's slightly different now than you'll confront because the community is now - at Yalata there's been a generational change and the people who grew up in Ceduna now are a little bit kind of like over being in the bush and all alone, and you'll see the young people hanging around the public phone box hoping someone rings. But equally there's been a generational shift there and the last 10 years a problem of people drinking in Ceduna, but also now they're starting to go back again. So it's a matter of configuring whatever negotiations were there in the context of those experiences and you have to understand a little bit about them - or whoever - what comes post your inquiry, I guess, now to tailor those negotiations so they have some resonance. Sorry, I got off the track there. I'm not sure - - -

MR JACOBI: I just wonder, Mr Davoren, whether you've got any observation in terms of thinking about the nature of the issues that stood to be negotiated and discussed from the outset in terms of the sorts of challenges that you envisaged that you were going to confront at that point in time and looking forward.

MR DAVOREN: I can honestly say we didn't have a clue about how our negotiations with the Aborigines would go on the preferred clean-up option. In September 1990, we got a Technical Assessment Group report which came up with a range of costed options essentially going from do nothing to the skimming of tens of square kilometres of sandhills, which was right at the edge of practicability. In the middle was some options around a hundred million which dealt with the worst of the contamination and released areas of land but

with the capacity for part-time access, casual access, for hunting and things like that. That was a question that we had to get the views of Maralinga Tjarutja on, whether that land was of use for hunting. But the main thing was before we went to the British government, we had to know – had to agree with

5 South Australia and Maralinga Tjarutja what the Australian position was and that presented challenges for people in Canberra who are used to – used to think they could get an instant response from an indigenous community. And of course it's well known that if you were dealing with an indigenous

10 community early in the year, you have things like traditional ceremonies which can be a massive thing out at Oak Valley to deal with and there's no way you'll get a decision out of people during that time. So when you consider that from September of 1990 we had a report by about August of 1991 we had a considered view of both the South Australian government and

15 Maralinga Tjarutja and agreement on a preferred rehabilitation option that the Commonwealth government was able to consider in around August of 1991 and in November of that year we were in negotiations with the British government, so that went pretty well.

But I think the most important thing in getting to that point was having

20 independent scientific advice for Maralinga Tjarutja and I think that's something that might play out more broadly in to the Commission's deliberations. I think that's a valid idea, whether they're indigenous people or normal sort of landholders. I mean you couldn't reasonably argue that the people of ANSTO or the Australian Radiation Laboratory were going to give

25 you some skewed advice but I think there was much more community confidence once Maralinga Tjarutja were funded by the Commonwealth to go off and get their own advice. And it was interesting that when they did that, the Commonwealth's advisors said gee, they're good people, you know they picked very sensible and well established technical advisors.

30 MR COLLETT: The main one, the leading advisor was a radiation biologist from the Lawrence Livermore Laboratory in San Francisco - - -

MR DAVOREN: Henry - - -

35 MR COLLETT: Henry Kohn who had been the head of the Bikini Atoll rehabilitation committee which is why we sought him out but he was a man who already had terrific practical experience elsewhere in the world on this issue. And we expected that the government would recognise his credibility.

40 MR DAVOREN: We were also well served by the structure that was put in place by the senior people in the Department of Resources and Energy after the Royal Commission as part of the government's response. They set up two bodies, they set up the technical assessment group which was purely technical

45 and they set up the Maralinga Consultative Group and that involved officials

from the South Australian government, the Commonwealth government, obviously Maralinga Tjarutja and at that stage representatives of the British government and also the West Australian government because of the Montebello Islands' tests. And so we just had a pattern of consultation where everyone was kept in the picture, technical assessment group would have a meeting somewhere and then a month or so after we'd have a meeting of the consultative group and they'd be briefed by our chief scientist Des Davey and I think Des also played an important role because he had a particularly good relationship which developed over many years with senior people in Maralinga Tjarutja.

MR JACOBI: I was hoping to come to the structures that were involved in the negotiations and I'm just interested – and perhaps if we can deal with – with the Commonwealth first and that is, do you have a view about the significance of those particular structures to the success of the overall process? And I'll come to MT in a minute? Do you have a view about the importance of establishing a structure at the outset and whether that structure – did that structure need to change?

MR DAVOREN: It didn't need to change. Well obviously the players changed as the circumstances changed. I mean some people left and some people were added but it remained essentially the same all the way through and in fact it was such a successful structure, it was applied to on the projects. I mean it sounds sensible now but it was a bit unusual at the time and I think it helped enormously in getting the agreement of the South Australia and Maralinga Tjarutja to a preferred option.

MR JACOBI: I mentioned picking up on the structural separation between the technical advice and the consultative group. Could you explain how that interaction worked?

MR DAVOREN: Well, Des Davey it was through – mainly through Des Davey who was the chair of the technical assessment group and he was later the chair of a similar group for implementation of the clean up and he made a formal report to all of the consultative group meetings. There were – there's the representative of South Australian Health Commission, the radiological protection branch, Dr Jill Fitch, she had the opportunity to give a technical representation to South Australia and that's pretty much the way it worked.

MR PREECE: Can I add to that? I think there was a lot of fortunate things happened in this instance and it was early days in negotiating with Aboriginal people around the country and I remember the Northern Territory Land Rights Act, only happened 10 years prior. But there was a lot of fortune (indistinct) I was an observer on the Department of Aboriginal Affairs so Maralinga Tjarutja

was well served both by Dr Archie Barton who was a very strong leader and it had some really good advisors like Andrew Darcey O'Shea, Scott and so on plus its own people and there's a lot of sort of self-evident stuff. I mean there's no magic really. It's self-evident that if you go in to a negotiation trying to get the outcome that you think the minister wants, or an outcome that some private interest wants and you know they're only Aborigines and they're poor so they're not – they don't know much, it's all going to fail. But if you go into – to think that because people are poor, financially poor, they're dumb is a huge mistake. You know Aboriginal people are as smart as anybody and smarter about a lot of stuff because they've had a lot more negotiations about this sort of thing than most middle class Australians.

So it's self-evident that if you go in to a negotiation in good faith, you are really wanting to find out what the Aboriginal community is expecting and that you're not looking for an answer, it might – you might know of a convenient one but if you go – you're not going to manipulate the response, then you will develop the relationship and get an answer and usually a very pragmatic sensible response. If you go in saying I've got a business interest this, or the minister wants that, forget it. You are going to hit brick walls. And this group, some of whom here today, some who aren't, on the Commonwealth side, there was a really good bunch of professional people, they were scientists, not beholden to some minister, there was good advisors on the Maralinga Tjarutja side and the state government like it usually does, just followed along in the negotiations between the two and I think this was a very fortunate sort of formula that developed around this issue. I've seen similar issues in other locations that have just turned in to disasters because people manipulated the outcome or thought they were and it all – it all goes to mush later on as a result.

DR CANE: Can I lock in then and sort of take it down the chain (indistinct) expertise in the community. Again, my experience being there is a shadow really, was that information fed in to the community, Archie Barton was a general leader and he kept himself quite separate from the community. In fact, when he came to the community it was a bit like the Commissioner walking in to the room, it's like (indistinct) He had that sort of personal charisma but he had offsidars and Brand was one, right and you could (indistinct) guy who has just died, (indistinct) close brother really and he had a community which was mobile at that point. Oak Valley didn't exist and you probably don't know the terrain there but you've got the Nullarbor Plain and the line and this vast inhospitable desert.

The people live near the line and got food from the trains that came through but Dickie and Brownie would take food up all the time, so there was a constant conduit of communication and there's probably a bit of a cliché but nothing better, Aboriginal people in my experience like nothing better than talking about other Aboriginal people and they're big on politics and inter-family

disputes and what's happening and there's lots of scammy and talking which goes under the radar when you just have a public meeting. But with that dialogue at that time and an astute (indistinct) really to Archie, the information pervaded and then these guys would come for the more serious meetings and people would be across it, in the context of the tribal leadership with obvious (indistinct) and Baker who were just – were like the equivalent of the Commissioners. I mean they ruled according to traditional law and custom, they were powerful, they were strong, they hadn't been – become receptive or impoverished in any sense in their own ideology they were the senior law men. So decisions were made quite pragmatically and quite clearly with complete conversation where that might be different now but another – that was the situation. So you went in to a sort of – a group which had its own structures essentially strong and in place, so the decision-making was clear and reliable and effective. So you had sort of basically a nice balance of expertise on the west in the context of informed senior responsible men in the traditional context. I don't know if that's a reasonable summary.

COMMISSIONER: Can I just develop that a little bit? In terms of these two consultative groups, how as the Aboriginal community engaged? The community itself as opposed to the leadership within those groups? Was that led by Dr Barton?

MR DAVOREN: It had to be because to do the clean up, you had to work out decontamination contours on the ground. Those contamination contours were developed from estimates of dose to Aboriginal people, leading what was called a semi-traditional lifestyle so that naturally involved the engagement of project scientists and anthropologists with the Oak Valley community. So that they had to be involved, they saw scientists around them all the time and there was quite a deal of interaction there.

COMMISSIONER: So the information in terms of individual negotiations conducted – what I am also interested in was how the leadership engaged with the community? Is it in a traditional sense?

DR CANE: Yes, that's a good question because Archie wasn't an initiated man, so he was always subservient and – to those senior men but he was recognised as the boss when we had interface with the white people and in my introduction to that was in exactly that role. I was this kind of servant, I was the butler for those men and I would do (indistinct) I was told and they'd tell me what to do and they didn't know how to put that across in my little area, not so much in that – and that was the structure which they established. But it's also – and it's a trick probably to somehow get in the Commissioner's head, it's not so much that there are these definable structures and I know the western process thinks like that but what happens is everyone talks all the time. And I don't want to sort of patronise things but Aboriginal people miss nothing, right.

They'll sit in the meeting and go (indistinct) and you think they've got it and they're not interested or it's a hard thing to read but I would always, as an example, go to those meetings and sit next to Brownie, purposefully because I knew he'd position himself politically and strategically. So if I was with him, I wasn't going to offend anybody and I'd tap him for my information and Archie would tap him and Dickie would. And that's kind of how it plays.

Everyone sort of almost kind of (indistinct) about this because he's kind of a cunning sort of dude but the – Aboriginal people are always playing politics amongst themselves and so there's not necessarily a structure which you can define and tap in to but all the time, if you're providing information in a regular seemly way, seem is not the right word but accurately, consolidated way, it will get through to the community. The trick is to get that information to the community and now what tends to happen is everyone's busy and everyone's coming from all over the place, they fly out, have a meeting and go. Everyone goes what was that about? I don't know. That's the organic nature of the relationship.

MR LARKIN: Aboriginal societies (indistinct) are very complex about the relationship and those sorts of things and what we are trying to do here is simplify for you how the relationship between people who all – your people you have to listen to from father-in-laws to mother-in-laws, you can't listen to, or acknowledge and so there are defined relationships. And people who are father to brother's children, the paternal uncle, he's the father. So as part of that whole business about how you relate and listen for information of looking after your family in meetings, what you're saying now is how you gather how that person might react to that because it's also related to that bit of country or those sorts of things. Who are the person who's important for there, we'd better listen to them. But it's – I guess we just assume, we don't – we know who to talk to and who to listen to and then what we come up with, we don't sit down and dissect it like this, I don't think. And so to be able to now think yes, how do we go about that? But what your – yes, what you're focussing on is the one thing that Maralinga Tjarutja and all the experts and advisors were involved in which was huge. But at the time it also had lots of other people around who were saying, yes it's time this should happen, so the political fight the land rights, the – all those sort of things.

DR CANE: And it's also, a consequence of that, jumping in, too much of the longevity of the players, we're all getting old and we were all young when we were there and also through good advice or good luck, or good management, never really stuffed anything up. So you do get a bit of a bank of credibility which you can draw on and it's possible to go out and say look this will be fine, trust them, let's do it and it can be as easy as that.

MR LARKIN: A lot of it is luck – like you said, that all these people stayed

together, that this man was there - - -

DR CANE: (indistinct)

5 MR LARKIN: You'll be at the finish now and Archie and all Mr Day and all those fellows were part of it but you can't keep picking the intelligencia of any one group without investing in the next level.

DR CANE: Yes, exactly. I was going to add something there.

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MR LARKIN: And the bit that – I'm not talking about this process, I'm talking about generally, our community, we invest hours but generally community, who invest in the next leadership, all those sorts of things. We have done that in Aboriginal affairs for a very long time. And so when you –
15 somewhere recently where the premier said only Aboriginal people can fix this because we've tried and we don't get it right because the community chose who was going to lead their negotiation, not the government anointing people. So they'll choose me if I have credibility to come and talk, or yourself, or yourself. So now you can say it in a way that I'm not able to and that's an
20 important part of it.

DR CANE: And because – I mean everyone's kind of political on the ground and no one will stick their head up and get – well, go back a step. Because family is the core structure in Aboriginal communities, so you can talk to the
25 community but it's kind of an invention of history or Oak Valley's there, so there's a community but it's actually made up of families who have gotten weirdly complex and large alignments and not necessarily across the community. So the first part of the negotiation has to be at that family level. And in terms of a negotiating strategy which is kind of – to the extent you
30 could have a rule of thumb, there needs to be a fairly clear understanding of what the issue is that's being discussed. There needs to be a preparatory time where conversations, and you might be the person for the agency that's doing it. That spends time actually talks to – if ever I go to meetings which are complicated meetings and it doesn't happen so much in Maralinga now
35 because we all trust each other but in other places, I spend a couple of days up there talking to every family. Because some people are like really pissed off and that's going to come out at a meeting and fragment everything but if you can talk first, they get it off their chest and everyone finds out what the true situation. They go to the meeting informed.

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So that's like the second step is actually on the ground, face to face and it doesn't happen so much now because what happens is, it's more convenient for NRMs a case in point, to fly board members to somewhere which is convenient, Port Augusta or wherever and they attend the meeting a bit like
45 we're sitting down, they get given some papers which no one's read, they listen

to the meeting, they go yes, yes, yes. They go away with their TA and head home and that's actually the consultation process. So it has to be an on ground in the dirt discussion with people with an active interest. Then you go to the meeting, right, and the experts come and give a broad picture and everyone is
5 already across it and they've already have their arguments and abused you a couple of times and – but it's – that's done but then – so that's the sort of third step I think, I can't be on five but the last thing is then to follow up and that's all that you need, you make a commitment, you follow up. Whatever it is, we're going to put a road sign in, we're going to put a notice up on the board,
10 we're going to come back up and go out and actually visit the site in three weeks time. It happens, which is (indistinct) how often it doesn't happen.

MR LARKIN: Are you talking about all steps of unawareness to awareness.

15 COMMISSIONER: Yes.

MR LARKIN: Comprehension comes commitment. And from commitment comes action. We demand unawareness to awareness; we demand the commitment and wonder why the bloody hell there's no action.

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DR CANE: I sat down once with your commitment thing with Jeffrey (indistinct) who was a leader, he's dead now but just because I was really (indistinct) in the community, he was about to fly off to a land management meeting and I sat down with him and he had this big pile of papers and I was
25 going through them with him and (indistinct) didn't make sense to me and I think – we're just chatting like you and I might, and his partner Hilda just said, "You know Scottie", they call me Waddie (indistinct) along there, "that's the first time anyone's ever gone through those notes with him." He'd been going to these meetings for years, years. So I mean it's that level, it's kind of
30 actually pretty basic but there's an (indistinct) getting Aboriginal approval, going through the ethics committee and doing all the right stuff in terms of policy but on the ground, which is actually quite a pain in the arse sometimes because people are away, people are dead and there are ceremonies and you're about to go and (indistinct) but you just keep doing it. And it works.

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COMMISSIONER: Can I ask a general question? In terms of the complexity of the cleanup how much did Aboriginal people understand what was happening to their community? I appreciate at the leadership levels there would've been good understanding, did that percolate down in to the
40 community as well? Or was it more an issue of trust of the leadership?

MR LARKIN: I don't know. (indistinct) understood what was going on. I don't think they do at the time of the cleanup.

45 MR BROWN: I don't think – no.

MR DAVOREN: Community was involved in some parts of the cleanup.

MR BROWN: I don't reckon they knew what was going on.

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DR CANE: Do you mean like literally the sort of the – I mean because I don't really understand either what they actually did out there. In terms of the general level of understanding there was a contaminated area, that had been (indistinct) I would've thought they understood (indistinct)

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COMMISSIONER: What I'm hearing is an effective leadership?

DR CANE: Yes, absolutely right. But also an effective line of communication which may be was implied.

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COMMISSIONER: It was implied and I guess because of the complexity of what was being done, certainly the leadership understood that and the community followed based upon the faith of the leadership as opposed to the technical knowledge of what was actually being done.

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DR CANE: For sure.

MR COLLETT: I think there was a level of understanding that related to the way that we could communicate. So I think Brownie's right, I mean if we – if the community was asked, well what's the risk in terms of rads or redans or millisieverts, nobody does but everybody knew that there was poison there because those were the words that were used and everybody knows, Brownie tell me if you disagree, that you still don't go to section 400. Even though the sign says you can go there some time, but not full time, the community's formed a view based on the fact that it's better not to.

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DR CANE: And I think everybody was very aware that there was a conflict going on and negotiation and strategic approach to (indistinct) to get money out of them which would tidy it up and that the Poms should pay and that the community then will also get some compensation from it but that was all pretty well understood.

35

COMMISSIONER: Can I just follow the line of the compensation Mr Brown? Do you think the community had a sense that there was benefit as opposed to the extent of the benefit? Or was that again led from leadership?

40

MR BROWN: (indistinct)

COMMISSIONER: The understanding?

45

MR BROWN: (indistinct)

DR CANE: This is a team effort; this is exactly how it works in the bush. He knows but (indistinct) on TV and he doesn't want to speak up and his family
5 going to see it in Coober Pedy, so I'll say it and then everyone will say I'm an
arsehole. Right. That's how it kind of works. It's a team effort. So in terms of
the compensation, everybody thought – and you have to correct me if I'm
wrong, everybody thought that some people, you didn't go (indistinct) did you?

10 MR BROWN: No.

DR CANE: Were going to go and get 45 million out of the Poms and it was
going to be given to the community but I think that went in to the (indistinct)
so there's some miscommunication and there always is over money, it's just
15 one of those things. Which is probably worth exploring at some point. So
everyone knew that. We negotiated and got – and you were central to that, 13
and a half million dollars. Now people didn't really – again, I slightly lost the
point of your question. People didn't really know what the 13 and a half
million dollars was.

20 COMMISSIONER: Yes.

DR CANE: And had to be split between two communities and so – and that
was a fairly heated discussion, so they got it to that extent, was a lot of passion
25 about who should get what and how it should be split and I mentioned we put
our (indistinct) and Henry Robinson, dead now, was the guy that stood up and
said, look Tjunajarra side should get this many and this many and everyone
went oh yes, that's about right. And that was - and then it just simply was that.
So there's levels of comprehension which – and again, I mean everyone here is
30 intelligent and knows their stuff, but it would be the same in any sort of
community where there's access to the knowledge and particularly when
English is limited and so forth. So people understood at the level they need to
operate at for sure.

35 COMMISSIONER: Nice one, that was clear.

MR JACOBI: Can I pick up the concept, we are talking quite a bit about
communication and I am interested in how perhaps the – from the government
side, first you approached providing the community with tools to explain some
40 of the technical and scientific concepts that you were dealing with? The
concept of half-life, concepts of a dose, the concept of radiation itself? And
what sort of tools you thought about developing for that purpose?

MR DAVOREN: Well, that was largely in the hands of our expert radiation
45 scientists and over the years the community developed a fairly good

relationship with people like Dr Peter Johnson who was from ARPANSA,
previously ARL and he became the community advisor on radiation. And he
was one of the three independent sources of scientific advice and also
Des Davey who was the general manager, scientific at ANSTO, spent a lot of
5 time at the community explaining those concepts and also he gave
demonstrations of what was involved using sort of a simulated earth moving
equipment toys to show how the pits would be dug, and how they'd be filled in
and he went in to quite a deal of detail on that. Some of those concepts are
extraordinarily difficult to explain and I would agree with Brownie, and say
10 that the level of comprehension in the community was probably pretty low but
it was just a question of whether poison was there or whether it was dealt with.
And I think there was a lot of – lot of it depended on trust. I mean if they had
someone like Des Davey going out there for – he was with the project from the
mid-eighties to 2000 when the final sign off was given. He was at the hand
15 back and he'd had previous experience dealing with indigenous communities in
the Northern Territory, so whatever methods he used, he was probably one of
the more experienced people in the Commonwealth and would communicate as
well as anyone could. But difficult concepts.

20 MR COLLETT: Can I just add - - -

MR DAVOREN: You go, yes.

MR COLLETT: Can I just add from an advisor's point of view, negotiations
25 like this which are difficult; you develop your own language by trial and error.
Now poison was one that we started with and people understood it and it was a
lot better than the community has no numerical system, dealing with
10 millisieverts or whatever and so we started with poison and people
understood and that remains one of the major words. Along the way, and this
30 is an illustration of what Scott was saying about how people talk, along the
way eventually I could just say to the community, well this is where the
problem is and I would put up three fingers and after a lot of discussion people
understood that these were the three contamination plumes from Taranaki. We
had been over that so often and they knew that's where the plutonium went and
35 it went out towards the community. So this became a symbol for the wind
borne plutonium contamination. It was just something that developed.

Later on when we had the trust fund, Chris Gill who was the corporate advisor,
was trying to explain the difference between principle and interest in the
40 investment of the trust fund, so he – he drew a diagram which had something
like a mincing machine and you turn the handle and out came some mince at
the bottom and he said well this is your money making machine and that
became the word that was picked up, people then understood that this meant
the interest. And it came from the money making machine. Very sort of basic,
45 lot of fun in it but it became part of the developed lexicon if you like of

language in terms that (indistinct)

5 DR CANE: In terms it was going to pick up, just to sort of balance the sort of
– in terms of language, in terms, and it really helps if people are going to go
out there and they get some fundamentals right. So every – most liked people
– Anangu is the Aboriginal word for people, and most western people go out
there when they talk of have meetings and they call them anangu and you can
almost the meeting switch off when they hear that, so there's comprehensive
10 technical terms but there's a lot of Aboriginal terms which it really helps white
people go out and have those names and actually use them properly. You have
learnt to say Anangu Good yes, not anangu.

15 MR DAVOREN: You can say Maralinga Tjarutja which is a task that's proved
too difficult for many ministers.

DR CANE: Tjarutja means about ground, just attached to the country, attached
to Maralinga is a word we know. Don't know where Maralinga came from, it's
not a Ptinjarra word.

20 MR JACOBI: Mr Preece, I wanted to pick something up in the notes that you
provided and you spoke of the person that does the communication needing
real skills in communication and in particular you emphasised that that person
not seek to lead the community's decision making process, or undermine it.
And I am just wondering perhaps whether you might expand on that and relate
25 that to some of your experiences?

MR PREECE: It goes to a bit what I was saying before about presenting. You
know, one of the principles in decision making in community development is
people have to make informed decisions, so really the job of the communicator
30 is, in this sort of environment, to give people the information and give it to
them in a way which is well understood and preferably deeply into the
community, not just at a leadership level. If you go in there with a preset view
about what decision you want out of it, you're going to get that decision.
People find out - - -

35 DR CANE: But it doesn't stick. You find out three weeks later nobody is
taking notice at all and you've totally missed the yacht. No-one is going to
follow you at all.

40 MR PREECE: Really, the communication, it's got to be neutral in terms of
just giving the facts so people really do understand the decision they're being
asked to make. If you go in there as a mining company and you want to pick
up this area of land and you're going to try and talk people into it, you won't get
an answer.

45

DR CANE: Or you have a bad subsequent, because there will be no durability to (indistinct)

5 MR PREECE: If you go into court, you think about what you're going to say in advance. It's amazing how few people do think about why they're there, what they're there for and what sort of information they need to provide. You need to be on top of your subject

10 MR LARKIN: They're just like you. When people want to talk to you about something, they tell you what is in it for you. I know my family, what's in it for me.

DR CANE: Absolutely. It will be family centric - - -

15 MR LARKIN: And how does it affect us and what is the flow-on if I say yes to this.

20 DR CANE: And you need some expertise sometimes there to know what the consequences are. If Brown says something here, what is going to happen to him back out in the community, so there is a contextual onus to that sort of family centric decision making process. The decision maker, I was going to add, Richard, to what you were saying, unless it's kind of obvious enough. Publicly, in my experience, Aboriginal people at meetings don't want to embarrass anybody, so they will say yes. It's just the nature of their congenial and social - - -

25 MR LARKIN: Good manners.

30 DR CANE: Yes, that's the rule, "I never embarrass," but not necessarily meaning it all, so you kind of have to (indistinct) on which actually does allow them, and it might take another night of meetings the next day, or to all go away and talk and come visit you and chat and have a re-think about it all to get a decision, but to encourage them to actually come back with a decision having provided the information (indistinct) I would never make a call in the bush about that stuff. "Where are we going to go? This way or that way?" and I'll sit and say, "No, no, your country."

40 These is obvious, they're obvious things. It's so easy for white people just to run over it and get the meeting finished, and, yes, we all agree, and that's good, "Thanks, that was a wonderful meeting. Now, let's have a barbecue," and they're gone. What was that about?

45 MR LARKIN: A really important point you're not making enough of is the fact that you did get resource to have the capacity to respond in a way that allowed (indistinct) families to make informed decisions, or at least know when

to say, "I want to know more about that." That's an important - - -

DR CANE: Yes, that's right. There's a little bit of extra space in - - -

5 MR LARKIN: You've got the resource (indistinct) lawyers.

DR CANE: Yes.

10 MR LARKIN: All those people who you could ask the question to if you wanted, or not.

15 MR JACOBI: To pick up the resourcing now, perhaps we could go to you, Mr Davoren. Can you explain how the Commonwealth resourced the community assist it to make the decisions it was making from a technical point of view, and what the arrangement was and what the thinking was when that was established?

20 MR DAVOREN: I think when it was established we probably didn't have any idea that we would be funding independent scientific advice, and that was just put to us and we quickly agreed that we weren't going to proceed unless that was done, Andrew, I think, made that very clear, and the Commonwealth responded. There was funding for the consultative group and the activities surrounding that, but there were a few one-off things that we funded, and we hopped on a few issues like that.

25 The Commonwealth helped the Marlinga Tjarutja in raising its claims separately with the British government, and you probably saw the publicity from a few missions to London where you would have people White Hall, traditional people made the Brits very uncomfortable and I helped to no end in getting them to reach an accommodation with Australia. There were a whole lot of one-off things like that, that the Commonwealth did. There was no amount of funding set aside at the beginning for it, but it was a very high priority for the government to resolve the issues from the Royal Commission.

35 By having a Commonwealth Royal Commission like that, our job was quite simple, we just work through the government's response.

40 MR JACOBI: Dr Cane, I think in your notes you indicate the outcome could not have been successful without there being that independent advice, and I was interested in why that was your view.

45 DR CANE: I think for the simple reason you want to give the community balanced information so they can make a decision. I hate saying this, particularly as (indistinct) but Aboriginal groups can be easily factionalised and picked up by particular interest groups and convinced of all sorts of alternative

scenarios, and it's quite difficult probably just to give bare facts and actually trust them to make the call on it. To that extent, that's what I was referring to in terms of the independence of the advice.

5 To the extent that it lacks independence is probably that you do that with the interests of the community at heart and not your particular agenda on environment impacts or activity.

MR PREECE: It's the same reason why you would have a Royal Commission
10 into Nuclear - - -

DR CANE: Yes, exactly.

MR PREECE: What are the facts? You know, get away from the emotions.
15

DR CANE: They're vulnerable communities for lots of reasons, and some people tap into them and there's lots of misunderstandings. I did all the clearances and heritage surveys for the Woomera stuff years ago, and I think a lot of the clearances were on, as an example (indistinct) Is it? The geological
20 formation. Everyone thought they were going to put the waste sites on (indistinct) Station, and that sorts of drama with people in Coober Pedy, and it would be quite hard to get that out of everyone's head. I don't think we ever quite succeeded, but it's just clear information at the most basic levels. That's what I meant.

25 MR JACOBI: Mr Collett, do you have a view as to the significance of the resource in the community in the overall success of the negotiations that were conducted?

30 MR COLLETT: It's absolutely critical. I'll just give you two illustrations. One of the areas where we got advice was from (indistinct) botanists, and I remember perfectly Dr Barton and I went to see two South Australian area botanists. We only had two questions, and the first one was, "If the 150
35 kilometres north of Taranaki was completely scraped," so, in other words, every blade of grass, every tree went, every piece of plutonium went, the first question was, "Could it be re-vegetated?" These botanists said, "Yes, we could re-vegetate that," so we thought, "Well, that's good."

The second question was, "How long would it be before the trees got up to the
40 same height they are now?" and these botanists sort of thought and said, "A hundred years," and that was it, as far as the community was concerned. That's why I said before the community were not putting one environmental disaster to deal with the other one. We knew straight away then the community would say, "No, we're not going to leave in that state for a hundred years," so that was
45 a really telling illustration of two questions that really helped to form a view

for the community.

In terms of how important it was to get the resources, I've negotiated for Maralinga Tjarutja against mining companies where we've said the same thing,
5 "We want funding for independent advice for your mining proposal, your exploration proposal," and in one case an exploration company said rather stupidly, "Why should we buy you a watch so we could tell the time?" and they completely missed the point that it wasn't them who was telling the time it was us who was telling the time, and those negotiations failed right there and then
10 because they just couldn't see that they needed to put the community in a position where it had some information and independent advice. That's a good illustration of the difference and how important that approach is.

MR JACOBI: Was there any discussion about reaching a consensus as to who
15 the individuals were that were appointed to provide that independent advice so that all of the parties had confidence in them?

MR COLLETT: In terms of the independent advice for the technical
20 assessment group, we cast around, and we didn't discuss it with the Commonwealth because we wanted it to be independent, but we did have a mind to choosing credible advice, so the two main scientific advisers (indistinct) who was an eminent world radiation biologist, and the other was a man called Herwig Paretzke, who was an applied physicist from Munich, and they were very highly regarded, I think, so we had regard to getting credible
25 advice.

MR JACOBI: Was that significant to you, Mr Davoren, from your point of
view, that the people that had been engaged to provide the independent advice would be able to provide advice that you would have confidence in?
30

MR DAVOREN: Absolutely. Who knows what would have happened if they
had got advice from scientists who might have been experts but not right in the discipline who came up with strange recommendations or prescriptions, but our
35 scientists, I mean we had a guy from the United States who was provided by the US Department of Energy, and he said, "Yes, Henry (indistinct) no problem. Paretzke, very good." They're people they would have gone to.

DR CANE: That would flow down the track, and I wouldn't know even what
they're talking about, but independent advice, I would feel comfortable with
40 that, then I would be bush with you guys and we would be doing a trip for 10 days around a camp fire every night and we would be talking about it, and so then that would go into the community that there's independent advice that says this is an okay way to go.

45 MR COLLETT: Just to follow-up on that, because I know this is a person you

might speak to, our next adviser carrying on in Australia for advice after that, who we chose was Peter Johnson, who is now Prof Peter Johnson and was the deputy director of (indistinct) and we chose him because he, by that time, 1990, had about 10 years working out at Maralinga as a very highly regarded scientist with the Australian Radiation Laboratory, who had a track record of 10 years working, analysing the plutonium samples. Again, we chose him for his expertise but also his credibility. We knew that the Commonwealth wouldn't question his credibility.

10 MR JACOBI: I want to come to you, Mr Larkin, and ask about whether you have views about the significance of developing a relationship of trust in the course of negotiations. I'm interested, in particular, on the significance of continuity for personnel to being able to achieve that sort of outcome.

15 MR LARKIN: I guess you start from always building the trust by coming and talking very clearly to each other about who you are and what you're there for, and when you say you're going to do something you do it and you all agree on how you're going to do it. What we've just spent an hour talking about is how Maralinga people got the resource to be able to participate in a discussion where they could agree, because they had independent advice to do that. It's really important for you to hear the history of what happened and how it happened for Maralinga.

25 Continuity in terms of engaging with the Aboriginal community is really important. I think the people are important, but what is more important is the way in which we trust each other to engage. Before you came I talked about an Aboriginal person, "I don't believe you're going to listen to me." I start from that premise, and I believe what you're dealing with is the belief Aboriginal people have built up over years, or all the things people have said they will do but didn't. People with disability have a great saying, "Don't do anything about us without us," and that applies to all of us, so that's how you develop a trust.

30 When you're talking about continuity, you just have a look at how Aboriginal communities survive, the history of what was there from different governments in terms of employment opportunities, training at CDEP, community development employment program, we then have the government say, "That's terrible, people are giving sit down money, so what we'll do is we'll take it away and we'll send them to Centrelink." This is important, and bear with me about continuity, right. Centrelink, they haven't got the capacity to actually chase up these folks.

45 If you're in (indistinct) to report into Centrelink, you have to go on myGov, and when you login they text you a five digit number. There's no mobile phone there, so 40 people were breached the other day when I was wandering past. How are those people going to eat now? How are their kids going to eat? The

continuity, somebody in Canberra thought, "This sounds like a great idea. Why don't we do this to people?" Nobody knows that the knee bone is connected to the thigh bone, the whatever, you have a knock on effect.

5 When you change CDEP, I'm not talking about continuity with people here, it's all the programs that sustain all those people if you don't have it. Something that Aboriginal families to rely on when they know when they're planning for their kids to go to school or send them off here or whatever, they know that the world that they live in, their income maintenance, the health service, the
10 diabetes educator are going to be there, because that's how we live in the city. We know if we ring a cop he's going to be there in 10 minutes or whatever, that would happen.

In (indistinct) there's only one telephone and one computer for you to log on to
15 myGov, so continuity is really important, but more importantly, I think, is you have to know whether people have the capacity to carry out what has been agreed to as well otherwise you just keep on doing things to people and further making people think (indistinct) I used to go out to pick up people flying in off the plane and (indistinct) which means, "More of the same."

20 DR CANE: Yes, and then people turn off - - -

MR LARKIN: Yes, they're finished.

25 DR CANE: - - - and then you kind of lose them.

MR LARKIN: "I've got something important to say?" "Yeah, yeah." It's hard not to be cynical for us.

30 DR DAVOREN: Maralinga is lucky because (indistinct) we like it, we like each other, we sort of hang out and talk on the phone, and that's a rare thing, but I think in other Aboriginal political environments the lawyers change, there's no tie, it's like you never one know year to the next who you're talking to.

35 MR LARKIN: Continuity? I hear you guys got bad news last week. You're now living to 84 and you don't have enough super to live on.

MR DAVOREN: I'm hoping I live longer than 84.

40 MR LARKIN: Most the people we grew up with don't make it to get their superannuation.

45 COMMISSIONER: Can I just go to the broader question. You have said that circumstances have changed now. If we were, and we are not, but if we were

to be thinking about a complex issue such as the things we are discussing now, would your advice about engagement be any different from what you've given us now?

5 DR CANE: A couple of things (indistinct) all those meetings about stuff on the land happens on the land, importantly, and that's more relevant now in a way because people live in (indistinct) as well as Oak Valley, and that actually forces them back in concentrated exercise. The change, the generational change (indistinct) some of them are alive today, but they're mostly gone. I
10 know if this is a reasonable thing to say, but the status is probably not as significant, but what you get instead is a raft of rather dominant, prominent men who are also quite educated and speak good English and are really savvy and get it, so they're an easier vehicle to inform, but they've also been slightly, I believe, corrupted by the superficial processes of bureaucratic engagement
15 and meetings, so they're not used to really taking responsibility for decisions on a face to face situation in the context of their community.

So they go to the meetings, as I said before, and they get their TAs and then they go home, and, you know, here's the thing, so it's still a matter in the sense
20 of grasping the community in country and letting everyone hear what is being said in the old fashioned way, but you have a slightly more informed audience now but perhaps without the clout of those older men socio-politically.

25 COMMISSIONER: Does that indicate the longer time, you think?

DR CANE: I actually don't think that time changes much. If I was going out to do what you might have to do, I would want someone out there who is good with people or working with the agency, obviously, who can talk to the people informally for a few days so people can get shit off their chest and inquire and
30 then have your meeting formally but with some peace and not with the usual sort of, "Let's have a barbecue," just a proper meeting, and then if it's possible you stay overnight and then you follow-up the next day. I mean, that's kind of my process, but it never happens. People who normally come to the afternoon meeting are gone, but that's kind of what we should do, I believe.

35 MR PREECE: We're talking about really significant long-term important issues. There are other issues, you can go to a meeting and make a decision and that, but it's important stuff where - - -

40 DR CANE: It has to be a bit organic.

MR LARKIN: We understate the importance of having Aboriginal people as part of (indistinct) people who know and have a background in doing these sorts of things here. Walk around, we have Asian people, white folks, all
45 different sorts of folks, but there's not many Aboriginal people here. In fact, if

you go and look through the public sector the representation of Aboriginal people are not there anymore in leadership roles.

DR CANE: It's an interesting comment.

5

MR LARKIN: The commonwealth (indistinct)

DR CANE: It's the same with Maralinga Tjarutja now (indistinct) not here and there's no-one to put in place of him with the skills. I mean, that's a consequence of self-determination, once the missionaries stopped forcing people to be educated. The standard of reading and writing now, I think, has declined, and the capacity of individuals to kind of lead seems to me to be less (indistinct) so in the community now there's not an (indistinct) for whatever historic (indistinct) I can't remember his name - - -

15

MR LARKIN: No, I don't know what you're saying. We're just not investing in or demanding that Aboriginal people are part of the process or decisions that are made about them or that they participate in it. Where I grew up, he was a young man in (indistinct) growing up with me, he was the big boy's (indistinct)

20

MR COLLETT: The only advice I would change would be to do what Pat did with the (indistinct) people and take them to Spain to see (indistinct) does in Canada taking indigenous people right into the - say, it's a waste depository, to look at it and see it and ask questions and really understand it at that level. We couldn't do that because (indistinct) but it strikes me that's really important.

25

MR JACOBI: I just wanted to come to the significance of selecting timeframes for the purposes of making decisions, and I'm just interested in thinking about the underlying issues that need to be taken into account in giving time to allow a decision to be made. I'm just wondering if each of you want to comment on it, but perhaps starting with you, Dr Cane, in respect to the sorts of facts that need to be taken into account, particularly in the Aboriginal community, needed to make a decision.

30

DR CANE: It's kind of a mean question in a way because it's contextual, but that's not an excuse to get out of answering the question. Assuming that there's broad understanding of the significance of the issues so there's sort of a foundation and people are talking about it, generally speaking, and a meeting is coming up, and I'm thinking specifically about a meeting process which might lead to a decision, I would always thinking of (indistinct) process. You tend not to get that, so that might be unreasonable.

40

From the point of which someone is going out there and talking and actually making sure people are across what the meeting is going to be about to the meeting happening to a decision being made, it's certainly three days. Was that

45

the specificity of your question? In terms of the embedding of it, we could be talking for quite a few years.

MR PREECE: The bigger the issue, the bigger the - - -

5

DR CANE: Yes (indistinct) stuff will come up or - - -

MR LARKIN: It depends what it is.

10 DR DAVOREN: Yes, that's right, it's a hard question.

MR LARKIN: (indistinct) this morning to set up a trust fund, when I tell my countrymen that we're losing 25 grand every Friday night, they want to know about it and set it up very quickly, so that's one end of the scale. Depending on
15 what the thing is and how long and what are you talking about. If you're talking about the complexity of these things, Maralinga has been good for other communities too because everyone has learnt this. There has always been someone from Maralinga Tjarutja there and always been - I keep using Dr Barton, but he wasn't a lone ranger (indistinct) he had all those other fellows
20 with him too.

It's really important, I think, to know there were other people. He was the man who was leading it, but he also helped other people coming from east of there where I grew up, and so we had different sorts of engagement with defence and
25 those sorts of people and even had the radiation issues there, but we had the business of being frightened away every time some Pom in a Land Rover painted in checkers hunting us off the countryside.

MR JACOBI: I was actually picking up from the comment that you made, Mr Larkin, that is, you spoke of them having to deal with unrealistic
30 timeframes that were imposed that weren't realistic and then having to deal with the consequent disappointment of the fact that the deadline then wouldn't be met, and I'm just interested in trying to think about this issue of if you were minded to set a timeframe that took account of the community's needs how you might go about approaching that.
35

MR LARKIN: Well, often there were occasions when I was running Housing where I would have had to just say, "Sorry, it isn't going to happen this year." It might suit me that contractors and all those people are running through and I
40 could have saved some money on that, but the community has not decided where I'm going to put the water power and sewage or the house, and I'll explain that to people, and they will go, "Yes, that's all right, we don't want you to make a silly decision and put it there, and some people will tell me off for listening to that group, but ultimately we all will take a bit of that, but I hope
45 90 per cent of the time I made the right decision for the right occasion. That's

the issue, I think, depending on what it is.

5 MR JACOBI: Picking up the idea of the fact that you were involved in making decisions for the very, very long-term, I'm just interested in whether or not there were particular considerations that you thought were more important given that you were essentially addressing an exercise that would have an effect for many tens of thousands of years, and whether there was anything with the way that you went about doing the negotiation that took account of that. Perhaps Mr Collett.

10 MR COLLETT: Some aspects of the decision were more critical from that point of view than others. The two that I can think of were the nature of the remediation, and, interestingly, the other one was the way you set up a trust fund. In both cases, the advice we were giving was, "These have to be in place for quarter of a million years," so in the case of the remediation we had to have a form of remediation that would last that long, and we got our advice on that, and we ultimately satisfied ourselves that engineered deep trench burial of plutonium could last quarter of a million years with appropriate maintenance and supervision, so we had advice on that, but that was an issue that worried us. It might be that Pat wants to comment on those sort of long-term implications, because the government had to make recommendations about that demand as well.

25 MR DAVOREN: That's right. I mean, the commonwealth is ultimately responsible for those plutonium (indistinct) out there. When we had the handback of the lands, it was partial handback. The commonwealth retained responsibility for a whole lot of things and in a way, the Commonwealth has to give a cooperative relationship with Maralinga Tjarutja in administering those sites, but I think a lot of those long-term things are covered in a document called the Maralinga Lands Environment Management Plan, and that has a rolling program of maintenance, and at the moment, by the last decade, say, maintenance of the site has been a lot more intensive.

30 Things happen every few years, but I think we can see that things are settling down, you know, pits are compacting, voids are collapsing, and we'll eventually get to the stage where management will be a lot less intensive, but we certainly took advice, TAG took advice and Martac took advice, on the stability of those structures. It's a vital consideration when you dealing with a contaminant like plutonium, which has got a half-life of 23,000 years, and therefore ten half-lives, a quarter of a million years.

MR LARKIN: A bit hard to negotiate with the time frames when they're - -

45 MR: That's right.

MR: (indistinct)

MR DAVOREN: You know that you're going to be stuck with it forever and you just have to have a system. You can't look a hundred years hence. You've
5 just got to look to set up the institutions and try and keep them in place.

MR COLLETT: The other issue in relation to a trust fund, the community well understood that compensation was for the long term, and people like Huey Windlass, when talking to the community, would say, "This is for our
10 grandchildren, our grandchildren's our grandchildren." So that was understood, but then once it goes into a trust fund - and of course it's never enough and there are always demands - you have to build in protections to in fact make sure the trust fund lasts for that period, and we've, I think, been successful in doing that.

15 There's a trustee company who we call the corporate trustee and one of their jobs is to ensure that the capital is preserved, along with some interest, and to fiercely protect that fund. The interest can be paid out according to the terms, but the capital must be protected. And so the trustees, and Brownie's one of
20 them, sometimes laughingly describe the corporate trustee as the policeman, you know, who does protect that, but it's worked well. It's taken a lot of discussion and negotiation along the way, but that was one of the big issues relating to the long-term nature of the contamination issues.

25 MR JACOBI: You've got experience also with native title negotiations. We've heard different views with respect to the ability of trusts to be flexible to meet a community's changing needs. Do you have any views about the sorts of structures that could be available to communities to provide those long-term benefits that you're talking about?

30 MR COLLETT: Well, the first thing is not to reinvent the wheel, because there's a lot of royalty trusts and there have been particularly because of mining in the Pilbara, and a lot of those have been set up very carefully in negotiations between the big mining companies, Rio and BHP, and well-resources
35 Aboriginal beneficiaries. I've seen them. There are some really good models for trusts, and the two main models, one has one with the corporate trustee having a power of veto over anything that might destroy the trust; another is that the only trustee is a corporate trustee and Aboriginal people are simply an advisory committee, and both of those models are evident in the trust.

40 I think the critical thing - there is flexibility. You have to allow Aboriginal voices to be heard and heard regularly, and you have to have a trust management which responds to the community needs, and they will change. For example, in the Maralinga Piling Trust, early on the Western Australia side
45 said, "Well, look, we haven't got a lot of capital, but what's really important for

us is that we take a bit of the capital and we use it to build a roadhouse which is our art centre as well," and this happened at a place called Corker. And that was a very good use of capital, because it gave the community an outstation where they did their art, where they got food.

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That roadhouse also services the Amberdell Highway, so they get income from tourists, and that has nurtured an art industry which is now of worldwide repute. So some capital was flexibly used, but for a very good long-term benefit. So you need imaginative and sensitive trustees, Aboriginal and non-Aboriginal. It's not easy, but again, I think - I'd be interested in Brownie's comments, but I think eventually trustees work together well, you know, the trustee company and Aboriginal trustees, and they form working relationships.

MR DAVOREN: You can't overestimate the achievement of Maralinga Tjarutja in having a trust account that's kept its capital over that period of time, and so the Maralinga Tjarutja got two lots of money from the Commonwealth. It got the 13.5 million for compensation for contamination and loss of access to land. There was a later amount of 6 million that was given sometime later for management of Maralinga infrastructure, so the management of that infrastructure didn't become a drain on the community, and it was certainly helped, as far as the commonwealth was concerned, to know that that last lot of money had been managed responsibly. It's not all that common.

So that now maintains Maralinga village, the airstrip, all the infrastructure out there, which is of enormous value to the community. It's now a tourist enterprise, but it's of great value to the scientific community and the commonwealth government in the monitoring and land management work.

COMMISSIONER: I think you're telling us that's enough, and I think we've finished our questions. Is there anything else you'd like to add, intuitively conclude? Gentlemen, thank you very much for your submissions and for the evidence this afternoon. It gives us a lot to think about. There's a lot of wisdom here, and I'd like think that as we ponder what we might do, that if the opportunity arises we can call on that expertise again. Again, thank you very much. We'll adjourn until tomorrow morning.

**MATTER ADJOURNED AT 3.37 PM UNTIL
TUESDAY, 17 NOVEMBER 2015**