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CMDR RUSH: I desire to tender that document, sir.

THE PRESIDENT: That will be exhibit 157.

**EXHIBIT #157 FINDING SYDNEY FOUNDATION SUBMISSION; SUMMARY  
OF THE PRE-SEARCH AND SEARCH ACTIVITIES - SEARCH FOR  
HMAS SYDNEY (II)**

CMDR RUSH: Q. Mr Graham, perhaps if we can go to the second page of the document, where you refer to the background, and you set out there a short background in relation to a number of searches and researches that have been involved over the years in relation to attempting to locate *Sydney*. I want to take you firstly to the Finding Sydney Trust, which I think under the heading "The Earlier Search Groups" you refer to as being established in 1995.

A. Yes, CMDR Rush.

Q. Can you give some background to that?

A. The background to it is that there were several people who formed that. I actually wasn't part of it right at the start. Ed Punched, Wayne Born and Mike McCarthy were probably the pivotal people behind it. I became involved in that group at a slightly later stage, I suspect several months after it was formed.

Q. You refer there to a deep water search being conducted in relation, I think, to the Williamson site south-west of Carnarvon.

A. The Williamson site south-west of Carnarvon was actually a shallow site. As has been found over the years, and a lot of the work that was done there was done by Aerodata and their predecessor - a lot of the aerial magnetic and magnetic work has found that there are a series of sites, which are actually volcanic plugs, and they are in approximately 100 metres of water off the West Australian coast. The Williamson site I refer to, that name refers to a fisherman in Carnarvon who reported one of these sites, and I, along with a couple of other people, inspected that site by echo sounder, but again it was found to be the shape of a volcanic plug.

Q. In general terms, the trust - you used the word - collapsed, and from there the *HMAS Sydney* Foundation was formed?

A. Yes. After we went and inspected the Williamson site,

1 or during the inspection of the Williamson site, Wayne Born  
2 became critically ill, presumably through seasickness.  
3 Sadly, he died a couple of days after we returned to  
4 Carnarvon. He had been the catalyst of that group, so  
5 naturally that group literally collapsed and the *Sydney*  
6 Foundation was formed.

7  
8 Q. And you were obviously part of that group, with  
9 a number of former members of the previous group and  
10 others.

11 A. Yes, I was. Ed Punchard, Graham Edwards, myself,  
12 Dr Kim Kirsner, Dr Don Pridmore and Karen Born - Karen was  
13 the wife of Wayne Born, and we sought patronage from Kim  
14 Beazley and Tim Fischer. At that point, we decided that it  
15 was a good idea to have bipartisan patronage, so we spoke  
16 to Kim and Tim, and they became patrons of that group.  
17 Senator John Panizza, who has passed on, and Stephen Smith  
18 and Paul Filing did an enormous amount of work to push the  
19 whole *Sydney* story forward.

20  
21 Q. What happened to the Foundation?

22 A. Well, to be frank, I don't know. Kim Kirsner and  
23 I left it in 2000, maybe early 2001, and Don did at some  
24 point in time. I can't give you an answer; it disappeared.

25  
26 Q. Then just progressing it through, was another entity  
27 then formed?

28 A. Yes. After we left the former trust, I rang Don  
29 Pridmore and Kim Kirsner in 2001 and we met and we formed  
30 what became the *HMAS Sydney* Search, which is the Finding  
31 *Sydney* Foundation.

32  
33 Q. That was a not-for-profit corporation?

34 A. Yes. We established it deliberately, and I'll get on  
35 to the establishment of it in a moment, if I may,  
36 CMDR Rush, but to answer your question, yes, it was  
37 a not-for-profit organisation run by volunteers.

38  
39 Q. Is there anything else that you wanted to add?

40 A. Yes, please. We decided deliberately to establish  
41 a not-for-profit group run by volunteers. We decided, as  
42 we were going to be seeking donated funds, or hopefully  
43 raise donated funds, that it was wrong to do it in any  
44 manner other than a not-for-profit organisation. We  
45 deliberately registered the company as an Australian  
46 company, and we set up a legal framework around the *HMAS*  
47 *Sydney* Search and the Foundation so that we could achieve

1 that.

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Very early on in the piece, Ron Birmingham QC offered to join us, and that was a huge bonus to us. As with any not-for-profit organisation, and in particular an organisation that is going to be raising funds in a difficult market and trying to seek Government blessing to undertake a search, it is very difficult to make that happen unless you have the proper framework to make it work, as you understand, CMDR Rush.

Ron did an enormous amount of work until he resigned from the trust, and I would have to look, but I think he resigned in 2006. During that period, he did an enormous amount of work firstly to establish us as a legal entity. Of course, Ron was running his own legal practice in Perth and does run his own legal practice. He spent an enormous amount of his own time, and therefore at his own cost, making sure that we followed a correct legal path, and he and I also spent a lot of time in Canberra trying to negotiate our way through the various bureaucracy that we faced.

Sadly, the format of reports that we have provided to the Government through the Navy and this brief report doesn't provide a forum to do that, but I would like to record my thanks and our thanks to Ron for his very valuable contribution.

Q. I think on the fourth page of your document, Mr Graham, you set out the directors of the company which became the trustee of the Finding Sydney Foundation.

A. Yes.

Q. You then go on to set out the personnel: Professor Blainey, Mr Tim Fischer and Admiral Holthouse, who became patrons?

A. Yes.

Q. You then refer in 2005 to a communication or commencement of engagement with Mr Mearns of Bluewater Recoveries, and I take it, from there, there was work done in relation to financing and also trying to ascertain the location, as best you could, of where you felt the wrecks would be?

A. Yes, CMDR Rush. Just before we move on from the directors, if I may, please, Kim Kirsner and Bob King were

1 also directors for quite a number of years - Kim for longer  
2 than Bob. They both contribute also enormously to our  
3 work, and I would like to record my thanks to them as well.  
4

5 Sorry, back to your question, CMDR Rush?  
6

7 Q. Back to Mr Mearns and the search area in 2005, I take  
8 it that you had a location that you were particularly  
9 interested in?

10 A. From the mid-1990s onwards, Kim Kirsner and Dr John  
11 Dunn from the University of Western Australia, and actually  
12 prior to that, around 1991, started to determine or had  
13 determined what they thought was the location of the  
14 *Kormoran*, which is in what we call the northern site.  
15

16 Commissioner Cole, there were basically two different  
17 sites - the southern site around Geraldton and the Abrolhos  
18 Islands and Port Gregory, and the northern site. Kim and  
19 John had established as early as 1991 their belief that  
20 *Kormoran* and *Sydney* lay in the northern site.  
21

22 When I became seriously interested in trying to locate  
23 *Sydney*, I spent a lot of time with Kim and John and I was  
24 quite convinced that their work and the work of the  
25 oceanographers and similar people who helped them determine  
26 that northern position - I was quite convinced that that  
27 was where *Sydney* and *Kormoran* lay. In 1998 I signed  
28 a letter to the Parliamentary Inquiry, which was under the  
29 banner of the former trust, saying how long we thought it  
30 would take us to find *Kormoran*, and I have a feeling we  
31 mentioned three days. Ten years later, it took us 67  
32 hours. So the estimate of three days, which was based on  
33 work that Dr Kirsner and John Dunn did, was remarkably  
34 accurate.  
35

36 That was the determination of position that the  
37 Finding Sydney Foundation took with it and kept with it all  
38 the way through. The actual search in 2008 was undertaken  
39 using David Mearns' search box, but that search box also  
40 included Kim's, and as we know, on the third or fourth  
41 line, we found *Kormoran* first. So that's the background to  
42 the research. We used that research from 2001 right  
43 through.  
44

45 THE PRESIDENT: Q. Did that research start with an  
46 acceptance in general terms of the accuracy of what  
47 CAPT Detmers had said the position of the action was?

1 A. I believe Dr Kirsner used the German accounts to  
2 determine that, yes.

3

4 CMDR RUSH: Q. I take it that as a consequence of your  
5 research, you then had to go about engaging people to  
6 financially support it?

7 A. It wasn't easy. Yes, is the answer to your question.

8

9 Q. I think on the next page you set out the funding that  
10 was raised and where it came from?

11 A. Yes, we raised approximately \$5.3 million. We did  
12 that in several stages. Is that what you wish me to --

13

14 Q. Yes.

15 A. The biggest thing that we had to do was to establish  
16 credibility. We were five people who lived in Perth who  
17 thought it needed doing. We needed to establish  
18 credibility, and I just hark back to Ron Birmingham again.  
19 We all had our contacts through Government and through  
20 industry. I have been part of the oil and gas industry for  
21 a long while, and we obtained our seed funding there. Ron  
22 had contacts right up through the parliamentary system and  
23 through his contacts, and he actually took me to speak to  
24 Chris Ellison, and Ron also, from time to time, spoke to  
25 the then Prime Minister Howard about what we were trying to  
26 do. So it was a combined effort, CMDR Rush. But, in the  
27 end, we raised \$5.3 million.

28

29 Q. So the Foundation raised \$5.3 million, and then there  
30 were additional Government grants made to that sum?

31 A. The \$5.3 million included the Government grants.

32

33 Q. Am I right in saying that you then set out the way in  
34 which that funding came to you?

35 A. Yes, I have listed in this report the way the funding  
36 came to us.

37

38 Q. If we could briefly deal with that seriatim, if you  
39 like. There was the Department of Environment and  
40 Heritage?

41 A. Yes, they provided us with a grant of \$55,000. They  
42 had a program running called Sharing Australian Stories,  
43 and we wrote down what we were doing and what we hoped to  
44 achieve and we actually finished that report to them after  
45 we found *Sydney* and *Kormoran* this year.

46

47 Q. Then you refer to, what, a Federal Government grant of

1 \$1.43 million?

2 A. Yes. Then Prime Minister Howard provided us with  
3 a grant of \$1.4 million in 2004. There was a set of  
4 equipment in Perth that was quite suitable to search for  
5 *HMAS Sydney*, and there were vessels available here to  
6 search for *HMAS Sydney*. The set of equipment that was here  
7 was offered to us free of charge, provided that we could  
8 cover the other costs. So the \$1.4 million was the other  
9 half of what we thought it was going to cost. Mr Howard  
10 provided that money to us.

11  
12 Unfortunately, as we found out shortly afterwards,  
13 that came with a grant document that was a document that we  
14 were given strong legal advice by Mr Birmingham and others  
15 that we should not sign. In brief, it could have made us  
16 liable if we hadn't succeeded or if we had done something  
17 wrong, and we weren't very keen on that idea.

18  
19 In February 2007 I met Minister Malcolm Turnbull, as  
20 he was then, in Perth at a lunch and I told him our  
21 problem, that we were trying to obtain funds to search for  
22 *Sydney*. He had taken over from Senator Ian Campbell as  
23 Minister for Environment and Heritage. Mr Turnbull asked  
24 me to write to him. When I say "me", I am actually  
25 referring to the Foundation. He asked me to write to him,  
26 which I did. His department wrote back and said, no, they  
27 wouldn't give us any more; no, they wanted us to accept the  
28 \$1.3 million and to sign the funding agreement. Well, that  
29 to us was unacceptable, and in May 2007 we wrote quite  
30 a long, detailed letter to then Minister Turnbull outlining  
31 where we were at with the search, and the importance of why  
32 we thought it needed doing now.

33  
34 Our whole reason for wanting to conduct the search was  
35 to try to bring a measure of peace to those families that  
36 were lost. It wasn't to do with us; it was to do with the  
37 families, and will always be to do with the families.

38  
39 After a period of time, after having written to  
40 Mr Turnbull saying that we wouldn't sign the grant  
41 application, we also said we would like another  
42 \$2.9 million at the same time. We realised what our budget  
43 was. We needed to have it done now. We believed that we  
44 were ready to go.

45  
46 Some two or three weeks later, my telephone rang and  
47 then Minister Bruce Billson introduced himself, and I said

1 to him something like, "Hello, Minister. How can I help?"  
2 Bruce said to me, "The first thing is that you have to call  
3 me Bruce. We're going to be working together." So  
4 I thought that was a good sign; I had a feeling that we  
5 were about to get our money.  
6

7 Q. Did you subsequently get \$2.9 million?

8 A. Yes, plus we already had our 1.3 million. Most  
9 importantly, the RAN sent CMDR Fiona McNaught and a Navy  
10 lawyer over here. We had spent three or four years arguing  
11 with the then department about our grant, but in half a day  
12 we sat down with the RAN and we structured a grant. It was  
13 an amazing difference in attitude.  
14

15 Q. You refer in the final paragraph under the heading  
16 "Australian Government" to the support you have received  
17 from various office-holders. Has that been a continuing  
18 support?

19 A. It has been. Mr Howard used to inquire how we were  
20 going with our endeavours from time to time. We kept him  
21 informed through the department. With the change of  
22 Government, the Rudd Government has been equally  
23 supportive, and, as you know, the Rudd Government was the  
24 Government of the day when we found *Sydney*.  
25

26 We have also had enormous support from various  
27 Government ministers - I've mentioned some of them -  
28 Malcolm Turnbull, Chris Ellison, David Johnson, Ian  
29 Campbell, and Julie Bishop. The Chief of the Defence  
30 Force, the then Chief of the Navy and the then Deputy Chief  
31 of the Navy - and of course the Deputy Chief of the Navy  
32 from when we searched is now the Chief of the Navy - and  
33 the Navy and Defence personnel have all done a wonderful  
34 job supporting us and we acknowledge their help.  
35

36 Q. There were also contributions from the Western  
37 Australian and New South Wales Governments?

38 A. Yes. We received a contribution of half a million  
39 dollars from the West Australian Government and a quarter  
40 of a million dollars from the New South Wales Government.  
41

42 Q. Individual and corporate donations?

43 A. Yes. We also received a number of individual and  
44 corporate donations, including one significant one from  
45 Mark Creasy of \$100,000. Amongst the donations, we  
46 received a lot of \$5, \$10, \$20 and \$50 donations. They  
47 were very important, because we knew that we had the people



1 who were very seriously interested from a family point of  
2 view in supporting us in the best manner that they could.

3  
4 Q. Just to keep this in chronological order, after  
5 raising the money, the discovery of the wrecks occurred on  
6 16 March 2008. You set out a very substantial report  
7 prepared as a consequence of the finding of the wrecks.  
8 Who was responsible for that report?

9 A. Each of the directors contributed. David Mearns  
10 contributed. He contributed a whole section to do with  
11 determination of position and his work, and that's  
12 a copyright section of David's, which is included in the  
13 report. John Perryman from the Sea Power Centre, the Navy  
14 contributed. The people we had project managing - just  
15 prior to the search, we appointed a project manager,  
16 Patrick Flynn, because amongst all of this we all had day  
17 jobs so we didn't have time to do it ourselves. So the  
18 whole group of people, CMDR Rush, contributed to that.

19  
20 Q. In relation to the video imagery and the photographic  
21 imagery, did that come into the possession of the  
22 Foundation? What was the position there?

23 A. If I go to the still photographs first, and then I'll  
24 go on to video, the still photographs were taken from on  
25 board the survey vessel *Geosounder*. They were taken by  
26 remotely-operated camera. The camera was taken down to the  
27 wreck sites. David Mearns took the photography, and by  
28 that I mean he selected the shots and he took the  
29 photographs. The photographs are the copyright of the  
30 Finding Sydney Foundation, but we acknowledge David as the  
31 photographer.

32  
33 As far as the video goes, the video was again taken by  
34 remotely-operated vehicle, and again that is the copyright  
35 of the Foundation.

36  
37 Q. Were you on *Geosounder*?

38 A. No, I wasn't, CMDR Rush. I believed that my role, as  
39 the chairman and under the agreement we had with the  
40 Government, was to be onshore.

41  
42 Q. Who were the directors of the Foundation that were on  
43 board?

44 A. Mrs Glenys McDonald was our representative on board.

45  
46 Q. Once the photographs and video were presented, I take  
47 it to the Foundation, was there a distribution made in

1 relation to that imagery?

2 A. Yes, there was. The distribution of the reports that  
3 we made is shown in the report I sent the Commission  
4 recently.

5  
6 Q. Perhaps we can turn to page 7 of the report, the  
7 second-last page. In the report, you set out the various  
8 persons and instrumentalities that received the report.

9 A. Yes. We sent three copies to CMDR Fiona McNaught, who  
10 was our contact representative inside Navy headquarters.  
11 One of those was for Navy to pass on to the German  
12 Ambassador in Canberra. Copies 4 and 5 went to the Western  
13 Australian Maritime Museum to Ms Diana Jones. And copies 6  
14 to 10 were given to the Finding Sydney Foundation  
15 directors, and copy number 11 went to David Mearns. Each  
16 of those copies had a copy of the still photographs.

17  
18 Q. Were there any changes made in any way --

19 A. Absolutely not at all.

20  
21 Q. -- to any of the imagery that was obtained from  
22 *Geosounder*?

23 A. Absolutely not at all.

24  
25 THE PRESIDENT: Q. One gentleman, Mr Eagles, gave  
26 evidence and suggested that the photographs were all fakes  
27 and that they were a composite of various parts of various  
28 ships taken of various shipwrecks all around the world.  
29 What do you say to that?

30 A. I completely refute his suggestion, and I also think  
31 I'm not so sure any of us have the intelligence to do what  
32 he's suggesting. What he is saying is completely false.

33  
34 CMDR RUSH: Q. The other matter that you deal with there  
35 is the virtual imagery that was established on 19 November  
36 of last year by the Foundation.

37 A. The visual memorial?

38  
39 Q. Yes. Sorry. You set it out in some detail at page 5.  
40 I wasn't going to ask you specifically about it, but that  
41 was done in conjunction with the Naval Association?

42 A. Under our deed, we had two tasks: one was to find  
43 *HMAS Sydney*, and the second one was to establish a virtual  
44 memorial. I believe the suggestion of the virtual memorial  
45 came quite some years before from Dr Kirsner. We have  
46 established the virtual memorial, and it is live on the  
47 website. We launched it on 19 November, as you said.

1  
2 We're in the process of handing that site over to the  
3 Naval Association of Australia and with that we will  
4 provide them with funding to finish it and to keep it  
5 running.

6  
7 CMDR RUSH: Thank you. I have no further questions, sir.

8  
9 THE PRESIDENT: Thank you, Mr Graham. And congratulations  
10 on your recent AM.

11  
12 THE WITNESS: Thank you, sir.

13  
14 <THE WITNESS WITHDREW

15  
16 CMDR RUSH: Sir, I call Dr McCarthy.

17  
18 <MICHAEL McCARTHY, affirmed: [10.46am]

19  
20 <EXAMINATION BY CMDR RUSH:

21  
22 CMDR RUSH: Q. Dr McCarthy, could you state your full  
23 name and address to the Commissioner, please?

24 A. Michael McCarthy, [REDACTED]

25  
26 Q. And your occupation?

27 A. Maritime archaeologist.

28  
29 Q. In your occupation as a maritime archaeologist, have  
30 you been associated and employed by the Western Australian  
31 Maritime Museum?

32 A. I have.

33  
34 Q. In what capacity and for how long?

35 A. Thirty years. My first role was inspector of wrecks,  
36 which made me responsible for people finding ships. I was  
37 inspector of wrecks for the Museum, which made me  
38 responsible for handling reports of finding ships. The  
39 museum is responsible to the Federal Minister for historic  
40 shipwrecks. Then I branched off into a number of areas,  
41 including iron ships. Because of these two interests,  
42 Commander, I was responsible for managing the *Sydney* and  
43 the *Kormoran* issues for the Museum from around about 1980.

44  
45 Q. I should have asked you for your academic  
46 qualifications.

47 A. I hold teaching qualifications, diplomas, Bachelor of