

**SELECT COMMITTEE ON THE  
RESERVES (RESERVE 43131) BILL 2003**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
ON THURSDAY, 21 AUGUST 2003**

**SESSION 1**

**Members**

**Hon Peter Foss (Chairman)  
Hon Robin Chapple  
Hon Jon Ford  
Hon Louise Pratt  
Hon Derrick Tomlinson**

**Committee met at 6.55 pm****WALSH, MR SEAN****Chief of Staff to the Premier,  
examined:**

**The CHAIRMAN:** On behalf of the committee I welcome you to the meeting. You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

**Mr Walsh:** I have.

**The CHAIRMAN:** These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record and please be aware of the microphones and try to talk into them. Your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. In view of the fact that this is an evening hearing, I do not believe it will go very late but if it does and you feel that you are wearing and are unable to continue, please let me know and the committee will consider whether to discontinue the hearing. It is up to you to raise that matter if that is how you feel. Would you like to make an opening statement?

**Mr Walsh:** No. I am quite happy to take questions.

**The CHAIRMAN:** Whose idea was it that the action to bring in this Bill be taken? From your point of view, when was it first mentioned?

**Mr Walsh:** It was a decision of Cabinet. Was the Bill first mentioned or -

**The CHAIRMAN:** No, whose idea was it to bring in a Bill? When did you first hear of that idea?

**Mr Walsh:** Perhaps I can put that in context. When the issue of concerns about the safety and welfare of women and children at the camp was raised in the strategic management council meeting by the Premier, and when it was indicated by the directors general of the Department for Community Development and the Department of Indigenous Affairs that they had concerns and were not in a position to guarantee the safety of women and children at the camp -

[Interruption from the public.]

**Mr Walsh:** The Premier, having been given that advice, wanted urgent action taken to address that issue, and that led to a series of meetings. During the course of those meetings, at which it was discussed how action might best be taken to produce a satisfactory result and to do so in the most expeditious and, I suppose, secure way, the idea of utilising a reserves Bill was raised, I think, at the second of those meetings. That particular option was explored and subsequently developed into a proposal to go to Cabinet, and Cabinet endorsed that proposition, I think, on or about 12 May.

**The CHAIRMAN:** Can I pick up the terminology that everyone seems to be quoting - the safety of women and children at the camp could not be guaranteed. We raised this issue with the Director General of the Department for Community Development. I wish I could find the exact wording, but

I will put it to you in summary and perhaps my colleagues can pick me up if I have not put it to you correctly. She said that that was not terminology she would have used and you can never guarantee the safety of women and children, but that concerns were raised about the conditions in that camp. Can you tell me where this terminology - they could not guarantee the safety of women and children - came from? It seems to have become almost a catchphrase.

**Mr Walsh:** I do not know exactly what terms they used, but the essence of what they were saying was that there was an unacceptable level of risk.

**The CHAIRMAN:** Were you present at that meeting?

**Mr Walsh:** I was. That is the strategic management council meeting, yes.

**The CHAIRMAN:** However, it was not at that meeting that the idea of bringing in legislation was raised?

**Mr Walsh:** No. That meeting led to meetings that I chaired, which were attended by the relevant agencies, including the Department of the Premier and Cabinet, at which we discussed what might be the options for moving forward. During the course of those discussions, this idea was put forward.

**The CHAIRMAN:** Was the idea of terminating the management order in any way discussed at the first meeting?

**Mr Walsh:** Yes. What was discussed was how -

**The CHAIRMAN:** Was this is at the strategic council meeting?

**Mr Walsh:** No.

**The CHAIRMAN:** The idea of terminating the order was not discussed at the strategic council meeting.

**Mr Walsh:** The concerns were raised because the advice coming from the relevant agency was that there was an unacceptable level of risk. That triggered the subsequent action to address this matter as urgently as we could, but it was not discussed in any detail there.

[7.00 pm]

**The CHAIRMAN:** When you say “the relevant agencies”, which ones do you mean?

**Mr Walsh:** The Departments of Indigenous Affairs and Community Development.

**The CHAIRMAN:** The actual topic was raised by the Premier though, was it not?

**Mr Walsh:** It was. That had arisen because some interest had been raised by the media. We had become aware of it. Having become aware of it, the Premier raised the question during that strategic management council seeking advice on the situation, hence the responses that led to the action that followed.

**The CHAIRMAN:** Would it be fair to say that the inquiry by the media led to the matter being raised at that council?

**Mr Walsh:** Yes, probably. It was something we were concerned about. The suggestion was that problems were continuing notwithstanding a new management agreement had been put in place. Obviously, once that was raised the Premier was naturally interested to know whether that was the view of the agencies that had prime responsibility for looking after -

**The CHAIRMAN:** The only new event was the inquiry from the media?

**Mr Walsh:** I do not know about the only new event. That was the event that triggered the question being raised at that meeting.

**The CHAIRMAN:** Had any concerns been expressed by the Aboriginal and Torres Strait Islander Commissioner at that stage that you were aware of?

**Mr Walsh:** Not to me. I am not aware of that. I became aware subsequently that at the meetings of some of the senior bureaucrats there had been some discussion about this matter and I understand they were in the process of preparing something to come forward. I assumed from that that they must have been aware of issues that had been raised. I personally was not aware at that stage.

**The CHAIRMAN:** Do you know when the first communication with ATSIC took place?

**Mr Walsh:** About what?

**The CHAIRMAN:** This matter. When was the first communication with ATSIC as far as you were concerned?

**Mr Walsh:** I really do not recall, Peter.

**The CHAIRMAN:** I will read something to you from Ms Warbey -

Another meeting was arranged for Monday 5 May 2003. A number of options were identified at this meeting including legislation. It was agreed that this would also be discussed with the appropriate officer at the CSO. I recall that after this meeting Mr Walsh met with Mr Mick Gooda, State Manager, Aboriginal and Torres Strait Islander Commission (now ATSI) to discuss the re-vesting of the Reserve.

Did you have any communication with Mr Gooda after that meeting?

**Mr Walsh:** ATSIC or ATSI people attended those meetings that I referred to that I chaired.

**The CHAIRMAN:** All of them?

**Mr Walsh:** Not necessarily always the same person. Mick Gooda was there and at other times other people were there.

**The CHAIRMAN:** From 2 May?

**Mr Walsh:** 1 May was the first.

**The CHAIRMAN:** Did people keep notes of those meetings?

**Mr Walsh:** We kept some notes, yes.

**The CHAIRMAN:** Do you have notes?

**Mr Walsh:** I did not keep notes but other people did because my purpose for having the meeting was to see that actions were being taken and to allocate responsibility.

**The CHAIRMAN:** Who kept notes?

**Mr Walsh:** Various people who were there.

**The CHAIRMAN:** Can we have names?

**Mr Walsh:** One of the people I am aware of who kept notes was Ms Warbey. She was from our department.

**The CHAIRMAN:** Rather than have me call everybody in individually and ask them, would you be so kind as to ask each of the people who were there whether they have kept notes of those meetings. If so, can we have a copy of those notes? Will you drop us a note to let us know that you have contacted each of those people and informed them of our request? We can obviously take action ourselves, but it would be considerably easier if you can coordinate that and arrange for us to have them?

**Mr Walsh:** Yes.

**The CHAIRMAN:** There were no formal minutes taken?

**Mr Walsh:** No; the purpose of the meeting was to discuss the options, what needed to be done and then have people go off and pursue tasks, which they did. That moved us along very quickly to a position where it was determined that the most effective way ahead was through the means of which

you will be aware. I suppose the substantial record of that transpired by way of the legislation and a cabinet minute.

**The CHAIRMAN:** I will read to you from Ms Warbey's notes.

On 29 April I received a telephone call from the Department of Community Development Media Liaison Officer concerning a media query she had received ...

Subsequently I was advised of the specific allegations passed on by the journalist, which were: ...

All media queries received by the Office of the Director General are referred to the Premier's Media Advisors in the first instance. I advised Mr Kieran Murphy, the Premier's Principal Media Advisor of the query on the day I received it. At, or about, the same time I heard from other Minister's offices that similar queries had been raised with them by the same journalist.

When the other queries were received, and I spoke to officers within the Social Policy Unit of the Department, I also advised Mr Walsh, Chief of Staff, of the queries and he advised that he had already been informed.

Do you recall Ms Warbey contacting you?

**Mr Walsh:** Yes. We spoke about that. I think it was Kieran who had already indicated to me that the query had been raised, which, as I mentioned a moment ago, triggered the Premier raising this question at the strategic management council meeting.

**The CHAIRMAN:** Will you give us a short resume of your conversation with Kieran Murphy, please?

**Mr Walsh:** As well as I recall it, he mentioned that a journalist had indicated to him that there appeared to be problems continuing at the camp and that, in so many words, nothing had changed or it had not changed much. She was very concerned about this and was seeking some comment.

**The CHAIRMAN:** Someone is making a noise. Is it you?

**Mr Walsh:** It is my chair.

**The CHAIRMAN:** Can you be careful, because we are actually recording this as well as having Hansard take it down. The noise might be going through the tape and making it rather difficult to hear.

**Mr Walsh:** My apologies.

[7.10 pm]

**The CHAIRMAN:** It seems a little bit strange that a media adviser gets involved in such an early stage. Perhaps you could explain to me why that is.

**Mr Walsh:** Queries from the media are dealt with by a media adviser. It is standard practice.

**The CHAIRMAN:** Who was it who first raised the question of cancelling the management order?

**Mr Walsh:** Well, it was in the course of the discussion at these meetings. The idea of cancelling the matter was one possible proposition that was looked at in terms of, "Would this be an effective way of resolving the issue that we were trying to address?" That was discussed, and I honestly cannot recall who specifically first raised that.

**The CHAIRMAN:** Was it you?

**Mr Walsh:** It may have been but I do not think so. In the course of the discussion, it moved to the point where it was decided that was not going to be an effective way. Hence the suggestion came through that perhaps the most effective way would be to progress this through the use of the reserves Bill.

**The CHAIRMAN:** Who suggested that?

**Mr Walsh:** That came from the representative from DPI.

**The CHAIRMAN:** DPI?

**Mr Walsh:** Yes.

**The CHAIRMAN:** Planning and infrastructure? Who was that?

**Mr Walsh:** DOLA, which is a subset of DPI.

**The CHAIRMAN:** All right. Who was that?

**Mr Walsh:** I think Graham Searle.

**The CHAIRMAN:** Graham Searle. He was the one who suggested you should do it by way of legislation?

**Mr Walsh:** He believed that was an option available to us that would be an effective way of dealing with this issue. That was then subsequently explored. His idea was found to be correct, and that is why we took it further.

**The CHAIRMAN:** Can I take it back to the first one, which was who was the first person to suggest cancelling the order? We are having trouble finding a parent for this suggestion. Everybody remembers it being raised but most people deny it was them who came up with it. To what degree can you say that it is unlikely to have been you? I realise you cannot say it was not you. To what degree can you say that you think it is unlikely it was you?

**Mr Walsh:** Perhaps I can help in this way. The conversation was about finding an effective way forward which would allow us to deal with the concerns we had about the situation based on the advice we received from the relevant agencies. In that context, we were looking at various ways that might be done. Cancelling the management order would have been talked about in that context. I am sorry, I cannot tell you. I do not know who first said -

**The CHAIRMAN:** But you do not think it was you.

**Mr Walsh:** No.

**The CHAIRMAN:** Have you got any reason for saying you do not think it was you?

**Mr Walsh:** Simply that I do not think it was me. If it was me, I would be quite happy to say so. This was exploratory discussion. As I say, the aim of the exercise was to find a way forward that was going to allow us to move with minimum delay and maximum certainty. That is why we chose the course we did.

**The CHAIRMAN:** Did you check with any people who were on the spot? In other words, did you personally or did any of the people you were dealing with check with people who were on the spot as to what the situation was there?

**Mr Walsh:** The people I was dealing with were the people in charge of those agencies, in most instances, or senior people in the agencies who were in discussion, as I understood it, with people on the ground. We were taking our advice from them. We were taking advice about the need for this and the nature of problems from the bureaucrats who are best placed to provide that.

**The CHAIRMAN:** You assumed that they would as a matter of course speak to somebody who would speak to them at first hand; in other words, not hearsay.

**Mr Walsh:** I assumed that they were acting responsibly and that they were providing valid advice.

**The CHAIRMAN:** Was your understanding there had been no change since the change in the management order or there had been some change but not sufficient?

**Mr Walsh:** There remained an unacceptable level of risk. If there had been some change it was not sufficient to remove that fundamental problem.

**The CHAIRMAN:** The question was: did you understand that there had been change or that there had not been change? I give you that opportunity to go over it. Your earlier evidence was that you had heard that there had been no change. I want you to clarify that. Was your understanding that there was no change at the camp or no change in the risk?

**Mr Walsh:** No change in being able to now say that this was a safe and secure environment for the women and children there. Whether there had been some procedural changes or other things, that was not of paramount concern. What was of concern was the wellbeing of the women and children in the camp.

**The CHAIRMAN:** Did you understand that in that case it was different from other places in Western Australia or other communities in Perth or other houses outside communities?

**Mr Walsh:** We did. We did. The difference seemed to be that, whereas in other communities where no doubt there are other problems, the government agencies were having difficulty properly accessing and communicating with the people in the community. They were not in a position to properly assist them to understand their needs and to generally communicate in an unfettered way. They were being hindered, whereas in other situations where there were problems, that did not seem to be the case.

**The CHAIRMAN:** I read again from Ms Warbey's statement, referring to a meeting on 21 March with service delivery officers -

13. A number of different views were presented by officers responsible for service delivery in the area. Seemingly the views were dependent on the services being offered and the individual relationship between the officer and those who held themselves out as leaders of the Community.
14. It was also made clear at that meeting that significant problems and dysfunctionality existed at the other discrete metropolitan indigenous communities.

Did you understand that to be the case?

**Mr Walsh:** We certainly understood that there were other problems in other camps in other communities, yes. We were led to believe they were not the same problems and it was the issue of access and the ability of the agency representatives to have direct and unfettered contact with the people in the community. That was the difference. It was that they were not welcome in that area. There was a resistance to them. There was control being exercised which limited their capacity to do what they had to do.

**The CHAIRMAN:** I read clause 13, which says -

Seemingly the views were dependent on the services being offered and the individual relationship between the officer and those who held themselves out as leaders of the Community.

Did you understand that different people were having different experiences?

**Mr Walsh:** There may have been to some degree. My general understanding was that what I just said was the case.

**The CHAIRMAN:** Right. What distinguished this from the other communities was not so much that there were problems or that it was dysfunctional but that there was a lack of access.

**Mr Walsh:** No, I did not say that.

**The CHAIRMAN:** What is the difference?

**Mr Walsh:** I said there were problems in other communities, as there were in this community, but the difference in the other communities was they were more welcoming and happier to have the agencies come in and assist them to deal with those. In this camp, they did not. That is not to say that this camp was without problems. That is not what I am saying.

**The CHAIRMAN:** No. What was distinguishing is not the fact that it was dysfunctional or that that there were problems. They all were dysfunctional. They all had problems. What distinguished this one was the inability to access people for services.

**Mr Walsh:** Generally speaking, that is right, yes.

**The CHAIRMAN:** It was not just they did not like you. I would not have thought that was a ground for closing a camp: that the people did not like the Government.

**Mr Walsh:** I do not think it was a matter of not liking or liking the Government. It was a matter of the way in which the officers attempting to do what they were there to do were finding it difficult to access, as I have indicated, the people they were there to help in a way that was unfettered and allowed them to fully discharge their duties.

**The CHAIRMAN:** If I can rephrase that question. I asked whether you were aware of this view expressed by Ms Warbey that “the views were dependent on the services being offered and the individual relationship between the officer and those who held themselves out as leaders of the Community”. Were you aware of that?

**Mr Walsh:** Am I aware she made that statement or -

**The CHAIRMAN:** Were you aware at that stage that she held that opinion?

**Mr Walsh:** I do not know whether I was aware of it or not.

**The CHAIRMAN:** Better still, were you aware at that stage that that was an opinion that could be held?

**Mr Walsh:** It may have been. I would guess that people may have experienced things -

**The CHAIRMAN:** Was that view ever put at any of the meetings you attended?

**Mr Walsh:** If it was it certainly was not put to the extent where it overrode the overall concern that I have indicated to you now.

[7.20 pm]

**The CHAIRMAN:** Reading that, it seems to me that that indicates that in part it may have been due to the approach of the officer to the people in the camp.

**Mr Walsh:** Well, if it was it was, that must have been a very broadly applied situation. I am not in a position to judge that. That certainly was not what was being conveyed to me. It is not consistent with what I recall of the discussions we had in the meetings.

**The CHAIRMAN:** When did you become aware that Mr Bropho was about to be rearrested on charges he had been previously charged with?

**Mr Walsh:** I do not know when that was. I became aware of it at some stage, but I could not say when it was.

**The CHAIRMAN:** Was it before or after it occurred? Did you learn of it before he was rearrested?

**Mr Walsh:** I learned of it through the media or some public comment. I do not know -

**The CHAIRMAN:** You had no prior notification of that?

**Mr Walsh:** No.

**The CHAIRMAN:** You will recall that the matter went through the Parliament and the upper House made amendments to it.

**Mr Walsh:** I do.

**The CHAIRMAN:** When you were considering those amendments, did you give consideration to the commonwealth Racial Discrimination Act?



**Mr Walsh:** Did I?

**The CHAIRMAN:** Did you receive advice on that?

**Mr Walsh:** As I recall, the initial amendments that passed in the Legislative Council were then examined and I recall that we got advice from the Crown Solicitor on that. During the course of the overall events, the question of the Racial Discrimination Act was raised with the Crown Solicitor's Office. I am not sure whether it was exactly at that time or subsequently, but it was raised and its advice was that that was not a problem and that it did not see that being an issue that should be used to deter us from what we were doing.

**The CHAIRMAN:** What about the amendments made in the upper House?

**Mr Walsh:** What about them?

**The CHAIRMAN:** Was any advice sought with regard to the Racial Discrimination Act and the amendments made by the upper House?

**Mr Walsh:** The amendments made by the upper House were not accepted by the Government, as you know. It followed advice from the Crown Solicitor and further discussions, and they were rejected. I do not know whether we ever considered them in the light of the Racial Discrimination Act. We were considering more fundamental issues.

**The CHAIRMAN:** One of the other remarks made by Ms Warbey as to the question of terminating the management order, instead using legislation, was that advice was received from Mr Lyon as to the method by which it could have been terminated without bringing in special legislation. One of the things that was included in that advice was that if you decided to terminate the management order in the public interest, natural justice would apply to such a decision and appropriate periods of notice and review would need to be given. He went on to say that Mr Lyon also advised that there would appear to be no legal reason why an appropriately drafted Act could not be employed for the purpose in question. What was your reason for not using the public interest test for terminating the management order, as opposed to using an Act of Parliament? What was your objection to using the public interest test?

**Mr Walsh:** Essentially, it had the potential to result in major delays, and that the lack of certainty that went along with that. Bearing in mind that the whole purpose of this was to act quickly, given that this was all about the safety and security of the welfare of women and children in the camp. We wanted a mechanism that would address that quickly. As you would understand from what you have just read, that could lead to protracted delays, which was not acceptable.

**The CHAIRMAN:** To what extent was it driven by the safety of the women and children and the concern that it would get into the media; that is, that you might be subject to adverse media comment?

**Mr Walsh:** The purpose of this was to address the issue of the safety of women and children - full stop.

**The CHAIRMAN:** Were you not at all concerned about the possibility of adverse media comment?

**Mr Walsh:** No. We would have been concerned if we were delayed. We were intent on not being delayed. That is why we pursued it in the way we did.

**The CHAIRMAN:** Was the approach from the journalist not a motivating factor? Was it purely something which drew it to the attention of the Premier and he raised it?

**Mr Walsh:** That is exactly correct. It drew attention to it and it made us realise that the earlier attempts to achieve things through a changed management order were obviously not achieving the ends that were desired; other action needed to be taken. Hence this is what occurred.

**The CHAIRMAN:** Ms Brazier said that closing the camp and removing all the inhabitants was not her preferred course of action. Did she express that opinion at any time?

**Mr Walsh:** The initial thought when the camp was to be closed was that some people would be removed from the camp forthwith and the balance - or the majority of the families - would remain there and be assisted and have their needs assessed. Under those circumstances the full access to those people which had previously not been available would now be available and that would be dealt with over time, so that they could then progressively be relocated to more suitable accommodation with appropriate support. That was the initial expectation. It had not been anticipated at that stage that, come the eleventh hour, people would leave in the way they did.

**The CHAIRMAN:** That matter was raised in the Legislative Council as a possible alternative.

**Mr Walsh:** It may have been. However, in terms of our discussions at the stage we are talking about, which was before the legislation was entered into the Parliament and trying to anticipate how things might unfold, that was to be a staged exercise with proper care and consideration given for those families so that they could be looked after and found suitable accommodation and the nature and the level of support they needed could be identified and provided.

**The CHAIRMAN:** We understand from what Ms Brazier said that that plan changed even before Mr Bropho moved everybody out of the camp and that in fact you had decided to move rapidly to close the camp. Why would you want to close the camp? If you had protected the women and children from what you perceived as being the stated danger, why could you not leave them living in their homes, which are of a better quality than anywhere else they could go?

**Mr Walsh:** The advice we received was that there were better and more suitable forms of accommodation other than in the camp.

**The CHAIRMAN:** Did you not consider that the women and children might be given some choice? They had not done anything wrong, had they?

**Mr Walsh:** We were acting on the advice of others. As I say, it was going to be handled in a way that took proper account of their needs and, although it was to be done over a relatively short period, it would be done with due regard for the transition to other forms of accommodation.

**The CHAIRMAN:** I am putting to you now that there were women and children in that camp who you considered to be victims and who had lived in that camp for some time, yet you decided that they would be removed along with the people you described as the perpetrators. Did anybody at any time consider that perhaps you were taking a rather paternalistic action with regard to the victims, which they probably had not deserved in any way?

**Mr Walsh:** They demonstrated through their actions that they see other forms of accommodation as a better choice, because that is where they have gone.

**The CHAIRMAN:** They did not have much choice in the first instance, did they?

**Mr Walsh:** They went voluntarily. As you know, most of them are housed in various areas -

**The CHAIRMAN:** Let us step back. I am asking whether at that time, prior to doing it, anybody said, "Hang on, is it worth considering the position of the women and children? Is what we are doing paternalistic?" Did anybody say that?

[7.30 pm]

**Mr Walsh:** I do not recall anyone using the term "paternalistic". As I have said, people were concerned to see that the families' needs, their support requirements and so on were properly assessed and that action would flow from that.

**The CHAIRMAN:** They were virtually given the choice, "You can either live at a place that we find for you or anywhere else you choose, but you are not allowed to live where you currently live."

**Mr Walsh:** As it turned out that is an academic issue because it did not arise.

**The CHAIRMAN:** You are saying that they left the camp and it was nothing to do with this legislation.

**Mr Walsh:** I am saying that they left the camp.

**The CHAIRMAN:** Are you saying that it was nothing to do with the legislation?

**Mr Walsh:** No, I am not saying that at all.

**The CHAIRMAN:** Do you know why they left the camp? It was because they were about to be thrown out.

**Mr Walsh:** I do not know what motivated them to leave the camp. I have not spoken to them. However, I make the point that they are by and large living in circumstances of support and integration into the community. Certainly advice was coming to us that that was the preferable way for them to be housed rather than stay in the camp.

**The CHAIRMAN:** Does that not sound vaguely to you like paternalism?

**Mr Walsh:** That is in the eye of the beholder.

**The CHAIRMAN:** The decision was made that you would close the camp. Do you recall it going from stage 1 to it being a fairly rapid closure?

**Mr Walsh:** There was never any decision about the precise time. We wanted to achieve it sooner rather than later, but, as I say, it took into account the need to work with the families and to make an assessment. What the precise time would have been had it in practice turned out to be different than it was, I do not know, but the aim was to progress it sooner rather than later.

**The CHAIRMAN:** Ms Brazier would seem to have indicated to us that it was not a decision that she made but a decision made by government.

**Mr Walsh:** That is possibly true.

**The CHAIRMAN:** Just cast your mind back to the situation. Can you remember who made the decision?

**Mr Walsh:** My recollection of what occurred is that the intention was to close the camp and relocate the families that we anticipated remaining there, as I described. That was the intention. I do not know that we ever had any other intention. Whether people's impression of the exact speed with which that was going to happen varied to some degree, I do not know, but that was the situation and it remained the situation.

**The CHAIRMAN:** I think both Mr Curry and Ms Brazier have indicated that they believe that the decision to move quickly to closure rather than to remove the supposed perpetrators and then deal with the women and, possibly if they wanted to move on, move them on, was a decision of government, not of the directors general.

**Mr Walsh:** I am not aware of any decision which changed the proposition that the perpetrators would be removed forthwith and the balance of the people who were there would be dealt with differently in the sense, as I have described, that their needs and so forth would be assessed and they would be relocated to more suitable dwellings. That is my recollection. I do not believe there was any major change from that. If Ms Brazier and Mr Curry are under the impression that was a decision by government, I guess that is their impression, but my impression is that it was the collective view. I do not remember it being anything other than that.

**The CHAIRMAN:** I think you are aware of the dynamics of government in which if a view is expressed strongly by the Premier or a person acting on behalf of the Premier, an awful lot of people will not be putting their hand up and saying that they think it is wrong. Do you think that dynamic exists?

**Mr Walsh:** It may well do. In this situation we were guided by advice from the agency representatives. They had a very definite say on how we could best handle this. There was no coercion.

**The CHAIRMAN:** I understand that, but I think I should advise you that yours is at odds with the evidence of both Mr Curry and Ms Brazier in that respect. It seems to be from what they were saying that it was not so much the view of the directors general but the view of the Government that decided that was the way in which they would proceed.

**Mr Walsh:** Let me clarify it a bit. I am not aware that there was any great difference of view on that. Whether they concluded that it came from the Government rather than discussions we had, I guess it is reasonable for them to assume that, but there was no divergence of view that I was aware of.

**The CHAIRMAN:** I believe you attended a meeting with the Leader of the Opposition, Hon Derrick Tomlinson and the Premier, and that you also attended a meeting with me and Judy Eckert.

**Mr Walsh:** That is right. I think Mr Tomlinson was there as well, was he not?

**The CHAIRMAN:** Yes, he was there at the meeting and then had to leave. At that meeting I indicated to you that not only were we happy to move the amendments made in the House but also I had further amendments which I suggested should be raised with the Premier at the meeting that took place with him. I had those amendments with me then. They would have overcome some of your concerns; for instance, any delay in removing the people who were ordered off, and any problem with a challenge to an order at the time that it was made, which was something that could be dealt with in a court afterwards but not by interlocutory injunction immediately. Did you seek legal advice on that?

**Mr Walsh:** I think we did, but in any event there was discussion about those. As you would be aware, the Government chose not to adopt the propositions you put forward, save to take on board, albeit in a varied form, the concept of a sunset clause.

**The CHAIRMAN:** That was a bit of a waste of time at that stage. Why did the Government decide against it? Why were you not prepared to go ahead with it?

**Mr Walsh:** They did not believe that it delivered the outcome that we were seeking; that it did not provide the certainty that we needed.

**The CHAIRMAN:** Can you be specific on that? What was the outcome that you were seeking?

**Mr Walsh:** We wanted a situation that minimised any prospect of challenge or delay and that gave us the maximum security.

**The CHAIRMAN:** It also did not allow you to close the camp. Is that not the other thing?

**Mr Walsh:** I do not think it did. I do not remember at this time.

**The CHAIRMAN:** Was that not the reason you did not accept them?

**Mr Walsh:** The major reason we did not accept them was, as I have just said, that we wanted to be able to move on this issue with minimum delay and the maximum level of security.

**The CHAIRMAN:** Can you explain to me how it would have caused delay?

**Mr Walsh:** I cannot recall all the details of your amendments, Chairman, but I think the judgment at the time was that it would leave us open to some challenge.

**The CHAIRMAN:** What sort of challenge?

**Mr Walsh:** I do not know. As I said, I cannot remember the details. I suppose what is paramount here is that the Government decided it was not the most appropriate way forward. I do not have a clear enough memory of all the details.

**The CHAIRMAN:** When we left that meeting I said to you that if you had any legal concerns, would you please let me know, as I would be prepared to look at further amendments if they would address your legal concerns. Did you get back to me?

**Mr Walsh:** Yes, we did get back to you. We came back saying that the Government -

**The CHAIRMAN:** - was not going to do it -

**Mr Walsh:** - as it was.

**The CHAIRMAN:** It seems to me - it might not seem it to you - a little bit high-handed that you were not prepared even to discuss further amendments that would satisfy your requirements. That is an impression I have gained. It seems to be an impression I have gained of the entire method from beginning to end by which the Government has proceeded with this. It has always chosen a high-handed rather than a conciliatory method. Is there any reason that you decided not to come back to the Opposition to state the reasons for your objections and see whether any further amendments could be made?

**Mr Walsh:** It was because they were not going to be accepted.

**The CHAIRMAN:** How do you know?

**Mr Walsh:** The Government made the decision they were not going to be. This was about getting on with it, getting it through, getting it finished and achieving the outcome that we were about.

**The CHAIRMAN:** Was there any discussion at that time that there was a political benefit to the Government in pursuing the matter?

**Mr Walsh:** The purpose of doing this was related to the wellbeing of the women and children.

[7.40 pm]

**The CHAIRMAN:** No, sorry, listen to my question, please. Was there any discussion that there might be a political benefit to the Government in pursuing the matter and not agreeing to negotiate?

**Mr Walsh:** I do not know whether there was or not.

**The CHAIRMAN:** Was the answer no, as far as you know?

**Mr Walsh:** That was not my discussions. My discussions were, and my role in it was, to make sure that things were being progressed as quickly as they could.

**The CHAIRMAN:** Do you know who made the decision that you were not to come back to the Opposition and discuss any further amendments?

**Mr Walsh:** The ministers involved. Sorry, let me correct that. It was not a matter of making a decision not to come back and have further discussions. The decision was to convey to you, or to the Opposition generally, that our position was that we would not accept the amendments and we would proceed with the legislation with the inclusion of a sunset clause.

**The CHAIRMAN:** I understand that; I know exactly what happened. I am asking you whether there was any particular reason why the Government was not prepared to enter into further discussions in order to see whether your wishes and those of the Opposition in the upper House might be met.

**Mr Walsh:** The judgment of the Government was that what was proposed by way of your amendments was not as good as the proposition the Government was putting forward; and, therefore, it did not intend to proceed to have further discussion about those. That was the judgment.

**The CHAIRMAN:** Whose judgment?

**Mr Walsh:** I guess ultimately the Premier's, but in conjunction with, and in discussion with, other ministers.

**The CHAIRMAN:** In fact, has the Premier not made a large number of decisions relating to this whole episode? He was the one who said we would go ahead with the legislation and said we would not continue to negotiate.

**Mr Walsh:** The Premier took the lead on this issue, yes.

**The CHAIRMAN:** I read to you from Ms Warbey's statement. She was involved in discussion with Mr Calcutt and Ms Allison O'Dwyer of the Parliamentary Counsel's Office, Ms Sandra Eckert from the then DOLA, and an officer from the Crown Solicitor's Office. It reads -

My role at that meeting was to convey the urgency with which the Premier wanted this legislation drafted.

That was an appropriate statement that the person driving the legislation was the Premier.

**Mr Walsh:** Correct. As I said, the Premier took a lead on this. That is consistent with it.

**The CHAIRMAN:** On 14 May they met with ATSIC. The statement further reads -

It was on that day that the Premier made a brief ministerial statement regarding the Reserve and the Government's intent to 'close the camp'.

At least at that stage it was a matter of closing the camp, not only removing people seen as a threat to the women and children.

**Mr Walsh:** There's nothing inconsistent there. How you go about that closure is obviously in line with what I said earlier. Closing the camp was the end point of that. In no way does it contradict what we were saying about how it would be managed.

**The CHAIRMAN:** Do you understand the people you are dealing with actually have the capacity to determine where they live?

**Mr Walsh:** I am sure that is largely true.

**The CHAIRMAN:** What do you mean "largely true"?

**Mr Walsh:** People can determine where they live only to some extent depending on their capacity to afford it or maybe other factors influence where they live. None of us is completely free to choose where we live.

**The CHAIRMAN:** No, but we do not normally get chucked out of the place that we have chosen to live, do we?

**Mr Walsh:** I think I have answered that question for you.

**The CHAIRMAN:** Do you know what happened to these people?

**Mr Walsh:** The advice I have is that the vast majority of those people are now living in various homes around the metropolitan and non-metropolitan area.

**The CHAIRMAN:** Do you now what happened immediately after the legislation passed? Do you know where most of those people went?

**Mr Walsh:** I think they went to different places. Some went to Saunders Street and some elsewhere. If you need the detail, I am not the person to ask.

**The CHAIRMAN:** I have got the detail - it is okay. The point is that it is always possible that these people would go where they choose to go. You could compel them to leave the camp, but not compel them to go anywhere. Did it occur to you that they might not choose to go to the place you offered them?

**Mr Walsh:** It was always a possibility, sure. As it has turned out, that has not proven to be so. I understand that one family is at Saunders Street and two individuals, and the rest are housed in various places.

**The CHAIRMAN:** Are you aware that Saunders Street has considerably worse conditions than Lord Street had?

**Mr Walsh:** I am not personally familiar with the details of the facilities there.

**The CHAIRMAN:** Are you aware that Lord Street, in fact, has facilities that are probably better than any other indigenous community in Western Australia?

**Mr Walsh:** I am not in a position to make that judgment.

**The CHAIRMAN:** Do you know whether the people were given their choice where they could live, where they would rather live - Lord Street or in the accommodation offered to them?

**Mr Walsh:** I cannot speak for them. How can I make judgment about that? All I can say is that they are living in accommodation around the place, and they are being given support. From the reports we have had so far, things are progressing well.

**The CHAIRMAN:** The one choice they do not have is to live in Lord Street.

**Mr Walsh:** It is. I would not say the one choice - it is one choice they do not have.

**Hon ROBIN CHAPPLE:** Thank you, Mr Walsh. I want to go back and get some clarification. You might have already stated this. I would like to get some chronology of the dates. Can you give me a rough date when you became aware, or there was any notion, that what was going to happen was going to happen, and how you came by that sort of view? Was it at a meeting or privately?

**Mr Walsh:** I am not sure I understand the question. Are you asking when we first became aware there may be problems residing at the camp?

**Hon ROBIN CHAPPLE:** Was the first one as a result of the media seeking comment?

**Mr Walsh:** Yes.

**Hon ROBIN CHAPPLE:** It was the very first one?

**Mr Walsh:** That is right. It was on or about the time of the strategic management council meeting. It was on 1 May.

**Hon DERRICK TOMLINSON:** The strategic management council meeting was on 1 May?

**Mr Walsh:** Yes.

**Hon ROBIN CHAPPLE:** When would have been the next time that any discussion was held that you were aware of?

**Mr Walsh:** The strategic management council meeting was on the morning of 1 May, and we had the first of the meetings to discuss how this matter might be dealt with on that afternoon.

**Hon ROBIN CHAPPLE:** So, the second meeting was in the afternoon of 1 May.

**Mr Walsh:** I think it was then 1, 2, 5 and 7, or something like that. The second was the Friday, the fifth was a Monday - I might be slightly off, Mr Chapple, but I think it was perhaps the seventh.

**Hon ROBIN CHAPPLE:** Fine. Was any position expressed at any of the meetings you were at, or aware of, that the community could return once the problem had been dealt with?

**Mr Walsh:** Not to my knowledge.

**Hon ROBIN CHAPPLE:** When the Leader of the House in the upper House said that he had the view that there was not a problem with the community returning, do you know where he might have got that view from?

**Mr Walsh:** I have no idea.

**Hon ROBIN CHAPPLE:** It might have been his personal view. It was not necessarily a view expressed at any meeting you are aware of.

**Mr Walsh:** No. It certainly was not expressed at any meeting I was at. I do not know what he said about that. I am not able to assist you in suggesting where that idea may or may not have come from - I do not know.

**Hon ROBIN CHAPPLE:** I will come back to that in a minute. You mentioned that Department of Indigenous Affairs were significantly involved in the decision. You said it was DIA, Community Development and Health who were leading. Are you aware in any way, shape or form that the minister responsible for the DIA indicated that DIA liaised with ATSIC with a view to developing a position and strategy for addressing the issues of future metropolitan communities?

[7.50 pm]

**Mr Walsh:** Am I aware that they had had that discussion?

**Hon ROBIN CHAPPLE:** Yes.

**Mr Walsh:** If they had, it is not something that involved me, so -

**Hon ROBIN CHAPPLE:** So it was never expressed at any of the meetings that we were actually looking at a number of communities?

**Mr Walsh:** It may have been raised in some of the meetings that there had been some discussion about other communities. What we were talking about was solely about the Lockridge community. This was a matter solely focussed on the Lockridge community. We were not dealing with other communities as far as this was concerned.

**Hon ROBIN CHAPPLE:** And yet you said the people providing the advice that this was the way to go was the Department of Indigenous Affairs?

**Mr Walsh:** Not only DIA, but the DIA attended all the meetings along with people from DCD, from Housing and Works, Premier and Cabinet, and the police.

**Hon ROBIN CHAPPLE:** But you did indicate that it was DIA and community health that basically first put up the premise?

**Mr Walsh:** At the strategic management council, when the Premier raised the question, the agencies that indicated that they had concerns and that there was an unacceptable level of risk were DIA and DCD.

**Hon ROBIN CHAPPLE:** I want to go back and focus in on that particular statement if I may. You just said that when the Premier sought answers, it was those two agencies that came forward. Those agencies had not come forward and expressed a view to the Premier prior to that? Was the Premier seeking views?

**Mr Walsh:** The Premier was seeking advice, having had drawn to his attention that the media were raising concerns. As a consequence of that, at this meeting, which is the meeting attended by the directors general, he raised that question, because obviously he was concerned to know if this was correct; was there substance to this; was there reason to be concerned? And so, this is where the advice came from at that time.

**Hon ROBIN CHAPPLE:** That actually leads on to my next question. Was there any evaluation or comment about what the media were saying, and whether it was valid?

**Mr Walsh:** I guess the fact that the two directors general had put forward this view that there was a problem was what then became the important issue. What the media were saying merely served to trigger that question. We have now got our senior bureaucrats telling us this. That is what we were now focused on, and consequently, that is what led us to pursue the matter as we have.

**Hon ROBIN CHAPPLE:** So, if I go back again to that meeting on 1 May - the one in the morning - it was the Premier who sought information from the departments about whether women and children were at risk?



**Mr Walsh:** He asked the question. I do not remember the exact words of the question, but the essence of it was that this matter had been raised with us by the media and what is the situation? Hence the response, as I have indicated.

**Hon ROBIN CHAPPLE:** Did anyone in either of those two departments proffer the view that women and children were at risk?

**Mr Walsh:** As I am saying, they said this was a concern - that they were concerned for the wellbeing of the women and children there. There was an unacceptable level of risk as far as they were concerned.

**Hon ROBIN CHAPPLE:** In answer to the Premier's question?

**Mr Walsh:** Yes.

**Hon ROBIN CHAPPLE:** That will do me for the moment.

**Hon DERRICK TOMLINSON:** Mr Walsh, you say the media were raising concerns, to quote you verbatim. How many concerns were raised by how many representatives of the media?

**Mr Walsh:** My understanding is that it came from one media, but I may be wrong about that.

**Hon DERRICK TOMLINSON:** So, a medium?

**Mr Walsh:** Sorry?

**Hon DERRICK TOMLINSON:** A medium - singular - not media - plural.

**Mr Walsh:** Well, someone from the media, yes.

**Hon DERRICK TOMLINSON:** It was a single question.

**Mr Walsh:** Let me say, Mr Tomlinson, there may have been others. I was aware of at least one.

**Hon DERRICK TOMLINSON:** When were you aware of it?

**Mr Walsh:** As I have just said, it must have been on or about 1 May.

**Hon DERRICK TOMLINSON:** Not 29 May?

**Mr Walsh:** No, no, no, not 29 May.

**Hon DERRICK TOMLINSON:** That is interesting, because Ms Warbey -

**Mr Walsh:** Was that 29 May?

**Hon DERRICK TOMLINSON:** Sorry, 29 April.

**Mr Walsh:** Oh, well. As I said, it was on or about 1 May, it may have been 29 April.

**Hon DERRICK TOMLINSON:** On 29 April, a question was asked by a journalist from print or electronic media?

**Mr Walsh:** As far as I am concerned, that is what I understand took place. Sorry, let me clarify that. I do not know that it was on 29 April. Are you telling me it was on the 29th?

**Hon DERRICK TOMLINSON:** I am asking you.

**Mr Walsh:** I am saying that I do not know exactly the date. What I am saying to you is it was on or about 1 May, because it was following that - in my recollection it was very soon after we were made aware of it that it was raised at this meeting. It may even have been on that day, or the day before, or something like that, but it was around that time.

**Hon DERRICK TOMLINSON:** At the meeting on 1 May, the directors general, in response to the Premier's question, indicated that they had concerns about the welfare of women and children at that camp. Had there been any previous expressions of concern?

**Mr Walsh:** To me or to the -

**Hon DERRICK TOMLINSON:** Are you aware of any previous expressions of concern?

**Mr Walsh:** Not directly, no. As I say, I subsequently became aware that the directors general in their discussions with other relevant agencies had been discussing this matter, and I understand were in the process of preparing something to come forward either through the Premier or to the strategic management council or to Cabinet. I am not quite sure where they were directing it. I was not aware of it at the time; I subsequently became aware of it.

**Hon DERRICK TOMLINSON:** So the directors general, who for some time - unknown how long - had been looking at the problem, brought it to attention on 1 May in response to the Premier's questions, which were prompted by a question from a journalist, on or about that time?

**Mr Walsh:** Correct.

**Hon DERRICK TOMLINSON:** On the afternoon of 1 May, a meeting was convened and at that meeting were the directors general of the Department of Indigenous Affairs, the Department for Community Development, and who else?

**Mr Walsh:** My recollection is that the Director General of the Department of the Premier and Cabinet was there. There was a representative of the Department of Housing and Works, and of the Department for Planning and Infrastructure. I think there was a police presence there, and there were some officers from the offices of the relevant ministers who had responsibility for those agencies.

**Hon DERRICK TOMLINSON:** Thank you. Was the task to look for a way forward?

**Mr Walsh:** Yes, to deal with the problem. This was a problem, and we needed to find a way of finding a solution that overcame the concern that we had in relation to -

**Hon DERRICK TOMLINSON:** Had not the Government appointed the Gordon inquiry to look for a way forward?

**Mr Walsh:** The Gordon inquiry provided the Government with a very considerable agenda, which we are pursuing, as you know, and it had made some reference, obviously, to the Lockridge camp, because of the origins of that inquiry, but notwithstanding that, and the fact that there had been a new management order in place, the advice we were now receiving indicated that this was insufficient to provide a level of safety and security that was acceptable.

**Hon DERRICK TOMLINSON:** In fact, the Gordon inquiry made a single recommendation with regard to the Swan Valley Nyungah Community - recommendation 141. This was the recommendation of the Gordon inquiry for the way forward for the Swan Valley Nyungah Community. In summary it was that the relevant government agencies negotiate or establish memoranda of understanding. What was the Government's response?

**Mr Walsh:** The Government's response, as I recall, was that they entered into a new management agreement.

**Hon DERRICK TOMLINSON:** What was the circumstance of the new management order that has been promulgated?

**Mr Walsh:** That is not something that I have had involvement in.

**Hon DERRICK TOMLINSON:** Was it not related to the difficulty that the Minister for Education had over a school building on the site?

**Mr Walsh:** As I am saying, I was not involved with that management agreement, or with the discussion that occurred in relation to it. You will need to direct those questions to people other than me.

[8.00 pm]

**Hon DERRICK TOMLINSON:** When was the decision made to not pursue the advice of the Gordon inquiry to establish memoranda of understanding?

**Mr Walsh:** I cannot answer that. I do not recall the time scale. I was not involved in that aspect of what was discussed.

**Hon DERRICK TOMLINSON:** You are the chief of staff of the Premier's office?

**Mr Walsh:** I am, yes.

**Hon DERRICK TOMLINSON:** As chief of staff do you see correspondence that comes to the Premier's office?

**Mr Walsh:** A good deal of it.

**Hon DERRICK TOMLINSON:** Did you ever see correspondence from the Swan Valley Nyungah Community requesting that memoranda of understanding be progressed according to the recommendations of the Gordon inquiry?

**Mr Walsh:** If I did I do not have any recollection of that. A huge amount of correspondence comes to me. I really could not say whether I witnessed such a thing or not.

**Hon DERRICK TOMLINSON:** When the committee that met on 1 May started looking for ways forward, did it take account of the way forward recommended by the Gordon inquiry; that is, to establish memoranda of understanding?

**Mr Walsh:** It took the view that while the current management regime was in charge of that situation we would not get a satisfactory outcome.

**Hon DERRICK TOMLINSON:** What do you understand a memorandum of understanding to be?

**Mr Walsh:** What it says. I think the relevant point here is we did not believe -

**Hon DERRICK TOMLINSON:** That is not my question. My question is what do you understand a memorandum of understanding to be?

**Mr Walsh:** An agreement between two parties to undertake certain things.

**Hon DERRICK TOMLINSON:** An agreement between two parties, and that was what the Gordon inquiry recommended. Was it ever progressed?

**Mr Walsh:** As you are well aware, it was not.

**Hon DERRICK TOMLINSON:** Why not?

**Mr Walsh:** Because the decision was made. You are asking me to explain a decision that I was not involved with. You would know from the outcome of the response to the Gordon inquiry that it was not, and alternatively a new management order was attempted, and that proved to be unsatisfactory.

**The CHAIRMAN:** Take the position of a person standing on the outside. The Gordon inquiry makes a recommendation which is to seek a cooperative approach with the community and enter into memoranda of understanding. Your response to that was no, we are not going to do that; instead, we are going to impose a management order. We have letters from Mr Bropho showing that he wrote to the Premier asking for the memoranda of understanding to be progressed. In the absence of any suggestion from the Premier's office that you tried, on the face of it, to do that, as a bystander, it looks as though the people who were not being cooperative were the people in the Premier's department. On the one side, we have a recommendation that you enter into memoranda of understanding and, on the other side, we have a response from the Government that you are not going to do that and you are going to impose a management order. Also, on the one side, you have somebody writing and saying they would like to enter into it and on the other side you have the Government not responding to it. I am just saying that from my point of view, as an observer, the one who appears to be adopting a strange and uncooperative attitude appears to be the Government; in other words, you are the ones who are rejecting the recommendation and not responding to the request. The reason that Hon Derrick Tomlinson is exploring this matter is that you are in the

Premier's department and you are the person who looks out for things that arise, and you were given control of this matter to progress it.

**Mr Walsh:** I was not given control of the issues relating to the Gordon inquiry. That was something that had already been passed and a decision had already been made. As you would know, it is open to government to accept or not accept recommendations. Your observations in relation to who was doing what are your observations. The Government, as you know, responded very handsomely to the Gordon inquiry and accepted -

**The CHAIRMAN:** As far as the Swan Valley Nyungah Community is concerned?

**Mr Walsh:** As far as the overall community is concerned, and it has put up a considerable resource to back that. The fact that the Government did not choose to accept every recommendation is a matter for the Government.

**The CHAIRMAN:** I am not saying that. I am just raising the point that you have said that you had a lack of cooperation in gaining access to that community.

**Mr Walsh:** I have not said I had a lack of anything. I have said that the advice to us from the people who were concerned was that their officers were impeded in trying to carry out their duties fully in relation to people in that camp, and they consistently provided that advice, and that led us in part to the action that we have taken.

**The CHAIRMAN:** When we spoke to Mr Curry and Ms Brazier we pointed out to them that perhaps their officers might have got a better response if the Government had done what the Gordon inquiry recommended, and they said that was not their decision; that was the decision of government and was out of their hands. Nobody ever suggested that perhaps the reason that they were getting a non-cooperative response from the community was that the Government itself had refused to carry out the recommendation of the Gordon inquiry.

**Mr Walsh:** At the time that I was given the task of progressing this matter that was the decision that had been made. We were focused on the decision as it was, not what might have been or why the Government might have made a different decision.

**Hon DERRICK TOMLINSON:** Part of the strategy adopted by the Government was the appointment of an administrator. What qualities or qualifications were looked for in the person who was to be the administrator?

**Mr Walsh:** We took advice from ATSIC on the appointment of the administrator, and its advice was that Mr Jameson was somebody with experience in handling these sorts of situations and who understood the nature of what had to be managed under this type of circumstance, and that being the case we accepted its advice and Mr Jameson was appointed.

**The CHAIRMAN:** Can you be a bit definite about what "this type of circumstance" was?

**Mr Walsh:** The situation that existed at the Lockridge camp, where we were closing the camp and changing the situation that had previously applied and dealing with the tidying up of the issues that had to be dealt with. For example, he has had to spend some considerable time cleaning up the area, cleaning up the dwellings and so forth, securing the place -

**The CHAIRMAN:** Do you mean people skills or cleaning-up skills?

**Mr Walsh:** Certainly people skills, because one of his tasks - an important task - is to undertake a process of consultation in relation to the future use of that site, which the Government has made clear will be retained for the purposes of Aboriginal people. He is in the process of completing that task now, and it will be part of his final report in September.

**Hon DERRICK TOMLINSON:** You say that Mr Jameson was recommended by ATSIC. Is that the ATSIC council?

**Mr Walsh:** The communication to us I think was by way of the state manager.

**Hon DERRICK TOMLINSON:** Who is the state manager?

**Mr Walsh:** Mick Gooda.

**Hon DERRICK TOMLINSON:** So Mick Gooda recommended Mr Jameson?

**Mr Walsh:** Mick Gooda conveyed to us the recommendation.

**Hon DERRICK TOMLINSON:** The advice came from Mick Gooda?

**Mr Walsh:** Who else was involved in developing that advice I am afraid you would have to ask him.

**Hon DERRICK TOMLINSON:** What is Mr Jameson's profession?

**Mr Walsh:** I believe he is an accountant.

**Hon DERRICK TOMLINSON:** An accountant given the job of dealing with the sensitive issue of the closure of a camp and an accountant given the task of the dispossession of people?

**Mr Walsh:** I am not aware of accountants not being able to be sensitive, but perhaps you have had a different experience.

**Hon DERRICK TOMLINSON:** Where does Mr Jameson operate from?

**Mr Walsh:** Where is he physically located? He spends some of his time here and I gather some of his time out of the State, but mainly here.

**Hon DERRICK TOMLINSON:** Where is his office located?

**Mr Walsh:** I do not know.

**Hon DERRICK TOMLINSON:** You do not know?

**Mr Walsh:** It is an operational issue that I am not involved with.

**Hon DERRICK TOMLINSON:** Could you find out for us?

**The CHAIRMAN:** Just to give you a hint, we have been trying to speak to him, and it appears that he is located in Sydney and is rarely here, because we are having some difficulty in finding a time to see him. We are not even sure when he is next going to be coming to Western Australia. Were you aware that that might be the way in which he was going to operate?

**Mr Walsh:** I am aware that he spends some of his time here and some of his time in the eastern States. I am not aware that any problems have been arising as a result of that.

[8.10 pm]

**Mr Walsh:** As I understand it, Mr Jameson is discharging his obligations fully and effectively.

**The CHAIRMAN:** It might not be causing problems for Mr Jameson - I am sure it is not - but it causes problems for people who want to speak to him, because he is not here. Were you aware that he would be spending most of his time in the eastern States?

**Mr Walsh:** I am not aware of what proportion of his time he spends here.

**The CHAIRMAN:** Were you aware at the time it was decided to appoint him that he would be spending most of his time in the eastern States?

**Mr Walsh:** No, I do not know that he is, but that is an operational matter that I am not involved in.

**The CHAIRMAN:** That raises the question that if he was meant to be dealing with sensitive human relationship issues of people living in the camp, it would be rather difficult to do it from Sydney, would it not?

**Mr Walsh:** I presume he is operating in a way that suits the circumstances that he is faced with. Had the circumstances been different, he may well have allocated his time differently. You would need to speak to Mr Jameson about that.

**The CHAIRMAN:** We would love to if only we could get him in the State. You say he had had experience. Were you given any example of his dealings with people?

**Mr Walsh:** As far as I am aware, his dealings with changing situations in the eastern States always involved people. If you need to know the detail of that I would be prepared to ask.

**The CHAIRMAN:** I would like to know that, because we have not had an opportunity to speak to him yet. Until such time as we do, we are a little in the dark. If you could fill us in, it would be helpful.

**Mr Walsh:** I am sure he would be happy to provide you with that detail when you are able to do that.

**Hon JON FORD:** Mr Walsh, you indicated you were at the directors general meeting when the Premier asked whether there was any truth or substance in the proposition put forward by the meeting. When the directors brought up these concerns, which must have been regarded as very serious concerns given the action that followed, do you recall the Premier asking the agencies why they had not brought those concerns before to his or your attention, or did you ask?

**Mr Walsh:** I do not remember him specifically asking that. I think his focus was that we needed to do something about this and we needed to do it quickly. His focus was that we cannot afford to sit around and muse about this and allow it to continue, we needed to act quickly. He asked me then to convene the meeting, as I did, and to progress matters as they have been outlined here.

**Hon JON FORD:** I would just like to explore, as other members did, what gave this matter the urgency it received from the angle of whether any evidence was presented, or a perception of evidence, that any particular person or persons were at risk or at high risk?

**Mr Walsh:** The agencies, such as the Department for Community Development, gave examples of where concerns had arisen. I think there was a 13-year-old girl removed from there; there was harassment of somebody who lived in the camp and had moved out; and there was some suggestion of some injury to a young lad in the camp. There were these sorts of examples. I cannot recall, Mr Ford, all the details of the examples given. However, I guess we were focusing on the fact that they were convinced there was an issue there, that there were risks and that there was an inability to address those risks under the circumstances that existed; hence, we moved on from there.

**Hon JON FORD:** Are you saying that it was these concerns and the problems of access that gave the perception or certainly a feeling from the agencies that they were not in control and could not guarantee what was going on from the safety aspect?

**Mr Walsh:** That is right. Their feeling was that people were intimidated and were not prepared to come forward and explain the full extent of what was occurring. So, they were indications of the sorts of things that were of concern to them, but because they could not get a free flow of communication - or that was their understanding of it - the combination of those two circumstances added to the concern and underpinned the sense of risk that existed and the unacceptability of remaining in that situation.

**Hon JON FORD:** Did the agency staff raise the issue of any agency staff actually feeling at risk themselves?

**Mr Walsh:** There was an incident raised in which either a social worker or someone from DCD visited the camp and felt threatened by Mr Bropho. I understand that the circumstances were along the lines that he approached the officer concerned carrying a stick, or something of that kind, and that he and one of the members sort of herded the officer into an office where they interrogated the officer and caused the officer to feel considerable stress and anxiety. I think they provided an example that was broadly in that form. I guess I am not the best person to provide that absolute detail. I think the officer from DCD could do that. However, I recall that was the example of a person who did feel that and who subsequently went on stress leave.

**Hon JON FORD:** Was that brought up in the context that it was unique to this particular reserve or that there had been experiences like that at other reserves?

**Mr Walsh:** I am not aware of any discussion about that occurring on any other reserve.

**Hon JON FORD:** I know you are limited in what you can tell us because, as far as I am aware, you do not go into Cabinet. However, were a number of options recommended to the Government at the directors general meetings - I want to be clear on this - including this option, or was this the only option? In other words, was the final option a direct result of the decision by Cabinet?

**Mr Walsh:** During the course of these meetings when the options were being considered, the view formed was that this was the best way to proceed for the reasons I have already mentioned. So, it was decided this proposition would be put to Cabinet. However, in putting it to Cabinet, a number of us went to Cabinet to brief Cabinet and to talk about why this option and what it offered as opposed to others. My recollection is that this was the option that was put but, as I said, it was done in the context of a briefing that referred to why it should be done this way.

**Hon JON FORD:** Did the action that the Government ended up taking, given your role in that, differ a lot from the presentation that was presented to it, or is it right along the lines of the recommendation that was given to it, or not?

**Mr Walsh:** No, it is very much in line. Essentially we are talking here about the use of a reserves Bill to achieve this outcome and if there was a variation it would have been in the detail of the drafting. I guess one difference I could point to is that in the end the Bill included a sunset clause which was not part of the original proposition.

**Hon JON FORD:** Given that, do you have a view that the Government accepted its agencies' advice and acted upon that advice?

**Mr Walsh:** I do.

**Hon JON FORD:** In regard to the reserve itself, are you aware whether there was any other non-indigenous land use considered in regard to the future prospect of the reserve?

[8.20 pm]

**Mr Walsh:** No. It was made clear from the outset that this would be retained for the purposes of Aboriginal people. One of the tasks given to the administrator was to undertake a consultation process with the Aboriginal community and for them to come forward with propositions they felt were the best use of that site in the future.

**Hon JON FORD:** Given the serious concerns that were raised as a result of the Premier asking a question because the media brought it to his attention, as far as you are aware, has Cabinet or the relevant minister displayed some concern with the agencies' actions? If they had these serious concerns, why was it up to the media to bring it to the Government's attention?

**Mr Walsh:** I was not directly involved in that action, but obviously there are a number of ministers concerned who have responsibility across the board here. Discussions that ensued with their agencies are matters to which I was not privy.

**Hon LOUISE PRATT:** Mr Walsh, earlier you said that you had to canvass a number of options with regard to ways to progress this issue. You expressed that a number of those options were perceived as being too delayed or too risky. It appears to me that Parliament itself might have been a fairly risky tactic. Therefore, the Government must have been fairly convinced that parliamentarians would accept the gravity of the situation and that, in order to progress it through both Houses, more than the Government would be of the same view.

**Mr Walsh:** I think that is correct. We believed that this matter should be supported because it was about the wellbeing of women and children and we believed that we could demonstrate that this was

a necessary action because the alternatives had the potential for significant delay and a degree of uncertainty.

**Hon LOUISE PRATT:** We have talked a little about the Department for Community Development's inability to guarantee child protection and an unacceptable level of risk. Did DCD ever express that it was unable to fulfil its statutory obligations as a department?

**Mr Walsh:** In the sense that its officers were not able to freely communicate with the families in the community and to operate in an unencumbered or unfettered way, and hence they felt that they were not getting the proper communication or the full picture of what people's concerns or needs were. That in itself was a significant inhibitor and left them with a feeling of uncertainty and concern that these risks were there.

**The CHAIRMAN:** Do you know whether the Department for Planning and Infrastructure or the Department for Community Development were consulted about the amendments that were made in the upper House?

**Mr Walsh:** Do I know whether the agencies were?

**The CHAIRMAN:** Yes.

**Mr Walsh:** I cannot remember exactly how that occurred. It certainly was a matter that the ministers would have been aware of and how individual agencies -

**The CHAIRMAN:** Were dependent on the minister.

**Mr Walsh:** The answer really is that I do not know to what extent they were aware of all of those things.

**The CHAIRMAN:** Did you receive any communication from Aboriginal and Torres Strait Islander Commission councillors as opposed to Mr Gooda?

**Mr Walsh:** Communication from ATSIC, which we had no reason to doubt, represented its view.

**The CHAIRMAN:** No. The question was, did you have any communication from ATSIC councillors directly as opposed to communications through Mr Gooda?

**Mr Walsh:** We had an early discussion with, I think I am right in saying, one of the councillors, yes.

**The CHAIRMAN:** Who was that?

**Mr Walsh:** I think it was Mr Cole.

**Hon ROBIN CHAPPLE:** On what date?

**Mr Walsh:** I am sorry, I cannot recall the date.

**Hon ROBIN CHAPPLE:** It was earlier.

**Mr Walsh:** During the course of this but early in the piece.

**The CHAIRMAN:** Before or after the strategic council meeting?

**Mr Walsh:** It would have been after the strategic council meeting.

**The CHAIRMAN:** Did you receive a call from any ATSIC commissioners who were meeting in Broome?

**Mr Walsh:** Sorry, can I have that again?

**The CHAIRMAN:** Did you receive a call from ATSIC commissioners who were meeting in Broome?

**Mr Walsh:** Not that I recall. Do you mean to me?

**The CHAIRMAN:** To the Premier's office. Were you aware of any communication?



**Mr Walsh:** Not that I recall. That may have occurred but I do not recall it.

**The CHAIRMAN:** Was Kieran Murphy present at any of those meetings?

**Mr Walsh:** Yes, he was. I am trying to remember at how many.

**The CHAIRMAN:** That was the next question, so we might as well work on it.

**Mr Walsh:** Probably two.

**The CHAIRMAN:** Can you work out which ones they were?

**Mr Walsh:** I think possibly the second and third or second and fourth.

**The CHAIRMAN:** We are not talking about the strategic council meeting; we are talking about the ones that took place afterwards and you think he was present at two of those.

**Mr Walsh:** Yes.

**The CHAIRMAN:** What was his role?

**Mr Walsh:** He participated in the discussion.

**The CHAIRMAN:** What sort of contribution did he have to make?

**Mr Walsh:** He raised ideas and when we were discussing what the options might be, and when talking about the prospect of things moving along in a way that would minimise the delay and maximise the security, he -

**The CHAIRMAN:** However, he is the media person, is he not? Was he not there to deal with media matters?

**Mr Walsh:** In part, but if there was to be media ultimately arising from this, he needed to be there to know what was being said, so that if it was necessary to deal with the media, he would be well briefed on the issue.

**The CHAIRMAN:** I have no problem with that, but when I asked you earlier why Mr Murphy was told about the media contacts, you said that it was because he is the person who deals with the media. I can certainly understand why it would be helpful for him to hear what was being said, but I cannot understand why it would be useful for him to make suggestions, because his expertise is in media, is it not, rather than in matters of policy?

**Mr Walsh:** Mr Murphy is an intelligent man. He raised questions during the course of these events that helped clarify the issue we were dealing with.

**The CHAIRMAN:** Did they have a media slant to them?

**Mr Walsh:** No. At that stage we were not focusing on the media; we were focusing on the issue of how we could move forward. I want to make it clear that, obviously, ultimately there would be media and it was important for Kieran to be properly briefed on what had occurred.

**The CHAIRMAN:** Do you know whether he made notes?

**Mr Walsh:** I do not.

**The CHAIRMAN:** Can you check with him as well, please?

**Mr Walsh:** I said that I would check to see who had notes.

**The CHAIRMAN:** I thought you might have forgotten Mr Murphy and it would have been a pity if you had. I will read to you from the uncorrected transcript of Ms Brazier's and Mr McCulloch's evidence. It states -

Hon DERRICK TOMLINSON: Did you agree to or acquiesce in the rejection of recommendation 141 of the Gordon inquiry for a memorandum of understanding in favour of a management order?

Mr McCulloch: I guess that was a political decision, not a departmental decision. My recollection is that the Premier was very clear that the management order was going to be the way it was; and that is the way it was.

Hon DERRICK TOMLINSON: Rather than the council of directors general, or whatever its title was, was it the ministerial coordination group that made such a decision?

Ms Brazier: Yes.

Hon DERRICK TOMLINSON: You were not involved?

Ms Brazier: No, I was not.

Were you in any way au fait with what happened with regard to the response to the Gordon report?

**Mr Walsh:** As I said before, I was not involved in that process.

**The CHAIRMAN:** You did not get involved in that process?

**Mr Walsh:** No.

**The CHAIRMAN:** I have a general request of you. I have asked it of other witnesses as well and there may be some duplication, so I am happy for you to coordinate; we do not necessarily want 10 copies of everything. Can you give us all the internal documents that deal with this matter or that were the basis of the decision, including briefing notes, minutes, chief executive officer and Department of the Premier and Cabinet returns, ministers' memos, e-mails - anything that will help us understand the process by which the decision was arrived at, because that is the committee's terms of reference? We have to find out how this came about.

[8.30 pm]

Will you let us have a statement that that is a complete list of those documents I have asked for. I will ask the committee clerk to give you that in writing, but we would like that from everybody who was involved in any way in this process, including Mr Murphy.

**Mr Walsh:** You will arrange for that list to be made.

**The CHAIRMAN:** I will ask the clerk to confirm that request of you. However, I ask you to start on it now, making preliminary research so that you do not wait until you get the letter to start preparing. Do you understand the sort of things I am looking for?

**Mr Walsh:** I understand what you are asking.

**The CHAIRMAN:** I have not necessarily told you all the types of documents, but I want to know anything that has been written that will assist the committee in ascertaining the processes by which this decision was arrived at.

**Mr Walsh:** I understand what you are asking me. The decision was arrived at through the cabinet process.

**The CHAIRMAN:** I would like to have everything that led to its going to Cabinet in that form. Obviously, a lot happened outside Cabinet. That is what I am interested in. If you believe something is a cabinet document and it should not be produced then you are to disclose it, its nature and its date and give that as a reason. It will then be up to the committee to decide whether it will accept that as a reason for your not producing it. I would like you to state not only those things you are prepared to produce but those you would prefer not to produce and your reasons for not doing so. Do you understand that?

**Mr Walsh:** I understand what you are saying, yes.

**The CHAIRMAN:** Thank you very much Mr Walsh.