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**TRANSCRIPT OF PROCEEDINGS  
TRANSCRIPT-IN-CONFIDENCE**

**INSPECTOR-GENERAL AUSTRALIAN DEFENCE FORCE  
INQUIRY INTO THE CRASH OF A MRH-90 TAIPAN  
HELICOPTER IN WATERS NEAR LINDEMAN ISLAND  
ON 28 JULY 2023**

**PUBLIC INQUIRY**

**THE HONOURABLE M McMURDO AC  
AVM G HARLAND AM CSC DSM**

**COL J STREIT, with FLTLT A ROSE, Counsel Assisting**

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COL N GABBEDY, representing MAJGEN Jobson  
MR G O'MAHONEY, representing Airbus and related entities  
SQNLDR M NICOLSON, representing D10  
MR C PRATT, representing Senior Constable J Cook**

**1000, WEDNESDAY, 1 MAY 2024**

**DAY FOUR**

**TRANSCRIPT VERIFICATION**

**I hereby certify that the following transcript was made from the sound recording of the  
above stated case and is true and accurate**

<b>Signed</b>	.....	<b>Date</b>	.....	(Chair)
<b>Signed</b>	.....	<b>Date</b>	.....	(Recorder)
<b>Signed</b>	Epiq Australia Pty Ltd	<b>Date</b>	16/05/24	(Transcription)

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MS McMURDO: Yes, COL Streit?

COL STREIT: Good morning, Ms McMurdo. Can I recall Mrs Lyon, please?

5

MS McMURDO: Yes, certainly.

**<MRS CAITLAND LYNETTE LYON, recalled on former affirmation**

10

**<EXAMINATION-IN-CHIEF BY COL STREIT, continuing**

15 COL STREIT: Good morning, Mrs Lyon.

MRS LYON: Good morning.

20 COL STREIT: Can I please have Mrs Lyon's statement returned to her? Thank you.

MRS LYON: Thank you.

25 COL STREIT: I also notice we don't seem to have a laminated pseudonym list. Thank you.

MS McMURDO: We do have clean glasses.

30 COL STREIT: Mrs Lyon, I can see that you have a notebook of some description with you. No doubt, you might have some information in there, but because it doesn't form part of your statement, your evidence, can I just ask if you'd close that notebook and put it to one side?

35 MRS LYON: Yes, no worries.

COL STREIT: That's my fault, I should've explained that to you, at the start.

40 MRS LYON: That's okay.

COL STREIT: Yesterday we finished your evidence-in-chief at a point in time where you were giving some evidence about your observations of – these are my words – your observations of Dan experiencing some challenges in balancing his work commitments and family, and time.

45

That's where we paused, and we were about to move to the next area, which is the ditching of the MRH-90 in Jervis Bay.

5 MRS LYON: Just before we move on to the ditching, can I just add to what I said yesterday?

COL STREIT: Sure.

10 MRS LYON: With the long work hours, that wasn't a problem for our family. That was the expectation of his job, and we understood that, and I was completely supportive of that at the time. He had an important role; he was Troop Commander. I knew that when he went into that role; I knew it meant long hours, and we were very proud of him for that.

15 He was an exceptional pilot. He was exceptional with his colleagues. And he had the experience from Papua New Guinea; he had all the experience of the mountains, the snow, the strong winds, the cloud. He was good at what he did. He had those three years of experience before he got to 6 Avn, and then built on that experience there. He brought that with him, and he  
20 was able to share that. And we were very proud of all of that.

It's only in hindsight now that I feel that it wasn't purposeful. If he'd come home, I wouldn't have felt like that. We would've continued to be proud and we would've continued to support him and back him all the way  
25 because he loved his job and he loved to fly. It's only now that I can look back and go, "Why did we lose so many days that we'll never get back?"

So, yes, I just wanted to add that to yesterday.

30 COL STREIT: Thank you. Thank you for that additional information. If we could turn to that part of your statement where you deal with the ditching of the MRH-90, which is in Jervis Bay. Dan, I understand from your statement, provided you some information about the ditching of the MRH-90 in Jervis Bay. Can you just tell me what Dan told you about that  
35 matter?

MRS LYON: He had told me that the aircraft had ditched into the water at Jervis Bay. He had explained that everyone was safe. That was probably the biggest point, that everyone was okay. He had explained that the fleet  
40 was now grounded and would be grounded until the investigation was concluded.

My immediate response was, "Was everyone okay?", and he reassured me that everyone was fine. His concerns were around hoping to have the

investigation find out what happened and why the aircraft didn't respond in the way that they had trained for.

5 We had had a conversation about how he had explained that when the aircrafts ditch into the water they flip over because of the floats, and that's how their HUET training prepares them. And he just was hopeful that the investigation would find out why the helicopter didn't react in that way.

10 COL STREIT: So when you say "HUET training", at paragraph 82 of your statement you say:

15 *Dan was very comfortable in the water from all his surfing experience. Although he didn't love doing his Helicopter Underwater Escape Training, HUET, he willingly accepted the need and understood the purpose of that training.*

20 MRS LYON: Yes, and I don't believe anyone enjoyed HUET training; it's hard, it's confronting. But Dan was confident in the water. He had been held down by waves many times. He spent every weekend surfing – not every weekend, but he would if he could have. He loved the ocean. He loved the water. He was very confident in it. So it was just part of his job; he got in, he got that done. And I know as a result, he was meticulous with the safety of his crew when flying over water.

25 I think it's here that I mention that Dan actually took off his gloves when flying over water to make sure that his finger dexterity was to the best of his ability because he wanted to make sure that everyone was safe, because water, it's dangerous.

30 COL STREIT: Is that something he told you he did when he flew over water, take off his gloves?

35 MRS LYON: Yes. And it was a conversation we had where he was reassuring me on his preparation of around how knowledgeable he was in what to do in an aircraft ditching. He would tell me that every time they went over the water, he would go through his mind, similar to sort of the chair flight where he'd visualise going, "Brace, brace, brace". He'd show me how he took off his helmet and how he moved from the aircraft. Then he would always say to me, you know, "Swim to the top".

40 COL STREIT: At paragraph 79 of your statement, you say that Dan had referred to the right-hand seat of the MRH-90 cockpit as the dead man's seat because he told you that if the aircraft hit the water, it would be difficult for the pilot in the right-hand seat to easily remove the helmet, get out of  
45 the cockpit, because of effectively where some cables were.

When did you have that discussion with him, do you remember?

5 MRS LYON: It would've been not too long after we moved to Sydney. There was a point where it was signed-off on by Command, that that was a reasonable risk, and he'd come home and said that to me. He was quite angry. I was also quite angry that it was deemed a reasonable risk to acknowledge that the pilots would become tangled in those cables, and say, "That's okay, that's a reasonable risk".

10 And I had said to Dan, "I don't deem that to be a reasonable risk". I knew he didn't love being in there and he was ready – he was very prepared, if he needed, to remove that helmet. But it was known to be, by him and his colleagues, as the dead man's seat.

15 COL STREIT: At paragraph 80 you say when you effectively had that discussion with him about the dead man's seat, he's telling you that effectively he knows the drill and he's got it?

20 MRS LYON: Yes, and that was Dan; he knew his job well, he knew what to do. He was adamant, he was like, "I know the drill and I've got this". And I believe he did, he really did.

25 COL STREIT: At paragraph 83 you refer to Dan expressing to you that he was glad that the Army had grounded the MRH-90 fleet after the Jervis Bay incident, and that there was an investigation ongoing. Is that correct?

MRS LYON: Yes.

30 COL STREIT: At paragraph 85 you say that:

*Dan told me that there was a growing frustration amongst the aircrew that capability was being prioritised over the safety of the aircrew.*

35 When did he say that to you, can you remember?

40 MRS LYON: It was once they started flying again, and I had asked, "Do we have a conclusion to what happened?" I don't think he was comfortable with the conclusion of the investigation. I don't think he felt like that there was a solution going forward. So you can identify that was the problem, but then what are we going to do about it? Well, you get back in and you do your job. That was a frustration that we both shared; that you can identify the engine failure and then not do anything about it, and you just keep flying.

45

COL STREIT: Paragraph 81 of your statement, you refer to a conversation with Dan where you say he said to you – second sentence:

5                    *It's very concerning that the helicopter didn't react in the way we've been practising and trained for.*

MRS LYON: Yes.

10                  COL STREIT: When Dan said that to you, what did you understand he was telling you?

15                  MRS LYON: I understand that he was telling me that when the aircrafts ditch into the water, the floats deploy and then they flip, and they are trained to then escape from the upside down helicopter, because that's what they would do in that situation. But it didn't do that, and whilst that was a huge relief because that meant that those boys didn't have to do that, it was just odd to Dan that how they've been trained all this time isn't what happened.

20                  COL STREIT: Did Dan ever subsequently explain to you anything further about that particular matter?

25                  MRS LYON: No, he just said it was an engine failure. That was his understanding, sorry, that it was an engine failure, and that they were too close to the water to use the other engine to pull up. There wasn't enough airspace between the aircraft and the ocean, so that's why it ditched rather than being able to pull up.

30                  COL STREIT: At paragraph 85 you refer to a discussion with Dan. I'll read it to you. So you remember having a conversation with Dan after the Jervis Bay incident to the following effect – you say:

*Well, are the aircraft safe? Do we know what happened?*

35                  Dan responds:

*Does it matter?*

You say:

40

*Yes, it does matter.*

Dan responds:



*We're up; we're flying. We're okay. We'll be all right. It's why we do the training.*

What was the genesis of that discussion? How did it come about?

5

MRS LYON: It came about by me wanting to know what they were going to do going forward, how are we going to prevent this from happening again. And Dan had expressed that this is what the training is for, it's why they practice, it's why they train, so that they can respond if something bad was to ever happen. But neither of us were reassured that there'd been things put in place to prevent something like this happening again.

10

COL STREIT: Paragraph 87 - - -

15 MS McMURDO: Just before you go on.

COL STREIT: Yes.

MS McMURDO: Paragraph 85, you actually say there that Dan told you at this time – that is, after the Jervis Bay incident – that there was a growing frustration amongst the aircrew that capability was being prioritised over the safety of the aircrew. Can you remember any details about that, or circumstances in which that comment was made?

20

MRS LYON: It was because he felt like everyone was continually pushed. So this happened and we pushed forward, and that's what we do, even if it's at the safety of the crew, if it means putting them in risk. Because our nation requires those helicopters to protect, so we need to be up, we need to be running. So the engine failed and that was the conclusion, and so we move forward. I don't feel like he felt like it was rectified enough to warrant to just put people back up in the sky.

25

30

MS McMURDO: So he was concerned for his men, his crew?

35 MRS LYON: Yes.

MS McMURDO: But he also wanted to stop you from worrying too much; is that the position?

MRS LYON: Yes, absolutely. He never wanted me to be worried, but he took the safety of his crew very seriously and he wanted to ensure that they were safe; he held that responsibility really close to his heart, yes.

40

MS McMURDO: Thank you. Yes, COL Streit.

45

COL STREIT: At paragraph 87 you say:

*I don't believe that Dan had lost confidence in the MRH-90 or his abilities as a result of this incident.*

5

You go on to say this:

*Although he did tell me that it was only a matter of time before something worse happened, he did not tell me the specifics of his concerns by -*

10

that must be a typo:

*He did mention that during a meeting he had lost his cool and yelled out words to the effect of, "Someone is going to die from this one day".*

15

Can you remember when Dan said that to you?

20

MRS LYON: It would've been between 2022 and 2023. It was out of character for him to respond so strongly. I am not sure what discussion happened with Command for him to react like that. He definitely didn't feel like he was being heard and his concerns for the safety of his crew were being prioritised. He had no question of his capability; he knew what he could do. He knew he was good. He knew that he was equipped to handle any situation, but he was concerned for others.

25

COL STREIT: At paragraph 88 you refer to this conversation with Dan, and Dan's conversation with persons in a meeting. You say, in the last sentence, that:

30

*He was definitely concerned about the capability of others with the shortening of courses such as the SOQC.*

35

You say:

*D15 was in the room and witnessed the conversation.*

40

Can you just have a look at the list of pseudonyms and just tell me whether D15 is the person you say was present in that meeting.

MRS LYON: Yes, that's correct.

45

COL STREIT: I'm just going to turn now to some evidence you were giving about an incident in Sydney Harbour, which is at paragraph 89 of

your statement. That information in those three paragraphs – 89, 90 and 91 – was that information Dan provided you?

5 MRS LYON: It was.

COL STREIT: And what he was informing you about was an incident involving a Black Hawk doing an activity in Sydney Harbour where a rotor on the Black Hawk struck the mast of a cruise ship; is that right?

10 MRS LYON: That's correct.

COL STREIT: Dan wasn't flying that day, was he?

15 MRS LYON: I'm not sure if he was flying that day or not, but he had called me to let me know that this would be in the media and he wanted to reassure me that it wasn't him, because I do know that he had done that training previously.

20 COL STREIT: You say it involved a Black Hawk. Did Dan explain to you why a Black Hawk was being flown at that time and not an MRH-90?

MRS LYON: No, he didn't.

25 COL STREIT: Just now turn to Exercise TALISMAN SABRE, which commences at paragraph 92 of your statement. So this is Exercise TALISMAN SABRE 2023. I'm just going to deal with your evidence in relation to the lead-up to Dan's deployment on that exercise, first. At paragraph 92 you say:

30 *Dan was particularly busy and working long hours during the two weeks in the lead-up to the exercise.*

Is that correct?

35 MRS LYON: That's correct. That's very standard, leading up to an exercise, to work those hours, to be prepared.

40 COL STREIT: Compared to your observations of his work prior to that two weeks lead-up to the exercise, did you see an increase in tempo in the two weeks in the lead-up to the exercise, or was he just maintaining that high tempo of work that he'd previously been doing?

45 MRS LYON: No, it definitely increased as the lead-up to TALISMAN SABRE drew closer.

COL STREIT: At paragraph 93 you give evidence that you understood Dan and others from 6 Aviation Regiment were leaving for TALISMAN SABRE on Monday, 24 July 2023. Is that correct?

5 MRS LYON: That's correct.

COL STREIT: Did something happen on the Sunday, which is the 23rd?

10 MRS LYON: Yes. So Dan was called in by his OC to come in to work with a Troop Commander and some other people in Command. They were told that there were some last-minute things that needed to be done before they left.

15 COL STREIT: Were you with Dan at the time he received this call to go in to work?

MRS LYON: I was, yes.

20 COL STREIT: Where were you at the time?

MRS LYON: We were at Noah's Auskick game.

COL STREIT: Noah's?

25 MRS LYON: Auskick practice, sorry.

COL STREIT: Auskick being Australian Rules football for little children.

30 MRS LYON: Yes, we did that every Sunday, and that was a special thing that Noah and Dan did together.

COL STREIT: When that call came in, what did Dan do?

35 MRS LYON: He had to leave. So he had to leave early. He missed the end of – he wasn't there very long, but he missed the rest of the session, and he went straight in to work. He was reassured that it would only be an hour or two, and then he would be able to come home.

40 COL STREIT: Did you say anything to Dan about him having to go in to work?

45 MRS LYON: Yes. I asked him why it wasn't already done. I said, "Shouldn't this already be done by now? Like, what could you possibly have to do? You leave first thing Monday morning. Shouldn't this have been done?", and he didn't know. He didn't know what needed to be done.

5 He was going in to find that out. And I had expressed that it wasn't good enough because he was about to go. If he wasn't leaving, there would've been no problem, it would've been okay. You know, "Go in, do your job, come home. That's okay". But I was a bit disappointed that that was our last day because I had a feeling that these things always blow out more than an hour or two.

10 COL STREIT: At that time, did you know how long Dan was going to be away on exercise?

MRS LYON: We were unsure. It started off being proposed as three weeks, and it was slowly getting shorter the more that he spoke to people. He reassured me that he would be home early. The morning that he got up and left, he'd rubbed out on our calendar the extra week that I had had on there and he wrote, "Come home early", on our calendar, which was on the Tuesday the following week.

COL STREIT: Is that a family calendar in the house?

20 MRS LYON: Yes, it is.

COL STREIT: Did you have a social event planned on that Sunday?

25 MRS LYON: We did. We had friends coming for lunch. My girlfriend had just had her baby and we were – and Dan was going to be meeting the baby for the first time.

COL STREIT: What happened later that day?

30 MRS LYON: So we pushed lunch out to 2 o'clock to try and allow Dan a bit more time, to take the pressure off him so he wasn't rushing back, but Dan didn't come home until about 5 o'clock. So we had multiple conversations throughout that time frame, just trying to gauge if he was going to make it or not, and if we could push it back. And they wanted to stay back as long as they could so that he could meet their baby.

COL STREIT: Was there an increasing frustration on Dan's part of being able to get home?

40 MRS LYON: Yes, Dan was frustrated. He couldn't see the purpose of why they were still being made to stay at work.

COL STREIT: I just take you to Annexure A of your statement.

45 MRS LYON: Yes.

COL STREIT: Is Annexure A a copy of some text messages between you and Dan on 23 July 2023?

5 MRS LYON: Yes, it is.

COL STREIT: You will see in the middle of the page on the left-hand side two messages: one is, "I haven't left"; the next is, "We're getting fucked around. I'm fucking off D10".

10 MRS LYON: Yes.

COL STREIT: Is that Dan writing to you?

15 MRS LYON: It is.

COL STREIT: Just have a look at the pseudonym list and just confirm whether or not D10 is the person whose name has been redacted.

20 MRS LYON: That's correct.

COL STREIT: You respond to Dan in three short messages, and then he tells you:

25 *How are you doing, babe? We're getting knocked off at 1500. I'm so done.*

MRS LYON: Yes.

30 COL STREIT: You say:

*Oh my God. What a joke. See you soon.*

And then Dan asks:

35 *When is Peta and Jack arriving?*

Were they the people that you were supposed to have lunch with?

40 MRS LYON: Yes. So I continued to push out them coming so that, you know, no one was wasting anyone's time, and we actually thought Dan would be home so early that he would bring some groceries home, which is why it says those grocery items, which I realise was a silly mistake to have asked.

45

COL STREIT: If you turn the page to page 38, would you accept from me that page 38 is the continuation of messages between you and Dan on 23 July 2023?

5 MRS LYON: It is.

COL STREIT: Following on from where Dan asks you, “When is Peta and Jack arriving?”, your response is, “Any minute”. That’s correct?

10 MRS LYON: That is correct.

COL STREIT: Then Dan says:

15 *Knock-off brief at 1600. Have a beer ready for me. I’m done with the Army. Coming home now, babe. Just about to drop D20 off at the train station. She is in tears.*

First, in relation to D20, can you just confirm whether or not D20 refers to the person you say that was in that text message that has been redacted?

20 MRS LYON: It does.

COL STREIT: Just in relation to the exchange generally, on its face would you accept from me that Dan is expressing increasing frustration about the delay in being able to get home?

25 MRS LYON: Yes, he was acutely aware that it was our last day before he left. He didn’t ever want to waste a moment with our children; he just wanted to be with them. He had no problem with working hard. He had no problem with doing the job. It was only when time was being wasted that he became frustrated.

COL STREIT: When he tells you in the message, “I’m done with the Army”, what did you think at the time, when you got that message?

35 MRS LYON: At the time, I just felt like he was frustrated and upset. His priority was always our family, and when they continuously took that away and made it really hard for him to have that, he was frustrated. You know, again he has a job to do, and he loved his job, and he did his job well, but  
40 when it was unnecessary, and it wasn’t productive, and he had to wait around for someone else, that was frustrating for him.

COL STREIT: When you got that message, given I understood your earlier evidence that you and Dan had had some earlier discussions about the possibility of him transitioning out of the Army to do something else for a  
45

better work-life balance, so when he's telling you on that day, on the 23rd, "I'm done with the Army", what did you think might happen when Dan came – you know, down the track with Dan and the Army?

5 MRS LYON: It was just starting to build fractures; that he loved the organisation, and he loved his job so much, but they didn't give him back what he was putting in. You know, they didn't value what he valued, which was his family. We weren't the priority at all, and I understand that. You know, you've got a job, you've got a mission, you've got a target. But  
10 pointless, non-purposeful work was really challenging, and he didn't want that. He wanted purposeful. He wanted it to mean something. He wanted to help people, and it was frustrating when he couldn't do that.

COL STREIT: At paragraph 95, in relation to the message that Dan sent  
15 you about D20, that he's just dropped her off at the train station and she is in tears, you go on to say at paragraph 95 that D20 was Dan's fellow Troop Commander in 6 Aviation Regiment. Is that right?

MRS LYON: That is correct.

20 COL STREIT: Prior to that time, that message from Dan, had you previously met D20?

MRS LYON: Yes, I had.

25 COL STREIT: Was that in a work context?

MRS LYON: Work and social, yes. Dan worked very closely with D20. They were both Troop Commanders. They both had the same high-paced,  
30 pressure-filled job, so they worked quite closely together, sharing that knowledge. So her reaction, being as upset as she was – I did know that Dan had felt that, but he wanted to help support her.

COL STREIT: Dan, in his text message to you, mentions D10. When you  
35 have a look at the pseudonym of who D10 is on that list, do you understand D10 to be Dan's boss; that is, his immediate superior?

MRS LYON: That is correct. He was frustrated that it wasn't just his weekend being wasted, it was everyone's. Everyone had a family.  
40 Everyone had someone they loved and would have preferred to have been with, so he didn't want anyone else's weekend being wasted either. If he could go in and take the pressure off and do it, he did. He didn't want anyone else to feel like they were losing that time. So he cared for everyone's wellbeing.

45



COL STREIT: At paragraph 97 you refer to a discussion - - -

MS McMURDO: Just before you go on. Did he tell you what D20, his fellow Troop Commander in 6 Aviation, was upset about?

5

MRS LYON: It was about the further pressures of the job, and the fatigue of the team. She didn't feel like she was being listened to or heard by their boss.

10 MS McMURDO: Thank you. Yes, thanks, COL Streit.

COL STREIT: At paragraph 97 you refer to a discussion with Dan where you say Dan said to you, in response to a question you asked him:

15 *I don't know. If it was purposeful, that would be one thing. We'd just get in and get it done. But there was so much waiting around and wasting time.*

Is that what he's telling you about what he had to do on that Sunday?

20

MRS LYON: Yes. Yes, it was. I was concerned that things were being rushed at the last minute, and I didn't believe that that job should be rushed. They've got helicopters, people in them. It's a job that should prioritise safety and time, and I felt like it was being rushed. And he was happy to go in and do it so that it wasn't being, but we had a conversation of, "Well, why wasn't it done the week before, or two weeks before?" TS is the same time every year, so it wasn't as if they didn't know it was happening.

25

COL STREIT: What time did Dan eventually get home on that Sunday?

30

MRS LYON: From memory, it was just after 5 o'clock.

COL STREIT: Were your guests still there, or had they left?

35 MRS LYON: They were just there because I'd said he was coming. So they had held off, were able to spend a little bit of time with him.

COL STREIT: At paragraph 103 of your statement you give some evidence about a discussion you have with Dan. Is that a discussion that's occurring that Sunday after Dan comes home?

40

MRS LYON: Yes, it was that night.

COL STREIT: You're, in that discussion, expressing concerns to him that you don't feel comfortable with him going on the training exercise where people die.

5 MRS LYON: Yes.

COL STREIT: What did you understand? What was the reason why you said that to him at the time?

10 MRS LYON: We were aware that there'd been other accidents whilst people were on TALISMAN SABRE, and it seemed to be that every year there was some kind of accident, whether it involved the US and their aircraft crashing, or the truck rollover trying to get home. I didn't deem it a reasonable risk to go on an exercise where people were known to die, and  
15 that made me feel quite uncomfortable.

COL STREIT: You told Dan in that conversation that you don't feel great about it, that you feel quite sick, and you thought he should not be going. Is that correct?

20

MRS LYON: That's correct. There was a lot of other things that needed to be done at 6 Avn. There was a lot of work that he had coming up. There was a lot of flying that was coming, and I didn't see the purpose of going on an exercise when there was already so much happening at 6 Avn for it to be then a rushed experience of, "Oh, we're going to only go for this very  
25 short period of time. We're going to get it done really fast so we can come back and do this other work". And that was a concern because they had been so busy to the lead-up. There was already a mounting stress and fatigue of everyone.

30

COL STREIT: So Dan, in that conversation, told you to the effect that it was his job, and he has to go and do his job.

MRS LYON: Yes, it was his job. He loved to fly. He loved to fly. It was  
35 his absolute passion. It was what he wanted to do always, and he stayed as a Captain so that he didn't ever lose flying time. That's what he wanted to do. So it was okay to go and do that. It just made me worried that the safety of everyone wasn't as highly prioritised, I felt.

40 COL STREIT: Did you see Dan before he left – I'll withdraw that. Dan left the family home Monday morning; is that right?

MRS LYON: He did, yes.

45 COL STREIT: Did you see him before he left?

MRS LYON: No, I did not.

5 COL STREIT: Was there some sort of plan or anticipation by you as to the time that he was going to leave that morning?

10 MRS LYON: Yes. Our daughter normally wakes about 6 am, so the plan was that I would see him before he left, but he was already gone. And I think he'd gone in to try and get a bit of extra work done before leaving.

COL STREIT: Do you recall what time you woke up approximately that morning on the 24th?

15 MRS LYON: Yes, about 6 o'clock.

COL STREIT: And he was gone.

MRS LYON: He was gone.

20 COL STREIT: Did you have any conversations or interaction with Dan later that day?

MRS LYON: We did, yes, we exchanged messages later. It was later that day, after they had lifted, we exchanged some messages.

25 COL STREIT: They're in your statement at Annexure B; is that correct?

MRS LYON: Yes, that is correct.

30 COL STREIT: In terms of Dan arriving at Proserpine, did you have any other engagements with Dan when he first got up to Proserpine on the 24th?

35 MS McMURDO: Before we go there, could I just take you to paragraph 104 of your statement?

MRS LYON: Yes.

40 MS McMURDO: You've touched on this to some extent but you haven't really expressed it in those terms. Did he tell you about his concern about his team, and were all his team going on the exercise?

MRS LYON: No, they weren't all going, and I didn't know at the time why that was. It was just that they retired, so they had gotten medical certificates, I guess you could say, to excuse them from the exercise, and it

wasn't until after that I found out that that was due to fatigue, and their mental health was suffering as a result.

MS McMURDO: Thank you. Yes, COL Streit.

5

COL STREIT: Thank you. At paragraph 106 of your statement you say at 12.43 pm Dan sent you a photo of the rain and mud at the airfield, and you replied to him. Is that correct?

10

MRS LYON: Yes. So the first time I heard from him was at 10.02 where he'd sent a photo of them flying over the trees and the mountains, and then the next I heard from him was at 12.43, and yes, that was of the rain and the mud on the airfield. And then I got the video of him flying from earlier in the day, where you could see all the clouds.

15

COL STREIT: At paragraph 108 you say that you got a text message from Dan at 11.04 pm to tell you he was heading to bed, which was in a sleeping bag in a tent. Is that right?

20

MRS LYON: That's correct.

COL STREIT: At paragraph 109 you identify that copies of some Facebook messages that you and Dan exchanged in the afternoon of 24 July 2023 are at Annexure C. Can you just check Annexure C for me, please.

25

MRS LYON: Yes.

COL STREIT: All of these messages form part of your evidence, but I'm only going to refer to some of the messages.

30

MRS LYON: Okay.

COL STREIT: But all of the messages are before the Inquiry.

35

MRS LYON: Okay.

COL STREIT: Now, just turn to Tuesday, 25 July 2023, which is at paragraph 111 of your statement. So Dan messaged you at 7.01 am. Was that the first message from Dan on that day?

40

MRS LYON: Yes, I believe it was.

COL STREIT: At paragraph 112 you say copies of Facebook messages between you and Dan exchanged on 25 July 2023 are at Annexure D to your statement. Would you just confirm that's correct?

45

MRS LYON: Yes, there's one from the 24th and then the rest are from the 25th.

5 COL STREIT: You had some discussions with Dan about some difficulties he was encountering in changing his body clock; I just want to ask you about that.

MRS LYON: Okay.

10 COL STREIT: So it commences at paragraph 113, at 8.55 am on 26 July. Dan was messaging you to the effect that he had to reset his body clock to effectively undertake night duty, night flights, and expressed to you how tired he was. Is that right? Go to page 54 of your statement.

15 MRS LYON: Thank you. Yes, he had expressed that they had to stay up all night to reset their body clocks, that is correct. And I reply, saying that, "This is a ridiculous idea".

20 COL STREIT: So what he says is – I'm not going to refer to the name there, but what he says in the message, he says:

25 *Hey babe, we're all trying to sleep to reset our body clocks for night flying. It's fucked. The entire camp is up and about and talking/working and here we are trying to sleep.*

That difficulty in trying to sleep, was that something that continued in messages between you and Dan, that he was telling you?

30 MRS LYON: Yes. For the week that he was away, yes. It was seen to be incredibly challenging, and it was out of character for them to be sleeping during the day with people working. We had previously spoken about the fact that pilots and aircrew would stay offsite, or further away from the site, so that they could have that sleep. Because otherwise it is very hard in the  
35 tropics, in a daylight tent, with people working.

COL STREIT: Paragraph 116, you refer to having a discussion with Dan about the use of sleeping tablets. What was that discussion about?

40 MRS LYON: Dan had expressed that he didn't do the ground run, he said, for the sleeping tablets. I asked him what that meant and he said he didn't do it, he didn't know he had to do it. But other people had done it previously in the past, in the six, 12 months, a couple of years before. But he wasn't offered to do it before they had left, and that he didn't know anything about

it. So some people were given the sleeping tablets because they had done the ground run, but he wasn't given them.

5 COL STREIT: In discussions with Dan, or messaging, did he actually explain what "ground run" meant?

MRS LYON: Like a medical trial, he had said, where they would be given them in the safety of the Holsworthy Health Centre. If they responded to them well and they were okay, then they could then use them on exercise.

10 COL STREIT: If I have this wrong, please correct me, but what he was telling you was he didn't know he could participate in that kind of trial, or he simply just didn't get around to do it?

15 MRS LYON: My understanding was that it wasn't offered to him in the lead-up, and he didn't know that that was – probably not a requirement, that's not the right word – but the suggestion, he wasn't offered it, it wasn't given to him.

20 And he reassured me, he said, "I'm okay, it's nothing I can't handle". And it wasn't, it wasn't anything he couldn't handle; I just didn't think that that was the optimum standard that you would like your pilots. So he was more than comfortable doing what he was doing; he knew that he could handle it. It was me who didn't think it was something that he should have to

25 handle.

COL STREIT: At paragraph 117 of your statement you say:

30 *Dan told me he could not sleep on the exercise because it was so hot in the tent and he was sharing with 18 others, and all his gear was wet and everyone was walking around working while he was meant to be sleeping during the day.*

35 Do you remember when you had that specific conversation? Was that something on the 26th or the 27th? And if you can't remember, that's okay.

MRS LYON: It would've been a phone call on one of those days. I'm not a hundred per cent sure, I'm sorry. I would have to check my phone log.

40 COL STREIT: At paragraph 118 you say Dan told you he'd been asked to be the flight lead for the next day's mission, even though he was already the lead planner for the FMP that evening. Do you understand what FMP means, or can you tell me what you understood it to mean?

MRS LYON: It was like a course that they had to do for currencies, is my understanding.

5 COL STREIT: On paragraph 119 – so we're now turning to 27 July 2023 – you say Dan messaged you at 7 am on the morning to say that he'd gotten to bed at 2 am that morning. He'd had a few hours sleep. You then talked to him at 9.33 am, after he'd just woken up again, and that he told you that he'd slept okay.

10 MRS LYON: Yes.

COL STREIT: Is that right?

15 MRS LYON: That is correct.

COL STREIT: Then at paragraph 120 you say:

20 *Dan and I spoke again that afternoon, after he came back from flying. He said he was tired.*

Did he say anything else, other than he said he was tired? Did he say to what extent he was tired, or was it just a general comment?

25 MRS LYON: I believe it was just a general comment. They were flying day and nights, and he had only had those few hours of sleep and I had asked him how he was feeling and he had said he was tired. But it wasn't a concern that he had about being tired, it was just the job.

30 COL STREIT: You had a video call with him later that day, about 6 pm; is that right?

MRS LYON: Yes, we did.

35 COL STREIT: And he was able to speak to the children at that time?

MRS LYON: Yes, he was. They had dinner together.

COL STREIT: And you say at paragraph 120, last sentence:

40 *Dan seemed very happy and excited to speak with the children, and his mood was positive.*

45 MRS LYON: Yes, absolutely. He was so excited to be able to watch them eat, and they were eating one of his favourite meals. So they shared that and fought over the camera, and yes, they had a really lovely time.

COL STREIT: At paragraph 121 you say at 8.02 pm Dan sent you a photo of him flying in formation with some Chinooks, from that afternoon, and that he'd asked you to show the photos to Noah. Is that correct?

5

MRS LYON: That is correct. Noah loved that daddy was a helicopter pilot; he was incredibly proud. Dan would fly over his school and over our house so that Noah could see, and his classmates and his friends, and we'd all go out and look and wave, and cheer. Then Dan would fly over my parents' house. We were all very, very proud. So to have those photos, he knew that Noah was just going to be filled with excitement. I don't think he quite expected Noah to tell him that he thought the chooks were very cool and he wanted to go in those ones instead of daddy's, but - - -

10

COL STREIT: Did he play some sort of trick with the doorbell?

15

MRS LYON: Yes.

COL STREIT: Can you just explain what that was?

20

MRS LYON: Yes. So we had a Ring doorbell, and the children would go and press the doorbell and Dan would answer it from work or from wherever he was, and talk to them through the doorbell. They loved that, and they'd run back and they'd hide and he'd go, "Giddy up, giddy up". He's like, "I'm gonna get ya".

25

And they would basically play hide and seek through the doorbell, which was really hard after the accident. Lily was only 16 months at the time of the crash, and it was only the following week that she was pressing the doorbell and asking where daddy had gone, and I had to tell her that he wasn't in there anymore. Sorry.

30

COL STREIT: No, that's okay, you're perfectly all right.

35

MRS LYON: It's a special memory that they have.

COL STREIT: Can I just bring you back to Proserpine?

MRS LYON: Yes.

40

MS McMURDO: Let me know if you do want a break, or if you prefer to go on.

MRS LYON: Thank you, I'm okay at the moment. Thank you.

45



COL STREIT: I should indicate to the Inquiry that prior to Ms Lyon giving her evidence, I indicated that at any point in time she felt upset, to indicate for a break, and she'd indicated she'd be willing to move on, but would let us know.

5

Just turn to Friday, 28 July, which commences at paragraph 122 of your statement.

MRS LYON: Yes.

10

COL STREIT: You say Dan sent you a message at 1.05 am; is that correct?

MRS LYON: That is correct.

15

COL STREIT: And the message, in effect, saying to you he'd finished work and he was heading back to his tent.

MRS LYON: Yes. We often exchanged night-time and morning messages, for him to check in so that I knew that he was safe. So that was him just reassuring me that he was done for the night and he'd be getting some sleep.

20

COL STREIT: Then at paragraph 123 you say:

*At 7.04 am, Dan messaged me to say he'd just woken up, but would try to get some more sleep.*

25

Is that right?

MRS LYON: That is correct.

30

COL STREIT: Then at paragraph 124, at 10.53 am, you spoke to Dan and you had a brief conversation. Is that right?

MRS LYON: Yes, we did.

35

COL STREIT: That conversation was to this effect:

*I'll ring soon. D20 has just left. Shit's gone down with her and D10.*

40

Your response:

*Oh, that's interesting. I meant to call you and tell you about my migraines and the doctor's.*

45

So in relation to that conversation that you're having with Dan, can you just confirm that, where he says to you:

5                    *I'll ring soon. D20 has just left. Shit's gone down with her and D10.*

Can you just confirm with the pseudonym list that D20 and D10 are the people you're referring to?

10            MRS LYON: Yes, that's correct.

COL STREIT: Paragraph 125, at 4.19 pm you say Dan rang you and you'd had a conversation to the effect of Dan saying to you:

15                    *Shit's still going down. I'll call you back.*

Did you understand that to be a reference to the earlier conversation you'd had with Dan about the issue between D20 and D10?

20            MRS LYON: That was my understanding. It was that the flow-on was still continuing. He just would answer and give me that quick reassurance of, "I will call you back. There's just stuff going on here". Because he just knew that the kids wanted to see and chat with him, but he was busy. He was busy.

25            COL STREIT: At paragraph 126 you say Dan called you back at 4.28 pm and told you that D20 and D10 had had a fight, and that D10 had put D20 on a flight and was sending her home. Is that correct?

30            MRS LYON: That is correct.

COL STREIT: D20 was Dan's fellow Troop Commander within the Squadron; is that correct?

35            MRS LYON: That's correct, she was.

COL STREIT: You say you had a conversation with Dan to the following effect, and Dan says:

40                    *Great. Now I get to be Troop Commander for her Troop too, again. I'm now doing four people's jobs.*

You say:

45                    *Why did D20 get sent home?*

You say Dan said to you:

5                    *D20 was sent home because she had said that she and her crew were too tired, and it was unnecessary to fly this mission.*

When Dan is telling you in relation to “this mission”, what did you understand the mission he was referring to?

10        MRS LYON: My understanding was that they were picking up Troops. And because people hadn’t been sleeping, I believe that D20 was just trying to give people a night to catch up, to take a breath, get some sleep before a more serious mission the following night.

15        COL STREIT: At paragraph 127 you say:

*Dan expressed to me that he was cranky that the buck was falling on him again. There were just not enough people around – enough people for the amount of work.*

20        What he’s saying to you, is that in the same conversation that you say happened at paragraph 126?

25        MRS LYON: Yes, they were short-staffed. They were always short-staffed. So there was people who had extra duties upon extra duties to fill those spaces because the job has to be done and, you know, Dan was happy to do that. He was happy to step in and help. But it was getting to the point where he didn’t have a choice, he didn’t have a say. It was, “Get in, do the job and fill the space”.

30        He was capable of doing it, but whether or not that’s something that he could sustain over a long period of time, I wasn’t sure about it. He was just frustrated that it just kept falling down to him, when it might not have been necessary or purposeful, what they were doing.

35        COL STREIT: Also at paragraph 127, at about the middle of the paragraph, you say:

40                    *Dan told me there were also some changes of aircraft and the crewing, but I don’t know what ended up happening with the aircrew.*

45        MRS LYON: No. When I’d asked what he would be doing, he wasn’t sure, he said, “There’s been some crew changes. Things are getting shuffled around, so I’m not sure what’s happening yet”.

COL STREIT: Did he explain what caused the need for the crew changes?

5 MRS LYON: I believe that there were a lot of people who were at max crew duty hours, and that they were trying to find others that weren't maxed out already. So they were just trying to shuffle that around.

COL STREIT: Did he say anything as to whether it had anything to do with D20 being sent home?

10 MRS LYON: Yes, because they had now lost a pilot that could fill one of those positions. So then that pressure flows on, when they're already short-staffed.

15 COL STREIT: You say at the end of that paragraph, last sentence:

*Dan then changed the topic because he didn't want to talk about it anymore. He knew it would upset me, and he was happy just talking to the kids.*

20 Is that correct?

MRS LYON: Yes. Yes, he didn't want me to be worried, so he just had his vent and then he just wanted to laugh and smile with the kids.

25 COL STREIT: Paragraph 128, you say that:

*Dan didn't tell me that he was flying in formation that night.*

30 What did you understand "flying in formation" to mean?

MRS LYON: That more than two aircraft would be flying together. And I didn't know that that was a formation flight until after the accident.

35 COL STREIT: Later that day, on Friday the 28th at 5.16 pm – I'm looking at paragraph 129 of your statement – you say Dan video called you and the kids, while the kids were eating dinner.

MRS LYON: Yes, and I must correct what I said before. I said that for the Thursday, I'm sorry. Them eating dinner I said was the other night. I'm very sorry, I did mean on Friday they were eating.

40 COL STREIT: I see. No, that's okay, it's not a memory test.

45 MRS LYON: Thank you.

COL STREIT: At 7.44 pm that night on 28 July 2023, Dan messaged you from his aircraft. Is that correct?

5 MRS LYON: That is correct.

COL STREIT: Then at 9.07 pm Dan video called you from the aircraft and the camera was facing the dash. Is that right?

10 MRS LYON: It is. When I answered – it was quite uncommon for Dan to video call me. He loved to show the children. That was something that they loved and were really excited by, but it was more unusual and I thought, “Oh, that’s really weird”, that he was calling. So I had answered, and it was the light-up of the greenie-yellow coloured lights and then he  
15 panned the camera around to his face.

COL STREIT: If you can go to Annexure F of your statement, please. Annexure F, do you accept from me, contains some text messages or some messages between you and Dan on 28 July 2023?

20 MRS LYON: That’s correct.

COL STREIT: One of those messages reflects a video chat at 2107.

25 MRS LYON: Yes, that’s what I was referring to with the camera at the dash.

COL STREIT: Then immediately under the video chat, it says it goes for 33 seconds. That’s right?

30 MRS LYON: Yes, we weren’t able to communicate; the engines were running, it was loud. He just showed me his face with his helmet on and his face was pressed up into his helmet as he smiled.

35 COL STREIT: Immediately under where it says “video chat”, Dan tells you, “Sitting in the pissing rain”. What did you understand he was saying when you got that message?

40 MRS LYON: That they hadn’t taken off. He did always tell me when he was taking off so, again, I knew that he was safe. So there was just quite a significant amount of time that they were still sitting, waiting to lift. And I assumed that he was reaching out to me because they were bored sitting there. It had been a long time they’d been sitting there, and they were just checking in on the people that they loved.

45

COL STREIT: There were some other messages which are self-evident on the page, and I won't refer to them. But the last message you sent to Dan is at 2110 hours on 28 July 2023; is that correct?

5 MRS LYON: That is correct. And I asked him to please be safe in the rain, and he saw it but he did not reply. That was – I always told him to be safe every time he took off. I always said, "Please be safe". That was just what I always said to him, but that was the last time I ever spoke to Dan.

10 COL STREIT: Ms McMurdo, I'm going to turn to another area. It might be convenient to have a short break.

MS McMURDO: A short break. Would you like a short break?

15 MRS LYON: That would be lovely, thank you.

MS McMURDO: Can I just check. That was from his mobile, was it, those communications? Were they from his mobile?

20 MRS LYON: Yes, but they were not in texts, they were in Facebook Messenger.

MS McMURDO: Thank you.

25 MRS LYON: Thank you.

MS McMURDO: All right. We'll have a 15-minute break, and we can have a cup of tea.

30

**HEARING ADJOURNED**

**HEARING RESUMED**

35

MS McMURDO: Yes, COL Streit.

COL STREIT: Thank you, Ms McMurdo.

40

Mrs Lyon, did Dan, before he went away on deployment, did he wear a watch? Did he have a watch?

MRS LYON: He did, yes.

45

COL STREIT: Do you know what kind of watch it was?

MRS LYON: He had a Garmin.

5 COL STREIT: A Garmin watch?

MRS LYON: It was. It was pretty much brand-new. He had an Apple watch before that, and he broke it. So he went to a Garmin only – goodness – only a few days before he left.

10 COL STREIT: Apart from the obvious telling the time, did you know if he was going to – did he tell you he would use the Garmin watch for any other purpose?

15 MRS LYON: He used it to track his surfing and golf. He, I believe, could receive calls and texts on it, was my understanding, I think.

MS McMURDO: Was it privately purchased, or was it a Defence issue?

20 MRS LYON: No, it was privately purchased.

COL STREIT: Do you know if he'd been issued a Garmin watch through the Army?

25 MRS LYON: No, I don't believe he had. He wouldn't have bought one if they had given him one.

COL STREIT: That makes sense, but I had to ask the question.

30 MRS LYON: Yes. No.

COL STREIT: Thank you.

MRS LYON: That's okay.

35 COL STREIT: I'd like to turn now to that part of your statement that deals with the notification of Dan's death.

MRS LYON: Yes.

40 COL STREIT: I'm going to refer to parts of your statement by reading it out because the statement is your evidence, and I'll read aspects out and then ask you some questions about other aspects, okay?

45 MRS LYON: Okay.

COL STREIT: At paragraph 135 of your statement you say you woke up on Saturday, on 29 July, about 6.55 am because Lily was crying. At 7 am there was a loud knock at the door. You looked through the doorbell  
5 monitor on your phone and you saw two people in uniform. You ran out to the door, but couldn't find your keys. They were still in your work bag from the night before. You told them, in effect, that you were coming out once you got your keys. And you opened the door and you had a discussion. Is that a fair summary before I move on?

10 MRS LYON: Yes, I opened the wooden door, but I wouldn't open the screen door. I wouldn't let them in. In my mind, it had to be a prank. It was like we were being broken into. There was just no way, in my mind, that that could actually be happening. And I was sobbing and I was  
15 screaming, "My husband. You need to tell me my husband's okay", and they just kept reiterating, "Are you Mrs Caitland Lyon? Can we please come in?" And I don't know how long we stood there for, but I refused for quite a while before I let them in.

20 COL STREIT: At paragraph 136 you say:

*I eventually let Jay and Padre Hammond into my living room.*

25 When you say those two people, Jay and Padre Hammond, is that because they had identified themselves earlier to you?

MRS LYON: Yes – or, well, when we sat down, Jay said, "I'm Jay. I'm from the Army. And this is Padre Bruce Hammond".

30 COL STREIT: I'll read this out. Paragraph 136, you give the effect of the conversation. You say Jay says:

*There's been a terrible accident and Dan's aircraft is missing off the coast of Proserpine. It went missing at about 11 pm last night.*

35 You say:

*That's not possible, because I just spoke to him.*

40 Jay says:

*We can't find the aircraft or the personnel.*

45 You say:



*You need to tell me my husband's okay.*

Jay says:

5 *Is there anyone you can call who can be with you?*

You say:

10 *No. No. No. You need to tell me my husband's okay. Oh my God.  
Who else was on board?*

They say:

15 *We can't tell you that.*

You say:

20 *How many people were on board? They were picking up people.  
How many people were on board?*

Jay says:

25 *We can't tell you that, not until their notification teams have gone  
out.*

MRS LYON: I had – because I knew they were picking up people, I was terrified that there would be Troops on ropes or they would be inside the aircraft. I was so frightened for so many people. All of my girlfriends, you know, their husbands are pilots, they're aircrew. They're my closest friends, and I was terrified for them, that they were getting the same news that I was.

35 COL STREIT: What I just read out, which you have set out at paragraph 136, does that accurately detail your best recollection of the conversation between you and Jay and CHAP Hammond?

MRS LYON: Yes, I just kept saying, "No, you need to tell me my husband's okay". It was all I could get out at the time, yes.

40 COL STREIT: What happened next?

MRS LYON: I rang my parents, and they live an hour 15 away. So I just rang them and I said, "Dan's been in a terrible accident and they can't find him. I need you", and they came. My mum just said, "We're coming. We're coming right now". And then I rang Dan's mum. Jay and the Padre

had offered to call her for me and I said, “No, that’s something I need to do. I need to tell her”.

5 And then Noah woke up, and I had to tell Noah that daddy was missing, and he was so calm. He said, “It’s okay, Mummy, they’ll find daddy”. And I truly believed that they would. It’s like we know how good Dan is in the water. If anyone could do it, it was Dan. He was remarkable in everything that he did. Why couldn’t he manage this? I got my daughter up, and the kids wanted Rice Bubbles for breakfast, so I started making breakfast.

10 COL STREIT: Did you have hope because of what the notification message was; that is, “There’s been a terrible accident. Dan’s aircraft is missing off the coast of Proserpine, and it went missing about 11 pm last night”?

15 MRS LYON: Yes, there was so much hope, but it was – because it was kind of told to me as if it wasn’t crashed. They were looking for it. Like, it could’ve landed somewhere else. They’d then just lost it, like, on the map, so it could’ve landed somewhere else. It wasn’t explained to the point  
20 where – when they came they would’ve known that it was catastrophic impact – that was repeatedly told to me after – and that there was no hope, but they didn’t say that.

25 So, you know, missing – you find missing. That’s not impossible at all. It was very, very cruel to let me and Noah and our family believe that they would find him, and they were going to bring him home. I think it just would’ve been easier in the long term to have been told, “Missing, presumed dead”. There was never going to be a good time to tell me that, but it was far less cruel than having us hoping and praying for a miracle that  
30 was actually impossible.

COL STREIT: I appreciate this evidence is very difficult, and I’m going to take it slowly. I also appreciate that receiving this information and then what happens thereafter would be a blur to some extent. Would you agree  
35 with that?

MRS LYON: Yes.

40 COL STREIT: At paragraph 139 you say:

*Lots of people started arriving at my house; the first being –*

the name is redacted. But the first being a redacted name, the wife of D2, who was one of the pilots in aircraft 1. Is that correct?

45

MRS LYON: Yes, that's correct.

COL STREIT: Can I just confirm that you have just checked the  
5 pseudonym list? The person who is the wife of D2 that came to your home  
at that time, that D2 is the accurate pseudonym name?

MRS LYON: Yes, that is correct.

COL STREIT: At paragraph 141 you describe that the next team of officers  
10 for Army that came to relieve Jay and Padre Hammond were two  
individuals who you've identified in your statement. How did you find their  
interaction with your family?

MRS LYON: They were incredible. I can't begin to express how grateful  
15 I am for them and their kindness. I was very hesitant at first to have anyone  
in a uniform in the house, and they very kindly offered to stay in the car.  
And I said, "Oh, please don't do that. Please just come in, it's fine. It's  
okay". The moment they got there, they were so kind to my children. They  
20 were so kind to our friends and family. There was such a warmth about  
Sacheen, and you could see that they were genuinely trying so hard to be  
there in every way that we needed. Their job was to pass information to  
me, and they did it with so much kindness, but it was always accurate. It  
just was done in a very compassionate way.

COL STREIT: At paragraph 142 you say:

*Later that night, or perhaps it was late on Sunday night, I was told  
that D10 wanted to speak -*

30 with you, and that D10 came to your house. You're not sure if D10 came  
with his wife, or if she was already at your house, but you say it was after  
the children had gone to bed. Can you just look at the pseudonym list and  
just confirm that when you say D10 came to your house later that night, or  
late on Sunday night, just confirm that D10 was the person.

35 MRS LYON: Yes, that was the person.

COL STREIT: Did you understand D10 to be Dan's immediate boss?

40 MRS LYON: Yes, I did.

COL STREIT: Can you just – before you do that, also there at the time,  
you say, was D15. Is that right?

45 MRS LYON: Yes, that's correct.

COL STREIT: D15 was Dan's friend and work colleague; is that correct?

5 MRS LYON: Yes, that's correct, they were incredibly close. They surfed together, they flew together; they were very close friends.

COL STREIT: They were mates?

10 MRS LYON: Yes, best mates.

COL STREIT: They surfed together too?

MRS LYON: Yes, surfed. They flew, and they were very close.

15 COL STREIT: At the time you are speaking with D10, D15 is present as well; is that right?

20 MRS LYON: No, when I spoke to D10, D15 was in my kitchen with his wife and baby. We were sitting in another room. I was in the room with my dad, Ron, and I actually couldn't tell you who else was around. It's all very much a blur.

COL STREIT: Did D10 tell you anything about the crash?

25 MRS LYON: Yes. He came to the house in what I believe was as Dan's mate and not in an official capacity at all. He came to tell me what he saw. He believed that I deserved to know what he saw because I think he knew that I had so much hope. And he explained to me that Dan was in aircraft 3, and he knew this information because he was in aircraft 4, and he saw it  
30 happen. And he used his hand to explain to me what Dan's aircraft did. He told me that the aircraft nosed up, nosed down, and turned to the right.

35 And I said, "And he swam to the top?", and he said, "No, Cate, no one came up". I said, "No, he had to come up", and he said, "No". And then I said, "Oh my God, he was alone", and he said, "No, we stayed all night. We took shifts". He was like, "They were never alone. We stayed all night".

40 And my understanding was that he held hover over the top of the crash, and when they ran out of fuel, the boys from 1 and 2 came and stayed. And they did that until the sun came up and there was no more fuel. Those boys were their best mates.

45 COL STREIT: When you're talking with D10 – in your statement on page 24, at the top you outline the effect of the discussion with D10. When he's describing to you that they stayed with them in the hover all night, took

turns staying and watching the aircraft, and no one came up, you say that you said to D10 two words, “Catastrophic impact?”, and D10, you say, said to you, “Yes, catastrophic impact”. What did you understand at that time when you say he confirmed that it was a catastrophic impact?

5

MRS LYON: He had explained to me that they were flying at approximately 100 knots at 200 feet above the water, and at the time I didn’t know what that meant, but I knew that 100 knots was fast, and they were close. And I don’t know when the term “catastrophic impact” had started being used as a way to describe what happened, but when he told me, I said, “Catastrophic impact?”, and he said, “Yes, catastrophic impact”, which to me was the indication that there were no survivors.

10

I found it very challenging, and probably now in hindsight I still find it very challenging knowing that, yes, whilst they stayed watch over that aircraft, that the divers were on an island. The Special Forces divers were right there – it was a training exercise – and nobody got in that water. I find it so hard to accept that whilst, yes, I appreciate that they stayed over and watched, they could’ve been in there. They could’ve been in there, trying to, if nothing else, gather their bodies before the night took them. They could’ve done something, or at least tried.

15

20

But nobody got in that water until days later, and they made out to me it was because it was a search and rescue and they were looking for an aircraft. They knew where that aircraft was. They knew from the moment it crashed, but they let me believe for three days that they were searching for an aircraft and a crew.

25

COL STREIT: We’ll certainly deal with that aspect of your evidence very shortly.

30

MRS LYON: Yes, sorry.

COL STREIT: No, no need to apologise at all. Did D10 say anything else to you in the conversation? I note at paragraph 144 you provide some further information.

35

MRS LYON: He had said that it wouldn’t have been possible for Dan to survive, and I did find it odd that Dan had been in aircraft 3. My understanding was that it was normally flight led, but I didn’t understand what the mission was, or why he was in that position.

40

D10 was able to confirm, as I said before, that they were flying at 200 feet. He did say that when they nosed up, they nosed – my recollection was that they nosed up to 350 feet before nosing back down into the water. And

45

that's when he explained that they stayed with him, and then I said, "Oh, my God, they're never going to find him, are they?", and he said, "No. I'm so sorry".

5 COL STREIT: At paragraph 145 of your statement you're talking with D10, you state there, with him, for about 20 minutes. You go on to describe the conversation, including one aspect where you asked D10, "Was he flying?", meaning was Dan flying.

10 MRS LYON: Yes.

COL STREIT: You say D10 said to you:

*I don't know.*

15 You say:

*He couldn't have been flying.*

20 You say D10 said:

*I don't know, Cate. I was flying, so I don't know.*

You say:

25 *I thought he was the co-pilot. I thought it was a co-pilot mission. If Dan was flying, he prefers to fly in the left-hand seat; I'm sure of it. So if he was flying, he would've been in the left seat. But if he was co-pilot's mission, he wouldn't have been there.*

30 You say D10 said to you to the effect:

*Look, we don't know. We don't know, Cate. I've never seen a helicopter do that before, Cate.*

35 Does that accurately reflect the conversation you had with D10, to the best you recall?

40 MRS LYON: It does. I suppose, in hindsight, I was trying to determine in my mind what happened, what could have possibly happened for this to occur. Dan was a good pilot. He could fly in snowstorms. He could fly up mountain ranges. He could rescue anyone in any position. You know, he was good. And I was, like, "That's impossible. That's impossible because he could've done it blindfolded with one hand". I just know he could have.  
45 And then in my mind I was trying to justify, knowing what I know about

the right-hand seat, that did he have any chance of being alive, in knowing what I know about that front seat and the cabling. As D10 said, he was flying and it was deemed to be a co-pilot's mission, so I'm not sure.

5 COL STREIT: At paragraph 149 you say:

10 *D10 and his wife then left my house. D10 later told me that he wasn't supposed to have come to my house that night to tell me what he saw, but D10 told me that he didn't have a choice but to come because Dan was his mate.*

Do you remember when that conversation occurred?

15 MRS LYON: My recollection was that it occurred that night, but I am a little bit disorientated by time after I was told, which is why I felt like it was Sunday night. But I do think maybe it could have been Saturday. I am a bit disorientated around that.

20 COL STREIT: At paragraph 150 you say:

25 *I feel that the first official notification to me from Army should have been that Dan was missing but presumed dead. There would never have been a good time to tell me that, but saying he was missing led me to believe he would be found. If only I'd been told he was presumed dead, it would have saved me so many days of wishing, praying and hoping that Dan was still alive.*

I take it that's something you want this Inquiry to consider in relation to any recommendations about notifications?

30 MRS LYON: Yes, absolutely. I felt like I was drip-fed information from that very point when they did know, and I don't know what they thought they were going to achieve by not telling me that because they knew of the impact, and it was just cruel. It was cruel to me, and to Noah, to let us believe that he was okay, or he was at least alive. And I do think that there probably needs to be some training or something going forward where notification teams are able to share that truth because holding it back is incredibly cruel.

40 COL STREIT: I just want to take you to paragraph 153 now of your statement, so on the top of page 26. You say:

45 *After about four days of waiting, the CO of 6 Avn Regiment, D19, came to my home one night after I had put my children to bed. He told me that they were no longer searching for the boys. He told*

*me it had become a retrieval mission and that he was going to officially declare all the boys dead.*

5 You then describe a conversation that you had further with D19. First, can you just confirm, looking at the pseudonym list, that D19 is the person you say came to your home.

MRS LYON: Yes, that's correct.

10 COL STREIT: You then give some further evidence at paragraph 154, in effect that it was cruel that you had not been told first what had happened because you'd been holding out hope until that point in time. That's correct?

15 MRS LYON: That is correct. When D19 came, he had told me that it was catastrophic impact of the aircraft and that there were no survivors, to which I instinctively replied, "No", and he said, "Yes, Dan's not coming back, Caitland". And I said, "You need to bring my husband home", and he said, "He's dead, Caitland. He's not coming home". And I go on to say it felt  
20 cruel because of the hope we were holding, and D19 had told me it was a matter of seconds from when the aircraft climbed to when it ditched in the water. And whilst it felt cruel that he was so blunt, I really did appreciate that honesty because it was the one thing that I needed from the beginning, from the first notification. And maybe it wouldn't have felt so cruel from  
25 D19 if I'd been told that at the start.

COL STREIT: Can I just turn now to some aspects of family support – or support to your family that you were provided initially, and then subsequently. At paragraph 157 of your statement you say:

30

*I also asked the Army to arrange for a social worker to come to the house to help me with Noah about Dan, but no social worker ever came to my house or called my phone.*

35 Why did you want a social worker to come to your house to help with Noah? What was there about what you needed to say to Noah?

MRS LYON: I needed to tell Noah that his daddy had died and wasn't coming home, and I wanted to do that in a way that would minimise his  
40 trauma, and try and deliver it as accurately and as supportively as I could, and I just really didn't want to get that wrong. I think as a parent you spend your whole life trying to protect your child from everything. You know, you peel a thousand bananas just to make sure you've got one that they're happy with. You do everything for them. And I just wanted to do this to  
45 the best of my ability. And they had asked what services I needed, so I said



I would like a social worker for that, and they reassured me that I could have one. And they never came.

5 COL STREIT: You say also in paragraph 157, about the middle of the paragraph:

10 *I was told the social worker had tried calling Dan's number instead of mine. I was just told they had the wrong number so couldn't follow through with my request. I was told that a few times by different Army people. I find this oversight atrocious and careless.*

15 MRS LYON: Yes, there was multiple occasions where they had sought to contact me, and instead had been trying to call Dan's number, which I tried calling it after the notification in that state of shock, so I know that that said that it was disconnected immediately. So I found it really atrocious that they continued to try and call a number that said it wasn't working and didn't seek clarification on what number, or ask for another number to contact me on. There was many, many people at my home that were from the Army that they could've just asked. And I ended up having to tell Noah without that help.

20 COL STREIT: Can I just now turn to a couple of weeks after the accident. You had a conversation with D20, which begins at paragraph 158 of your statement. You say at paragraph 158 of your statement:

25 *A couple of weeks after the accident I spoke to D20. We had a conversation.*

30 So can you just confirm, looking at the pseudonym list, that D20 is the person you are referring to in that conversation?

MRS LYON: Yes, that's correct.

35 COL STREIT: I'll read this:

*We had a conversation to the effect of:*

40 *Me: I know you had a conversation with D10, and know you were sent home.*

*D20: Yes.*

*Me: Will you tell that story? Will you tell whoever is involved what happened? It just feels like it's significant. Just tell the truth*

*of what's happened, and why you were upset and what was going on.*

*D20: I will. I didn't want to be right.*

5

You say:

*Of course not. You can just make sure that when you're spoken to, to tell them everything that has happened.*

10

Does that accurately record the conversation, to the best of your memory?

MRS LYON: Yes, it does. I was mindful to be sensitive to D20 as I couldn't begin to imagine what they were going through, but I did – I just wanted to make sure that she was going to tell the conversation.

15

COL STREIT: Was it evident to you in that conversation, by D20's demeanour, that she was struggling?

20

MRS LYON: Yes, absolutely.

COL STREIT: Is that the reason why you didn't want to question her further?

25

MRS LYON: Yes, I think she had been through more than enough, and I was really trying to be quite sensitive to that. I think we knew; we could see from each other, without having to say that.

30

MS McMURDO: Was that a conversation in person or by telephone?

30

MRS LYON: It was in person. She came to my home. I only got to speak to her very briefly there because I'd been on the phone trying to sort out some other admin.

35

AVM HARLAND: Have you spoken since?

40

MRS LYON: Very briefly. Just a very brief check in from her. I think she's mindful to give me some space, and just like a kind message on Christmas and on Dan's birthday to know that she was aware of it, and she sends her love to our family, yes.

40

AVM HARLAND: Thank you.

45

COL STREIT: At paragraph 160 you say you were angry that the formation was flying so close to the water and so fast, meaning that the pilots had no

time to react if something went wrong, and when the time from nose up to impact was only seconds. You say that you'd known Dan had flown in formations like that so many times before, and he was confident in his ability. When did you first become aware that they were flying in formation that night?

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10  
15  
MRS LYON: When D10 came to my home, that was the first I'd heard of it. And Dan had flown in formations many times. He was very confident in his ability and in his training. I was very confident in his ability and his training. That was never a question. But to then hear that when something did go wrong there was absolutely no space for error, and when they're on-the-job training people, I was angry that they hadn't allowed enough space for that aircraft to possibly be recovered – like, flight recovered. If that makes sense.

20  
COL STREIT: I'm just going to turn now to the search and rescue, and retrieval of the aircraft component of your evidence. At paragraph 161 you say you don't understand why the Defence Force has not been able to retrieve more of the wreckage. Can you just explain to the Inquiry what you have been told about the search and rescue, and the retrieval process.

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MRS LYON: Yes. I was originally told that the aircraft had crashed into quite shallow waters and that Defence had previously retrieved a helicopter from much deeper water, so they were very confident in their abilities to retrieve it. But as the days grew on, that narrative changed. And then it was starting to become described as “a challenging dive site, with strong currents”.

30  
35  
I had friends of Dan who were there as a part of the dive team, and the other people that were on Lindeman Island at the time of the accident, and they weren't deployed to the crash site immediately, and I found that incredibly frustrating and confusing because at one point we were told that they had located human remains; they could be seen from where the divers were. And then the following day they had said that the divers could no longer see them because they were in a difficult location. There was low visibility and it took quite a lot of time for the divers to sit and equalise, and they could only sort of see an arm's length, and then they had to keep coming back out of the water because of the currents.

40  
I found that really hard because we were told quite early on that the black box had been recovered, and my understanding now is that the black box is behind the pilots, which I do talk about later in my statement. The communication and information we were given, it was confusing. There was a lot of hope of, “We can do this. We've got this”, and then “It's a

debris field”, “It was catastrophic impact”, and that was the go-to line that we kept receiving.

5 COL STREIT: At paragraph 164 you refer to a conversation you had with D19. Can you just confirm by reference to the pseudonym list that D19 is the person you spoke to.

MRS LYON: Yes.

10 COL STREIT: That was a conversation about how the retrieval process was progressing; is that correct?

MRS LYON: That is correct.

15 COL STREIT: In that conversation D19 is telling you that it’s a very challenging dive site, with challenging currents.

MRS LYON: Yes, that’s correct.

20 COL STREIT: That the dive conditions were poor; is that correct?

MRS LYON: Yes, sorry, that is correct.

25 COL STREIT: You ask him:

*But you got the black box.*

He responds:

30 *Yes, the black box has been retrieved.*

You say you said to him:

35 *So how is it possible that you have found the black box but no remains? The black box sits right behind the pilots, doesn’t it? So why haven’t you retrieved those remains? Did you just swim past my dead husband?*

40 You say he says in response:

*The black box is mechanical. Sometimes these things happen, and the currents are very strong. It’s a debris field. It’s not that simple.*

45 Is that effectively the conversation, or the effect of the conversation, from a Defence representative that was maintained by other Defence

representatives; that is, “It’s a large debris field, challenging dive conditions”?

5 MRS LYON: Yes, that is what we were repeatedly told sort of from that point. I do understand that I was quite emotional when I made those remarks, but I was very frustrated and very, very hurt that not only had this happened but now we were never going to be able to bury him. We were never going to have that closure, and that hurt, and it wasn’t what Dan deserved. No one in that aircraft deserved to not be brought home to their families.

10 And there were so many rumours that were floating around, and I refer in 163 that I was told that there’d been clothing that had been pulled from the wreckage, and they were told to put them into the freezer. And then I was 15 also told – which was really confronting – that there had been brain matter in a helmet that was washed up. But no one could ever confirm or deny any of that information. And it’s hard, when you don’t know anything, to have these rumours come to you all the time but no one can confirm or deny anything.

20 COL STREIT: At paragraph 165 you describe receiving, in effect – my words – a brief from MAJGEN Jobson and D19. Is that correct?

25 MRS LYON: That is correct.

COL STREIT: You attended, you say, with your father, Ron, and stepmother, Sue.

30 MRS LYON: Yes.

COL STREIT: In the briefing, certain things were outlined to you; is that right?

35 MRS LYON: Yes, that’s correct.

COL STREIT: That included that – it was outlined to you the flight plan, weather conditions, who the crew were, what the mission was for and the formation of the four aircraft. Is that correct?

40 MRS LYON: That’s correct.

COL STREIT: Was that the first time you’d received some information from the flight data recorder?

MRS LYON: Yes, it was. Yes, it was the first time we were told that they had that audio.

5 COL STREIT: You were told, and you set it out in your statement, but you were effectively told what a pilot in Bushman 84 had said, “83, pull up. Pull up. Pull up”. Is that right?

MRS LYON: Yes, that is what we were told.

10 COL STREIT: At 166 of your statement you describe having a conversation at that time when you’re receiving the briefing, and the effect of the conversation is you ask who is talking on the recording. And you were told that they couldn’t tell you that; is that right?

15 MRS LYON: We were told that someone from – the pilot from Bushman 84 had said, “Pull up. Pull up. Pull up”, and someone had echoed or repeated, “Pull up”, from inside Bushman 83. And I asked if they could tell us who that was and we were all sitting there wondering whose loved one it was. And I guess that was probably our first time that we realised  
20 that maybe they were aware of what was happening inside the cockpit and we were trying to work out in our own minds what had happened. And they told us that they didn’t know and that they couldn’t tell us.

25 Again, I probably didn’t say it as well as I could have, but I said, “If you let us listen to it, we could tell you who it was”, and they said, of course, “We can’t do that”. Which I do know, but it’s very frustrating to be given just that tiny, little bit of information and then nothing. And what’s the harm in telling us that? I don’t know. But there was no harm in telling us that someone said it. It just – the drip-feeding of that was really, really tough.

30 COL STREIT: At paragraph 167 you say that during the briefing MAJGEN Jobson told us that after – or told you, rather – that after the accident the Army had put a temporary restriction on how fast and how low all aircraft could be flown.

35 MRS LYON: Yes, he did.

40 COL STREIT: Do you remember any further detail about what you say MAJGEN Jobson had told you?

MRS LYON: It was a temporary restriction until they knew some more information about what had happened to Bushman 83. It was – so in that, he did explain they couldn’t keep forever, because it wouldn’t be safe in a combat situation. Which I do understand. The point of a helicopter is to  
45 move quickly and around terrain. But, yes, I don’t know how long the

restriction was in place for. I suppose it doesn't matter, now that the fleet is grounded.

5 COL STREIT: At paragraph 168 you talk about on 5 December 2023 attending or being invited for another briefing at the Holsworthy Army base. Can you just tell the Inquiry what happened on that day in that briefing?

10 MRS LYON: Yes. So that briefing was an update on the investigation progress and where we were at and that the 30-day report had been delayed, but it was – we were in the process and it would take some time for that to conclude, I guess. We were then given the items that had been retrieved from the crash site, as the search had concluded. So we were given Dan's – both Dan's dog tags, his ID card and his lanyard. And that was returned  
15 to me by MAJGEN Jobson and D19.

They explained to me that they were retrieved because his dog tags were inside his lanyard holder at the time. And they were able to answer my question before, which was what seat Dan was in, and they were able to say  
20 that he was in the right-hand seat. They explained to me that that was – that would have been Dan's choice as aircraft Captain. It did confuse me, because I understood Dan's preference to be the left-hand seat if he was flying, and they explained to me that Dan might have perceived that the navigating was the more difficult part of the mission and the visibility for  
25 the target might have been better on the right-hand side.

I was, again, confused and frustrated on how there could be nothing of my husband at all, except for his lanyard and ID tags. Out of all the things that were in that aircraft there, they carried – and the terminology that Dan has  
30 used with me is a dead dog kit, which is all their survival things. They had bags of them. How was an ID lanyard and dog tags the only thing that was recovered?

I asked the question because I knew that Dan kept them in his left-hand  
35 pocket of his uniform. I had to save them from the washing machine many times. So I knew that's where he would wind them up and put them. So I was trying to understand whether or not they were just floating in the ocean, or were they indeed inside his uniform. And if so, do we have the uniform? Do we not have the uniform? Where were they? And I used the words, I  
40 said, "Were they just floating in the ocean?"

And I was repeatedly told that they were ADF – that his uniforms and boots and those sorts of things, that they were ADF-issued. And I said, "That's not what I asked". And again, I was told that they were ADF-issued. And

I said, "I understand that. Where were they? Do you have boots and uniforms? And what about their helmets?"

5 And D19 told me that, "It was a debris field. It was catastrophic impact", and I said, "I got that, but was there anything found? And what happened to it? Where is this stuff?" I understand tides and salt water, but for there to be nothing, that was just really, really hard to comprehend, especially after being told that they could see them initially.

10 And I did say, "I don't mean to be crude, but femurs and teeth and jaws, they don't vanish". And Dan had a very distinctive helmet bag that he had collected patches on from all of his travels and people he'd met overseas. The bag's very distinctive. And I was like, "Well, what about his helmet bag? Where is this stuff?" But I've not been able to get an answer from  
15 that. I am grateful to have his ID, lanyard and his tags; I really am. And I know Noah is too. But it just leaves the question of where everything else is, and I think that's been very hard.

20 COL STREIT: You, on page 30, at the top, describe having a conversation with D19 about a request you were making to listen to the flight data recorder.

MRS LYON: Yes.

25 COL STREIT: Is that to see if it was – you could hear Dan's voice?

MRS LYON: Yes. Yes, I asked if I could hear it or at some point I would have access to that. I think not knowing what happened and not having a  
30 body and not having anything, I think it's very hard to accept that this has happened to Dan at all. So I will have the opportunity to be able to hear what those moments were to help me process this, because it's impossible to not think that he's going to walk through that door at any moment.

D19 said that I couldn't and that it would be incredibly traumatising. I said  
35 back, "This entire thing is incredibly traumatising and I want to hear it". And he said to me, "You will never hear it". And I hope that is not true. I do hope that at some point in the very distant future that I do get that opportunity. None of this is easy, none of it is. But if they're his last moments, I don't know, hopefully there's some closure from all of this.

40 COL STREIT: Can I turn, Mrs Lyon, to other investigations into Dan's death.

MRS LYON: Yes.

45



COL STREIT: Which commences at paragraph 170 of your statement. So you say Queensland Police called Dan's mobile number a few times, but obviously couldn't get through to you that way, so they called Dan's mum, Mary, to ask if they could get a DNA sample from her and Noah. Is that correct?

MRS LYON: That is correct.

COL STREIT: Did that actually end up happening?

MRS LYON: It did, yes.

COL STREIT: That was done through the officers of New South Wales Police; that is, the DNA sampling?

MRS LYON: Yes, they came to the house. I explained to Noah what that would be. I wanted to make sure that he was aware of the process so that he could consent to his DNA being taken. It was at that time that I realised that Noah didn't understand that there was more than one person in the aircraft, which was an oversight on my behalf. Noah said, "Well, if it's not daddy, who could it be?" And it was at that time when I had to say, "Daddy was with three other people". And he's an incredibly special child because the only response he gave was, "What were their names, Mummy?" And he said, "Did daddy die with his best friends?" I said, "Yes, sweetheart".

So Noah agreed that whilst he may not have been able to bring a piece of daddy home – which we had to have a lot of conversations around what remains even are, which is really, really confronting for a five-year-old. The things that I should never have had to say to him and tell him that his daddy no longer looks like daddy, that he's just a piece of skin now and we need to work out if it's daddy or if it's one of his friends. And I explained that it may not bring daddy home. But Noah and I agreed that if it brought someone else's loved one home, that it was absolutely worth it.

So as a part of Noah giving his DNA, they had to swab me as well and Dan's mum, Mary. And I'm still a little bit confused about why that is, but they said they had to separate my DNA from Noah's.

COL STREIT: Did you receive any further information from any agency about the outcome of that DNA testing process?

MRS LYON: No. I was only contacted then by the Queensland Coroner's counsellor to say that the remains that they had were positively identified as Danniell's.

45

COL STREIT: You describe that conversation commencing at paragraph 173.

MRS LYON: Yes.

5

COL STREIT: So you say:

*Coroner's Office rang me to let me know that the case was being handed over from Queensland Police.*

10

You say:

*A lovely counsellor from the Coroner's Office, Julie, has been in contact with me. She is very empathetic and kind while delivering the news honestly.*

15

You then set out a conversation you say you had with her the day before Dan's funeral. Dan's funeral being on 23 September 2023. Now, that conversation was in relation to the DNA testing, was it?

20

MRS LYON: It was the results of it. So she told me that they had located or had positively identified two 20 cent pieces worth of fatty tissue and that they were positively identified as Dan's. And I asked where they were found and if they were on clothing, because again, trying to work that out of where is this from. She said she didn't know but she said that it was very, very minimal and that we needed to discuss what my options were.

25

She said that I had the option to cremate the fatty tissue, but there would not be enough to be returned. And I said, "So there'll be nothing?" She said, "That would be correct." And then she said I've got the option to wait to see if there would be any further remains, if I wanted. And I said, yes, I would like to.

30

She did also – she warned me that Dan's death certificate would be in the mail shortly. She said she wanted to warn me because it can be incredibly confronting to see that his death is – it's unknown, the cause. And I said, "Well, we know what happened. It was an aircraft crash". And she said, "Yes, but the Coroner can only look at what's directly in front of them". And she said, "And that can be really confronting to see". And I did really appreciate that. I asked if it would be changed in the future, with the investigation, and she said it wouldn't be.

35

40

I still haven't received that death certificate. It didn't come. I was told then that the funeral home should have lodged paperwork, but they didn't do it. They let me know that they couldn't finalise the paperwork because there

45

5 was no body, and I said, “I am acutely aware of that”. So instead of telling me that, I waited six months waiting and it didn’t come. So they then sent me the paperwork to fill in about his death and the location and the circumstances surrounding it, which I couldn’t do. It was too confronting and I had another family member complete that on my behalf.

10 That paperwork was also sent and wasn’t correctly filled. It needed to have the funeral director’s signature and comments. So we then had to go back to them to get that information. I have been reassured that it should be in the mail, but nothing has arrived as of yet. But that was only last week.

COL STREIT: Can I just return to one point, please.

15 MRS LYON: Yes, I’m sorry.

COL STREIT: No, please don’t apologise. And I didn’t want to interrupt you from – your evidence is important. In paragraph 175 of your statement you say:

20 *I really appreciated Julie’s honesty. It was frustrating to hear what she said, but was so kind in explaining the process.*

Julie’s the counsellor from the Coroner you referred to earlier?

25 MRS LYON: Yes.

COL STREIT: What was it about it’s frustrating to hear, but you appreciated her honesty? Can you just explain that a little bit, please.

30 MRS LYON: It’s frustrating to hear that there isn’t enough of your husband to cremate and there’s not enough for him to have a grave and there’s not enough to bury. It’s hard. But she was very patient and very kind with explaining to me the process that was occurring. I can’t fault her. She’s checked in regularly to see how I’m going and if I’m okay. She’s got a very warm demeanour about her that, yes, is very safe. She does a wonderful job.

40 COL STREIT: So somebody who delivered very bad news, knowing that it’s bad news and be frustrating for you, but giving you the honest news and not trying to colour it.

MRS LYON: Yes. Is greatly appreciated, yes. There is no way to deliver bad news well, but to do it honestly, it was really appreciated.

45 COL STREIT: Paragraph 178 you describe that – you say this:

*Mr Dan Black and a social worker called Christie from Comcare have also visited me in my house to explain the Work Health and Safety investigation.*

5

Can you recall approximately when that was? Or a month?

MRS LYON: August. Possibly August to September. I would have to check my diary to know exactly when.

10

COL STREIT: Do you recall anything they said about the investigation that Comcare was doing? Any information they provided you?

MRS LYON: They said they were looking into whether or not the Work Health and Safety laws had been compromised, basically.

15

COL STREIT: Did they say anything about how long their investigation might take?

MRS LYON: From memory, I think they said it could take up to two years.

20

COL STREIT: You also say at the end of paragraph 178 that:

25

*Christie also helped me set up a child psychologist for Liliana who specialises in young children.*

How did that conversation come about? The reason I ask is because Comcare, on the face of your evidence, are turning up to talk to you about an investigation that they're doing, but in the context of that there's some offers of some psychological assistance for your family.

30

MRS LYON: Yes. There was the offer of, "What do you need? What can we do for you?", and I said, "Oh, I don't think there's anything that I need". And we were talking about the play-based psychologist that I'd found for Noah, and I said, "I don't know what to do or say to Lily. I don't know". And then I said, "I guess there's not many psychologists who work on children", and, you know, she wasn't speaking at the time. And she said, "Well, let me look into that for you, and let me see if I can find someone". And she found me a psychologist in Perth. She found me actually a few different psychologists, and I chose someone, and then she reached out on my behalf to sort of help with the burden of the admin that I was facing, because it was very overwhelming.

40

And she reached out, and then that psychologist reached out to me and said, “Yes, I do. I work with very young children, and we do that appointment fortnightly over Telehealth”.

5 COL STREIT: Thank you. I just want to now turn to the funeral, and the funeral arrangements. This commences at paragraph 179 of your evidence, which we have almost concluded. You describe at paragraph 179 that the CO of War Widows New South Wales has been supporting you in getting a plot for Dan, but there’s been some – you describe – my words – a  
10 difficulty in progressing that. Can you just explain to the Tribunal – to the Inquiry, I apologise – what the issue is.

MRS LYON: The issue is essentially that (1) there is no body, and (2) he did not die in war, so he does not qualify. According to the policy from the  
15 Department of Veteran Affairs and the Office of War Graves, he doesn’t qualify for a military grave funded by the Commonwealth or not. And unfortunately there is a lot of also red tape about having a grave for him in my family plot. And I understand that graves are for bodies, but I’ve spent a lot of time working through that, that we actually need something as a  
20 family to help us with this process, and that he deserves – he deserves – a final resting place, and it should be with the other men and women who have given their lives serving their country as well, whether it be in war or whether it be in training. He was on a work mission, and to say that he no longer fits anywhere, it’s so incredibly disrespectful and dismissive of the  
25 sacrifice that he gave. He was working. He was on a mission.

And now I’m faced with a little boy who, every time we drive by a cemetery, says, “Mummy, is daddy in that one?”, and I have to say, “No, sweetheart”. And he says, “Where is daddy?”, and I have to tell him that  
30 he’s not there, but I’m trying to get a special spot for daddy”.

COL STREIT: So Dan dies in the service of his country.

MRS LYON: Yes.  
35

COL STREIT: And he’s not entitled to a war grave because he didn’t die in war.

MRS LYON: Yes.  
40

COL STREIT: That’s what you’ve been told.

MRS LYON: Yes, that is correct. And not even, like, a war grave. There’s no place for these men who have died on mission. It was domestic, yes.

They were a part of the domestic counter-terrorism organisation, but there is no spot for them.

5 COL STREIT: I take it, is that something you want the Inquiry to consider in terms of the policy that's applied by DVA, Department of Veterans' Affairs?

10 MRS LYON: Yes, I do believe that – and I would appreciate it being looked into to see what we can give them. I believe that they deserve to be with the other men and women who've died serving our country.

15 COL STREIT: Something else happened in relation to preparation for Dan's funeral. Now, his funeral was held on 13 September 2023 at HMAS *Creswell*. Is that correct?

MRS LYON: That is correct.

20 COL STREIT: At paragraph 180 and 181 you set out some information. What was it that caused you – my words – great difficulty in relation to a conversation you had with somebody?

25 MRS LYON: Yes. So I had tried to hold off for as long as possible in planning a funeral for Dan. We were holding out for the hope that there would be remains, and in the end the pressure to set a date intensified significantly, to the point where the Padre from 6 Aviation came to my house one Friday night in August and said that I needed to make a decision about the date of the funeral for Dan, and I had said, "Well, I'm actually thinking about having it on Father's Day, which is 9 September. I thought that would be really special for our children to remember the magical man that their daddy was. And he gave me a response, which was that I needed to think about my dad, and how disrespectful that would be to the most important man in your life, and he was referring to my dad. And then he said I needed to be thinking about how that would affect my future husband and my future children.

35 COL STREIT: So it was said in the context of you preparing arrangements for a funeral for Dan?

40 MRS LYON: Yes. I hadn't even been – even been able to plan my husband's funeral, and it was incredibly confronting, and incredibly offensive.

45 COL STREIT: Can I just turn to the funeral itself? You say at paragraph 183 it was held at HMAS *Creswell*.

MRS LYON: Yes, it was.

COL STREIT: You say that:

5                    *The staff at HMAS Creswell were incredible. They were so kind, and accommodating, and helpful.*

MRS LYON: They were. Yes, they were incredible. I am so grateful that they welcomed us as they did.

10

COL STREIT: You then describe having another conversation with Julie from the Coroner's Office at paragraph 184 in relation to Dan's death certificate, and that relates to the evidence you gave earlier in relation to the funeral home, does it?

15

MRS LYON: Yes. Sorry about that.

COL STREIT: Just turning quickly to the other deceased members which you deal with at paragraph 186. Sorry, before I do that, can I just – two things. I just want to return to the conversation you were having with the 6 Aviation Padre. Who was that person?

20

MRS LYON: Padre Bruce Hammond.

25                    COL STREIT: When you said earlier there was pressure being applied to have the funeral – you felt pressure, I'm sorry – felt pressure being applied to set a date for the funeral, where was that pressure coming from?

MRS LYON: It felt like it was coming from the top. It felt like there was a lot of pressure from those above. There was words used to describe that I was holding up the capability of the unit, and that they needed to get these done so they could move forward with maintaining capability. I was only trying to – I didn't want to hold up the Army. I know that they do a really important job. I was just trying to ensure that we had every possible chance of having remains. Yes.

35

COL STREIT: Was it ever explained to you why turning up on a day for a funeral would somehow impact 6 Aviation's capability in circumstances where their fleet of aircraft were grounded?

40

MRS LYON: No. And I find that interesting as well, that they were training and they were doing drill for funerals but that was holding up their capability when they were a grounded fleet.

COL STREIT: Padre Hammond, was he the Padre that came to your house and told you – gave the notification message to you?

5 MRS LYON: He was, yes.

COL STREIT: Can I just turn to your evidence in relation to the other deceased members?

10 MRS LYON: Yes.

COL STREIT: You say at 186 of your evidence:

*I did not know of, and had not met, LT Max Nugent.*

15 You'd heard Dan speak about WO2 Phill Laycock and CPL Naggs before, but you didn't know either of them.

MRS LYON: Yes.

20 COL STREIT: Then at 187 you say that you went to each of Max, Phill and Alex's funeral because that is what Dan would have done.

MRS LYON: Absolutely. They were his family as well, and that was the right thing to do, and I needed to be there for Dan.

25 COL STREIT: Your statement for the next several paragraphs deals with things that you've raised by way of comment, so what I propose to do is to just ask you to reflect on those matters – they're before the Inquiry – and invite you to say anything in relation to those matters, or any other matter, should you wish to do so.

30 MRS LYON: Yes. So I guess I had comments from the 60 Minutes program that aired on 21 April. I just had a few points from that, and I guess I will start with the fact that nobody has officially told me that the entire fleet of about 46 MRHs have been dissembled and are intending to be put into landfill. I expressed that I am concerned about that, and I would expect that some of these helicopters would be prime pieces of evidence for the investigation into the crash. I also cannot understand how the aircraft were grounded immediately, taken out of service and are now being destroyed  
35 only after the accident in which Dan and his crew were killed because the accident – the software, the airframe, the mechanical use – I don't know what possible reason there could be for such drastic and urgent action by  
40 Defence.



We've heard from others that the aircraft was deemed safe and beautiful to fly, so I couldn't see the urgency in that. I understand that we heard in the program that the Defence Minister said it had nothing to do with the safety, so then why wasn't it done before the accident, and why wasn't something  
5 done before we reached this point? And I guess does that mean that the grounding of the fleet immediately after the accident had nothing to do with safety either, or do we not know the cause, and none of it is to do with safety? I guess they were just those things that were raised, especially when we're now loaning aircraft from other countries, when we had beautiful  
10 aircraft.

It's all very confusing, and I thought that when David Naggs, CPL Alex Naggs' dad, said that it was impossible to get information from Defence, that I shared the same exacerbation. And this constant  
15 stonewalling, that we just have not been given anything, and it's hard to determine what is correct and what is rumour, and that is very hard.

But I can appreciate that, you know, with the Inquiry, there's going to be accident reports, and trying to lessen the trauma of the relatives and friends  
20 of everyone who was involved. And it's been hard to have patience in this process, but I understand that it's a process that we must go through, and I really appreciate that the Inquiry is trying to determine what happened. And it's been hard because there's been no suggestion up until this point of what could have gone wrong. We have no idea. And I do understand that there  
25 is a process that we must undertake, and I'm grateful to be a part of that process. Yes, it's been hard. It's been really hard with that approach.

I also have raised just a couple of things about the software system from TopOwl. I just wanted it noted that Dan had never complained to me about  
30 the TopOwl system. He liked it. He was impressed by the technology in it, and it's a shame that that had to come through – those concerns had to come through a Senator raising it in Parliament rather than the Army bringing that to us first.

And, yes, I think probably the most alarming part of the 60 Minutes' coverage was that Alex Naggs' family were told the same information that  
35 we were told about the remains. I found it very confronting that they were told a 20 cent piece of fatty tissue, which is the exact same information that we were told, and I find that very hard to believe that we both have the exact  
40 same amount of remains, which makes it hard to trust a process when that seems impossible that we could both be given that information.

And out of respect to the other families, we have not discussed remains of our loved ones. That's not something that I would wish to bring up. So  
45 when I heard that, I thought, "Oh, my goodness. How have we been told

the exact same thing, and does that mean that there is actually nothing?" Yes, so that was probably my most alarming piece of information that I learnt that night.

5 I did also just want to raise the process after this which led into Anzac Day, which unfortunately I found really disappointing. We received the invitation to attend the Holsworthy Anzac Day service on the Monday, when the Anzac Day service was on the Thursday. I did meet with D19 and another person, who's pseudonym I'm not sure of, and they wanted to  
10 introduce me to each other, and they asked if there was anything that I needed, and I said, "I'd love some information about what's happening on Anzac Day".

I had anticipated that they would say, "We're looking into it. We're  
15 planning something. It will be special, and we can't wait to, you know, have you and your family", and that wasn't the reaction I got. It was almost like a second thought that was quickly jotted down in a notebook, and then I was told that it would depend on how much time they had available and that it was a very busy year. So they weren't sure how much time they  
20 could put into that service. And I said, "A busy year? Isn't every year busy?", and they laughed together, and said, "Oh, no, this year's particularly busy". And I said, "Well, what makes this year particularly busy?", and they said, "Well, we've got the Inquiry, and we need to get the Black Hawk up and running". And I said, "Okay".

25 And I asked at that point whether or not Dan's name and the other crew members' names would be read as a part of the Honour Roll, which I was told was read every Anzac morning, and they said, "Yes. Yes, it will be". I repeatedly asked that question to everyone who spoke to me about  
30 Anzac Day. I wanted to be able to prepare Noah, mostly, and myself, because that would be very confronting to hear, but special, in the same breath. And his name was not read. None of their names were read as part of that Honour Roll. Again, it was, "They weren't killed in war". And that was really, really hard after being told that information, that it would be.  
35 To the point where I did, I just wanted to leave. I found it really, really upsetting. And it was hard to explain to Noah why daddy's name was now not being read out loud.

I've also had some difficulties around the superannuation - - -

40 MS McMURDO: Just before you get onto that.

MRS LYON: Sorry.

MS McMURDO: Can I just ask you, was this the Anzac service at Holsworthy this year?

5 MRS LYON: It was. It was the one done through 2 Commando, which 6 Aviation is a part of.

MS McMURDO: The people that you dealt with – it might be that they're on the pseudonym list – are you able to tell us who you were dealing with?

10 MRS LYON: Yes, I'll have a look.

COL STREIT: Was D19 one of them?

15 MRS LYON: Yes, he was.

COL STREIT: Was D10 one of them?

MRS LYON: No, he wasn't.

20 COL STREIT: Was D15 present at the Anzac Day at Holsworthy?

MRS LYON: No, he wasn't.

25 COL STREIT: Was D20 present at the Anzac Day at Holsworthy?

MRS LYON: Not as far as I know. I don't believe that I can see the other person that was with D19 on the list. It was reiterated through the people organising and the admin staff who rang as well that his name would be read out loud. D5 was our host and reiterated that, yes, that his understanding was that that would happen as well.

30

MS McMURDO: Thank you.

35 MRS LYON: And it didn't.

MS McMURDO: Thank you. I think you were just about to go on to another topic and I interrupted you.

40 MRS LYON: No, that's okay. I just wanted to mention quickly that with the – a part of Dan's super has been – the superannuation, there is the insurance that comes with that and there are options of lump sum versus pension in that. And that process has been also really challenging. It's very hard to determine where they have gathered their information from on what determines the amount that I get paid. At the moment – and I've signed to accept that and I opted for a pension and part lump sum, but unfortunately

45

5 the money that I've received hasn't been correct, according to the document that I signed. And getting them to answer an email about it has been – I've been unable to up until this point in time. So it's very hard to get that information when I'm asking for it and that would be appreciated if it could be looked into. For people going forward, it shouldn't – it's hard enough, it doesn't need to be this hard, I wouldn't imagine.

10 MS McMURDO: You came in with a notebook and you've made some notes of other things. Is there anything else in your notebook that you wanted to mention?

MRS LYON: Do you mind if I have a look?

15 MS McMURDO: No, you can have a look at that.

MRS LYON: Thank you.

20 MS McMURDO: Tell us if there's anything else you want to tell the Inquiry.

MRS LYON: I won't give the other name of the person that was with D19 just in case that it should be covered. I wouldn't want to do the wrong thing. The only other thing - - -

25 MS McMURDO: It was someone from 6 Aviation, was it?

MRS LYON: It was, yes.

30 MS McMURDO: Okay.

MRS LYON: And I did just want to thank the other witnesses, especially Mick Perkins yesterday. I understand how hard it is to stand up and talk about your colleagues. The family that this creates is – it's that, it's a family. They're not just friends. And it must be really hard on every single person to have to relive this. I think we saw it yesterday, but I am so grateful for everyone who shared their evidence.

40 COL STREIT: Thank you. Thank you for that comment. Mrs Lyon, thank you for your evidence.

MRS LYON: Thank you.

COL STREIT: Those are my questions. Thank you, Ms McMurdo.

45 MS McMURDO: Thank you. LCDR Gracie, do you have some questions?

LCDR GRACIE: Yes, ma'am. Just a couple of matters of clarification.

5 <CROSS-EXAMINATION BY LCDR GRACIE

LCDR GRACIE: Mrs Lyon, do you know how many hours approximately  
10 that Dan had flying the MRH-90?

MRS LYON: I believe it would be around 1000. I have tried to find that  
out, and that is – it's been impossible. My understanding is that that  
information has been removed, for privacy reasons, and I get that, to protect  
Dan. That's the most important thing. But I can't find out. I know that it  
15 is also confusing because some of the hours that he flew in New Zealand  
weren't recognised by 6 Aviation when he moved over. So it can be a  
challenge.

LCDR GRACIE: Was there some attempt to have the hours in  
20 New Zealand credited to his log in Australia?

MRS LYON: Yes, there was. But for some reason they didn't qualify.

LCDR GRACIE: Do you know what the issue was? Is it because it's the  
25 NR90?

MRS LYON: It might be. I am not sure if that's – if it's a problem with  
the airframe or some sort of technicality.

LCDR GRACIE: Just if you can look at paragraph 118 that you were taken  
30 to by Counsel Assisting. You've mentioned to me that you had a bit of a  
block on the FMP.

MRS LYON: Yes.

LCDR GRACIE: Can you remember now what you meant by FMP? Was  
35 it the full mission profile?

MRS LYON: It was the full mission profile. I'm sorry that I didn't get  
40 that.

LCDR GRACIE: And your point in 118 is that he's both the flight lead for  
the next day's mission – that is, on 27 July - - -

45 MRS LYON: Yes.

LCDR GRACIE: - - - and the lead planner for the full mission profile.

5 MRS LYON: Yes, they were two separate jobs that he was completing.

LCDR GRACIE: Two separate jobs, for the same flight on the 27th.

10 MRS LYON: For the 27th. He was also – the FMP was that evening and then he was the lead for the next day’s mission, was the information that he’d given me at that point in time.

LCDR GRACIE: Yes, I understand. Did Dan ever mention to you that he was aware that the MRH-90 fleet were to be taken out of service?

15 MRS LYON: Yes. He had explained that they would be transitioned to the Black Hawk, yes.

LCDR GRACIE: Did he have a timeframe of which he was aware for that?

20 MRS LYON: It was in the distant future. It wasn’t something that he was particularly concerned about. It wasn’t coming up too fast. He was looking forward to his deployment to MAZURKA first. And then the conversion to the Black Hawk, if he wasn’t posted out of 6 Avn, would then commence.

25 Lcdr GRACIE: The deployment to the Sinai was to be January 2024?

MRS LYON: It was, yes.

LCDR GRACIE: Did he have an expectation that the fleet was still going to be operating up until the time he deployed?

30 MRS LYON: Yes.

LCDR GRACIE: You mentioned one other thing, you said that Noah asks you a question each day after you come home from the Inquiry. What is it?

35 MRS LYON: Yes. He asks me if we know what happened to daddy yet.

LCDR GRACIE: What do you say to him?

40 MRS LYON: I say, “No, sweetheart, but we will”.

LCDR GRACIE: Thank you.

45 MRS LYON: And I apologise to him that I don’t know yet.

LCDR GRACIE: Thank you. Thank you, ma'am.

5 MS McMURDO: Thank you very much, Mrs Lyon. It must have taken a great deal of courage and been a very emotional time for you giving evidence over the last two days. The Inquiry appreciates that effort and we'll certainly do all we can to thoroughly investigate the matters you've raised.

10 MRS LYON: Thank you so much for your time.

**<WITNESS WITHDREW**

15 MS McMURDO: Yes, thank you. And I think that takes us to lunch.

COL STREIT: It does, yes.

20 MS McMURDO: So we'll adjourn till 1.45.

COL STREIT: Thank you.

25 MS McMURDO: Thank you.

**HEARING ADJOURNED**

30 **HEARING RESUMED**

MS McMURDO: Before we hear from the next witness, I guess I should just confirm that there was no application for further cross-examination? I just assumed that someone would have told me if they wanted to.

Thank you. Yes, COL Streit.

40 COL STREIT: Ms McMurdo, the next witness is Senior Constable Joseph Cook of the Queensland Police Service. He is represented and I just would ask for his legal representative to appear before you.

MS McMURDO: Yes.

45 MR PRATT: Good afternoon, Ms McMurdo.

MS McMURDO: Good afternoon.

5 MR PRATT: May it please the Inquiry, my surname is Pratt, initial C. I'm  
a solicitor with Gilshenan & Luton. I seek leave to appear on behalf of  
Senior Constable Joseph Cook pursuant to the correspondence I sent  
previously to Counsel Assisting.

10 MS McMURDO: Yes. Thank you. I take it nobody wants to say anything  
against this application for leave?

COL STREIT: No, ma'am.

15 MS McMURDO: Yes. Thanks very much, Mr Pratt, you're granted leave  
to appear.

MR PRATT: Thank you. Police (indistinct), but I'll take - - -

20 MS McMURDO: You will take the witness. Okay, thank you.

**<SENIOR CONSTABLE JOSEPH COOK, Called**

25 **<EXAMINATION-IN-CHIEF BY MR PRATT**

MR PRATT: Thank you.

30 Witness, could you tell us your full name, please.

SENIOR CONSTABLE COOK: It is Joseph Cook.

35 MR PRATT: Your current rank?

SENIOR CONSTABLE COOK: Is Senior Constable.

MR PRATT: You work for the Queensland Police Service?

40 SENIOR CONSTABLE COOK: Yes.

MR PRATT: Could you just explain your current role within the  
Queensland Police Service?



SENIOR CONSTABLE COOK: I'm an investigator within the Brisbane Forensic Crash Unit.

5 MR PRATT: Were you in that role as at 28 July 2023?

SENIOR CONSTABLE COOK: Yes.

10 MR PRATT: At that time, and in that role, were you tasked to conduct an investigation into the incident involving the crash of an MRH-90 Taipan Helicopter off the coast of Queensland?

SENIOR CONSTABLE COOK: Yes.

15 MR PRATT: Who was it that directed you to undertake this investigation?

SENIOR CONSTABLE COOK: Sergeant Patricia Brennan.

MR PRATT: Who is she?

20 SENIOR CONSTABLE COOK: She's one of the supervisors in our office.

MR PRATT: Thank you. What did your role ultimately require you to do?

25 SENIOR CONSTABLE COOK: To report to the Central Coroner.

MR PRATT: Did you provide that report?

SENIOR CONSTABLE COOK: Yes.

30 MR PRATT: Prior to coming to the Inquiry today, did you receive certain documents from the Inquiry?

SENIOR CONSTABLE COOK: Yes.

35 MR PRATT: Did that include a section 23 Notice requiring you to appear and give evidence today?

SENIOR CONSTABLE COOK: Yes, that's correct.

40 MR PRATT: Before coming today, did you prepare a statement for the Inquiry?

SENIOR CONSTABLE COOK: Yes.

45 MR PRATT: Can I please show - - -

MS McMURDO: Thank you.

5 MR PRATT: Could you please have a look at that statement. I'm sorry, Ms McMurdo, Counsel Assisting has just reminded me there was no oath or affirmation.

10 MS McMURDO: Goodness me, we're too relaxed, aren't we? Yes, of course. Oath or affirmation?

SENIOR CONSTABLE COOK: Affirmation, please.

15 <SENIOR CONSTABLE JOSEPH COOK, Affirmed

<EXAMINATION-IN-CHIEF BY MR PRATT, continuing

20 MS McMURDO: Please be seated, yes. So everything you've said so far is true and correct?

SENIOR CONSTABLE COOK: Yes.

25 MS McMURDO: Thank you.

MR PRATT: Excellent. Can you just have a read off that statement, please. Are there any alterations or amendments you'd like to make?

30 SENIOR CONSTABLE COOK: No.

MR PRATT: That's the evidence of this witness.

35 MS McMURDO: The statement will be Exhibit 13.

MR PRATT: That's an unredacted copy of that statement.

40 MS McMURDO: Is it? All right. So we've got to redact it on there. Thank you, Mr Pratt.

MR PRATT: Thank you.

MS McMURDO: Yes, COL Streit.

45

**<CROSS-EXAMINATION BY COL STREIT**

- 5 COL STREIT: Thank you, Ms McMurdo.
- The officer has an unredacted statement in front of him, which he'll use as an aide-memoire, and I'm about to show him a copy of the redacted statement which, subject to what he says, I'll seek to be tendered.
- 10 Senior Constable, can you just look at the document I have provided to you and satisfy yourself that it has been redacted using pseudonyms that are contained on the list that's in front of you that you're just turning over and that it's consistent with your unredacted statement?
- 15 SENIOR CONSTABLE COOK: Yes. I had the opportunity to previously compare and I can confirm that.
- COL STREIT: Thank you. So you've had that opportunity before giving evidence just now to satisfy yourself?
- 20 SENIOR CONSTABLE COOK: Yes.
- COL STREIT: Thank you. I then tender the redacted statement.
- 25 MS McMURDO: Exhibit 13, thank you.

**#EXHIBIT 13 – STATEMENT OF SENIOR CONSTABLE COOK**

- 30 COL STREIT: If the redacted statement could remain with you, Senior Constable, and if you could perhaps move the unredacted statement to an area on the table that's out of the way. Thank you.
- 35 Senior Constable, you having been engaged to undertake a – or form part of an investigative team from QPS into the crash of an MRH-90. You completed some documents in your role for the Central Queensland Coroner; is that correct?
- 40 SENIOR CONSTABLE COOK: Yes.
- COL STREIT: One of those documents was a document titled "Supplementary Form 1 Forensic Crash Unit Supplementary Report", dated 17 August 2023; is that correct?
- 45

SENIOR CONSTABLE COOK: That's correct, yes.

COL STREIT: I show you a document.

5 SENIOR CONSTABLE COOK: Thank you.

COL STREIT: Now, that document that I have shown you has been redacted in certain parts to accord with the pseudonym list in front of you. Have you had the opportunity to confirm that the redactions accord with what was in your original report, unredacted?

10

SENIOR CONSTABLE COOK: Yes, I have, and they are consistent.

COL STREIT: Thank you. I tender that report.

15

MS McMURDO: Supplementary Form 1 Forensic Crash Unit Supplementary Report will be Exhibit 14.

20 **#EXHIBIT 14 - SUPPLEMENTARY FORM 1 FORENSIC CRASH UNIT SUPPLEMENTARY REPORT DATED 17/08/23**

COL STREIT: Now, we'll turn to that supplementary report in time, but if you could just have your statement in front of you. I'd like to take you through - - -

25

MS McMURDO: It's dated 17 August 2023.

30 COL STREIT: I apologise.

MS McMURDO: No, that's all right.

COL STREIT: I'll just take you through parts of your statement, if I may, Senior Constable. So first, in relation to your background, you were sworn as a Queensland Police Service Officer on 27 June 2007; correct?

35

SENIOR CONSTABLE COOK: That's correct.

COL STREIT: Currently a Senior Constable within the Forensic Crash Unit at Brisbane, where you've worked since September 2019. Is that correct?

40

SENIOR CONSTABLE COOK: That's correct, yes.

45

COL STREIT: Is the MRH-90 investigation your first aviation investigation?

5 SENIOR CONSTABLE COOK: Yes. I've reviewed reports of other officers, but this would be the first I've attended.

COL STREIT: And having regard to your evidence in relation to your training, which commences at paragraph 11 of your statement, is it fair to say that the vast majority of accidents that you have investigated have been road accidents?  
10

SENIOR CONSTABLE COOK: That's correct, yes.

COL STREIT: Throughout your career as a Queensland Police Service Officer you've undertaken various courses, haven't you, in relation to crash investigations?  
15

SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: Some of those courses were of a general nature, were they, applicable to different types of accidents?

SENIOR CONSTABLE COOK: Yes.

25 COL STREIT: So not just involving cars, road vehicles?

SENIOR CONSTABLE COOK: No.

COL STREIT: In paragraph 12 of your statement you describe research and testing experience, and you say that you have extensive experiencing performing friction supply testing between 2019 and present. What does "friction supply testing" involve?  
30

SENIOR CONSTABLE COOK: So we – easiest way to explain it is we have skid marks on a road. We then test the friction of that road to determine, based off the length of the skid marks, the friction of the road, how that correlates to a speed.  
35

COL STREIT: You have also experience, at paragraph 13, with crash analysis training. Can you just explain what that means?  
40

SENIOR CONSTABLE COOK: So there's a – we best describe it as a separate team within our unit, we've given the opportunity to test different equipment, I guess, to further our investigations. And the topics there are just some of the equipment and the testing techniques that we've been  
45

allowed to use – or I guess we’ve been provided the opportunity to use.

5 COL STREIT: At paragraph 14 you say since 2019 you’ve attended 84 serious injuries resulting from fatal traffic crashes, criminal offence, or industrial accidents. Is that correct?

SENIOR CONSTABLE COOK: Yes.

10 COL STREIT: And you’ve previously prepared numerous reports as a result of your position in the Forensic Crash Unit and respective civil, criminal, and Coronial matters.

SENIOR CONSTABLE COOK: That’s correct.

15 COL STREIT: You’ve also peer-reviewed 20 reports for Coronial and criminal matters.

SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: Just in terms of your engagement – sorry, initially prior to your engagement, I just want to talk or ask you questions, rather, about the overview of Queensland Police involvement in the crash of the MRH-90. So at paragraph 17 you say that:

25 *The QPS were involved to oversee the initial search and rescue, and then the recovery operation of the deceased remains and the wreckage.*

30 In relation to that, are you able to say – I appreciate that you weren’t initially engaged, but are you able to say when QPS were engaged to undertake that role?

SENIOR CONSTABLE COOK: I understand it was immediately after the crash.

35 COL STREIT: Are you able to say whether at that time any civil investigative agency had also been engaged to assist in investigating an aviation incident?

40 SENIOR CONSTABLE COOK: At that early stage, not that I’m aware of.

45 COL STREIT: At paragraph 18 and 19 you deal with – the heading is “Key Actions Already Undertaken”, prior to your involvement in the investigation. So you identify two other officers involved in the process and that Detective Inspector Emma Novosel provided you with an overview

in person regarding certain actions that had already been undertaken by QPS. So first was, when you were engaged to do the investigation, did you attend on Detective Inspector Novosel and receive a briefing about where things were at?

5

SENIOR CONSTABLE COOK: Yes.

COL STREIT: Do you recall, in broad terms, what she said to you?

10

SENIOR CONSTABLE COOK: In broad terms, yes.

COL STREIT: And what was that?

SENIOR CONSTABLE COOK: That the debris that had been located was  
15 logged at Whitsundays Police Station, that search was still ongoing, that – and then briefed on my role in the investigative process, as well who else was there police-wise, who else was – what other roles were involved, what other units were involved.

20

COL STREIT: Did she at that time – I'll start again. Do you recall approximately, by reference to a date, when this conversation was occurring?

25

SENIOR CONSTABLE COOK: It was when I arrived in the Whitsundays, which was 1 August. So I arrived on the 31st, but I had that conversation – I wasn't briefed until the next day, I believe.

30

COL STREIT: I see. So crash happens late at night on 28 July; the 29th, 30th, 31st you travel up.

30

SENIOR CONSTABLE COOK: Yes.

35

COL STREIT: 1 August you're getting a briefing, essentially a handover briefing; would that be fair?

35

SENIOR CONSTABLE COOK: Yes, it's – I wouldn't necessarily say a handover; it was more just the direction for my particular role in the investigation.

40

COL STREIT: I see. So did Detective Inspector Emma Novosel have an ongoing role then in the investigation?

SENIOR CONSTABLE COOK: Yes.

45

COL STREIT: What was her role?

SENIOR CONSTABLE COOK: I would say a coordination role.

5 COL STREIT: When you had your briefing, morning of 1 August, did anyone explain to you what the role, if any, the Australian Defence Force had at that time in doing an investigation?

10 SENIOR CONSTABLE COOK: Investigation – I was informed that the DFSB were on site and they were performing an investigative role on behalf of the ADF.

COL STREIT: The Defence Flight Safety Bureau?

15 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Did you ask of your superiors as to – or express a curiosity as to why a Defence organisation was doing the Aviation investigation?

20 SENIOR CONSTABLE COOK: No.

COL STREIT: Was it ever explained to you what their – at that time with your superiors, ever explained to you by them as to what the ADF's role was in the investigation?

25 SENIOR CONSTABLE COOK: I had received an email from Acting Sergeant Webster prior to my arrival, who had detailed who were there and advised that the DFSB were there investigating on behalf of the ADF as well. So I feel I had that understanding already.

30 COL STREIT: Was it your understanding at that time that there's a civil organisation – was not involved in the investigation because the crash concerned a military aircraft?

35 SENIOR CONSTABLE COOK: Sorry, did you say - - -

COL STREIT: I'll start again.

SENIOR CONSTABLE COOK: Yes.

40 COL STREIT: So the Australian Transport Bureau investigates civil aviation incidents.

SENIOR CONSTABLE COOK: Yes.

45 COL STREIT: You understand that?



SENIOR CONSTABLE COOK: Yes.

5 COL STREIT: So they weren't present at that time, were they, when you got a briefing?

SENIOR CONSTABLE COOK: No, I don't believe they were. But I was aware that the ATSB were in the Whitsundays and I did see them with the DFSB at some point.

10 COL STREIT: Did you recall having any interaction from any member of the Australian Transport Safety Bureau about the accident?

SENIOR CONSTABLE COOK: No, not specifically. It was more about the black box.

COL STREIT: Sure. So your engagement in terms of the – your engagement was principally with the Defence Flight Safety Bureau representatives - - -

20 SENIOR CONSTABLE COOK: Yes.

COL STREIT: - - - who were doing their investigation into the Aviation crash.

25 SENIOR CONSTABLE COOK: Yes.

COL STREIT: At paragraph 19 you say that Detective Inspector Novosel informed you that a search and rescue operation had commenced on the night of the incident, which is 28 July 2023, and that debris and human remains had been located at that time.

SENIOR CONSTABLE COOK: Yes.

35 COL STREIT: Is that correct?

SENIOR CONSTABLE COOK: Yes.

COL STREIT: Paragraph 20 you say:

40 *The debris located by the ADF had been transported to the Whitsundays Police Station and was being held in a secure holding yard that was established at the rear of the station.*

45 Is that right?

5 SENIOR CONSTABLE COOK: That's correct.

COL STREIT: Did you, at some point in time, go and attend that location?

5 SENIOR CONSTABLE COOK: Yes.

COL STREIT: When did you do that, do you know?

10 SENIOR CONSTABLE COOK: I believe the first time was on that first – the same day as that briefing was my first time that I went and looked at that holding yard.

COL STREIT: 1 August.

15 SENIOR CONSTABLE COOK: Yes.

COL STREIT: In terms of the aircraft wreckage, do you recall – well, do you recall viewing any aircraft wreckage on that day?

20 SENIOR CONSTABLE COOK: Yes.

COL STREIT: What do you recall seeing?

25 SENIOR CONSTABLE COOK: It was a tail piece and I believe an exhaust manifold, is probably the way to describe it.

COL STREIT: Was it over the course of the next few days that if something had been recovered, a part of the aircraft had been recovered, it was then returned to that same holding location?

30 SENIOR CONSTABLE COOK: Yes. Yes.

COL STREIT: That holding location, that was controlled by Queensland Police, was it?

35 SENIOR CONSTABLE COOK: At that stage, yes.

COL STREIT: Did the ADF investigators have access to that area?

40 SENIOR CONSTABLE COOK: That's correct, yes.

AVM HARLAND: Excuse me, COL Streit. I just had a quick question regarding para 19.

45

When you had that conversation with Detective Inspector Novosel about the SAR operation and the location of debris and human remains, do you know when they were located? What timeline was associated with the location of those?

5

SENIOR CONSTABLE COOK: No. I became aware, really, of just the large piece of the tail, the rear tailpiece. I was aware that was found the next day, during daylight hours.

10

AVM HARLAND: Yes.

SENIOR CONSTABLE COOK: But the other pieces, no, no specific times.

15

AVM HARLAND: And do you know what method of location was used for that? Were they divers, or was it a - - -

SENIOR CONSTABLE COOK: Sorry, floating.

20

AVM HARLAND: Floating. Okay, right. Okay, thank you.

COL STREIT: For the assistance of the Inquiry, I will come to asking the detective - sorry, the Senior Constable what was occurring on particular days where certain, on the face of it, wreckage was recovered.

25

AVM HARLAND: Thank you.

COL STREIT: I'll just turn to paragraph 24 and your involvement in the crash investigation. So you say on 29 July 2023 you received an email from Sergeant Brennan requesting that you attend the Whitsundays in the capacity as a forensic crash investigator. In terms of the availability of forensic crash investigators, is there any reason why there was reach down from Mackay to Brisbane?

30

SENIOR CONSTABLE COOK: Yes. To give, I guess a broad preview of forensic crash around the state, we're quite a small unit around the state unfortunately at that time. So the area, the district is housed in Mackay. Unfortunately, one of their members had to take urgent bereavement leave, so they didn't have the staff to be able to provide a response on behalf of FCU. So we have a larger office in Brisbane, so it was canvassed who was available.

35

40

COL STREIT: At paragraph 27 you say:

*My role within the investigation was to document the property and debris recovered for the purpose of providing a report to the Coroner regarding same, as well as other aspects of the incident which I was made aware of during the investigation.*

5

Just explain the role that you had in relation to providing information to the Coroner. Was there something that required you to do that?

10 SENIOR CONSTABLE COOK: Yes. So it's a standard procedure of ours, according to the OPMs, an Operational Procedure Manual. They set out essentially how we conduct ourselves throughout investigations, and part of our role is to report matters involving a fatality to a respective Coroner.

15 COL STREIT: And the supplementary report that you've prepared, this is now an exhibit before the Inquiry, that's a templated form, isn't it, that you complete, subject to what information needs to be inserted in there?

SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: There is a legal requirement, isn't there, for you, as an investigator on behalf of QPS, to provide the Coroner certain information?

SENIOR CONSTABLE COOK: Yes.

25 COL STREIT: And that meant, did it, that apart from your own investigation and that undertaken by QPS, to some extent was there a reliance on the ADF in providing information to you, to complete your reporting obligations to the Coroner?

30 SENIOR CONSTABLE COOK: Yes.

COL STREIT: You've given some evidence about arriving in the Whitsundays; on 1 August 2023 you received your first briefing. Paragraph 35 - sorry, I'll start again. Paragraph 31, you say this:

35

*I was present at the Whitsundays on 1 and 2 August. During the afternoon briefing on 2 August 2023, it was apparent that no dive operations or debris recovery was likely to occur in the following days due to the weather conditions being so bad.*

40

First, in relation to that evidence in that paragraph, who is giving the afternoon briefing?

45 SENIOR CONSTABLE COOK: So it was held at Whitsundays Police Station and everybody had a representative there. Acting Inspector Dyer

essentially coordinated those briefings, but they were open for any and all of the personnel there at the time to attend.

5 COL STREIT: So Acting Inspector Dyer, Adam Dyer?

SENIOR CONSTABLE COOK: Yes.

COL STREIT: And he's based in Mackay?

10 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Sorry, it was a question. Do you know if he's based in Mackay?

15 SENIOR CONSTABLE COOK: I think Mackay district.

COL STREIT: I see. So his responsibility was as a coordination oversight role, was it, for this investigation?

20 SENIOR CONSTABLE COOK: Yes. Not so much the investigation, no. No, that was Detective Inspector Novosel.

COL STREIT: These briefings, in terms of people who would attend, who was invited to attend?

25 SENIOR CONSTABLE COOK: I apologise, I don't know specific invitations, but it certainly appeared anybody that was involved, whether they be ADF or QPS, or whoever was involved there at the time, could attend.

30 COL STREIT: Any other organisations? So you had QPS, Queensland Police Service and ADF members. Any other emergency organisations or civilian organisations?

35 SENIOR CONSTABLE COOK: I believe the ATSB may have been there on one or two occasions. I don't recall other civilians.

MS McMURDO: Sorry, who was that?

40 SENIOR CONSTABLE COOK: The Australian Transport Safety Bureau.

MS McMURDO: ATSB. Right, thank you.

45 SENIOR CONSTABLE COOK: ATSB, yes.

COL STREIT: At paragraph 31 you say, “It was apparent no dive operations or debris recovery was likely due to the inclement weather conditions”. They’re my words. Before your arrival, or even after you arrived, were you told whether or not dive operations had occurred at all since before that time?

SENIOR CONSTABLE COOK: No, I don’t recall. But I was aware that divers were there and I think – I believe I became aware that they believed they’d located some large pieces of debris. Without a specific briefing about the diving operations, I believe I was aware that diving had already occurred.

COL STREIT: So accident on the 28th; got the 29th, 30th and 31st. You then arrive on the 1st. You’re told on the 1st that there’s likely to be no dive operations that day or the next day because of the inclement weather conditions.

SENIOR CONSTABLE COOK: Yes.

COL STREIT: But is it – and it’s not a memory test – but is it the case you’re not sure if the days before you arrived, whether in fact any dive operations had occurred?

SENIOR CONSTABLE COOK: Look, it’d be fair to say I couldn’t give you a definitive answer on that, yes.

COL STREIT: Sure. So at paragraph 34 onwards you’ve set out chronologically, by reference to each day, certain events that occurred, and I’m going to turn to that now.

MS McMURDO: Could I just clarify, so by the time you arrived and had your briefing on 1 August, were you then aware that debris and human remains had been located already, at that time?

SENIOR CONSTABLE COOK: Yes, I’d have to double-check. There was an email received from Acting Sergeant Webster which gave us a very quick overview of what had already been set in place.

MS McMURDO: Do you mention that in your statement? Is that in your statement or is that somewhere else?

SENIOR CONSTABLE COOK: No, I do mention it in my statement.

MS McMURDO: Okay. Well, if it’s in your statement, that’s fine. Thank you.

COL STREIT: It's at paragraph 19.

MS McMURDO: Thanks, COL Streit. 19, is that the email?

5

COL STREIT: No sorry, where the witness says that debris and human remains had been - - -

MS McMURDO: Yes, I know, I know. He was talking about an email.

10

COL STREIT: There's no email attached to your statement, is there, that deals with that matter?

SENIOR CONSTABLE COOK: That may not be attached to that email.

15

MS McMURDO: But, sorry, I thought you said you referred in your statement to the email.

SENIOR CONSTABLE COOK: No, I touch on it, yes. In point 18, it mentions that I'd received an email from Acting Sergeant Webster. I couldn't tell you when I was aware that human remains were found, but I do recall being aware of debris being located prior to my arrival.

20

MS McMURDO: Thank you.

25

COL STREIT: At paragraph 34, on 1 August 2023 at 7.30 am, you received a briefing where you were told:

*(a) that divers had located a large amount of debris which they believe was the cabin, undercarriage, and rotors of the aircraft. However, due to inclement dive conditions the recovery of those items was not yet possible.*

30

So that would seem to indicate, from what you're being told in the briefing, that ADF divers, at a time earlier than 1 August, had identified debris concerning the aircraft, but couldn't recover it because of the weather?

35

SENIOR CONSTABLE COOK: Yes.

40

AVM HARLAND: Excuse me, COL Streit.

Did that only apply to the large portions of the wreckage, or were we able to – was there an opportunity to recover smaller parts?

SENIOR CONSTABLE COOK: At that point, that was all I knew. But what had been located appeared to be larger pieces. I wasn't aware of what may have been recovered by divers before that.

5 AVM HARLAND: Okay, thank you.

COL STREIT: Detective – sorry, I keep promoting you. Senior Constable, I apologise. You've identified – well, given evidence about your recollection of having received an email from a superior, which may  
10 identify whether in fact human remains had been recovered from the crash prior to your arrival in Proserpine.

I would ask you to examine your records at the conclusion of today's proceedings, and advise me through your solicitor, in correspondence,  
15 whether you've identified that email. If so, I would ask you to produce it.

SENIOR CONSTABLE COOK: Yes, certainly.

COL STREIT: Thank you. At paragraph 35 you were referring to the briefing you received on 1 August. You say:  
20

*We were also advised that a heavy haulage crane, the Australian Defence Vessel Reliant, was currently in transit from Cairns and was due to arrive in two to three days.*

25

Is that correct?

SENIOR CONSTABLE COOK: That's correct, yes.

COL STREIT: That would mean that vessel, *Reliant*, arriving on the 3 or 4 August effectively, wouldn't it?  
30

SENIOR CONSTABLE COOK: Yes.

COL STREIT: At paragraph 36 you say:  
35

*In the interim, divers were to continue their search to determine if any human remains could be recovered.*

40 When you say "divers", does that just refer to ADF divers or were there QPS divers on the ground at the time?

SENIOR CONSTABLE COOK: QPS divers were present as well.

45 COL STREIT: Did you have any interaction with them?



SENIOR CONSTABLE COOK: No.

5 MS McMURDO: So just to clarify the wording there, so they were to continue. Did they continue on 1 August? The heading is “1 August” here.

SENIOR CONSTABLE COOK: Yes, best of my recollection – I can’t recall, sorry.

10 MS McMURDO: Thank you.

COL STREIT: When you’re referring to QPS divers were on the ground on 1 August, do you know who their superior was; that is, who was coordinating their efforts in what they were doing?

15 SENIOR CONSTABLE COOK: No.

COL STREIT: You say at paragraph 37, at around 5 pm you had an afternoon briefing – this is on 1 August – and:

20 *The Defence Flight Safety Bureau advised that black box technicians were attending the following day to download the data from the remaining helicopters.*

25 Was it ever explained to you why that was necessary?

SENIOR CONSTABLE COOK: No.

30 COL STREIT: You were also told in the briefings, which you’ve recorded in your statement, that the Defence Flight Safety Bureau advised that the data is intended to be vetted by the ADF prior to its release to the Coroner. Is that correct?

35 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Do you know, in relation to doing this investigation, whether in fact that data was ever provided to the Coroner?

40 SENIOR CONSTABLE COOK: I’m unsure, no.

MS McMURDO: Do you know what was meant by “vetted”?

45 SENIOR CONSTABLE COOK: My interpretation of that was that it would be verified or validated.

MS McMURDO: What do you mean by that? What did you understand by that, “verified” or “validated”?

5 SENIOR CONSTABLE COOK: Not having that experience with the black box, I’m not entirely sure how it records the data. But at least in my experience involving data obtained from passenger vehicles, once it’s downloaded we verify that it was recorded correctly, depending if it’s time or date stamped, that the data otherwise appears to be correct and accurate.

10 MS McMURDO: Okay, thank you.

AVM HARLAND: Did they mention any concerns about classification at all?

15 SENIOR CONSTABLE COOK: No.

COL STREIT: At paragraph 38 you say the other helicopters that were flying at the time of the incident were not part of the seized property. What does “seized property” mean? What do you mean by that?

20 SENIOR CONSTABLE COOK: So the seized property was the property or the debris located that was lodged at Whitsunday Station.

COL STREIT: Right. So when you’re saying “seized property”, that’s a reference to seized by the police?

25 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Therefore that means, does it, the police having custody and control over those seized items?

30 SENIOR CONSTABLE COOK: That’s correct, yes.

COL STREIT: And that’s important from an evidentiary chain, is it?

35 SENIOR CONSTABLE COOK: Yes, and for a Coronial side as well.

COL STREIT: So does that mean, as part of your investigation process in relation to seized property, there’ll be a record somewhere in the QPS system that identifies by list name all the property that was seized?

40 SENIOR CONSTABLE COOK: Yes, that’s correct.

COL STREIT: Again, through your solicitor, can I ask you to look at your records, and if that’s on the QPS system, that it be produced to the Inquiry?

45

SENIOR CONSTABLE COOK: Certainly.

5 COL STREIT: Thank you. Turning to 2 August, which is paragraph 39 of  
your statement. You say you received the morning briefing from  
Acting Inspector Adam Dyer, Detective Novosel and the DFSB. You say:

10 *Acting Inspector Dyer raised some concerns in respect of further  
compromising the integrity of the wreckage if it is moved again  
after being hauled on the ADV Reliant.*

What was your understanding about what that issue was about?

15 SENIOR CONSTABLE COOK: It would be a concept applied to  
essentially any piece of evidence: the more you have to interact or handle  
the evidence, you increase the chance of causing damage to it. So it was  
about – the motivation was to decrease the number of times that it’s moved.  
So whether that’s moved from the *Reliant* to a permanent holding yard, or  
to the Whitsunday Station first. It was essentially about minimising how  
20 much interaction we would need to have with the debris.

COL STREIT: Was there a solution then, in relation to dealing with that  
issue?

25 SENIOR CONSTABLE COOK: I believe they tabled a few different  
possibilities.

COL STREIT: Paragraph 40 you say that:

30 *There was an agreement reached that the QPS would attempt to  
conduct its examinations of the property on board HDV Reliant.*

SENIOR CONSTABLE COOK: Yes.

35 COL STREIT: Did that occur, do you know?

SENIOR CONSTABLE COOK: Yes. Yes, it did.

40 COL STREIT: Did you participate in that?

SENIOR CONSTABLE COOK: No, I was not on the *Reliant* at any stage.

45 COL STREIT: On behalf of QPS, who did conduct those examinations on  
board *Reliant*, to your knowledge?

5 SENIOR CONSTABLE COOK: I'm not sure if it was on the *Reliant*, but there was some debris recovered after I left that was photographed at Proserpine Airport. So I couldn't be sure that any of the debris was examined by FCU staff on the ADV *Reliant*. There may have been some smaller items recovered in the days I was there, or away.

COL STREIT: At paragraph 41 you say:

10 *The initial plan was that all property would go to the storage yard which had been set up at the Whitsundays Police Station. And upon receiving Coronial approval to release it, the property would then be moved by the ADF to Proserpine Airport.*

15 That's correct?

SENIOR CONSTABLE COOK: That's correct, yes.

20 COL STREIT: At 42 you say, "We also agreed". When you say "we", that's a reference to Queensland Police?

SENIOR CONSTABLE COOK: Yes.

COL STREIT:

25 *We also agreed that the flight data recorder was a high priority, given the corrosive environment it was likely in. Accordingly, prior to the flight data recorder being located, I took steps to obtain the Coroner's permission to give the flight data recorder to DFSB straightaway, to cleanse and preserve it.*

30 *This was done to assist the DFSB and avoid any delay.*

That's correct?

35 SENIOR CONSTABLE COOK: That's correct.

COL STREIT: Why was that necessary, to give the flight data recorder to DFSB?

40 SENIOR CONSTABLE COOK: It was my understanding that DFSB have the ability or the facilities – or the ability to have that data extracted and analysed. We didn't, so the case was to try and transfer the custody of that FDR to them as soon as possible.

COL STREIT: Did that mean there was effectively reliance on Queensland Police that DFSA would do what it was asked to do but then provide the information outcome back to Queensland Police?

5 SENIOR CONSTABLE COOK: Yes, that was a request to the Queensland Coroner.

COL STREIT: I suppose the issue – you may not be able to assist the Inquiry but the issue I’m grappling with understanding is the delineation of  
10 responsibilities between Queensland Police Service and the crash involving the deaths of four men in Australian territorial waters with Queensland jurisdiction, but then you have a Defence organisation conducting the investigation. So with that context in mind, to your knowledge were you  
15 ever briefed about any agreement between QPS and Defence about how this arrangement would work?

SENIOR CONSTABLE COOK: Not specifically briefed. It was more the case briefing that I received was that the Central Coroner had received contact, I believe, by a member of the ADF and once that contact was made,  
20 the Coroner was able to authorise the release of all property items.

COL STREIT: Is that something that occurred, to your knowledge?

SENIOR CONSTABLE COOK: Yes.  
25

COL STREIT: Now, at paragraph 44 of your statement you say, “Later that day”, which is a reference to 2 August:

*Later that day we received audio files from AV-Data containing post-crash communications between the flight operative crew. I tasked the QPS electronic recording section to enhance the audio files. They were then uploaded to evidence.com.*  
30

Evidence.com, is that a QPS evidence database?  
35

SENIOR CONSTABLE COOK: Yes. Look, it’s not owned by the QPS, but it’s – I’m not sure of the arrangement – it’s contracted. They store – it’s a secure storage for our evidence, or for digital evidence.

COL STREIT: So in terms of tasking QPS electronic recording section to enhance the audio files, did they ever come back to you with the enhanced audio files?  
40

SENIOR CONSTABLE COOK: Yes, they did.  
45

COL STREIT: Are they on the QPS system?

SENIOR CONSTABLE COOK: Yes.

5 COL STREIT: Again, I will ask you to, through your solicitor, produce those.

SENIOR CONSTABLE COOK: Certainly.

10 COL STREIT: In paragraph 45 you say:

*I also received videos from the QPS divers searching the wreckage and uploaded those videos to evidence.com and file server.*

15 Are they still in QPS custody?

SENIOR CONSTABLE COOK: I believe so, yes.

COL STREIT: Well, we'll add that to the list.

20

SENIOR CONSTABLE COOK: Certainly.

COL STREIT: I should add – and this is really for your solicitor – if there's an issue about you producing these things, I'd just ask to be advised and I'll issue a section 23 Notice separately. Turning to 46:

25

*Following the afternoon briefing on 2 August 2023, had a meeting with the DFSB Commander, Dominic Cooper, regarding the request for the FDR recorder once recovered.*

30

What was that about, that meeting?

SENIOR CONSTABLE COOK: The meeting was to obtain enough information to report to the Coroner so that that information forms part of the request to have the FDR released to the DFSB.

35

COL STREIT: In paragraph 48 you say:

*The purpose of this meeting was to further explain to CMDR Cooper the information that we needed to provide to the Coroner in order for him to make the order for them to have the FDR. Immediately, we explained to CMDR Cooper that we needed him to help us so that we can help him.*

40

45 Why was that necessary?

5 SENIOR CONSTABLE COOK: So to provide the Coroner with enough information to release property, we required information from CMDR Cooper stipulating what was to happen with the recorder and when and how. Essentially, it's providing the Coroner enough information to be able to make an educated decision.

10 COL STREIT: You followed that up officially, didn't you, with an email to CMDR Cooper?

SENIOR CONSTABLE COOK: Yes.

15 COL STREIT: Which is at paragraph 50 of your statement. Can I just now turn to paragraph 54 where you say you attended Proserpine Airport on that day.

SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: What was the reason – I know you address this subsequently in your statement, but what was the reason to attend Proserpine Airport on 2 August?

25 SENIOR CONSTABLE COOK: It was to review what we would refer to as an exemplar vehicle.

30 COL STREIT: I'm just going to pause there for a moment. I'm just going to show you some pictures or imagery, if I may. I will bring the picture up and I will just ask you to explain what it is. I'm going to suggest to you, or ask you to confirm by reference to our supplementary report before you that the picture or imagery from the supplementary report, the first picture?

SENIOR CONSTABLE COOK: Yes.

35 COL STREIT: What's that?

SENIOR CONSTABLE COOK: That is the proximate crash location, so the GPS coordinates entered into a mapping program.

40 COL STREIT: Now, in the proximate centre or just down from the centre appears to be some sort of red dot. What does that reflect?

SENIOR CONSTABLE COOK: The GPS coordinates below.

45 COL STREIT: Who provided the GPS coordinates?

SENIOR CONSTABLE COOK: I believe that was provided in an email from – his name escapes me – from the ADF, in Excel spreadsheet.

5 COL STREIT: I see. You'll see down the bottom right-hand corner it says, "Page 2 of 29". So this is a picture from page 2 of your report to the Coroner; is that correct?

SENIOR CONSTABLE COOK: Yes.

10 COL STREIT: Now, where the red dot is, if you were to orientate your vision to the southeast, you come to what appears to be a land mass. Is that Lindeman Island?

SENIOR CONSTABLE COOK: Yes.

15

MS McMURDO: Excuse me, COL Streit, your junior Counsel - - -

20 COL STREIT: My colleague, Counsel Assisting, thought I had more dexterity with this than perhaps I do, so we'll see if I – there we go. Wonders never cease. So where the red dot is, do you accept that's Lindeman Island?

SENIOR CONSTABLE COOK: Yes, that's correct.

25 COL STREIT: Where I'm pointing now, where both two red dots are, is the proximate crash site or the impact site?

SENIOR CONSTABLE COOK: Yes.

30 COL STREIT: Is that correct?

SENIOR CONSTABLE COOK: That's correct, yes.

35 COL STREIT: Then you have the imagery reflecting the remaining land mass in the Whitsundays; is that correct?

SENIOR CONSTABLE COOK: Yes.

40 COL STREIT: Now, you went to Proserpine Airport on what day; 2 August?

SENIOR CONSTABLE COOK: 2 August.

45 COL STREIT: You went there to view an exemplar MRH-90?



SENIOR CONSTABLE COOK: Yes.

COL STREIT: If you just look at paragraph 54.

5 SENIOR CONSTABLE COOK: Yes, thank you.

COL STREIT: So you're there at Proserpine Airport on 2 August to view an exemplar MRH-90. Why was that necessary?

10 SENIOR CONSTABLE COOK: So with part of the reporting to the Coroner is we describe the debris that's located. Unfortunately, having never seen an MRH-90 before, some of the debris was small and to get a context – I guess to get an understanding of what part that debris could have been.

15 COL STREIT: The intent was to look at one of the other MRH-90s that had been involved in the same mission; is that right?

20 SENIOR CONSTABLE COOK: Yes, whether it had been involved in the same mission wasn't necessarily the point, it was just to see an MRH-90 helicopter.

COL STREIT: All right. Did you take that picture?

25 SENIOR CONSTABLE COOK: No.

COL STREIT: That picture was provided to you by somebody?

SENIOR CONSTABLE COOK: Yes.

30 COL STREIT: Who?

SENIOR CONSTABLE COOK: Acting Sergeant Webster.

35 COL STREIT: Did you attend, with Acting Sergeant Webster, the Proserpine Airport on 2 August?

SENIOR CONSTABLE COOK: No, he – the report states that those photos were taken on 29 July. That's when he was there.

40 COL STREIT: I see. So the photos I'm going to show you then were taken by another officer.

45 SENIOR CONSTABLE COOK: That's correct, yes.

COL STREIT: On what day?

SENIOR CONSTABLE COOK: 29 July.

5 COL STREIT: He provided those photos to you, did he, for the purposes of the investigation you were doing?

SENIOR CONSTABLE COOK: Yes.

10 COL STREIT: So that depicts an MRH-90 aircraft at Proserpine Airport.

SENIOR CONSTABLE COOK: Yes.

15 COL STREIT: That's a shot of the rear of the aircraft. Do you accept that?

SENIOR CONSTABLE COOK: Yes.

COL STREIT: Side-on of the aircraft?

20 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Front-on of the aircraft?

25 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Inside the aircraft? You see inside the aircraft, if I use the laser point again, there appears to be two lines which have been superimposed on the picture, pointing up to what appear to be seats. What was the purpose of that?

30 SENIOR CONSTABLE COOK: To identify where it was indicated to us that the likely positions of the rear and the crewman.

35 COL STREIT: So is this picture looking from the front of the aircraft to the back of the aircraft?

SENIOR CONSTABLE COOK: Towards the rear, yes.

40 COL STREIT: This picture on page 5 of your report is from the back of the aircraft looking forward to the front; is that correct?

SENIOR CONSTABLE COOK: That's correct.

45 COL STREIT: It depicts the location of where the seats are for aircrewman on the left and right of the airframe?

5 SENIOR CONSTABLE COOK: That's correct, yes.

COL STREIT: Depicting the cockpit?

5 SENIOR CONSTABLE COOK: Yes.

COL STREIT: That's at page 6 of your report?

10 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Right-hand side of the cockpit with the side door entry open?

15 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Left-hand side of the cockpit?

SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: One of the seats in the cockpit, which appears to be the right-hand seat?

SENIOR CONSTABLE COOK: Yes.

25 COL STREIT: Given the location of the controls and the centre console. All right. Turning now back to your statement, I want to turn to 3 August which is at paragraph 55. You attended a morning briefing at 7.30 am. Did that become the regular pattern, in terms that each day there would be a morning briefing, representatives of QPS and the ADF would be present, and information would be updated?

30 SENIOR CONSTABLE COOK: That's correct.

35 COL STREIT: That was conducted at the Whitsundays Police Station?

SENIOR CONSTABLE COOK: Yes.

COL STREIT: The Whitsundays Police Station is located where?

40 SENIOR CONSTABLE COOK: It's in the Whitsundays. You'll have to forgive me, it's the first time I was there.

COL STREIT: Is it on the Whitsundays Islands or is it on the mainland?

45

SENIOR CONSTABLE COOK: On the mainland, yes.

COL STREIT: Now, at paragraph 56 you say:

5            *At such time we devised a plan to travel to and from the  
ADF Reliant each day.*

When you say “we devised a plan”, who’s the royal “we”?

10        SENIOR CONSTABLE COOK: So it would be QPS.

COL STREIT: Did that involve you going to *Reliant*?

SENIOR CONSTABLE COOK: Not always, no.

15

COL STREIT: But you did attend *Reliant* at some stage?

SENIOR CONSTABLE COOK: No.

20        COL STREIT: The *Reliant* was collecting, at different points, debris,  
wasn’t it, of aircraft wreckage?

SENIOR CONSTABLE COOK: I believe that was the intention, yes.

25        COL STREIT: What was the need to go to and from *Reliant* each day, I  
guess is what I’m asking?

SENIOR CONSTABLE COOK: So if any objects or items of debris were  
located, they would be taken to the *Reliant* and we would document them.

30

COL STREIT: How did you get from the mainland to *Reliant*?

SENIOR CONSTABLE COOK: So we would have – not that I did, but the  
plan was to use one of the QPS police vessels.

35

COL STREIT: I see. So *Reliant* was out on the water.

SENIOR CONSTABLE COOK: Yes.

40        COL STREIT: So it was necessary to utilise a QPS vessel to move from  
your location to *Reliant* – for other QPS to do - - -

SENIOR CONSTABLE COOK: Yes.

COL STREIT: Just turn to paragraph 61. Paragraph 61, so you attended the holding yard – this is on 3 August – attended the holding yard with a Mrs Berry and First Sergeant Thorpe from the Aeronautical Life Support Logistics Management Unit. So is that a military organisation, Aeronautical Life Support Logistics Management Unit?

SENIOR CONSTABLE COOK: I believe so.

COL STREIT: Well, when you say “First Sergeant Thorpe”, is that a reference to a person who’s a member of the ADF?

SENIOR CONSTABLE COOK: Yes.

COL STREIT: You say:

*We conducted inspections of the worn safety equipment and they advised they would prepare a report for DFSB.*

Is that right?

SENIOR CONSTABLE COOK: That’s correct, yes.

COL STREIT: Did they say they’d give you a copy?

SENIOR CONSTABLE COOK: No.

COL STREIT: Did you ask for one?

SENIOR CONSTABLE COOK: No, we asked them for information while we were there.

COL STREIT: On 4 August, if I can turn to that, paragraph 62, you say you weren’t present this day. I take it that you mean, “I wasn’t present for the debriefing or briefing that day, on 4 August”?

SENIOR CONSTABLE COOK: No, there was a – so if we come back to 32.

COL STREIT: Yes.

SENIOR CONSTABLE COOK: So once it was established that the dive operations couldn’t occur because of that inclement weather, the decision was made, due to fatigue management issues, that I was to leave the Whitsundays and then return on the 6th.

5 COL STREIT: That's simply just a process by which – I mean, you're a forensic crash investigator. You're doing other investigations and they've got to manage your time. So you're part of that fatigue management because the MRH-90 is another investigation you're doing, is that you were having some time off given the inclement weather conditions anyway?

10 SENIOR CONSTABLE COOK: Yes. So we have obviously rostering rules that there was only a certain amount of days in a particular fortnight that you were able to work.

COL STREIT: Yes.

15 SENIOR CONSTABLE COOK: As none of that debris was to be lifted in those two days, those two days were taken as days off.

COL STREIT: Sure. No, I understand.

SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: At 63 you mention for the first time in your statement – that's not a criticism, it's just you mention it for the first time, that there was a Joint Task Force:

25 *An Australian Defence Force Joint Task Force was formed appointing CMDR Jason Pont as the leader.*

Could that have been GPCAPT Jason Point?

30 SENIOR CONSTABLE COOK: Yes, it could have been.

COL STREIT: You go on in that paragraph to say:

35 *As I understand it, this task force was created to enable CMDR Pont to make decisions on the ground, as opposed to the previous process which required a request to be sent offsite and then await a response.*

40 What are you, in effect, trying to say there about decisions having to go offsite and then await for a response?

45 SENIOR CONSTABLE COOK: It appeared to slow down the process between making – I guess trying to come to a decision about a particular course of action. My understanding was it was to streamline that process to make that quicker.

COL STREIT: At 64 you say:

5                   *QPS were advised that the ADV Reliant is yet to have procedures  
in place to operate with diver-assisted operations. Accordingly,  
the ADF were drafting procedures as a matter of urgency.*

What are you really saying at 64? What do you mean?

10 SENIOR CONSTABLE COOK: Well, that's just the information we were  
provided, that procedures weren't in place.

COL STREIT: So the procedures in place to operate with diver-assisted  
operations, did that have something to do with divers operating from  
15 *ADV Reliant?*

SENIOR CONSTABLE COOK: Possibly. My understanding is that there  
were ADF procedures that needed to be in place. I can't really shed any  
more light on it.

20 MS McMURDO: But was the effect of it that divers couldn't dive from  
there? Was that what was happening?

SENIOR CONSTABLE COOK: I believe that was the result, yes.

25 COL STREIT: What were the QPS divers doing in all of this?

SENIOR CONSTABLE COOK: Look, to be – I don't have an  
understanding of what each diver's role was at the time.

30 COL STREIT: Sure. But were they doing any – were they diving, the QPS?

SENIOR CONSTABLE COOK: I believe so, yes.

35 COL STREIT: We're turning now to 5 August. Paragraph 65, you say you  
weren't present that day. However, you were made aware of certain things  
by virtue of reviewing the QPS running sheet and discussions with your  
colleagues. You say at 66 that:

40                   *During this day, an unmanned submarine was searching in the  
waters for debris and human remains. The submarine was visibly  
recording its searches.*

How did you become aware of that information?

SENIOR CONSTABLE COOK: It was either through that running sheet or when I returned, having discussions with other officers that were there while I wasn't.

5 COL STREIT: This is on 5 August?

SENIOR CONSTABLE COOK: That's when that entry would have been in our – in our what we call occurrence sheet log, is another way of looking at it.

10

COL STREIT: So this occurrence sheet log, does that itemise what's occurring effectively every day by way of operations and tasks?

15 SENIOR CONSTABLE COOK: Just within our FCU role. It'd just be a very brief summary of a few dot points.

COL STREIT: On 7 August, which is at 68 of your statement, you say:

20

*On this day, I was on the QPS vessel D Leeding. Another QPS vessel was also in the water, PVB Irwin. At the time, human remains and FDR were recovered by ADF divers, handed to QPS divers and then transported onto the PVB Irwin.*

So that's 7 August.

25

SENIOR CONSTABLE COOK: Yes.

COL STREIT: Did you ever understand or come to learn why ADF divers were then handing it to the QPS divers?

30

SENIOR CONSTABLE COOK: My best recollection would be that I don't believe – I think it was a depth issue; something about ratings, maybe.

COL STREIT: The ADF divers could go deeper.

35

SENIOR CONSTABLE COOK: Could go deeper, I think.

COL STREIT: Could go deeper, I see. I turn now to 8 August, which is at paragraph 70. You say there that you're aware QPS members were on the police vessel PVB Irwin and attended the scene with police divers. You were not there at the time. At paragraph 71 you say:

40

*I understand that a flight vest webbing with the names Naggs and Laycock were recovered as well as personal flotation device, a*



*crew radio, M4 rifle and a handgun. All items were located by ADF divers and then handed to QPS.*

Is that correct?

5

SENIOR CONSTABLE COOK: Yes.

COL STREIT: Does that mean those items were then placed in that area in the Whitsundays Police Station where all the other wreckage was?

10

SENIOR CONSTABLE COOK: The weapons weren't.

COL STREIT: I was about to ask where the weapons – they were put in a different location?

15

SENIOR CONSTABLE COOK: No, they were - - -

MS McMURDO: Next paragraph, I think.

20

SENIOR CONSTABLE COOK: Yes, they were – yes, we - - -

COL STREIT: Sorry. Of course. But when did that occur? Paragraph 72 says:

25

*All firearms and magazines were returned to the ADF.*

But when did that occur?

30

SENIOR CONSTABLE COOK: I believe that – the magazines, I handed over at Whitsundays Police Station. I never saw any of the firearms, so I believe that would have been on the *Reliant*.

35

COL STREIT: Paragraph 73 you say, in relation to items being held by QPS, you asked the DFSB and the ALSLMU to assist you audit the logged property into the following categories, and you then identify them. So did they provide that assistance that you asked for?

SENIOR CONSTABLE COOK: Yes.

40

COL STREIT: Later in the day you say:

*The Coroner made a Direction that all property was to be released to the ADF.*

45

Is that correct?

SENIOR CONSTABLE COOK: Yes.

5 COL STREIT: That's all property in relation to the wreckage of the aircraft?

SENIOR CONSTABLE COOK: Yes.

10 COL STREIT: Had any human remains been recovered at that point in time?

SENIOR CONSTABLE COOK: I believe so, but they weren't held at the Whitsundays Station.

15 COL STREIT: Do you know where human remains were being held?

SENIOR CONSTABLE COOK: Not specifically. My understanding – so human remains were – that was a job for the Disaster Victims Identification Squad, so DVI.

20 COL STREIT: Right.

SENIOR CONSTABLE COOK: So, yes, they handled all located remains.

25 COL STREIT: Disaster Victims Identification Squad.

SENIOR CONSTABLE COOK: Yes.

30 COL STREIT: Within QPS.

SENIOR CONSTABLE COOK: It's a QPS group, yes.

COL STREIT: So at paragraph 75 you say:

35 *Accordingly, we arranged for DFSB to sign an indemnity receipt for all property other than mobile phones.*

Do you know if any mobile phone was recovered?

40 SENIOR CONSTABLE COOK: I believe so.

COL STREIT: One or more than one mobile phone?

45 SENIOR CONSTABLE COOK: I believe more than one.

COL STREIT: More than one?

SENIOR CONSTABLE COOK: I believe more than one, yes.

5 COL STREIT: Do you know where they went?

SENIOR CONSTABLE COOK: I believe they were held at Whitsundays Station.

10 COL STREIT: So all other property went to the Defence Flight Safety Bureau. The mobile phones stayed with Queensland Police?

SENIOR CONSTABLE COOK: That's correct.

15 COL STREIT: Paragraph 79, you make reference - - -

MS McMURDO: So could I just check, these mobile phones were discovered from the wreckage; is that right? They weren't obtained elsewhere from Defence?

20

SENIOR CONSTABLE COOK: No, I'm sorry, I'm not sure where the mobile phones were located.

25 MS McMURDO: You don't know. Thank you. You don't know if they were discovered from the wreckage; that is, that they'd been in the sea or if they'd been – they were the mobile phones that belonged to the servicemen that they'd left?

30 SENIOR CONSTABLE COOK: No. Yes, I'm not sure where they were located.

MS McMURDO: Okay.

35 COL STREIT: You say in paragraph 79 that:

*At some point, the property was then transferred from QPS holding yard to the DFSA holding yard at Proserpine Airport by the ADF transport unit.*

40 That's something that occurred after you left; is that right?

SENIOR CONSTABLE COOK: That's correct, yes.

45 COL STREIT: So that information was given to you by another QPS member, was it?

SENIOR CONSTABLE COOK: Yes.

COL STREIT: At paragraph 80 you say:

5

*I obtained an undertaking from the ADF that access for QPS investigators will be provided to Proserpine Airport if further wreckage is recovered from the sea floor for the purpose of taking photographs.*

10

Why was it necessary to get an undertaking?

SENIOR CONSTABLE COOK: It was to provide that to the Coroner to assure the Coroner that, should any other debris be located, that we would be able to advise or – photograph and advise the Coroner of such.

15

COL STREIT: 12 August you say you spoke with Senior – paragraph 81:

20

*Spoke with Senior Constable Michael Parker from the Mackay FCU regarding Senior Constable Webster's attendance at Proserpine Airport to photograph the recovered wreckage. Senior Constable Parker then liaised with Acting Inspector Dyer regarding the same.*

So in your report that you've prepared for the Coroner, there's some photographs of some wreckage; is that correct?

25

SENIOR CONSTABLE COOK: Yes.

COL STREIT: I just draw your attention to some photographs on the screen. First of all, that photograph is from page 13 of your report; is that correct?

30

SENIOR CONSTABLE COOK: Yes.

35

COL STREIT: What does that photograph depict?

SENIOR CONSTABLE COOK: So that was the approximate location of where the tail section and the exhaust manifold were located.

40

COL STREIT: If I use my laser pointer again. So that large red dot where I'm indicating, that's the approximate location of the tail section and exhaust manifold?

SENIOR CONSTABLE COOK: The red dot, yes.

45

COL STREIT: If I come down to this point here where the laser pointer is now, that's Lindeman Island?

5 SENIOR CONSTABLE COOK: That's correct.

COL STREIT: Approximately, the impact site was around here, wasn't it?

10 SENIOR CONSTABLE COOK: Yes, in that vicinity.

COL STREIT: Do you know the distance, roughly? Is that a matter of kilometres we're talking about?

15 SENIOR CONSTABLE COOK: Look, I believe so; I don't have that measurement.

COL STREIT: No, that's okay. What's that a picture of?

20 SENIOR CONSTABLE COOK: So that's a picture of the tail section that was recovered.

COL STREIT: That's page 13 of your report.

25 SENIOR CONSTABLE COOK: Yes.

COL STREIT: And that picture, page 14 of your report?

30 SENIOR CONSTABLE COOK: Yes, that's it being recovered onto a vessel.

COL STREIT: Is that the ADV *Reliant* that's depicted there, do you know?

35 SENIOR CONSTABLE COOK: No. No, this was – I believe that was on the day following the crash.

COL STREIT: Just for the family, I'm just showing some close imagery, just to alert them to that fact.

40 What does that picture depict?

SENIOR CONSTABLE COOK: So that's the view of the rear, of the tail piece that was in the previous photo.

45 COL STREIT: That picture?

SENIOR CONSTABLE COOK: Side view of the same piece of debris.

COL STREIT: The last picture, that's in page 23 of your report, isn't it?

5 SENIOR CONSTABLE COOK: Twenty-three, yes.

COL STREIT: What does that picture depict?

10 SENIOR CONSTABLE COOK: So that was a – they are grid squares that were provided to me by ADF for – the grid squares that were used for search and rescue purposes.

COL STREIT: Do you have any understanding why those, or how those, grid squares came to be selected as the area for search?

15 SENIOR CONSTABLE COOK: No. That had occurred before my arrival.

COL STREIT: If the screen can be closed down now. Just return to your statement, Senior Constable, if I may. We were at paragraph 81 and 82. Now, just turning to your attendance at Proserpine Airport on 2 August, if I may. You say you attended the airport, a DFSB representative showed you an exemplar of the MRH-90 aircraft. You say you were able to speak with ADF mechanics. That's at paragraph 84.

25 SENIOR CONSTABLE COOK: Yes.

COL STREIT: You then say that:

30 *An officer of the DFSB was advising mechanics of the questions they could and could not answer.*

SENIOR CONSTABLE COOK: Yes.

35 COL STREIT: Did the DFSB representative explain to you why that was necessary?

SENIOR CONSTABLE COOK: No, not specifically. There was an issue with the cockpit of the helicopters, that they were concerned about I think sensitive communications equipment.

40 COL STREIT: Yes.

SENIOR CONSTABLE COOK: And that was the only issue that we were made aware of.

45

COL STREIT: So it was a security issue was the concern?

SENIOR CONSTABLE COOK: Yes.

5 COL STREIT: At paragraph 90 onwards you give a summary of certain versions provided to you by witnesses that you spoke to?

SENIOR CONSTABLE COOK: No, not that I spoke to.

10 COL STREIT: Sorry, you provide a summary of versions by witnesses given to QPS.

SENIOR CONSTABLE COOK: Yes.

15 COL STREIT: So you didn't interview any of these witnesses yourself?

SENIOR CONSTABLE COOK: No.

20 COL STREIT: So the information that you've provided in summary form in your statement is drawn from other records of information held by QPS?

SENIOR CONSTABLE COOK: Yes.

25 COL STREIT: And is the summary in effect to assist the Inquiry understand some information that QPS has in relation to what some people have told QPS about the accident?

SENIOR CONSTABLE COOK: Yes.

30 COL STREIT: That information has been redacted, in the sense that, in part, where the summary referred to a person who held a pseudonym, that information has been redacted, in the sense of their name has been removed and the pseudonym has been replaced?

35 SENIOR CONSTABLE COOK: Yes.

40 COL STREIT: I'm just going to turn to a couple of things that you have identified in your statement by way of summary, so I don't propose to address the extent of detail that is recorded from different witnesses. But I will touch on some matters. Firstly, at paragraph 91 you say:

*For the most part ADF members were unwilling to provide information in written format. Accordingly, most of the information was obtained in verbal format.*

45

So who told you that, or provided you that information?

5 SENIOR CONSTABLE COOK: That was the – from being on the ground investigating and asking questions, that was the response that we, essentially, received.

COL STREIT: One of the witnesses that QPS interviewed was D10.

10 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Which commences at paragraph 92(a) of your statement. So D10 was the Air Mission Commander for the formation to Lindeman Island; is that correct?

15 SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: The information recorded, as being described by D10, was that the aircraft were flying at approximately 160 kilometres per hour at approximately 60 metres above the ocean. Is that correct?

SENIOR CONSTABLE COOK: Yes.

25 COL STREIT: That 81 – that is, dash 81 – commenced a left-hand turn with other aircrafts expected to observe this and commence turning themselves. Is that correct?

SENIOR CONSTABLE COOK: Yes.

30 COL STREIT: They do not change their airspeed to do so; they instead change the arc of the turn, if adjustments were required. That's what is recorded as what D10 said, isn't it?

SENIOR CONSTABLE COOK: That's correct, yes.

35 COL STREIT: There's a description of what D10 says he observed of the crash. And immediately following that it's recorded by police that D10 said he saw the tail had broken off and was floating in the water. Is that correct?

40 SENIOR CONSTABLE COOK: That's correct.

COL STREIT: Turn the page. I'm just going to turn now to D12, which is paragraph 92(b) of your statement. If you go to page 13 of your statement, D12 is recorded – it's recorded by police that D12:

45 *Observed the aircraft go straight into the water.*



And that:

5                    *Observed aircraft 3 disintegrate almost immediately. The debris  
was bigger than the size of a basketball court.*

Is that correct?

10 SENIOR CONSTABLE COOK: Yes.

COL STREIT: I'm just going to ask you to turn the page to page 14, and  
the information you've recorded there at 92(d), which is a summary of  
information Queensland Police says was provided by COL Jeff Brock.  
First, did you yourself speak with COL Brock?

15 SENIOR CONSTABLE COOK: No, I didn't. No.

COL STREIT: So this again is information you've drawn from QPS  
records?

20 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Have you had any engagement with COL Brock at all?

25 SENIOR CONSTABLE COOK: No.

COL STREIT: Do you understand what his role is or role was at all?

30 SENIOR CONSTABLE COOK: My understanding was that he held some  
expertise in survivability conditions.

COL STREIT: Did you understand whether or not he was a medical  
doctor?

35 SENIOR CONSTABLE COOK: No, I couldn't say any more than that,  
sorry.

COL STREIT: You just understood his rank was Colonel and his name was  
Jeff Brock; is that correct?

40 SENIOR CONSTABLE COOK: Yes.

MS McMURDO: And I think you said he had some expertise in the  
survivability?

45

SENIOR CONSTABLE COOK: That's how it was described to me, ma'am, yes.

5 MS McMURDO: Thank you.

COL STREIT: So was he part of the Defence Flight Safety Bureau team, to your knowledge?

10 SENIOR CONSTABLE COOK: I don't know anything more than – any more of COL Brock than that.

COL STREIT: So the summary notes that – well, first of all, your summary identifies that COL Brock provided information by email on 10 August 2023 relating to damage, survivability, and likelihood of location of further remains. Is that correct?

SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: Is it fair to infer that the information you've recorded in your statement is drawn from COL Brock's email?

SENIOR CONSTABLE COOK: Yes.

25 COL STREIT: So on page 15, at the top, you say:

*We record that COL Brock reviewed the recovered aircrew life support equipment, including helmets, belonging to the deceased, with specialist technicians responsible for this equipment.*

30 That:

*He discussed his views regarding the likely consequences to the crew flying the accident, with subject-matter experts, structural aeronautical engineer -*

35 I pause there. Did COL Brock's email indicate who that engineer was?

40 SENIOR CONSTABLE COOK: No. It'd be fair to say that all of the information provided by COL Brock is there.

COL STREIT: Is in, is there. Right. I'll just alert the families I'm just going to deal with some matters that will be very difficult.

MS McMURDO: So can you recall – and you can look at your Supplementary Form 1 here if you want to – were all four helmets recovered?

5 SENIOR CONSTABLE COOK: Yes, that's correct.

MS McMURDO: Thank you.

10 SENIOR CONSTABLE COOK: Sorry, if I may, I can confirm four helmets were recovered. I can't speak to their use.

MS McMURDO: I see.

15 SENIOR CONSTABLE COOK: Yes.

COL STREIT: That's addressed in your report, isn't it, concerning the helmets?

SENIOR CONSTABLE COOK: I believe so, yes.

20 COL STREIT: Yes. Now, continuing on with information recorded, turning to COL Brock's email. Your statement says that:

25 *The information he provided is based on their technical evaluation of all the available physical evidence at hand. COL Brock considered the following observations are best that can be provided with respect to the low success rate to date in recovering human remains.*

30 Then he lists out some points. That's right?

SENIOR CONSTABLE COOK: Yes.

35 COL STREIT: The first is:

*The impact forces on the night of the accident were very substantial, beyond human tolerance by many orders of magnitude.*

40 Correct?

SENIOR CONSTABLE COOK: Yes.

COL STREIT: (2):

5                    *Those forces, in combination with a massive inrush of water, abolition of crew seats from their mounting points, deformation and disintegration of the entire front and rear cabins, and crushing of the rear cabin from the combined weight of the main rotor, gearboxes and engines, would have killed the occupants instantaneously.*

Is that correct?

10            SENIOR CONSTABLE COOK: That's correct.

COL STREIT: Pause there. I'll leave COL Brock's remaining information as contained in the information in your statement. Paragraph 93 says:

15                    *I believe the versions obtained from D12 and D11 were recorded on body-worn camera footage.*

SENIOR CONSTABLE COOK: Yes.

20            COL STREIT: Do you know that for certain?

SENIOR CONSTABLE COOK: That's just the information that was recorded next to the versions.

25            COL STREIT: I see. Again, can I add that to the shopping list. If you could make some enquiries, please?

SENIOR CONSTABLE COOK: Certainly.

30            COL STREIT: And through your solicitor, advise me whether in fact there is body-worn camera footage of those interviews. At paragraph 94 you say:

35                    *MAJ Liam Street provided a search and rescue debris log, containing the known crash location and debris recovery GPS coordinators, via email, on 1 August 2023.*

Do you have that email?

40            SENIOR CONSTABLE COOK: I don't think that's part – I'll have a look. No, I don't believe so.

COL STREIT: Well, I'll add that to the list, please.

45            SENIOR CONSTABLE COOK: Yes.

COL STREIT: And could I also have the email from COL Brock, which is the subject of paragraph 92(d) of your statement. At paragraph 96 you say:

5                   *The search and rescue debris log is not included in the report provided to the Coroner for reasons detailed below, under the heading "Location of where it was recovered".*

Can you just tell me why that was the case?

10 SENIOR CONSTABLE COOK: So the debris log was an Excel spreadsheet with a brief description plus GPS coordinates. I felt it more appropriate to put that into a map.

15 COL STREIT: I see. Was that to assist as some sort of aide-memoire?

SENIOR CONSTABLE COOK: Yes, as a visual aid to the Coroner.

COL STREIT: Is that part of your statement, that map?

20 SENIOR CONSTABLE COOK: Part of my supplementary form.

COL STREIT: Sorry, I apologise, so part of your – I withdraw that. You'll see at paragraph 22 of your report to the Coroner - - -

25 SENIOR CONSTABLE COOK: Sorry, page 22?

COL STREIT: Page 22, I apologise.

30 MS McMURDO: This is of Exhibit 14; correct?

COL STREIT: Yes, thank you. You'll see there is a large – well, a map that covers the A4 page. It's very difficult to make out any writing because the information is quite small. Is that the map you're referring to, that you did - - -

35 SENIOR CONSTABLE COOK: That is correct, yes.

COL STREIT: The aid that you prepared?

40 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Well, can I ask for that as well to be provided to the Inquiry? Was that something you provided to the Coroner?

SENIOR CONSTABLE COOK: So this morning, yes, I received a request from the Central Coroner to provide them the map, and they were advising me they were sending it to you, this morning.

5 COL STREIT: That might be the circumstance of my request for the map.

SENIOR CONSTABLE COOK: Yes, that would be it.

10 COL STREIT: Well, we've closed the loop, that's good. Just now going to turn to paragraph 102 of your statement, where you were asked by the Inquiry to address any challenges in conducting your investigation. You say at paragraph 102:

15 *Overall, the ADF have appeared apprehensive to provide the QPS with pertinent information in relation to the crash. Accordingly, it would be difficult to fulfil our mandatory reporting requirements to the Coroner, in accordance with -*

20 and you then set out the Operational Policing Manual part. Why do you say they appeared to be apprehensive? What was it about their conduct that gave you that impression?

25 SENIOR CONSTABLE COOK: So I haven't received a response to that, to a request for the information that's set out in that OPM. And just in general conversation while there at the time, it was very difficult to get any sort of concrete answer or information from them.

COL STREIT: Is that reflected in an email which is part of your statement?

30 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Is that at Annexure A of your statement?

35 SENIOR CONSTABLE COOK: Yes.

COL STREIT: So that's an email dated 2 August 2023 at 1858; is that correct?

40 SENIOR CONSTABLE COOK: That's correct.

COL STREIT: It's an email you've sent, isn't it, to Defence?

SENIOR CONSTABLE COOK: Yes, to CMDR Cooper.

45 COL STREIT: And in the body of that email you say:

*As mentioned, these are the minimum reporting requirements to the Coroner, and over time, we may require additional information.*

5            *Further, if you could please provide your response as quickly as possible, ideally within seven days, to facilitate the completed –*

that's a typo –

10            *completed of my supplementary report to the Coroner.*

And it goes on. So is the bottom line, you haven't had a response to that request?

15            SENIOR CONSTABLE COOK: That's correct.

COL STREIT: Since 2 August 2023?

20            SENIOR CONSTABLE COOK: That's correct.

COL STREIT: Did you chase it up?

SENIOR CONSTABLE COOK: I chased it up internally, to see if any other QPS had received it in my absence.

25            COL STREIT: What was the answer?

SENIOR CONSTABLE COOK: It was no.

30            COL STREIT: At paragraph 109 you say:

*On various different occasions during briefings, I recall that the ADF advised that the witness statements were forthcoming.*

35            What witness statements were they?

SENIOR CONSTABLE COOK: So statements from the crew of the other aircraft involved in the operation.

40            COL STREIT: You then go on to say:

45            *However, those statements never seemed to be obtained, and the estimates kept changing. I have had no further contact with the Coroner and am unaware if the statements have now been obtained and provided to the Coroner.*

Is that correct?

5 SENIOR CONSTABLE COOK: That's correct, yes.

COL STREIT: When was the last time you checked with the Coronial Office as to whether, in fact, the statements had been provided?

10 SENIOR CONSTABLE COOK: This morning.

COL STREIT: And what was the answer?

15 SENIOR CONSTABLE COOK: The officer that I spoke to from the Coroner's Office said she had a list of things received, and she wasn't sure if it was on it.

COL STREIT: So a list of things received from Defence?

20 SENIOR CONSTABLE COOK: From the ADF, sorry, yes.

COL STREIT: So you'll make some further enquiries about that, I take it?

SENIOR CONSTABLE COOK: I can, yes.

25 COL STREIT: Well, you're still doing your investigation, aren't you?

SENIOR CONSTABLE COOK: Yes.

30 COL STREIT: So you'll make some further enquiries whether the statements have turned up.

SENIOR CONSTABLE COOK: Sure.

35 MS McMURDO: And could you let us know.

SENIOR CONSTABLE COOK: Yes.

MS McMURDO: Thank you.

40 COL STREIT: At paragraph 110 you say:

45 *In my experience, it is not usual practice to remove eyewitnesses from the scene so quickly, in circumstances where four people have lost their lives.*



What is that a reference to?

5 SENIOR CONSTABLE COOK: That's a reference to the crew from the other aircraft. I was advised that they were flown from Proserpine Airport, I believe to Sydney, the next day.

COL STREIT: I see.

10 SENIOR CONSTABLE COOK: The day after the crash, sorry.

MS McMURDO: You were only able to – that is, QPS were only able to obtain brief oral statements from them, and not written statements?

15 SENIOR CONSTABLE COOK: That's correct.

COL STREIT: Did somebody explain to you, from the ADF, anything along the lines of any reason why that was occurring?

20 SENIOR CONSTABLE COOK: No.

COL STREIT: Did they say anything about anything to do with being trauma-informed, concerning the aircrew just having experienced this terrible incident?

25 SENIOR CONSTABLE COOK: It was never – it wasn't discussed with me.

COL STREIT: Paragraph 112, you say – start again. Paragraph 111, you say:

30 *Ordinarily, eyewitnesses are separated and investigators take their witness statements as soon as possible following an incident to ensure the accuracy of their accounts and therefore the accuracy and efficiency of the investigation.*

35 Is that something you were taught as part of your Forensic Crash Unit investigation courses, that's how you get evidence?

40 SENIOR CONSTABLE COOK: Not as far as Forensic Crash; it's more of a QPS-wide procedure.

COL STREIT: So if there's an incident, get a statement from the people as soon as possible, who might be able to give information about the incident?

45 SENIOR CONSTABLE COOK: That's correct, yes.

COL STREIT: At paragraph 112 you say:

5 *This is also done to protect their wellbeing, as it particularly avoids the need for them to be spoken to again, and therefore re-traumatised by recalling the events.*

SENIOR CONSTABLE COOK: That's correct.

10 COL STREIT: Is that something that's based on your experience or practice?

SENIOR CONSTABLE COOK: Well, as far as that – sorry.

15 COL STREIT: Let me rephrase.

SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: So the concept of getting in quickly to speak to a witness about matters relevant that they've just seen, even if that matter might be traumatic, is the preferred approach, because it avoids then re-traumatising them down the track, to ask them questions about the same thing, if they haven't already provided a statement?

25 SENIOR CONSTABLE COOK: Yes.

COL STREIT: You then, at paragraph 111, say:

30 *This type of domestic tragedy seemed to be an unfamiliar and unexpected incident for the ADF. Their actions at times in respect of their reluctance to cooperate with QPS investigators suggested to me that those involved had not interacted with the Queensland Coronial system previously.*

35 So that's your impression about your experiences in engaging with Defence in relation to this matter?

SENIOR CONSTABLE COOK: Yes.

40 COL STREIT: Do you know if there's any existing Memorandum of Understanding or agreement between Defence and Queensland Police about the conduct of investigations involving ADF members?

45 SENIOR CONSTABLE COOK: I'm unsure.

COL STREIT: Based on your experience here – and the Inquiry will be reflecting on this in any event – but do you think there might be some benefit to such an agreement?

5 SENIOR CONSTABLE COOK: Absolutely.

COL STREIT: To create the clear lines of responsibility?

10 SENIOR CONSTABLE COOK: Absolutely. And I think on a personal note, if I may, more as an educational basis, to understand everybody's – at least in my experience with this matter, understand the role of the Coroner in an investigation such as this.

15 COL STREIT: Yes. At paragraph 114 you say:

*Myself and other members of the QPS were there to assist them.*

That's a reference to Defence, or the ADF?

20 SENIOR CONSTABLE COOK: And DFSB.

COL STREIT: And DFSB. You say:

25 *However, I felt hindered from undertaking my role. In my view, the investigative process would've operated more efficiently had the ADF appreciated our position and experience, and recognised the reason we were there.*

30 Is that correct, that's your view?

SENIOR CONSTABLE COOK: Yes, that's correct.

35 COL STREIT: Did the QPS ever, at any point in time, to your knowledge, seek to take carriage of the investigation, away from the Defence Flight Safety Bureau?

SENIOR CONSTABLE COOK: Not away from, no.

40 COL STREIT: Is it fair to categorise what QPS did was to investigate the crash, in compliance with its requirements to the Coroner, to conduct that investigation for the Coroner?

SENIOR CONSTABLE COOK: Yes.

45 COL STREIT: And then provide that information to the Coroner?

5 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Because the Coroner has to discharge his legislative  
5 function in relation to a death in the Coroner's jurisdiction.

SENIOR CONSTABLE COOK: That's correct, yes.

COL STREIT: By any stretch, it wasn't a criminal investigation, it was an  
10 investigation to provide information to the Coroner?

SENIOR CONSTABLE COOK: That's correct, yes.

COL STREIT: Did it get to a point where in fact, the Coroner had to reach  
15 out to the Chief Military Police Officer to get some traction with Defence  
in this space?

SENIOR CONSTABLE COOK: I believe conversations between those  
20 two had occurred. The motivation, I'm afraid I can't comment.

COL STREIT: It's just that at paragraph 124 of your statement you say:

25 *The Chief of Military Police then began liaising with the Coroner  
directly in relation to his request for statements, and it was  
intended that they would be obtained by 4 August 2023.*

Does that seem to indicate you had some knowledge that the Coroner's  
Office had reached out to the Chief Military Police Officer, to advance the  
30 Coroner's request for information?

SENIOR CONSTABLE COOK: Yes, information like that would've been  
obtained at one of the briefings.

COL STREIT: You say at 25:

35 *We noticed a shift once the Coroner was in touch with the Chief  
Military Police. It seemed that once this occurred, the ADF/DFSB  
understood and accepted QPS's role in the matter a little more.*

40 So that was your impression?

SENIOR CONSTABLE COOK: Yes.

COL STREIT: You've addressed some matters following that aspect of  
45 your statement, about your engagement with key members of the ADF in

relation to the recovery effort, where you say at 126, the coordination of the recovery efforts were not within the scope of your involvement:

5 *Therefore, I did not have much engagement with any key members of the ADF regarding this.*

So if it wasn't within the scope of your involvement, the coordination of the recovery effort, who was doing it? Was that the ADF?

10 SENIOR CONSTABLE COOK: I believe the ADF were definitely heavily involved in the recovery effort. Who was coordinating it from a QPS' perspective would've been, I believe, Acting Inspector Dyer.

15 COL STREIT: If this was a civil aviation crash, would it be the case that QPS would be working with the Australian Transport Bureau to investigate the civilian aviation crash?

SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: At paragraph 129 you deal very briefly with the effect of ocean currents in the vicinity of the crash site. You say:

25 *I recall being present at morning and afternoon briefings, where the information was disseminated that ocean currents were hindering the search and recovery efforts.*

Was there any person in particular you recall briefing that information?

30 SENIOR CONSTABLE COOK: Again, for the most part, the information provided at those briefings, information that the QPS had become aware of, was supplied by Acting Inspector Dyer.

35 COL STREIT: At paragraph 133 and 132 you refer to some further information about events on 5 August 2023, in an unmanned submarine was searching the water and was recording the search. You say at 133 that:

40 *Senior Constable Troeger was permitted to view a select part of the footage, despite the ADF being very restrained to allow him to view any of it.*

MS McMURDO: Resistant.

COL STREIT: Sorry.

45 MS McMURDO: Very resistant to allow him to view any of it, yes.

COL STREIT: I'm reading words that are not there. Let me read it again.  
At 133:

5                    *Senior Constable Troeger was permitted to view a select part of  
the footage, despite the ADF being very resistant to allow him to  
view any of it.*

This is the footage obtained from an unmanned submarine; is that right?

10

SENIOR CONSTABLE COOK: I believe so, yes.

COL STREIT: So is the Senior Constable Troeger telling you this  
information?

15

SENIOR CONSTABLE COOK: Yes.

COL STREIT: So an unmanned submarine doing a search of the ocean  
floor for human remains and wreckage debris; is that right?

20

SENIOR CONSTABLE COOK: Yes.

COL STREIT: That's your understanding?

25

SENIOR CONSTABLE COOK: That's my understanding, yes.

COL STREIT: The search was videoed?

SENIOR CONSTABLE COOK: Yes.

30

COL STREIT: He's telling you that the ADF was resistant to let him view  
any of it; correct? But then he was permitted to review it and he noticed  
something that looked to be a boot?

35

SENIOR CONSTABLE COOK: That's correct, yes.

COL STREIT: At 134 you say:

40                    *This footage became the topic of conversations at the briefings and  
everyone from the QPS was made aware that it existed and,  
therefore, we wanted to view it.*

I'll ask you the obvious question: why did you want to view it?

5 SENIOR CONSTABLE COOK: So previous to that point, if you recall, we were concerned about the effects of uplifting debris, the potential to cause more damage during that process. So to be able to view that debris in situ was going to be of high value to the Coroner should that uplift have caused more damage.

COL STREIT: Was that because the uplift and picked up by strong currents might move whatever was uplifted?

10 SENIOR CONSTABLE COOK: And an understanding that due to the nature and the circumstances of the crash, what remained may still be fragile.

15 COL STREIT: Yes.

MS McMURDO: Including recovery of human body parts.

SENIOR CONSTABLE COOK: As well, yes.

20 COL STREIT: At paragraph 135 you say:

*We were unsure as to why we were not permitted to view it.*

25 Did you, in the end, view the footage?

SENIOR CONSTABLE COOK: No.

COL STREIT: So just only one QPS Officer was permitted to your knowledge?

30 SENIOR CONSTABLE COOK: At that – yes, so that was obviously prior to when I left but, yes, up until that point that was all – the only person I was aware of who had seen any of it.

35 COL STREIT: At paragraph 140 you say:

*On this date –*

40 which is 5 August 2023 –

*also recovered was a piece of the cockpit, flight suit apparatus.*

You've referred to that earlier in your evidence, I take it?

45 SENIOR CONSTABLE COOK: Yes. Sorry, on what paragraph number?

COL STREIT: Paragraph 140.

5 SENIOR CONSTABLE COOK: Yes, that would be on 7 August.

COL STREIT: 7 August?

SENIOR CONSTABLE COOK: Yes, the date changes on paragraph 136.

10 COL STREIT: I see. Now, paragraph 144 you say:

*On 2 August I received a reply from the GIS –*

15 which is the Geographic Information System –

*advising that they would provide maps of the search grids and flight paths when flight data becomes available.*

You then say at 145:

20

*Later that day I sent a request to the Australian Maritime Safety Authority for the GPS coordinates of the search grid and debris locations.*

25 So, first, to what extent was the Australian Maritime Safety Authority involved in the search?

SENIOR CONSTABLE COOK: I'm unaware of how much, other than aware that they were there and assisting with the search.

30

COL STREIT: So what did you hope to obtain from them by sending a request?

SENIOR CONSTABLE COOK: Just to add to this map.

35

COL STREIT: I see.

SENIOR CONSTABLE COOK: Yes.

40 COL STREIT: Now, at paragraph 148 you say:

*This is because debris was being recovered from everywhere and by various sources, including by private vessels who subsequently handed it to the Whitsunday Police Station or ADF vessels. Of*



*course, civilians did not document the exact location in which debris was found.*

5 Just in relation to that paragraph, is there therefore a record of when these pieces were provided to police at the Whitsunday Police Station?

SENIOR CONSTABLE COOK: Yes, there would be on our QPRIME system.

10 COL STREIT: Is that part of your report to the Coroner?

SENIOR CONSTABLE COOK: Not the specifics of when items were handed in.

15 COL STREIT: I see. Is that going to be information that will be provided to the Coroner?

SENIOR CONSTABLE COOK: Yes.

20 COL STREIT: So what kind of form – well, you need to interrogate your records, don't you, to work out whether there is a list.

SENIOR CONSTABLE COOK: No. Well, anything that's seized and lodged in our system will be on our system, so that list will be there.

25 MS McMURDO: So you will have a list of all property that was obtained, all debris, et cetera, and where it was found and when?

30 SENIOR CONSTABLE COOK: Not so much where it was found. So our system will allow us to – any item that is, I guess, handed to police that's seized, there will be an entry on our system for detailing that particular piece of property. However, yes, I can't say that they will all have a GPS location to them.

35 MS McMURDO: No, no, not necessarily a GPS location but some sort of note about where they came from and who found them?

SENIOR CONSTABLE COOK: Yes.

40 MS McMURDO: You'll be able to provide us with that list, that comprehensive list?

SENIOR CONSTABLE COOK: Yes.

45 MS McMURDO: Thank you.

5 COL STREIT: At paragraph 140 of your statement you say, “On this date” – which again is a reference to 5 August, in relation to the recovery of flight apparatus, flight suit apparatus. You say that was subsequently confirmed to belong to LT Max Nugent?

SENIOR CONSTABLE COOK: Yes.

10 COL STREIT: Who provided you that confirmation?

SENIOR CONSTABLE COOK: It was SGT Thorpe?

COL STREIT: From DFSB?

15 SENIOR CONSTABLE COOK: No, he’s from – you’ll forgive me about the acronym – the Aeronautical - - -

COL STREIT: Life Support Organisation?

20 SENIOR CONSTABLE COOK: Life Support, yes.

COL STREIT: I just want to turn now to – we’re getting to the end but one final matter that’s of some importance. You submitted your report on 17 August 2023 to the Coroner. At paragraph 150 of your statement you say this:

25 *Since then, I have sought to obtain information in relation to Garmin devices that the deceased were wearing at the time of the incident.*

30 At 152 you say MAJ Rosier from the Defence Flight Safety Bureau informed you that three watches were recovered from the incident. Do you recall when she provided that information to you?

35 SENIOR CONSTABLE COOK: It was near to the 18th of last month.

COL STREIT: The 18th of last month?

40 SENIOR CONSTABLE COOK: Yes, near to.

COL STREIT: So you were told near to 18 April that three watches had been recovered; is that right?

45 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Prior to that, had you received any information that watches had been recovered?

5 SENIOR CONSTABLE COOK: No.

COL STREIT: Did the Major give you any detail about when the watches had been recovered or any circumstances about that?

10 SENIOR CONSTABLE COOK: No.

COL STREIT: What generated the phone call – sorry, what generated the conversation; how did it come about?

15 SENIOR CONSTABLE COOK: I received an email requesting my assistance to obtain what data had been held by Garmin International.

COL STREIT: Using your powers as a QPS Officer?

20 SENIOR CONSTABLE COOK: Yes, by virtue of the Coroners Act, yes.

COL STREIT: Yes.

25 SENIOR CONSTABLE COOK: MAJ Rosier, I believe it is, she, in her email, had contacted Garmin and they advised they needed some form of legal document and I think that's what compelled her to contact the QPS to see if we could be of assistance.

COL STREIT: I see. What did you do upon getting this request?

30 SENIOR CONSTABLE COOK: I submitted a request to the Central Coroner requesting an urgent Form 25 be issued to Garmin to release the data of interest?

35 COL STREIT: Did that happen?

SENIOR CONSTABLE COOK: Yes.

COL STREIT: What was the outcome?

40 SENIOR CONSTABLE COOK: So I received the data on 22nd. No, that's when I sent – 22 April I sent the form to Garmin and received the data back on 24 April.

45 COL STREIT: Garmin took two days and responded to the request?

SENIOR CONSTABLE COOK: Yes.

COL STREIT: In two days?

5 SENIOR CONSTABLE COOK: Yes.

COL STREIT: And provided you information which you then provided back to MAJ Rosier?

10 SENIOR CONSTABLE COOK: Yes.

COL STREIT: In what form did the information from Garmin arrive?

SENIOR CONSTABLE COOK: Via email.

15

COL STREIT: What was the effect of the email?

SENIOR CONSTABLE COOK: The email was with, I believe, two attachments with data. I believe it may have been Excel spreadsheets. I think the file extension is .csv data that they provided to me and I forwarded to the Major.

20

COL STREIT: Did you read that information that Garmin had provided to ascertain what the outcome of the - - -

25

SENIOR CONSTABLE COOK: I had a very brief look across it, yes.

COL STREIT: Can you remember what Garmin said?

30 SENIOR CONSTABLE COOK: The email or the data, sorry?

COL STREIT: The email?

SENIOR CONSTABLE COOK: I believe that they didn't have any data from the day of the crash.

35

COL STREIT: The bottom line is you forward that email and the attachment on to MAJ Rosier the same day, which is 24 April.

40 SENIOR CONSTABLE COOK: Yes.

MS McMURDO: Can we have a copy of that also with the other material you're getting for us.

SENIOR CONSTABLE COOK: Yes, if I haven't provided it, that's no dramas at all.

COL STREIT: We'll add that to the list.

5

SENIOR CONSTABLE COOK: So the email and the data?

COL STREIT: Yes.

10 SENIOR CONSTABLE COOK: Yes.

MS McMURDO: Thank you.

15 COL STREIT: Thank you. Now, you deal briefly with a subject heading called, "Contact with the next of kin". You didn't have any contact with the next of kin, did you?

SENIOR CONSTABLE COOK: No.

20 COL STREIT: That was something that, to your knowledge, other police engaged in?

SENIOR CONSTABLE COOK: Yes.

25 COL STREIT: At paragraphs 162 through to 166 of your statement, which is the last aspect of your statement, you express your views and make final comments in relation to your experiences in engaging with Defence and DFSB in this matter. You then say at 166:

30 *I would like to take this opportunity to acknowledge the uniqueness of this investigation and the fact that it involves four ADF members. The potential impact this may have on the ADF who are heavily involved in the recovery and investigation is not lost on me.*

35 You say:

*I make the above points with a view to hopefully improve the potential collaborative strengths between our agencies.*

40 So those matters you raise by way of final comments set out, those are the things you'd like the Inquiry to have regard to in considering how maybe there can be better engagement or improved engagement between QPS and Defence for any investigation?

45 SENIOR CONSTABLE COOK: Yes.

COL STREIT: Which involves the Coroner as well?

SENIOR CONSTABLE COOK: Yes.

5

COL STREIT: Thank you. Ms McMurdo, that concludes my questions for this witness.

MS McMURDO: Thank you. I'm just wondering, I don't think the family members have been provided with a copy of this statement and Exhibit 14, have they?

COL STREIT: No.

MS McMURDO: No. Has any consideration been given as to the best way to do that for those of them who want to see it.

COL STREIT: I'll give some consideration overnight, if that is convenient, and form a view and make some submissions in the morning.

20

MS McMURDO: Yes, all right then. Thank you.

COL STREIT: Thank you.

MS McMURDO: Similarly, I think there are others who might wish to be heard on that. Are there some applications for leave to cross-examine?

LCDR GRACIE: Ma'am, yes, there is but there are two difficulties that I see doing that now. One is the further information that may be required, it's probably better to have it all in one go before we do any piecemeal cross-examination because there might be something coming out of that.

30

The second is the difficulty I have in trying to get a clear picture of some of the accounts that are put in the statement of the Senior Constable is that there's a summary, as you'll see, ma'am, at, for example, page 11, of verbal versions of the events given by, in this case, D10, which is said to be a summary provided by Senior Constable Thibault Lozach – is that pronounced? That version of events is different to a witness statement that's been provided by D10 to the Coroner which I would have thought is all part of the same investigation process that Senior Constable Cook is involved in.

35

40

I'm not sure what the status of the 12 or so witness statements are that have been provided to the Coroner, and have been provided to us on an information-only basis. I don't want to traverse or cross against any ruling

45

that's been made as to its protected status. I don't think I'd be able to deal with the anomalies I've seen in this description of the oral version with the written version, and they're significant.

5 Just one matter that I can perhaps mention is that there was a report given by – I won't say who – but one of the witnesses who's provided a statement that he was told by the Joint Internal Air Controllers that all four members have been recovered, which isn't in this oral record. But that seems to be a significant thing and that information is passed on to the ops officer at  
10 6 Avn.

Now, if we have those sorts of discrepancies, I think I'd like to know where we sit in how we deal with the formal statements that have been provided to the Coroner and this summary that has been provided of the oral versions.

15 There is another significant matter. One of the statements describes the 83 as pitching up, plateauing, and then pitching down. Now, that doesn't feature anywhere else in the evidence we've heard today from Ms Lyon about what she was told, or anywhere else. But it is a significant feature in  
20 terms of the behaviour of the aircraft that the Inquiry may consider relevant, particularly because, again, one of the other statements refers to the fact that there was a comment made on observing 83, to the effect that when the hard left commenced one of the pilots said to the other pilot, "83 is going to have to flare up here", meaning to slow down.

25 Now, these things are in the statements, but they're not recorded in this record.

MS McMURDO: I don't think this witness actually took the oral  
30 statements, anyway.

LCDR GRACIE: No.

MS McMURDO: He's just giving an overview of what's available, so I  
35 don't know that that's going to be involved in cross-examining him.

LCDR GRACIE: Yes. Well, it's in his statement. It's the only evidence I have of it.

40 MS McMURDO: Well, it's in his statement but he's going to say to you that he didn't take the – he's already said that, that he didn't take the oral statements, that was others. That's correct, isn't it?

SENIOR CONSTABLE COOK: That's correct, ma'am.  
45

MS McMURDO: He's just giving an overview.

LCDR GRACIE: Yes, I don't know what opportunity I'll have, though, to test this.

5

COL STREIT: May I - - -

MS McMURDO: Yes.

10 COL STREIT: The Senior Constable has prepared a statement on the basis of information by interrogating the QPS records. What my learned friend I understand is saying, there are differences between the summary of information about what a witness has purportedly said, as reflected in the statement, against another piece of information he has in relation to what  
15 that witness has said. The answer to that is, as always in any Inquiry, or any proceeding for that matter, is that that matter is best put to the witness when the witness gives evidence to say, "This is your statement and what you said on this occasion. Information has been received by Queensland Police to this effect. What do you say?"

20

MS McMURDO: No, no, no. He's just giving an overview of these things and he didn't take any of these statements himself. So that's not a problem here. That's something that I would expect but, who knows, in the way things are going in this Inquiry. But I would expect that at some point you'll  
25 be able to ask the witness that.

25

LCDR GRACIE: Having no knowledge of whether that witness has been called, it leaves things a little bit up in the air, but I hear what you say, ma'am, and perhaps I'll just deal with a couple of other issues not relating  
30 to the witness statements given to the Coroner.

30

### <CROSS-EXAMINATION BY LCDR GRACIE

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LCDR GRACIE: Can I just ask you, please, Senior Constable, to look at paragraph 19, and I know that Ms McMurdo asked you to go back and just check on that. My recollection was that you said the email was from - I think you said Acting Sergeant Webster?

40

SENIOR CONSTABLE COOK: Yes, as - - -

LCDR GRACIE: Eighteen.

45

SENIOR CONSTABLE COOK: Yes.



5 LCDR GRACIE: Then you were advised, though, by Detective Inspector Novosel about the debris and human remains. So I'm just trying to work out, was it the email that made reference to the debris and the human remains or was it Detective Novosel told you?

10 SENIOR CONSTABLE COOK: Definitely Detective Novosel advised me during that short briefing, but I'll check on that email from Acting Sergeant Webster.

LCDR GRACIE: So do you know if her source of information was the same as yours, from the email, or something separate?

15 SENIOR CONSTABLE COOK: No, she had been in the Whitsundays prior to my arrival.

LCDR GRACIE: Is she still with QPS?

20 SENIOR CONSTABLE COOK: I'm not sure. I'm not sure, sorry.

LCDR GRACIE: Just in terms of your role, as I understand it, you were the person appointed as the forensic investigator.

25 SENIOR CONSTABLE COOK: Yes, as far as the forensic crash investigator.

LCDR GRACIE: In charge of the forensic investigation of the accident?

30 SENIOR CONSTABLE COOK: Yes. So I only mention forensics as there is a QPS forensics section, so just to differentiate the two.

LCDR GRACIE: Perhaps I should ask this: what was your exact role in relation to the investigation?

35 SENIOR CONSTABLE COOK: It was to document and report on the debris located and report that to the Coroner.

LCDR GRACIE: So you were only dealing with recording the debris field.

40 SENIOR CONSTABLE COOK: Yes.

LCDR GRACIE: Not directing the investigation in terms of the QPS divers or anything else?

45 SENIOR CONSTABLE COOK: No.

LCDR GRACIE: Who was the person who was overseeing the QPS investigation?

5 SENIOR CONSTABLE COOK: That would be Detective Inspector Novosel.

LCDR GRACIE: You don't know if Detective Inspector Novosel is still with QPS?

10 SENIOR CONSTABLE COOK: I believe she still is, but it's not something I checked before coming here today.

LCDR GRACIE: Now, does Detective Inspector Novosel have the sort of scientific background that might be expected of a forensic investigator? It might be a Diploma of Science or a Bachelor of Physical Science that would normally be expected of a forensic investigator?

15 SENIOR CONSTABLE COOK: I'm not sure of her qualifications.

20 LCDR GRACIE: Do you have those qualifications?

SENIOR CONSTABLE COOK: Not as far as a degree, no. My qualifications are at the beginning of my statement.

25 LCDR GRACIE: Or a Diploma then.

SENIOR CONSTABLE COOK: No.

30 LCDR GRACIE: The training that we've got listed in paragraph 11 is on-the-job training - - -

SENIOR CONSTABLE COOK: Yes.

35 LCDR GRACIE: - - - in relation to road accidents.

SENIOR CONSTABLE COOK: Yes.

LCDR GRACIE: When you've said that you've experienced performing friction supplied testing, that's in relation to road accidents?

40 SENIOR CONSTABLE COOK: Yes.

LCDR GRACIE: Not applicable to an aviation accident on the water?

45

SENIOR CONSTABLE COOK: No.

LCDR GRACIE: Have you been involved in an aviation investigation?

5 SENIOR CONSTABLE COOK: No. As I mentioned, I've reviewed others' reports, but not first-hand.

10 Lcdr GRACIE: In relation to paragraph 29, where you said ADF had unrestricted access to the property where it had been transported to the QPS property point, who made the decision to provide that unrestricted access?

15 SENIOR CONSTABLE COOK: Well, maybe I should clarify. When I say "unrestricted", it's any time they asked to go in there, I accompanied them into the property point.

LCDR GRACIE: I thought somewhere in your statement you said they had a key.

20 SENIOR CONSTABLE COOK: They were later invited to – once the Coroner released the property to the ADF, they were then invited to place their own lock on the holding yard.

25 Lcdr GRACIE: But isn't it the role of QPS – I think it's in the OPM – I think the OPMs provide, pursuant to a Memorandum of Understanding between QPS and the State Department of Justice and Attorney-General's Department, that QPS have the lead role or are the lead agency involving the death of any military personnel.

30 SENIOR CONSTABLE COOK: That could be the case, yes. I'm not aware of that.

35 Lcdr GRACIE: So did you have any understanding as to whether you, in your role as part of the forensic investigation team, were to take the lead role?

SENIOR CONSTABLE COOK: As far as my briefing, it was to just report on the debris and provide that report to the Coroner as a part of the QPS investigation.

40 Lcdr GRACIE: But in, for example, the briefing that you had, the first briefing on 1 August, was there any discussion about who would be the lead investigator?

45 SENIOR CONSTABLE COOK: Just that we were – QPS were reporting the matter to the Coroner.

LCDR GRACIE: Yes, I understand about the reporting. I'm talking about the investigation aspect, though. Who was the lead agency?

5 SENIOR CONSTABLE COOK: Well, I believe the QPS, yes.

LCDR GRACIE: That would be the forensic investigation team?

10 SENIOR CONSTABLE COOK: Not in this particular role. My role was just to report on that debris.

LCDR GRACIE: No, not your role, but the forensic investigation team of which you were a part, would be the lead agency.

15 SENIOR CONSTABLE COOK: Yes. Look we may be at a misunderstanding. The word "forensic", so that's the investigation. So Detective Inspector Novosel is part of the Criminal Investigative Branch. The forensic unit don't usually investigate. Maybe there's a misunderstanding with the use of the word "forensic" because we don't  
20 usually refer to it as a forensic investigation if it's in a matter like this.

LCDR GRACIE: But the report you prepare is headed, "Forensic Crash Unit Supplementary Form 1".

25 SENIOR CONSTABLE COOK: Yes, that's the unit I'm attached to.

LCDR GRACIE: So does it have a forensic role?

SENIOR CONSTABLE COOK: My particular, yes.

30

LCDR GRACIE: Does the forensic investigation team have a forensic role?

SENIOR CONSTABLE COOK: Yes.

35

LCDR GRACIE: Who is the person who has the forensic role, as opposed to your role of recording the debris field, for want of a better term? Novosel, is it? Apologies to rank.

40 SENIOR CONSTABLE COOK: Well, she coordinated the QPS investigation role.

LCDR GRACIE: Was she at the briefing on 1 August when you were there?

45

SENIOR CONSTABLE COOK: She gave me the briefing, yes. She gave me that briefing.

LCDR GRACIE: I'm sorry, I missed it again.

5

SENIOR CONSTABLE COOK: She gave me a briefing.

LCDR GRACIE: So the briefing you've referred to on 1 August is with – I think it's Detective Inspector Novosel then.

10

SENIOR CONSTABLE COOK: Yes, on paragraph 19.

LCDR GRACIE: No, I'm talking about paragraph 34. On 1 August you attended your first morning briefing.

15

SENIOR CONSTABLE COOK: No, the morning briefings were as a generalised briefing as to where things were with – what the plan was for that particular day and for everybody, I guess, to get an understanding of where the operation was at.

20

LCDR GRACIE: Let me ask that question again. On 1 August 2023, your first morning briefing, was Detective Inspector Novosel at that briefing?

SENIOR CONSTABLE COOK: I can't recall.

25

LCDR GRACIE: Well, who else from QPS were at that briefing?

SENIOR CONSTABLE COOK: Well, the briefing was arranged and initially delivered by Acting Inspector Dyer.

30

LCDR GRACIE: On 1 August.

SENIOR CONSTABLE COOK: Yes, the morning and afternoon briefings were delivered by – well, as far as the QPS role.

35

LCDR GRACIE: Why that person and not Detective Novosel?

SENIOR CONSTABLE COOK: To be honest, I'm not sure what their roles were, how they differentiated their roles, or how their roles were decided.

40

LCDR GRACIE: What was the role of – I've forgotten the rank of – was it Dwyer?

45

SENIOR CONSTABLE COOK: Acting Inspector Dyer.

LCDR GRACIE: Acting Inspector Dyer. What role did he or she have?

5 SENIOR CONSTABLE COOK: I can comment that he was dealing with the briefings, and he appeared to be a go-between between QPS and ADF. He seemed to have what would appear to be similar – or a coordination-type role.

10 LCDR GRACIE: I might be wrong, but I don't see any reference in your statement to Acting Superintendent Dyer.

SENIOR CONSTABLE COOK: Acting Inspector Dyer.

15 LCDR GRACIE: Inspector, is it? Sorry.

MS McMURDO: He got a mention in his evidence-in-chief at around 29 to 30.

20 LCDR GRACIE: That assists one matter, but forgive me if I misunderstand this, but the statement makes reference to the role that Detective Inspector Novosel was playing. But your evidence now seems to suggest that it was Acting Inspector Dyer at paragraph 39; that's the only place I can see it:

25 *Raised some concerns in relation to compromising the integrity of the wreckage.*

So is Acting Inspector Dyer part of the forensic investigation team?

30 SENIOR CONSTABLE COOK: No.

LCDR GRACIE: Or separate?

SENIOR CONSTABLE COOK: No, separate.

35 LCDR GRACIE: But Detective Inspector Novosel was part of the forensic investigation?

40 SENIOR CONSTABLE COOK: The investigation, yes. She was coordinating the investigation side of things.

LCDR GRACIE: So who were you reporting to?

SENIOR CONSTABLE COOK: Detective Inspector Novosel.

45

5 LCDR GRACIE: Thank you. You were asked some questions about the timing of your arrival up to 1 August and your knowledge about whether there had been any dive operations. I think you said you believed there had been and it's clarified in paragraph 34. You said you recall the ADF divers had located a large amount of debris. From what I understand, the issue in relation to the recovery was related to the weather conditions and not whether or not divers could undertake dive operations; is that right?

10 SENIOR CONSTABLE COOK: From briefings, I believe both were an issue.

LCDR GRACIE: Well, if you go to paragraph 31, you've just arrived the day before, relieved Acting Sergeant Webster.

15 SENIOR CONSTABLE COOK: Yes.

LCDR GRACIE: So on 1 and 2 August you're saying that it was apparent no dive operations or debris recovery were likely in the following days due to the weather conditions.

20 SENIOR CONSTABLE COOK: Yes.

LCDR GRACIE: But in paragraph 34 you say ADF divers had located a large amount of debris. All I'm asking is, are you drawing your distinction between the conditions preventing the recovery of debris, as opposed to preventing the dive operations which seem to have occurred prior to 1 August?

30 SENIOR CONSTABLE COOK: No. So on that morning briefing, that's when we were advised that they had located a large amount of debris. I don't know when they had actually located it, but that's when I was advised of it.

35 LCDR GRACIE: But in paragraph 31 you're suggesting that there would be no dive operations.

SENIOR CONSTABLE COOK: That's what we were told at the time.

40 LCDR GRACIE: So that prompted you to consider the taking off of some time to manage fatigue?

SENIOR CONSTABLE COOK: Yes.

45 LCDR GRACIE: You arrive about three days after the accident. The accident is on the 28th. The 29th, 30th, 31st.

5 SENIOR CONSTABLE COOK: Yes.

LCDR GRACIE: You arrive on day three after?

5 SENIOR CONSTABLE COOK: Yes.

LCDR GRACIE: You stay two days, 1 and 2 August.

10 SENIOR CONSTABLE COOK: Yes.

LCDR GRACIE: You leave on the 2nd, or is it the 3rd?

15 SENIOR CONSTABLE COOK: The 3rd, I believe.

LCDR GRACIE: What time do you leave on the 3rd?

SENIOR CONSTABLE COOK: I couldn't recall.

20 Lcdr GRACIE: But you attend the morning briefing.

SENIOR CONSTABLE COOK: The morning briefing at 7.30, yes. I don't recall what time my flight was that day?

25 Lcdr GRACIE: You leave after that, though?

SENIOR CONSTABLE COOK: Yes.

30 Lcdr GRACIE: So who takes over your role in recording the debris recovery when you're away from the 3rd to the 6th?

SENIOR CONSTABLE COOK: Should anything have been recovered during that time, that's Senior Constable Troeger was left there.

35 Lcdr GRACIE: Do you know if the flight data recorder was recovered during the period that you were away?

SENIOR CONSTABLE COOK: No, it was while I was there.

40 Lcdr GRACIE: So that's about 2 August, I think.

SENIOR CONSTABLE COOK: No, it was after I returned.

45 Lcdr GRACIE: After you returned?



SENIOR CONSTABLE COOK: Yes, after I returned. I felt it was paragraph 68.

5 LCDR GRACIE: Thank you. Paragraph 68, the flight data recorder?

SENIOR CONSTABLE COOK: FDR.

10 LCDR GRACIE: I can't see it, unless I'm looking at the wrong thing. Para 68?

MS McMURDO: Para 68, 2 August 2023, the day before:

*On this day, I was on the QPS vessel, D Leeding.*

15 LCDR GRACIE: Yes.

MS McMURDO: Yes. He gave evidence of this too.

20 LCDR GRACIE:

*Another QPS vessel was also in the water, PVB Irwin. At the time, human remains –*

25 sorry –

*and the FDR were recovered.*

30 My apologies, everyone. What do you know about the human remains that were recovered at the time of the FDR being recovered? Was it a simultaneous recovery or separate?

35 SENIOR CONSTABLE COOK: They were advised – so I was advised at the same time that they were – had been provided to the QPS. I couldn't answer any more about, if they were at the same time or separate.

LCDR GRACIE: But you were on board PVB *Irwin* at the time that the recovery of the remains and the FDR occurred?

40 SENIOR CONSTABLE COOK: No. No, I was on Police Vessel *Leeding*.

LCDR GRACIE: Right. But if your role is to record the recovery of debris and other matters relevant to the investigation, did you record what human remains were recovered?

5 SENIOR CONSTABLE COOK: I do recall that the remains were – I'll have to refresh my mind with the Supplementary Form 1 where I specifically mention that part. To clarify, it was the helicopter debris was my briefing, to record the helicopter debris.

LCDR GRACIE: Who was responsible for recording the human aspects?

10 SENIOR CONSTABLE COOK: DVI. That's the Disaster Victim Identification.

LCDR GRACIE: Do you have a record that they've provided about that?

SENIOR CONSTABLE COOK: No.

15 LCDR GRACIE: Have you seen it?

SENIOR CONSTABLE COOK: No.

LCDR GRACIE: Excuse me for just a moment. Were you present when the helmets were recovered?

20 SENIOR CONSTABLE COOK: No.

LCDR GRACIE: Who was present then? Was that when you were away?

25 SENIOR CONSTABLE COOK: I believe some were recovered prior to my arrival as well.

LCDR GRACIE: Who was in charge of logging that?

30 SENIOR CONSTABLE COOK: It would remain the responsibility, ordinarily, of the police officer taking custody of them at the time.

LCDR GRACIE: Do you know who that was?

35 SENIOR CONSTABLE COOK: No.

LCDR GRACIE: I think that's the only thing I had, ma'am. Where did you get the information – sorry, there is something. Where did you get the information on page 1 of the supplementary report that you received about 10.37 pm? The helicopters were about to simulate an attack, and abandon Lindeman Island. It says that the MRH-90 were about five rotor blades apart. Where did you get that information from?

40

SENIOR CONSTABLE COOK: That was some information that was part of a conversation with ADF at Whitsunday Station.

5 LCDR GRACIE: Do you know who?

SENIOR CONSTABLE COOK: No.

LCDR GRACIE: Was it part of the DFSB, or was it part of 6 Avn?

10 SENIOR CONSTABLE COOK: No, it was something that was – I don't know who they were, no.

LCDR GRACIE: Was the person in a uniform?

15 SENIOR CONSTABLE COOK: Yes, that's how I know they were ADF; they were in uniform.

LCDR GRACIE: You've recorded, for the purposes of your report, what was told to you, without knowing who told you what you've put in here.  
20

SENIOR CONSTABLE COOK: That's correct.

LCDR GRACIE: How did you verify it?

25 SENIOR CONSTABLE COOK: I wasn't able to.

LCDR GRACIE: And you don't provide the source of the information?

30 SENIOR CONSTABLE COOK: No.

LCDR GRACIE: And the same with the "83 nose to pitch up and then pitch down", you say is from an occupant in the rear 84 helicopter. Who told you it was from someone in the rear? The same person?

35 SENIOR CONSTABLE COOK: It was obtained from one of the statement-takers, the QPS statement – version-takers, I should probably say.

LCDR GRACIE: If we look at the version in your statement, the only one who mentions that is D10.  
40

MS McMURDO: That might be a matter for comment, mightn't it - - -

LCDR GRACIE: Well, D10 is in the front seat.

MS McMURDO: - - - if it becomes important? His job was to document the exhibits. He's put this in so that an exhibit can get released to the Defence Safety Bureau. It is what it is.

5 LCDR GRACIE: Thank you, ma'am. I have nothing further. Thank you for that, Senior Constable.

MS McMURDO: Yes, LCDR Tyson.

10

**<CROSS-EXAMINATION BY LCDR TYSON**

LCDR TYSON: Ma'am, I'll be brief.

15

I'm representing one of the deceased members of the ADF. COL Streit was asking you some questions about the Garmin, and the life data that had been recovered.

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SENIOR CONSTABLE COOK: Yes.

LCDR TYSON: And in the course of that evidence you gave an answer that no data had been recovered from the last day of the crash. Do you remember that evidence?

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SENIOR CONSTABLE COOK: Sorry, from the day of the crash?

LCDR TYSON: From the day of the crash.

30

SENIOR CONSTABLE COOK: Yes.

LCDR TYSON: Do you have any explanation for why that is?

35

SENIOR CONSTABLE COOK: It would be pure speculation, at best, to offer any – to offer a solution.

LCDR TYSON: But from your recollection of the spreadsheets that you saw in the email transmission, there was data that was in the lead-up before that period.

40

SENIOR CONSTABLE COOK: Yes.

LCDR TYSON: Do you have experience from motor vehicle collision investigations and so forth that you have been involved in about the type of

material that you can recover from Garmin devices, and the use to which it can be put?

5 SENIOR CONSTABLE COOK: It would be a different device. My understanding is these are watches. Ordinarily, if we were to extract data that's crash-related, it would be from a navigation or GPS system.

10 LCDR TYSON: That answer that there was no data from the day of the crash, the implication of that – correct me if I'm wrong – is that there is data that exists in the days up to that last day.

SENIOR CONSTABLE COOK: Yes.

15 LCDR TYSON: When you say “day”, are you talking about a 24-hour period or - - -

20 SENIOR CONSTABLE COOK: Look, I didn't examine the data to that level to be able to really comment on what days they were and what days they weren't. There was definitely days prior to it that had data.

LCDR TYSON: Thank you. Ma'am, this topic of the life data that may be available about the deceased is of some interest. The sleep patterns.

25 MS McMURDO: It is to all of us, yes.

LCDR TYSON: So it is a topic of interest to me that - - -

30 MS McMURDO: We have asked to get the email and the data. We have asked for that. So when we get it, we'll have a look at it and, if it's appropriate, we'll give you a copy.

LCDR TYSON: All right. Thank you, but I don't think I can advance it any further with this witness.

35 MS McMURDO: I don't think so, no.

LCDR TYSON: Thank you, ma'am.

40 MS McMURDO: At least we found out about it, that's a start. Thank you. Another application to cross-examine?

SQNLDR NICOLSON: Ma'am, could I just ask one topic, just be about a minute?

45 MS McMURDO: Yes.

**<CROSS-EXAMINATION BY SQNLDR NICOLSON**

5

SQNLDR NICOLSON: Senior Constable, paragraph 92 of your statement, you've referred to a summary of the version of events provided by police, particularly D10, who I represent in these proceedings.

10 SENIOR CONSTABLE COOK: Yes.

SQNLDR NICOLSON: Now, that summary was sourced from the QPRIME?

15 SENIOR CONSTABLE COOK: Yes.

SQNLDR NICOLSON: Was that sourced from the original document? That's the summary in paragraph 92(a). The original document would have been a note taken by the police officer.

20

SENIOR CONSTABLE COOK: Yes, I believe so. I'm not sure what version they recorded, how they recorded it, but that was the summary uploaded to QPOL.

25 SQNLDR NICOLSON: Are you able to make some enquiries and find the original version that was taken by Senior Constable Lozach - - -

SENIOR CONSTABLE COOK: Sure.

30 SQNLDR NICOLSON: - - - on that date, to do with D10?

SENIOR CONSTABLE COOK: Yes.

SQNLDR NICOLSON: And provide that to COL Streit.

35

SENIOR CONSTABLE COOK: Yes.

SQNLDR NICOLSON: Thank you.

40 MS McMURDO: Thanks very much, Mr O'Mahoney (sic). Any other applications to cross-examine? Well, that's good timing. Is there anything from you, Mr Pratt?

MR PRATT: Thank you. No.

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MS McMURDO: Anything by way of re-examination?

COL STREIT: No. Thank you, your Honour. Just to thank the officer for his attendance.

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MS McMURDO: Yes, thank you very much for your attendance. Certainly at this stage, anyway, we won't be requiring you any further. Thank you.

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**<WITNESS WITHDREW**

MS McMURDO: We'll adjourn until 10 o'clock tomorrow morning. Thank you.

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**PUBLIC INQUIRY ADJOURNED UNTIL  
THURSDAY, 2 MAY 2024 AT 1000**