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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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SQNLDR J GILES, representing LT M Nugent
LCDR M TYSON, representing CPL A Naggs
SQNLDR C THOMPSON, representing WO2 J P Laycock
COL N GABBEDY, representing MAJGEN Jobson
SQNLDR M NICOLSON, representing D10
MR C PRATT, with MS M ROLOGAS, representing
Senior Sergeant R Callaghan, Detective Inspector E Novosel,
Acting Inspector A Dyer, and Senior Sergeant C Troeger
MS K MUSGROVE, representing the Commonwealth**

0930, THURSDAY, 20 JUNE 2024

DAY 10

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**

Signed	Date	(Chair)
Signed	Date	(Recorder)
Signed	Epiq Australia Pty Ltd	Date	27/06/24	(Transcription)

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MS McMURDO: Yes, COL Streit.

5 COL STREIT: Good morning, Ms McMurdo. Can I begin briefly with an administrative matter? There are two. The first is you would recall on Tuesday I identified that I had written to the Defence Aviation Authority, who also wears a second hat as the Chief of Air Force, in relation to the invitation to make submissions about the Inquiry's intent to issue a section 23 Notice for the provision of certain evidence obtained by the Defence Flight Safety Bureau, and I sought a Direction from the Inquiry that the Commonwealth provide its written submissions in response to my letter, and that those written submissions be received by the Inquiry on Friday next week.

15 I have received a communication from the Commonwealth in relation to that matter, and I understand there's no difficulty in the Commonwealth providing its submissions by Friday next week, but I simply invite my learned friend for the Commonwealth to just address you on that point.

20 MS McMURDO: Yes, thank you. Ms Musgrove, is that the position?

MS MUSGROVE: That is the position, thank you.

25 MS McMURDO: Thank you very much, Ms Musgrove. We look forward to receiving those submissions then. Thank you.

MS MUSGROVE: Thank you.

MS McMURDO: Yes, COL Streit.

30 COL STREIT: Thank you, Ms McMurdo. The second administrative matter concerns the remaining hearing time available this week, and witnesses reasonably Counsel Assisting thinks we can address in that remaining time, which is a little bit compressed as a consequence of events earlier in this week. So GPCAPT Jason Pont, who will shortly be recalled to the stand, will continue his evidence. He'll be followed by CMDR Ryan Post.

40 D15 will then be called to give evidence. I pause there really to assist my colleagues at the Bar table, that prior to D15 giving evidence I will be identifying some matters that cannot be led in an open hearing, and should my colleagues wish to lead certain matters that I'll identify, then those matters will need to be dealt with in a closed hearing.

45 D15 will be followed by CAPT Campbell Rogan. I suspect that will take the balance of today's time available for evidence. These things are

always a bit of a guessing game as to how long a witness might take, subject to Counsel Assisting's questions, and those of my colleagues at the Bar table.

5 That means that I have moved Dr Adrian Smith, who is from the Institute of Aviation Medicine. He's being called as an expert witness. I have moved him from today to give evidence tomorrow.

10 I have also taken the step of informing, through the Inquiry's mechanisms, AIRCDRE Medved that he's no longer required to give evidence tomorrow. We have simply run out of time, and his evidence is important, and will take some time to go through. So he will give evidence in the Inquiry's next hearings, which will be in August.

15 And subject to time available tomorrow, the intent was to conclude Detective Inspector Novosel's evidence, and there may be one other witness who will give short evidence in person tomorrow, and I'll alert my colleagues at the Bar table if that's to become an eventuality. Thank you.

20 Ms McMurdo, can I recall GPCAPT Jason Pont.

<GPCAPT JASON ANDREW PONT recalled on former oath

25

<EXAMINATION-IN-CHIEF BY COL STREIT, continuing

30 MS McMURDO: GPCAPT Pont, of course you're still on your oath that you took yesterday. Thank you.

GPCAPT PONT: Yes, ma'am.

35 COL STREIT: Thank you. GPCAPT Pont, you are just having your statement returned to you which contains some annexures. Can I return to your evidence in this way? What I'm about to do is to show some slides on screen, and I propose to simply have you identify the slide, and then I'll ask you some questions in relation to the slide.

40 GPCAPT PONT: Understood.

COL STREIT: Now, we'll see how good my technology skills are. So first off, do you recognise that slide?

45 GPCAPT PONT: I do.

COL STREIT: Is that Annexure A to your statement?

GPCAPT PONT: It is.

5

COL STREIT: What does that slide depict?

GPCAPT PONT: So that slide depicts the command and control of the Regiment, and the relationships that were in effect when JTF116, our Headquarters, was stood up and commenced.

10

COL STREIT: Now, the slide identifies, does it not, a geographical representation of a number of ADF organisations?

GPCAPT PONT: It does. It represents both the geographical representation, a command and control function and a staff function, of the Headquarters and the supporting elements that are in place.

15

COL STREIT: At the top of that diagram as being the person who is in command of the whole of the organisations represented in that diagram is the Chief of Joint Operations Command. Is that correct?

20

GPCAPT PONT: That is correct.

COL STREIT: If we move to the left-hand side of the diagram, you'll see represented in the first light blue box the acronym DGMAR. What does that stand for?

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GPCAPT PONT: It's the Director-General of Maritime Operations, who is stationed inside Headquarters Joint Operations Command, who has Operational Command of the Navy Elements that are Force assigned.

30

COL STREIT: Thank you. Immediately underneath that is a line to another blue box with the phrase – sorry, the acronym MCDT. Do you see that?

35

GPCAPT PONT: That's correct, yes.

COL STREIT: What does that stand for?

40

GPCAPT PONT: That is the Mine Clearance Diving Team. So they were the Navy divers who assisted the recovery, commanded by CMDR Post.

COL STREIT: In the middle of the diagram is "JTF116". That's correct?

45

GPCAPT PONT: That's correct.

COL STREIT: That's your command.

5 GPCAPT PONT: That's correct.

COL STREIT: Immediately to the right, with a broken line, is the light green box G3. What does that stand for?

10 GPCAPT PONT: So G3 is the Director-General of Land Forces, who is also in Headquarters JOC, who has Operational Command of the Force Assigned Elements that were Army that were associated to me.

15 COL STREIT: Immediately under G3 is a box with 16BDE. 16 Aviation Brigade, I take it?

GPCAPT PONT: That's correct.

20 COL STREIT: Also, if you were to pan out from the individual boxes, there are two other envelopes that surround the box, the first two – the boxes, that's – the first is Operational. The second is Tactical. What do those overlapping envelopes reflect?

25 GPCAPT PONT: They're a representation of the level of command that's applied in the operational level up the top. So that was the DGMAR, 116, the G3 and CJOPS at the operational level of Command, and then underneath that – so they're basically a liaison activity between both strategic command – and so Central is in Canberra, the strategic level, then the operational level which controls operations per se. Then the tactical level below that are the elements that deal directly with the
30 operation or the mission statement as it's set.

35 COL STREIT: Down the bottom left-hand part of the page or the left-hand side down the bottom, you have the heading "Stakeholders" and certain organisations represented within that field. So DFSB, Defence Flight Safety Bureau?

GPCAPT PONT: That's correct.

40 COL STREIT: PRVT Marshal, Provost Marshal?

GPCAPT PONT: It is the Provost Marshal, correct.

45 COL STREIT: So that's Provost Marshal Australian Defence Force?

GPCAPT PONT: That's correct.

COL STREIT: Do you recall who that was at that time in July – sorry, August 2023?

5

GPCAPT PONT: Sir, I'll just refer to my statement to ensure that the – it's the full name and it's correct. It was GPCAPT Terrence Lewis.

COL STREIT: Thank you. QPS, Queensland Police Service?

10

GPCAPT PONT: That's correct.

COL STREIT: Queensland Coroner, and then you have AMSA?

15

GPCAPT PONT: Yes, that was the Australian Maritime Safety Authority initially. Now, that list is not in order, nor does it necessarily contain every stakeholder agency as the operation developed and that was at the start and that was our best understanding of who were related to the operation at the time.

20

COL STREIT: Immediately to the right of the field you've just identified is a second field titled "Mission Statement", and then some words underneath it. So that incorporates essentially what your Command, the JTF, was required to do; is that right?

25

GPCAPT PONT: That's correct.

COL STREIT: That is to coordinate recovery operations as required in response to the MRH-90 incident?

30

GPCAPT PONT: That's correct. And those words are directly from the task order that was provided to me from the Chief of Joint Operations.

COL STREIT: To the right of the page is a diagrammatical representation of your span of command; is that right?

35

GPCAPT PONT: That's correct.

COL STREIT: At the top is you as the O6; is that right?

40

GPCAPT PONT: That's correct.

COL STREIT: O6 is simply a representation of the rank level that you hold?

45

GPCAPT PONT: It is.

COL STREIT: It pertains to you as a Group Captain as well as a Navy Captain as well as an Army Colonel. Is that right?

5

GPCAPT PONT: That is correct.

COL STREIT: Immediately underneath the box that represents you, and to the left in green, can you just describe those elements of your command?

10

GPCAPT PONT: Understood. I will just reference the colours as well which is something I think needs noting. So the colours in that are if it's purple it's a joint organisation that has all three services involved. If it's green, it is Army, and if it's blue it is Air Force, just representing the Service – so representing the Services that were involved in the Headquarters. They weren't necessarily set per se, but they were just to give us an understanding of what level of expertise and understanding was in our Headquarters. It was a good reference to have.

15

20

So I'll start with the green in the staff on the left-hand side. So the J14 is a representation for someone who looks after both personnel and logistics. In that, it was an O5, so it was a Lieutenant Colonel at the time when we first started. Their main role was to, as I said, look after the logistical support, commercial contracts, if we needed extra people, if we needed administrative for those people, so he was responsible for that.

25

As I continue down, the QPS LO, so that was an O4 at a Major level – sorry, a Major-ranked Army member. He had already been established at the Whitsunday Police Force and was assisting as a Liaison Officer between the ADF elements that were already established there prior to me, or before the JTF1116 became established, and he continued into our Headquarters doing the same role. Underneath that was the – it was a Captain Army Liaison Officer. His role primarily was to assist in the liaison, if you look back to the centre, between JTF1116 Headquarters and the Army elements that were in direct support.

30

35

I think you also should note that on those lines, they also indicate what the command levels were and I'm sure you may go into those directly. But indirect support is indirect support of the Headquarters, but it requires liaison to ensure that our tasks are aligned, and so the information passed between myself and the 16 Brigade and what you'll see as it continues on, some additional Army elements that were supplied later is the role of the Army Liaison Officer.

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Below that, we also had a photographer at an E5 level and that person was provided to document the ongoing recovery operations through photography as required.

5 COL STREIT: Thank you. I should remind you – I suspect you don't need reminding, but I'll do it in any event – just to be mindful about your security obligations in the giving of your evidence today publicly. If there is a matter upon which I ask you or another Counsel asks you and you consider that matter might move into an area where your response would
10 be classified, you just alert us to that matter and it will be dealt with.

GPCAPT PONT: Understood.

15 COL STREIT: Thank you. Now, I'm just going to turn to the next slide, if I may. This is titled "MRH-90 Recovery C2 Update". It's Annexure B.

GPCAPT PONT: Sorry, just before you go on to that, there was a blue side on that Headquarters as well on the previous slide that we didn't discuss.

20 COL STREIT: We can't forget the Navy, or the Air Force, so tell me about that?

25 GPCAPT PONT: It was the Air Force element. As you know, I've been in all three Services. I don't have a particular loyalty, other than to Air Force, sorry. So on the right-hand side, the J3 is the Operations Manager, so that was someone at a Squadron Leader level, which is an O4; same as a Major. So that person was involved in the day-to-day running, the day-to-day reporting, those elements inside the Headquarters,
30 so quite busy.

35 Below that was a Public Affairs Officer. So that person assisted with gathering information with the photographer to provide to a higher Headquarters as to provide the information that needed to go out, publicly or otherwise, inside the organisation. So it provided an element of media response inquiries, an element of Senate Estimates requirements, if that became – but it was effectively to provide information as required necessarily up the chain.

40 The last one, which is particularly critical, was a PCS, which is Personnel Capability Specialist. I think an Administrative Officer effectively. That person was interesting in that they were documenting and maintaining the security of the information documentation and all of the in and out operations logs, those kind of components. It was particularly important

to ensure that we had an accurate record of all the stakeholders, all the engagement and all the activities that we completed.

5 MS McMURDO: Sir, I'm sorry, I missed what you said. You did originally say that the blue was the Air Force, but did you then say it was the Navy?

10 GPCAPT PONT: No, no, no. So they are Air Force but that was only at the initial laydown, ma'am.

MS McMURDO: Yes.

15 GPCAPT PONT: That was not necessarily set. It did change as people rotated in and out, with the exception of the positions that are particularly named. So the Army Liaison Officer was always an Army member. The other ones rotated around as necessary.

20 MS McMURDO: So over on the left-hand side of the larger square, Director-General Maritime Operations; is that Navy?

GPCAPT PONT: They are both Navy on the blue on the left-hand side.

MS McMURDO: Yes, that's what I thought.

25 GPCAPT PONT: I think it's just a representation of either the printout or the slide. They are actually a slightly darker colour.

MS McMURDO: So it's Air Force or Navy then for the blue?

30 GPCAPT PONT: Yes, the lighter blue would be Air Force and the darker blue would be Navy.

MS McMURDO: There's a difference in the colour blues.

35 GPCAPT PONT: Yes, I apologise for that.

MS McMURDO: No, that's okay. I just wanted to – I was just a little confused.

40 GPCAPT PONT: Sure.

45 COL STREIT: The inherent risks of coloured charts. Can I ask you this: out of all those personnel you've identified in your staff, who was it – did any one of those regularly attend the sync conferences with the other stakeholders, either at 7.30 or 8 o'clock each morning?

GPCAPT PONT: Almost all of them regularly, unless there was a requirement for them not to be there as some other duty.

5 COL STREIT: Sure.

GPCAPT PONT: But all of them all of the time.

10 COL STREIT: Was that something you directed occur, that they all attend?

15 GPCAPT PONT: I don't know if it was a specific direction or if it was just an organic development that continued through, but I was more than happy to have them all there. It actually ensured to me it gave me two outcomes. One was to monitor the welfare of my people because I always ensured there was contact at least twice a day, which is important to me. But, secondly, everyone got a firm understanding of all the agencies and all the stakeholders what was happening the next 24, and what happened the last 24 hours. So it was particularly important for all of the staff. I would say the only person who probably didn't go regularly was the PCS member or the administrative member because it was a smaller requirement. But even at the start of that, it would have been a regular occurrence for him to attend.

20 COL STREIT: So, essentially, your staff or your key staff, receiving the pertinent information at the same time in the same meeting.

GPCAPT PONT: That was critical, absolutely.

25 COL STREIT: Is there anything else you wish to say about that slide before I turn to the next one?

GPCAPT PONT: No, my apologies. Thank you.

30 COL STREIT: Thank you. Now, the second slide is titled, "MRH-90 Recovery C2 Update", Annexure B.

GPCAPT PONT: Yes.

35 COL STREIT: What does this slide represent?

40 GPCAPT PONT: That represents how the Headquarters and the operating support elements had developed over time. What I would suggest is, that would have been after my Clearance Diving Team had departed and it had transitioned to a commercial supported recovery operations from the
45

diving perspective. Hence, you'll see the MCDT that was on the previous slide has been replaced by "Naval asset".

5 That Naval asset was in direct support of myself. And it was for monitoring the maritime exclusion zone that was in place around the incident site. And then it would report any incursions of that to the QPS for then ongoing consideration or investigation, if necessary, was there. That exclusion zone was put on for two reasons: (1) for the safety of the divers who were under the water, and, secondly, to preserve the incident
10 site to ensure that no other maritime activity, civilian or otherwise, would have impacted the potential recovery for wreckage.

COL STREIT: With that - - -

15 GPCAPT PONT: Sorry?

COL STREIT: With that asset you've just described, was that a particular ship that you can recall?

20 GPCAPT PONT: It initially started as an Armidale Class Patrol Boat and then it did modify, depending on what asset was available at the time. Sometimes it was a rigid-hulled inflatable boat; otherwise known as a RHIB. I do apologise, I'm not Navy, which is a larger – how would I describe that vessel? Kind of like a large fishing boat for want of a better
25 term. Probably not that big but a smaller one. It was just as capable in doing the job. But it initially started as an Armidale Class Patrol Boat. And there was two of those that I can think of – Armidale and Larrakia are the two ships. And then, as I said, it transitioned to the RHIB.

30 COL STREIT: Now, with the stakeholder agencies, we seem to have an addition there reflected, PMG Emerald?

GPCAPT PONT: That's right. That was the commercial – the initial commercial vessel that was involved in the commercial supported
35 recovery operation. So it was the dive team, PMG stands for Pacific Marine Group, and they were the company that supplied that vessel.

COL STREIT: If we look at the central column of the diagram, which is delineated by two green lines, one left, one right.

40 GPCAPT PONT: That's right.

COL STREIT: Vertical lines. You'll see there a box, "LCMA, 10 FSB". 10 FSB is 10 Force Support Battalion; is that correct?

45

GPCAPT PONT: I'm glad you knew. Yes, it is.

5 COL STREIT: Now, "Co-ordinating Element", the two words immediately underneath the box, "LCMA", what does that mean, "Co-ordinating Element"?

10 GPCAPT PONT: Yes. All that was inferring is the coordinating element, because it coordinated the transition, or the movement of any wreckage that was recovered. It was very key in coordinating the movement of that wreckage from the commercial vessel to shore. And you'll see that was a direct line. That was under direct Operational Command and myself, that vessel.

15 COL STREIT: Are you able to explain, in broad compass, the difference between a broken line, as delineated on the diagram, and a clear direct line, or unbroken line?

20 GPCAPT PONT: Sure. It represents a Military Command function. A solid line is Operational Command. I have more control over their activities. I can change what their mission is, I can move them in location. There's a few other – not that I did in this instance – but that's what that indicates. You have more control over the asset that's assigned to you.

25 The dotted line is indirect support. I cannot, geographically change where they're positioned nor can I change their mission set. But they react directly to what I need. If I need to change that, then I have to go through their Command element to get permission, per se, to be able to do that. If I wanted to – and I'll give you an example – if I wanted to move the patrol boat that was monitoring the exclusion zone, which is reflected in this slide, and I wanted to move it, to say – I don't know – I wanted to do one out of Townsville or something completely different and I no longer wanted it to do a marine exclusion zone, I wanted it to go and do, you know, mine clearance or something else, it was a completely different mission set, then I would have to go through DGMAR to get that approval.

35 Now, I know there was no need to do that. The mission sets were set up appropriately and the geographical locations were appropriate for the operation that I was controlling.

40 COL STREIT: Is there anything else you wished to say about the update slide?

45 GPCAPT PONT: No.

MS McMURDO: Could I just ask what you mean by “operational” and “tactical”? The difference between the two.

5 GPCAPT PONT: Yes, ma’am. The operational level is basically – as I said, it’s controlling the entire operation. Whereas the tactical level, I give them specific mission sets and that’s what they’re responsible for. When I looked across – so I will look across all the tactical mission sets and mission statements and what needs to be done, an example would be – well, I’ll give you the example from this.

10 I had to look after all of the agencies, had to look after all of the operation and recovery elements. I would not expect the Navy element to do that. Its job was specifically to do that tactical thing, the marine exclusion zone. You know, the Army element was reflected in that, it was the Proserpine Airport component, “I want you just to look after the wreckage, look after what you need to do at Proserpine Airport”.

MS McMURDO: Thank you.

20 GPCAPT PONT: So specific tasking as opposed to the overall mission.

MS McMURDO: Okay.

25 COL STREIT: Now, in broad compass, operational oversight and management of your assets.

GPCAPT PONT: Yes.

30 COL STREIT: Tactical, are the doers. They’re the people that you’ve allocated tasks to. They’ve got the job to do whatever you’ve asked them to do.

GPCAPT PONT: Yes, that’s correct.

35 COL STREIT: If we can go back to the first slide, you’ll see that second darker blue box on the left-hand side, “MCDT”. Can you just tell me again, what MCDT stands for?

40 GPCAPT PONT: It’s the Mine Clearance Diving Team. So that was the Navy element.

COL STREIT: And there’s a broken line to your Headquarters. Does that mean you didn’t have direct command of them. Is that right?

45 GPCAPT PONT: That’s correct.

COL STREIT: But nonetheless, you could allocate tasks for them to do?

GPCAPT PONT: Absolutely.

5

COL STREIT: And who commanded the Mine Clearance Dive Team?

GPCAPT PONT: It was CMDR Ryan Post.

10

COL STREIT: You arrived in Proserpine, was it on 3 August?

GPCAPT PONT: That's correct.

COL STREIT: Do you recall when you first met CMDR Post?

15

GPCAPT PONT: On HMAS *Adelaide*.

COL STREIT: On that same day?

20

GPCAPT PONT: That's correct.

COL STREIT: He was already in location?

25

GPCAPT PONT: He was. He had arrived on USS *Miguel Keith*. The date I would have to make sure, but I'm pretty sure it was 29 July, but I could double-check that.

COL STREIT: Thank you. I might ask for the Inquiry's front screen to be returned to the slide now and I'll move to other matters. Thank you.

30

Just turning to page 7 of your statement, paragraph 10(b) you were asked:

Which stakeholders did you regularly engage with, including members of QPS?

35

GPCAPT PONT: That's correct.

40

COL STREIT: You've identified Acting Inspector Adam Dyer, Detective Inspector Emma Novosel, Senior Sergeant Ritchie Callaghan and Senior Constable Brett Norris. Just in relation to Acting Inspector Dyer and his particular role, how much contact did you have with him on a daily basis?

GPCAPT PONT: Multiple times a day, depending on what was happening with the operation at the time.

45

COL STREIT: So that would include at the sync meetings in the morning and afternoon?

GPCAPT PONT: That's correct.

5

COL STREIT: And then potentially phone calls?

GPCAPT PONT: Yes, regular phone calls. The line of communication there was particularly open. There was nothing that the ADF did without his understanding.

10

COL STREIT: Paragraph – I'll start again. Page 10, which is paragraph 10(b) on page 10, you're asked to describe your engagement/interaction with members of the Defence Flight Safety Bureau during the recovery operation, and your understanding of their role. In response, the first sentence you say:

15

There were daily interactions between the DFSB and –

20 your headquarters. Who was the person that you had most contact with?

GPCAPT PONT: CMDR Dominic Cooper, as the lead of the DFSB, would have been the most – the person I had the most contact with, noting that I had regular interactions with the rest of the team as well.

25

COL STREIT: What did you understand CMDR Cooper's role to be?

GPCAPT PONT: He was the lead investigator into the accident investigation on behalf of DFSB.

30

COL STREIT: What was your understanding about what QPS' role was in the investigation of the crash?

GPCAPT PONT: So QPS were working under the – they were working for the Queensland Coroner. They had to provide a report to the Coroner around the aircraft accident. It was a collaborative approach, as far as I was concerned, around the investigative componentry. Whilst they were separate investigations, they were complementary, and in most ways my Headquarters was to support both the QPS side of the investigation as much as I could, and the DFSB investigation. So we were kind of supporting Headquarters for both of those two investigations.

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40

COL STREIT: At 10(f) you were asked:

To the extent you are able to, summarise your and/or the ADF's involvement in the aircrew and MRH-90 recovery operation, including the effects of ocean currents in the vicinity of the crash site.

5

What are you able to tell the Inquiry about your understanding of ocean currents in the vicinity of the crash site?

10 GPCAPT PONT: Yes. Firstly, I'm not an expert in that, but I'll provide what I know and how it was described to me, and from the footage which I saw of the dive. So the accident site and the wreckage was about [REDACTED] underwater. That is significant because the QPS diving element couldn't go below 30 metres, so it was a requirement for the ADF initially to dive to the wreckage site.

15

20 The tidal flows in that area were significant and had an adverse impact for the environment during the dive and made the diving particularly hazardous. I was speaking to one of the more senior divers and his recollection was this is some of the most difficult diving that he has ever done in his career – and he was a 30-year diver – in that he described that in that 43 metres, because of the tidal flows and the weather, effectively he described it as the first 10 metres was a washing machine, the second 10 metres was six knots worth of tidal flow in one direction, the 10 metres below that were six knots tidal flow in the other direction, and the bottom 10 metres was a sandstorm that you could not see your hand in front of your face during those tidal movements. That's how it was described to him, or how he described it to me.

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30 There was only very narrow windows during the tides where it was going one way or the other that you could dive on. So there were periods that were probably only about, depending on the flow, an hour or maybe two hours either side of high or low tide. That was also only during the neap tides, during the spring tides. Because of the additional tidal flow that goes around that area you didn't even have that window.

35

40 The divers towards the bottom realistically had about 10 minutes of bottom time, if indeed they went. So over a two-hour – I won't go into more specifics about the times on the bottom, et cetera – but there was a recovery and a rest period that was necessary as well. So over a two-hour diving window, that was at best, you would get four dives in, maybe. So you've probably got 40 minutes' worth of dive time of different dive teams that were available to go there.

45

And then you had to wait for the sediment and the silt at the bottom to drop to a point that you could do searching. If that was not the case, the

5 searchers were limited to effectively tactile feel only, to the point where when the commercial divers went on – and I can't speak for the ADF Clearance Divers off the top of my head; obviously CMDR Post will be able to provide more data – but the commercial divers would put a point where they would start from and mark that point so they knew where it was, put a rope out from that position, knot it every metre, and then go round in circles every metre. And they were doing that by feel, by physical tactile feel.

10 So you can get an understanding then of how difficult the diving was. On top of that, the wreckage was particularly hazardous. It was evident to me that the impact had caused most of the carbon fibre to disintegrate. It became particularly sharp and difficult, and there were significant snag hazards that were also (indistinct) within the diving team, to the point
15 where I know at least one, maybe two, divers were snagged on wreckage at some point.

20 We had a remote operated underwater vehicle, that we provided some footage, which you may delve into later, but the umbilical cord on that was jagged on the wreckage at one point, and had to be returned to the ship and then repaired at a later date.

25 And there were windows of diving. I think I do, I mention there were windows of diving that were sort of five days where there was just no diving. It was just the weather was not suitable, both surface and subsurface weather you could not dive on. It became – it was a particularly difficult diving operation.

30 COL STREIT: In terms of the dive operations, which ship did they occur from?

35 GPCAPT PONT: Yes, so when the – I need to be specific here. The ADF element I'll talk about initially. So when the ADF, or the Mine Clearance Diving Team, first started, they were on a US ship, USS *Miguel Keith*. That was part of the operation that was happening at the time, and they were stationed on that ship. It responded very quickly. It was in the vicinity of Gladstone when the incident first happened, and then they were diving the next day on the wreck, which was a very fast response, in my view, and we were just fortunate that they were in the vicinity and were
40 able to respond.

Then we sailed ADV *Reliant*, which is Australian Defence Vessel *Reliant*, down from Townsville, and it arrived some days later. The Mine Clearance Diving Team then transitioned from *Miguel Keith* through

Adelaide, on to *Reliant*, and then utilised *Reliant* as the ship for its diving capability until that left.

5 Following that, there were two commercial supply and recovery vessels. One was PMG *Emerald*, and the second one was TWL *Surveyor*. TWL is another company's name. It just eludes me at the moment. And they were the two dive vessels that we used at different times. They were contracted vessels.

10 COL STREIT: Just in relation to 10(f)(ii), which is on page 11 of your statement, you were asked about whether any human remains and/or aircraft wreckage was recovered, and you've given a response there. I just want to ask you this. The second paragraph you say this:

15 *I'll outline the recovery process that was established for both suspected human remains and aircraft wreckage.*

You say:

20 *The priority for the diving was the flight data recorder, human remains, controlled items which included weapons, communication equipment and aircraft wreckage.*

25 The way you've structured that sentenced by saying, "The priority for diving", and then you've listed those things, does that reflect a priority for recovery of an item, beginning with the first priority was the flight data recorder, followed by human remains, or is that simply - - -

GPCAPT PONT: I - - -

30

COL STREIT: Sorry, is that simply just the way you've drafted that sentence?

35 GPCAPT PONT: It is just simply the way I've drafted. I would suggest that the flight data recorder was secondary to human remains. It was listed actually in order of what was recovered. So this list is the way it was recovered, noting there were some human remains prior – recovered prior to me taking over the 1116. The first human remains and the flight recorder were recovered on the same day during my command. What
40 made the flight data recorder more recoverable was that it transmits a signal that you can find a direction to.

So in the incident of limited visibility, it just made finding it much more – much easier, noting that in the dive that that was recovered, the team were

actually going to recover human remains that were already identified as their number 1 priority. It just happened to be coincidental.

5 MS McMURDO: You mentioned earlier that you were liaising both with the DFSB and QPS, and you assisted their separate investigations as much as you could. Was there some tension there between the DFSB and QPS in terms of their investigation?

10 GPCAPT PONT: Not that I was witness to.

MS McMURDO: Was the DFSB more focussed on finding the flight data recorder than on human remains, and perhaps the QPS more on human remains?

15 GPCAPT PONT: That would not be my recollection. No.

MS McMURDO: Okay. Thank you.

20 COL STREIT: I'm just going to turn now to some further slides. I'll just ask if the screen could be activated again.

I'm just going to show some diagrams which you have provided to the Inquiry, forming part of an annexure to your statement. The first is on the screen. That's Annexure D to your statement; is that correct?

25 GPCAPT PONT: That is correct.

COL STREIT: What does that slide represent?

30 GPCAPT PONT: So that depicts the – a more generalised understanding of the location of the wreckage.

35 COL STREIT: There is, on screen, an arrow essentially going in a south-westerly direction, crossing Hamilton Island, to a rectangle outlined in red. Do you see that?

GPCAPT PONT: I do.

40 COL STREIT: What does the rectangle outlined in red depict?

45 GPCAPT PONT: The rough area of the incident site. You'll note that that is a significant area. The wreckage was scattered over a, at least, 200 by 400-metre area on the sea floor. And the primary search area was over that 300 metres by 600 metres box that you can see expanded on the top right-hand side.

COL STREIT: So the rectangle outlined in red was, what, 300 metres by 600?

5 GPCAPT PONT: I don't think that is to scale exactly, but that is just a general representation of the area that we were conducting the recovery activity.

10 COL STREIT: The arrow I described pointing in a south-westerly direction begins at the top, with an expanded rectangle depicting a diagram in the middle of it. Do you see that?

GPCAPT PONT: I do.

15 COL STREIT: What does that represent?

GPCAPT PONT: Yes. So that's an expanded scale of an understanding of how we were laying the search out, and the search area, which, as I stated before, was roughly 300 by 600 metres.

20

COL STREIT: Now, the diagram – or picture, rather, on screen identifies Hamilton Island to the immediate north of the red rectangle.

GPCAPT PONT: It does.

25

COL STREIT: Do you accept that?

GPCAPT PONT: Yes.

30 COL STREIT: Are you able to indicate where Lindeman Island is on the diagram?

GPCAPT PONT: No.

35 MS McMURDO: Do you know if it's on the map or not?

GPCAPT PONT: I believe it is. But - - -

MS McMURDO: You don't know which one it is?

40

GPCAPT PONT: - - - if you ask me which one of those island ones, I'm not sure, to be honest with you. I apologise.

MS McMURDO: Thank you.

45

COL STREIT: That's all right. Now, Annexure D is comprised of several pictures, isn't it – several pages?

GPCAPT PONT: It is, yes.

5

COL STREIT: Yes.

GPCAPT PONT: Sorry. Yes.

10

COL STREIT: So I'm just going to turn to the next - - -

GPCAPT PONT: I just couldn't remember if they were actually individually annexed to it or if it was on one combination.

15

COL STREIT: So this is the second page of Annexure D to your statement. What does it represent?

GPCAPT PONT: Yes. So it is the expanded – it is just a – the expanded view of what was on the previous slide, having a look at the total search area of roughly 300 by 600 metres. And then inside that you can see the square which is what represented the heavier wreckage componentry-type area, or the area there was heavier wreckage or more dense wreckage, I would say.

20

25

And then those circles were the representation of how we were going to split the search out into each area. So as I identified before, when I said they put a pin in the middle and then go around in circles doing the search, each of those round circles identifies how we were going to do each of those searches. It was a search plan, effectively.

30

And then, further to the north-west, I guess, as you would look at that diagram, the top left-hand side you can see the other circles were identified wreckage. I will say, though, that even though that is a 300 by 600-metre search area, there was a significant – I couldn't give you the exact number; I'd have to go back and come back to you – but there was a significant area, additional to that which we searched from sonar activity. So it was quite a broad sweep. That was in – that was much narrowed-in, to where we could identify the wreckage.

35

40

COL STREIT: Does that area identified on screen, which is an expanded representation of the earlier red triangle on the first picture for Annexure D, does that area represent where it was identified substantial parts of aircraft wreckage - - -

45

GPCAPT PONT: That's correct.

5 COL STREIT: - - - were located? I'm just going to turn to the next slide. I'll come back to that one. Well, I seem to be missing a slide. Can I just ask you to turn to the fourth page of Annexure D. The fourth page of Annexure D is titled, "Debris Spread 300 Metres"; is that right?

GPCAPT PONT: Yes, I see what you're saying. Yes.

10 COL STREIT: What does that page represent?

GPCAPT PONT: I'll just reconfirm, before we go through that: you're talking about that page?

15 COL STREIT: That's correct.

20 GPCAPT PONT: So that is, again, an expanded view. It just gave a better understanding of the rough areas that the various aircraft components were found. It was to identify – and to assist those who were obviously looking after the operation inside Headquarters JOC and others – the significant spread of the wreckage, and where the main components were, to get an understanding of how difficult the search was.

25 COL STREIT: If I move to what's on screen now, that's Annexure E, isn't it, to your statement? Is that right?

GPCAPT PONT: Yes, I'll take it as that, even though this photograph doesn't have that on there.

30 COL STREIT: If you look at the top of the page, it's – it might be difficult to read. It's easier to read on the - - -

GPCAPT PONT: I see. Yes. I'll take it that it is red, but on this printout it's different to red.

35 COL STREIT: Just accept, from me, it's Annexure E.

GPCAPT PONT: I will.

40 COL STREIT: Now, what does that diagram on screen represent?

45 GPCAPT PONT: Yes. So this is a representation of the electronic chart that was being utilised, I think, at this stage, by the commercial recovery operation of how we were planning the – how we were planning the dive sequence. You'll see on there as well the red dots – and this is probably the most detailed map we had – of where the human remains – different

elements of human remains were found in areas that would've been associated with different components or different elements of the aircraft that crashed.

5 COL STREIT: So when we look at Annexure E, in the middle of – well, first of all, there's a large – do you accept the diagram is represented by a large rectangle and, within that large rectangle, a series of circles?

GPCAPT PONT: That's correct.

10

COL STREIT: And within the series of circles, about the middle of the diagram, there appears to be a rectangle shape that's bent in the middle, and elongated north-to-south of the diagram on screen?

15 GPCAPT PONT: That's correct.

COL STREIT: Now, given your earlier evidence – there's a series of red dots in that bent rectangle; do you accept that?

20 GPCAPT PONT: I do.

COL STREIT: And are you saying that those red dots represent the approximate location of where human remains were identified and recovered from the sea floor?

25

GPCAPT PONT: That's correct.

30 COL STREIT: What I want to do now is just an exercise where I'm asking you to look at the last page of Annexure D, which is the diagrammatical representation titled, "Debris Spread 300 Metres". And by reference to Annexure E on screen, I'm just going to ask you some questions as to whether – in the following terms. So, first, the last page of Annexure D diagrammatically represents where parts, you say, of the aircraft wreckage were recovered, i.e. their location?

35

GPCAPT PONT: That's correct.

40 COL STREIT: Now, are those diagrammatical representations – on that page you're looking at now, are they represented on Annexure E?

GPCAPT PONT: Not directly.

COL STREIT: That's fine. So I'll deal with it this way. On Annexure D, that last page you're looking at now, would you accept from me that in the

top-left of the rectangle that's depicted on that diagram it reflects that the locations of wreckage recovered included the rear wheel fuselage section?

5 GPCAPT PONT: Yes. Now, we need to be cautious with the terminology there.

COL STREIT: Sure.

10 GPCAPT PONT: Because I think it would be more accurate to – “reflects the components that would've been associated with an area consistent with the rear wheel fuselage section were identified”, because the wreckage was not identifiable as easily as that would indicate.

15 COL STREIT: So with that caveat, I'm just referring to what you've written on your diagram, you've indicated that an item of wreckage in the top left-hand part of that rectangle was the rear wheel fuselage section?

GPCAPT PONT: Correct.

20 COL STREIT: Another item of fuselage was recovered?

GPCAPT PONT: Correct.

25 COL STREIT: Another two items of wreckage were recovered, I'm unable to identify one of the items, but the second item says “stabiliser”?

GPCAPT PONT: Correct.

30 COL STREIT: And then if we move to the south of the rectangle – so, for example, the south of the rectangle as depicted in Annexure E – other various aircraft components that were recovered included the tail rotor. Is that correct?

GPCAPT PONT: That's correct.

35 COL STREIT: The main cabin?

GPCAPT PONT: Or parts associated with, yes.

40 COL STREIT: Yes. The cockpit?

GPCAPT PONT: Yes.

45 COL STREIT: The rotor turbine?

GPCAPT PONT: Yes.

COL STREIT: And then just another box that simply says, “Various aircraft components”; is that right?

5

GPCAPT PONT: That’s correct.

COL STREIT: Then as we move from the south, moving to the north, but before we hit the halfway mark, that’s where the comms box was recovered.

10

GPCAPT PONT: That’s correct.

COL STREIT: And you’ve titled that diagram, last page of Annexure D, as “Debris Spread 300 Metres”. The 300 metres, what’s that a reference to?

15

GPCAPT PONT: Roughly where was the main – the densest element of the wreckage that we identified. So there was some wreckage spread further than that, but they were limited in items, most likely moved during tidal flows, we think. But the main debris spread was from – so from the area that used to look like a cockpit, the components of the cockpit, to the components of the rear fuselage was about 300 metres.

20

COL STREIT: Turning back to Annexure E on screen, at the top and bottom of the rectangle on screen, that is the large rectangle, on its face appears to depict or represent two ships or vessels?

25

GPCAPT PONT: That’s correct.

30

COL STREIT: Is there any particular significance of the representation of those two vessels?

GPCAPT PONT: No, that was just the location at the time.

35

COL STREIT: And those two vessels, the one in the top of Annexure E, does that represent a particular vessel?

GPCAPT PONT: No, I would suggest that it depended on the move at the time. So these were either – those two vessels I would suggest were not there at the same time, so this is two different locations of the two different dives that we did. So the commercial vessel was required to put itself in position and then put out chains and then effectively anchor itself through three or four posts to be able to hold themselves in location, because the tidal flow was so dramatic. When we used ADV *Reliant*, that

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45

was not required because it's got a dynamic positioning system so it can sit itself in the water depending on the tidal flow. So I do not believe that these ship locations in this diagram have any specific purpose or anything that is of significance.

5

MS McMURDO: Could I just clarify, the flight data recorder, was that recovered where – in the diagram you have that, we don't have on the screen – in the box saying "BFDR"?

10

GPCAPT PONT: Yes, ma'am, that's correct.

MS McMURDO: And the comms box is something else.

GPCAPT PONT: Something completely different, yes.

15

MS McMURDO: Thank you.

COL STREIT: Is there anything else you wish to say about the diagram on screen?

20

GPCAPT PONT: No, the only thing I would suggest is the two main areas that you can see on the bottom – how would I describe that? So the bottom left-hand side on the top right, in that red box, do identify with areas that were consistent with components that would have been the cockpit on the lower right-hand side and the fuselage of the – sorry, lower right-hand side, yes, and the fuselage on the top left-hand side.

25

COL STREIT: One final question for me on the diagram on screen. You'll see to the bottom right-hand side of the diagram, immediately to the right of the rectangle appears to be a green dot with a letter or two that's difficult to read. But is there a particular significance to a green dot, that you can recall?

30

GPCAPT PONT: No, not that I can recall.

35

COL STREIT: Thank you. Can the Inquiry's main screen be returned?

MS McMURDO: Could I just clarify?

40

GPCAPT PONT: Yes, ma'am.

MS McMURDO: One thing about that - - -

COL STREIT: Well, perhaps we can put it back on. Thank you.

45

MS McMURDO: Can we have that back again please? I just wanted to know, there was a red dot outside what's been referred to as the dense rectangle. Was that also – towards the top left-hand side as we look at it, you can see there's a red dot there.

5

GPCAPT PONT: No, ma'am. Unless it's marked with "HR", then I'm unsure.

MS McMURDO: It wasn't human remains?

10

GPCAPT PONT: No.

MS McMURDO: No. Okay, thank you.

15

COL STREIT: Perhaps if the home screen could be returned now. Thank you. Can I just turn to page 12 of your statement please, commencing in the middle with the subject heading, "Aircraft Wreckage Recovery". You say:

20

During the initial stages of the recovery, any aircraft wreckage recovered was stored at the Whitsunday Police Station. Upon my arrival, recovered items stored at the Whitsunday Police Station included a large section of the rear of the aircraft and several smaller items.

25

So I take it, to state the obvious, that those items had been recovered prior to your arrival; correct?

GPCAPT PONT: That's correct.

30

COL STREIT: The diagrams that you have attached to your statement, did those recovered items – those items recovered prior to your arrival, were they incorporated within the debris field that you identified in those diagrams?

35

GPCAPT PONT: I don't know that answer. I believe so.

COL STREIT: You also say in the body of that paragraph:

40

On 5 August the wreckage was released by the Coroner to the ADF.

And you've attached an annexure dealing with some email communication about that. When did you first become aware of that particular matter? You arrived on 3 August and on 5 August the aircraft

45

wreckage was released by the Coroner to the ADF. When did you become aware, do you know?

5 GPCAPT PONT: On the 5th.

COL STREIT: Following on from that paragraph, the next paragraph you say:

10 *Following the arrival of the RAN vessel ADV Reliant –*

so we're now on 5 August 2023. So does that mean ADV *Reliant*, to your memory, arrived on 5 August, or was that a - - -

15 GPCAPT PONT: No, it did arrive prior to that date.

COL STREIT: Thank you. You say:

20 *During this period, the wreckage was inspected by DFSB staff located on the ship and QPS Forensic Crash Unit members transferred to the ship via QPS vessel.*

That's in the last paragraph on page 12.

25 GPCAPT PONT: That's correct. Going back to your previous question, ADV *Reliant* arrived on 4 August.

COL STREIT: Thank you. So in terms of the QPS Forensic Crash members transferred to the ship via QPS vessel, do you know who those members were? Can you remember?
30

GPCAPT PONT: No.

COL STREIT: Senior Constable Cook? Does that assist your memory?

35 GPCAPT PONT: Yes, that would have been one of them. I think there was more than one at various times. They would come and go.

COL STREIT: Senior Constable Troeger? Does that assist?

40 GPCAPT PONT: I can't remember that individual, no. Not that name anyway.

COL STREIT: You say then:

Once cleared, the wreckage would be transferred via either a contracted barge, an ADF LCM-8 landing craft, to a transfer point at Shute Harbour.

5 GPCAPT PONT: That's correct.

COL STREIT: Why was – can you just explain why that occurred?

10 GPCAPT PONT: So Shute Harbour was the commercial transfer port that was commonly utilised to service the islands that are off-lying Airlie Beach. So we provided the best port for any barge to come in, to allow then transfer to road movement out there.

15 COL STREIT: Can I take you to page 13? You are asked a question at 3:

By whom or which organisation was it recovered?

That's a reference to aircraft wreckage.

20 GPCAPT PONT: Yes.

COL STREIT: In your second paragraph you say:

25 *An ADF-led contracted specialist recovery operation commenced on 20 August 2023. Pacific Marine Group was contracted to provide a specialist recovery salvage diving capability not resident within the ADF.*

30 What was the specialist recovery salvage diving capability that organisation brought to the recovery operation?

35 GPCAPT PONT: Yes. So they had specialist recovery diving equipment such as diving bell helmets and items that allowed them to be on the surface – sorry, on the sea floor for longer than what the ADF divers were capable of doing. They also had additional decompression chambers and they had a different sequence to dive on which allowed greater time on the sea floor when it comes to that. They also had a more appropriate remote underwater – a remote operated underwater vessel that could provide additional footage with better granularity and additional search capability

40 that wasn't resident in the ADF.

COL STREIT: I appreciate you're not a diver. Why was a compression chamber necessary to your knowledge?

GPCAPT PONT: You're right, I'm not a diver. But the decompression chambers were there for two reasons: (1) you could extend the dive time, bring divers up and down quicker and then put them into the dive, into the decompression chamber on board the ship to allow them to decompress.
5 You didn't have to stop each time as you would do on a normal dive to decompress, firstly, and secondly and arguably the most important is that in the case of an emergency where there was some level of decompression illness or some other sickness you could treat them.

10 They had a different dive chamber that you could actually treat them on. You could put additional people in there, including medical personnel, actually to the point where if they needed to get to hospital and maintain that pressurisation in the system, you could actually disconnect it, connect it to the bottom of a helicopter and fly it off to a hospital. So there's some
15 impressive capabilities.

COL STREIT: That was necessary, of course, as a consequence of the depth of which the wreckage - - -

20 GPCAPT PONT: Both the depth and the length of time, the additional time on the floor, yes.

COL STREIT: Can I take you to page 14? Third paragraph up from the bottom you say:

25 *There are a small number of ADF members involved in the recovery who were personally affected. Those most at risk were members conducting underwater recovery operations, due to the hazardous diving environment.*

30 You say:

These risks were managed by the Commanding Officer of the dive team, which is CMDR Ryan Post.

35 When you identify "a small number of ADF members involved in the recovery were personally affected", what do you mean?

40 GPCAPT PONT: When I say – there were some divers who required support, some additional psychological support. The Mental Health Crisis Team were involved. There was at least one – you would have to speak to CMDR Post – maybe two divers that were removed from the operation because of the impact of the diving operation.

45 COL STREIT: Yes. The last paragraph, you say on page 14:

A Critical Incident Mental Health Support Team was provided to support all members of the operation.

5 Was that something – was that part of your Command, that organisation?

GPCAPT PONT: Not directly, no. They were on-call to me and I could get them any time I needed them. Based in either Brisbane or Townsville and they were able to fly up at incredibly short notice. And when I first
10 got there, they were actually in location at the time, so they could respond immediately. That team was initiated early. They were available on HMAS *Adelaide* when she sailed in to location. So we just continued that relationship and made them available as necessary.

15 COL STREIT: You say also that all members of the recovery operation were actively encouraged to report any concerns and removed from operation as soon as possible if they raised any concerns. Is that correct?

GPCAPT PONT: That's correct.

20

COL STREIT: That was important, was it?

GPCAPT PONT: It did, and that did occur.

25 COL STREIT: Subsequently on page 15, last sentence of the first paragraph, you say:

Additionally, all members involved in the recovery operation were required to conduct a post-operation psychological screening.
30

GPCAPT PONT: That's correct.

35 COL STREIT: I just want to talk to you now about when the recovery operation started to wind down and then cease. That begins following the question at (h) on page 15 of your statement. You say:

On 29 October 2023, TWL Surveyor completed the final series of sea floor scans. These scans confirmed that no significant debris remained on the sea floor.
40

Is that correct?

GPCAPT PONT: That's correct.

45

COL STREIT: What led to that task for TWL?

5 GPCAPT PONT: It became evident in the mid-October period that each
dive was getting less and less back. We were getting reports from the
divers that there was less and less debris on the sea floor that was
recoverable and it was starting to become evident that we had or we were
reaching a point of culmination for the operation.

10 COL STREIT: So you were there on 3 August 2023; correct?

GPCAPT PONT: That's correct.

15 COL STREIT: We're talking about now on 29 October 2023. You're
still in location?

GPCAPT PONT: No, by that stage, I had returned to Canberra.

COL STREIT: When did you return to Canberra, can you recall?

20 GPCAPT PONT: I believe it was mid-October, but I can give you
specifics. Standby, I'll check my notes. I'll have to get back to you, but I
think it was 14 October.

COL STREIT: So mid-October, effectively.

25 GPCAPT PONT: Yes, that's correct, sir. It would be – it was in that
week.

30 COL STREIT: When was the decision made to cease the recovery
operation?

GPCAPT PONT: Effectively, the pm on 29 October, with a decision brief
signed on 30 October.

35 COL STREIT: Did the Acting Chief Joint Operations Command
AVM Kitcher undertake any action in relation to it? Did he give any
Direction about ceasing?

40 GPCAPT PONT: Yes, so he was Acting Chief of Joint Operations at the
time. It was his signature on the decision brief recommending cessation
of the activity, which was the final approval to stop the exercise or stop
the operation.

45 COL STREIT: That meant – and I'm just looking at the body of the first
paragraph under the question at (h) where you say:

5 *TWL Surveyor departed the operating area on 30 October 2023. On 30 October 2020(sic), both the Army, LCM-8 and the RAN RHIB departed the area and the Maritime Exclusion Zone was Counsellled by Maritime Safety Queensland.*

Is that correct?

10 GPCAPT PONT: That's correct, sir.

COL STREIT: Additionally, on 30 October 2023, QPS completed the final clearance of all remaining wreckage being held at Proserpine Airport, which was then packed for road transport to Canberra the following day. Is that right?

15 GPCAPT PONT: That's correct.

COL STREIT: Did you still have elements of your Headquarters still in location in Proserpine after your departure?

20 GPCAPT PONT: Yes.

COL STREIT: They were reporting back to you, were they, on what was happening?

25 GPCAPT PONT: Yes.

COL STREIT: I just want to take you to contact with next of kin at paragraph 16. You were asked the question:

30 *To your knowledge, was there any agreement between QPS and the ADF as to who would provide notification to the next of kin and family of the aircrew? If yes, describe the terms of the agreement and when was it made.*

35 You say:

40 *I was not responsible for, nor privy to, any contact with next of kin. I was aware of an agreement between the ADF and Queensland Coronial Family Services, that Queensland Coronial Family Services would contact the next of kin regarding identification of the deceased and seek next of kin views regarding repatriation.*

45 Do you recall how you came by that information?

GPCAPT PONT: I requested that from the Chief of Staff of 16 Aviation Brigade at the time, COL Kilpatrick.

5 COL STREIT: At paragraph 12 you were asked to describe any other matter you wished to bring to the attention of the Inquiry. You say:

10 *I was encouraged by the professional acumen and collaborative approach of all members of the agencies that worked diligently to assist the recovery operation. The significance of this operation for the families, colleagues, and friends of those who tragically perished was a constant reminder to ensure that everything that could be done to recover both the crew and the aircraft was done in a risk-appropriate manner.*

15 You've outlined some of those risks to divers today, and the Inquiry will hear further from CMDR Post in due course about those matters.

20 In terms of your own experiences in undertaking that command as the Joint Task Force Commander, were there any particular challenges that were encountered for you when you look back at that time undertaking that role?

25 GPCAPT PONT: Joint Task Force of an inter-agency nature are always, in my experience, because as Director of Domestic Operations, I deal with a number of government agencies quite significantly, there is always an element initially of a requirement to open up the communication channels and get a better understanding of where each department comes from because there is always slight differences.

30 The intent of the agencies involved in this was incredibly collegiate and focused on the outcomes which we needed with dignity and respect for the families, full stop to start. Then, secondly, to ensure that the accident investigation was provided with all of the – as much of the wreckage and
35 whatever evidence we could provide. It was when those communication channels opened, we were in location and we had the police service and we could literally talk on a continual basis that any roughage or any friction that was evident, if there was any, early on was very quickly reduced and we got on with the job, which was great. So my commentary
40 in there about the collegiate approach that everyone had towards the best outcome that was possible in tragic circumstances is absolutely true.

45 There were some unknowns inside the ADF that I had to work through to get an understanding of, primarily a single point of fusion for information going to the Queensland Coroner. Now that was enacted pretty quickly so

that was a very good outcome. Communication with the families and understanding that all the various stakeholders had a thirst for information which was particularly demanding. So to manage the communication channels under differing communication channels to ensure the information arrived at the right person at the same time ideally was initially something that needed to be worked through. It was something that was overcome quite rapidly because, as I said, there were demands for communication and understanding of what was going on in the operation because everyone was interested in it which was fine. But we also had to ensure that we controlled the information flow, we controlled access to ensure that the information was provided to the families primarily first before anything was, you know, released to any other public forum.

COL STREIT: I take it the importance of the accuracy of information, to the extent it can be accurate, was important?

GPCAPT PONT: Absolutely critical, absolutely.

COL STREIT: Thank you. They're my questions.

AVM HARLAND: Yes, question and follow up for that? Noting that the JTF stood up some five days after the accident occurred and we've heard evidence from the QPS staff that effectively said that the communications channels and the relationship improved substantially on the formation of the JTF and your arrival. Do you think there's value in setting up a JTF for recovery earlier than it was in this case?

GPCAPT PONT: Potentially, but I think the establishment of the JTF was reflective of the different phases of the operation as it continued on or the response as it started. So the initial response from a search and rescue perspective and then as it – which would have been an on-site Commander which was appointed, CAPT Phillipa Hay, and she was more focused on – you know – the search and rescue activities there at the time. Then as we transitioned to the recovery, that was my role as the recovery. You could potentially put a JTF in earlier than was necessary, but it became quite evident, certainly from Headquarters JOC, that as this became a very complex recovery activity, that it needed on-site command at the time.

AVM HARLAND: Understood.

GPCAPT PONT: It would depend on the scenario.

AVM HARLAND: Yes, okay. That's good and another follow-up question, were you aware of search and rescue and recovery or emergency

response plans that were part of the Exercise TALISMAN SABRE as part of your work with the JTF?

5 GPCAPT PONT: No, I was not involved in that activity.

AVM HARLAND: Okay, thank you.

10 MS McMURDO: Is there any way, with an appropriate Memorandum of Understanding, that the Joint Task Force could have directly involved QPS, rather than having it treated as another agency that was a concerned agency?

GPCAPT PONT: Yes. Well, you can see on - - -

15 MS McMURDO: And if so, would that have been a good thing?

20 GPCAPT PONT: On that slide, ma'am, it indicates that they are a stakeholder. I consider it more than that to be honest with you. The amount that they were involved in the JTF, the fact that we utilised their facilities, the fact that we spoke to them on numerous – our morning and afternoon briefings. While I say here it's a JTF one, it wasn't. It was actually a QPS-led – like, it was a QPS-led activity that JTF was involved in. So the integration there across both the QPS and the JTF Headquarters, I cannot envisage how it could have been enhanced, to be
25 brutally honest. We spoke regularly and all the time, and the communication flow was incredible.

30 Now, was part of that based on personalities? Possibly. But like everything else is, it always is. But I think the communication channels were very open. I don't see how a Memorandum of Understanding could necessarily improve that, from my experience.

35 MS McMURDO: I think in your answer though, then you're really saying that the Joint Task Force did involve them as more than a stakeholder, that they were directly involved?

GPCAPT PONT: Sorry, the QPS were?

40 MS McMURDO: Yes.

GPCAPT PONT: Yes, absolutely.

45 MS McMURDO: So that perhaps the diagrams do not entirely reflect the extent of the involvement; is that what you're saying?

GPCAPT PONT: Yes, and you need be mindful that those diagrams were at the start of the operation when we were planning how we were going to get the Headquarters up. So they're representations of the higher command chains in the military of how we were going to establish ourselves, what we were going to do. They do not reflect the day-to-day activity, nor the level of communication that happened during the operation.

MS McMURDO: Okay. So is there any issue for the ADF in having a Joint Task Force that would involve the QPS? Would it need, would it require a Memorandum of Understanding, given that they're a State Police Force and not part of the Commonwealth Defence Force?

GPCAPT PONT: Potentially. But from my experience with other domestic operations, because I am a part of disaster management and those kinds of avenues, when we put things together, the agencies tend to operate quite collegiately anyway. There could be an argument for an improved – to put an MOU in place. We would have to be very mindful that if we did that, it would be difficult to get one that could cover every element of any possible scenario. So it would have to be fairly generic I would have thought and if that's the case, then maybe it would lose its importance potentially. It would have to be carefully considered.

MS McMURDO: The evidence seems to suggest that there was initially friction between some elements of the ADF and some elements of QPS and that that improved once the Joint Task Force was set up and established. So accepting for the moment that that was the case, would a Memorandum of Understanding and Joint Task Force approach that involved QPS directly, rather than having them as another agency that you had to keep an eye on and look out for and communicate with?

GPCAPT PONT: Potentially. I am not privy to the evidence that you are suggesting. My question would be at what level of the Joint Task Force or the Joint Interagency Task Force or the conglomerate of different agencies were there assisting, at what level in that was that evidence extracted from. The reason I say that is because those who operate in the tactical level were focused on their particular requirements or their particular outcomes.

MS McMURDO: It was certainly at the tactical level, yes.

GPCAPT PONT: Then there may have been a level of miscommunication or potentially a misunderstanding of what the bigger picture was. There are levels of frustration which will come into play when you've got different agencies that you don't normally deal with that have different

requirements. Sometimes you need to amend your Standard Operating Procedures that you have when you do it by yourself to include others to get a best outcome across the entire enterprise, rather than just a single agency.

5

MS McMURDO: Thank you. Yes, cross-examination? Any applications to cross-examine? None at all.

Okay. Thank you very much, GPCAPT Pont, you're free to go.

10

GPCAPT PONT: Thank you, ma'am.

MS McMURDO: Just if you could leave the statement there, please.

15

GPCAPT PONT: Will do.

<WITNESS WITHDREW

20

MS McMURDO: Yes, COL Streit?

COL STREIT: Ms McMurdo, the next witness is CMDR Ryan Post, who will be taken by FLTLT Rose. I just ask for a short indulgence of a brief comfort break.

25

MS McMURDO: Sure.

COL STREIT: And I just need to speak briefly with CMDR Post.

30

MS McMURDO: So would 10 minutes - - -

COL STREIT: Yes, thank you.

35

MS McMURDO: All right, we'll have a 10-minute break.

HEARING ADJOURNED

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HEARING RESUMED

MS McMURDO: Yes, FLTLT Rose.

45

FLTLT ROSE: I call CMDR Ryan Post.

<CMDR RYAN EDWARD POST, Affirmed

5

<EXAMINATION-IN-CHIEF BY FLTLT ROSE

10 FLTLT ROSE: Can you please state your rank, your full name, and your current unit?

15 CMDR POST: My name is CMDR Ryan Post, Ryan Edward Post. My current position is the Commander of the Australian Mine Warfare and Clearance Diving Task Group.

20 FLTLT ROSE: Can you please confirm that you were sent the following documents by the Inquiry? A section 23 Notice requiring your appearance today to give evidence?

CMDR POST: Yes.

FLTLT ROSE: An extract of the Inquiry's Directions?

25 CMDR POST: Yes.

FLTLT ROSE: A copy of COL Jens Streit's appointment as an Assistant IGADF?

30 CMDR POST: Yes.

FLTLT ROSE: Frequently Asked Questions Guide for Witnesses in Inquiries?

35 CMDR POST: Yes.

FLTLT ROSE: And a Privacy Notice?

CMDR POST: Yes.

40

FLTLT ROSE: Can I please ask you to be mindful of your security obligations as you're giving evidence today, and if I, or any other questioner, asks you something that is classified, to let us know?

45 CMDR POST: Yes.

FLTLT ROSE: Did you prepare a statement for this hearing?

5
CMDR POST: Yes, I did.

FLTLT ROSE: I'll hand you a document. If you could look through that statement and confirm for me that it is the statement that you prepared.

10
CMDR POST: Yes, it is.

FLTLT ROSE: If you stay on that back page, that's your signature?

CMDR POST: Yes, it is.

15
FLTLT ROSE: And it's dated 7 June 2024.

CMDR POST: Correct.

20
FLTLT ROSE: If you turn to the front page, you'll see that it says, "Date 5 June 2024".

CMDR POST: Yes.

25
FLTLT ROSE: Is that incorrect, that date on the front page?

CMDR POST: The date on the front page is as I was drafting it, so the correct date is the 7th, which is when it was signed.

30
FLTLT ROSE: Could I ask the Inquiry Assistant to provide the witness with a pen?

CMDR POST: I've got one.

35
FLTLT ROSE: You have one? Could you please correct that date on the front page, and then put your initials next to the correction? Do you wish to make any further amendments or additions to the statement?

CMDR POST: No changes.

40
FLTLT ROSE: I tender that statement.

MS McMURDO: Exhibit 29.

**#EXHIBIT 29 - STATEMENT OF CMDR RYAN EDWARD POST
DATED 07/06/24**

5 FLTLT ROSE: If you just keep that in front of you there, paragraph 4 you state that you joined the Navy in 2000, and that you became a Clearance Diving Officer in 2005.

CMDR POST: Correct.

10

FLTLT ROSE: Over the past 19 years that you've been involved in mine warfare and clearance diving operations, have you become proficient in leading wide area and detailed underwater activities during underwater search activities in hazardous conditions, as well as minor salvage and recovery operations?

15

CMDR POST: Yes, that's right.

20

FLTLT ROSE: You stated before that your current role in the ADF is the Commanding Officer of the Mine Warfare and Clearance Diving Task Group.

CMDR POST: Yes.

25

FLTLT ROSE: Have you been in that role since 2020?

CMDR POST: I've been in that role since the beginning of 2023.

30

FLTLT ROSE: So you commenced that role at the beginning of 2023.

CMDR POST: The current role that I'm in, which is Mine Warfare and Clearance Diving Task Group, I joined in January 2023.

35

FLTLT ROSE: That means that you're the Operational Commander of all the mine warfare and clearance diving assets within the ADF?

CMDR POST: That's right, yes.

40

FLTLT ROSE: Do you still dive yourself as part of ADF operations?

CMDR POST: It's very rare that I get in the water and conduct diving operations anymore.

45

FLTLT ROSE: I take it you're still certified in some way?

CMDR POST: I'm still qualified to dive, yes, in current service equipment.

5 FLTLT ROSE: Were you in this role as of 28 July 2023?

CMDR POST: Yes, I was.

10 FLTLT ROSE: I'm going to ask you some questions about your involvement in the recovery of Bushman 83. At paragraph 10 of your statement, you state that you first became aware of the MRH-90 crash when CMDR Paul Doble, the Exercise Control for Exercise TALISMAN SABRE, called you at around 9.30 on 29 July?

15 CMDR POST: Yes, that's right. Yes, Paul Doble.

FLTLT ROSE: Doble? And where were you at that time?

20 CMDR POST: At the time I was off the coast of Gladstone Harbour. We were conducting Exercise TALISMAN SABRE. At that point in time, I was aboard the ship USS *Miguel Keith*, filling one of the roles of the combined task group for the mine warfare component of TALISMAN SABRE.

25 FLTLT ROSE: That was approximately 250 kilometres or 20 hours' sail south of the incident where Bushman 83 entered the water?

CMDR POST: That's right, yes.

30 FLTLT ROSE: Paragraph 12, you state that you immediately recalled all of your units to the *Miguel Keith* and commenced planning for your likely support to the search and rescue effort?

35 CMDR POST: Yes, that's right. At the time it made sense, that we were the only diving and underwater search capability that we had in the area. And if the aircraft had crashed over the water – which we had been informed was likely – at that point, that there would likely be a requirement for an underwater search capability. Therefore, I made some assumptions at the time and brought our team back in who were conducting mine warfare activities, diving and [REDACTED], off the coast and around Gladstone Harbour.

40 FLTLT ROSE: Did you just say "ROV operations"?

45 CMDR POST: No – remote operated vehicles, yes.

FLTLT ROSE: What type of vessel is the *Miguel Keith*?

5 CMDR POST: The *Miguel Keith* is an expeditionary landing – sorry, expeditionary sea base. Which is basically an extremely large converted tanker which is – it serves as a staging base for Headquarters’ staff as well as for [REDACTED], and diving platforms and small boats.

10 FLTLT ROSE: Were you and your team sleeping on there as well as working on there?

CMDR POST: Yes, we were.

FLTLT ROSE: It’s not a vessel that helicopters can land on though?

15 CMDR POST: No, it has a large helicopter deck as well.

FLTLT ROSE: You then state that the Director-General Maritime Operations, CDR Mick Harris, directed you and your team to start sailing to the incident site at best speed?

20 CMDR POST: That’s correct. I received a call from him during the day, not long after I’d sort of received the notice from Paul Doble, at which time we – yes, he indicated that he wanted us up there as soon as possible and we should make all of our assets available to get up there.

25 FLTLT ROSE: Do you recall what time you started sailing north at that point?

30 CMDR POST: It was shortly after lunch, I believe. Or, actually, probably just before lunch that we started heading up there. At the time, HMAS *Huon*, which is a minehunter, was actually alongside Gladstone Harbour. They recalled their people within an hour and were sailing up with us, which we sailed in company together.

35 FLTLT ROSE: Paragraph 12, you state that CDRE Harris asked you to coordinate the undersea portion of the search and rescue response utilising HMAS *Huon* and appropriate Force elements embarked on the *Miguel Keith*.

40 CMDR POST: That’s correct, yes.

FLTLT ROSE: You mentioned the HMAS *Huon* just then, and it was used as a minehunter. What capabilities does *Huon* have in terms of search and rescue capabilities?

45

CMDR POST: Being a minehunter, she specifically hunts for mines on the seabed or in the water column; therefore, her capabilities include a high-performance sonar that can be used for mapping the seabed and

5

Then, once you've identified those contacts, she's got remote operated vehicles, which is basically a remote control underwater submarine that can be used with a tether down to the seabed to visually, and with its own small sonar, identify what those contacts are. We usually look for mines but it's perfectly suitable for searching for other debris, small items or, in this case, the MRH-90.

10

15 FLTLT ROSE: Now, you state that at paragraph 11 you had specialist autonomous underwater vehicle teams from Australia, the US, and New Zealand, and then Clearance Divers, and Headquarters, and support staff.

20 CMDR POST: That's right. We were all based on the *Miguel Keith* as part of TALISMAN SABRE. So while their task was mine hunting, it was probably the best team you could put together to get that initial rapid search of an area. For what we were looking for was mines, but we could quickly re-task that to search for anything else that we needed to.

25 FLTLT ROSE: At paragraph 13 you said that you arrived in the Whitsundays at about 8 in the morning on 30 July.

CMDR POST: That's correct.

30 FLTLT ROSE: What did you do when you arrived on scene?

35 CMDR POST: As soon as we arrived on scene, I directed HMAS *Huon* to commence a wide area search of the last – the best datum that we had at the time. The datum being a point where we believe the helicopter had gone into the water or where it was. And that was indicated at the time by an oil slick which was very light but coming to the surface in that area.

40 So we started our search with the minehunter directly on that point and conducted basically a large circular search outwards from that point trying to identify what we were hoping would be one piece or one aircraft. But instead, we ended up identifying quite a large debris field in that area. That was all within the first couple of hours we started identifying numerous contacts and we used the ROV from HMAS *Huon* to go down and identify those. At which time, we could see that they were clearly

45 parts of the MRH-90.

FLTLT ROSE: You state at paragraph 13 that “using rough datum reported” to you “by HQAFF”.

5 CMDR POST: Yes.

FLTLT ROSE: Who and what is HQAFF?

10 CMDR POST: HQAFF is the Australian Amphibious Assault Force which is another task group who were on board HMAS *Adelaide* at the time, commanded by CAPT Phillipa Hay. They were the on-scene Commander of the search and rescue effort at the time.

15 FLTLT ROSE: Paragraph 29, you state that the *Huon*, as you said, started conducting those ROV runs of the large bottom contacts on the seabed. And that they were used to identify parts of the MRH-90. Is it the fact that there’s a camera on the ROV which feeds back into some sort of screen on *Huon*?

20 CMDR POST: That’s correct, yes. There’s a live feed from the ROV, and the driver of that ROV sits in the Operations Room on board HMAS *Huon*. So, yes, there was a live feed which was recorded and that has both a sonar image as well as an optical image from a video camera.

25 FLTLT ROSE: [REDACTED]

CMDR POST: [REDACTED]

30 [REDACTED]

35 However, the CO, or the Commanding Officer, of HMAS *Huon* was able to identify very clearly what it was, and Operations Team.

FLTLT ROSE: And as the ROV is filming what it can see on the seabed, is it also mapping the location of the contacts?

40 CMDR POST: It is in the data system on board, yes. It is, yes.

FLTLT ROSE: Did you have a plan then, at that time, which was the morning of 29 July, for how you would recover those items, or were you waiting for further instructions at that point?

45

5 CMDR POST: At that point, we hadn't been directed to conduct any sort of recovery operations. We were purely there to identify the extent of the debris on the seabed, identify exactly where it was and then come up with a plan on how we were intending to get down, initially recover any HR, human remains, that we could find. And that was our primary focus at that time, being it was still a search and rescue effort at that point in time when we arrived.

10 FLTLT ROSE: At paragraph 14 you state that at approximately 1300 you went aboard the HMAS *Adelaide* with a small Command element to receive your first briefing from CMDR Hay of the - - -

CMDR POST: CAPT Hay, yes.

15 FLTLT ROSE: Sorry, CAPT Hay of the Australian Amphibious Assault Force. What was CAPT Hay's role at this stage?

20 CMDR POST: She was the on-scene Commander of the search and rescue effort for all ADF assets in the area.

FLTLT ROSE: So you were, in effect, reporting to her and receiving direction from her?

25 CMDR POST: That's correct, yes. I was in direct support to her at that point in time, focusing – primarily my efforts being the undersea search effort.

30 FLTLT ROSE: So it wasn't the fact that as you arrived on scene, she handed over to you? It's just that you had a particular element that you had specialised knowledge about?

35 CMDR POST: That's right. It wasn't a direct handover at that point. She continued to maintain the larger search and rescue piece, which encompassed everything from shore-based foot patrols, picking up debris that had washed ashore, through to the coordination with QPS and other agencies that were in the area, as well as AMSA and us as we arrived as well.

40 FLTLT ROSE: Paragraph 6 and 7 you set out some of the issues that CAPT Hay told you about during this briefing. She mentioned there'd been a number of vessels already assisting in the search and rescue effort. Was HMAS *Brisbane* - - -

45 CMDR POST: Yes, I believe though *Brisbane*, *Choules* and a couple of foreign ships, *Oakland* and *Montreal*, were in the area, but I can't confirm

5 those directly. I know *Brisbane* was definitely there. But the other ships, it's a bit fuzzy what happened those first days because there was a lot of different vessels and so forth moving around. But I didn't take very detailed notes of that, I was very much specifically looking at the undersea warfare part that I was focusing on. So, yes, there were definitely a number of other ships.

FLTLT ROSE: You saw *Brisbane*. You were on *Adelaide*, and - - -

10 CMDR POST: I was on *Adelaide* for the briefing, yes.

FLTLT ROSE: And then you had *Huon* and *Miguel Keith*, at least to your knowledge.

15 CMDR POST: That were sitting either on or around the incident site, yes.

FLTLT ROSE: Did you see any other volunteer civilian vessels assisting or QPS vessels assisting with the search and rescue?

20 CMDR POST: I saw the – there was a landing craft, the Moreton Venture, I believe it was, which was a small landing craft that moves vehicles and so forth around the islands. That was there assisting with the recovery of, I think, the main tail fin assembly. And there were other small vessels, craft around, but I couldn't tell you exactly who they were.
25 There was a lack of large merchant shipping or anything running through the channel, which is usually quite a busy channel with the cruise ships and so forth coming up.

30 FLTLT ROSE: Were you aware of a cordon had actually been surrounding the area of operations?

CMDR POST: I was aware that there was a cordon. I wasn't aware of how big it was or where it was exactly, but I was aware that there was a cordon. But there was also some small pleasure craft and so forth in the area that were probably unaware of it.
35

FLTLT ROSE: Paragraph 8, you state that:

40 *The Exercise Director, BRIG Damian Hill, temporarily paused all activities on Exercise TALISMAN SABRE to focus on the search and rescue efforts.*

Was this a temporary pause or was it actually in effect a permanent pause?

5 CMDR POST: It wasn't a cancellation of the exercise. It was a pause of all activities so that all the primary focus for everything was the search and rescue effort at that point. The pause was lifted at some point a number of days later, I couldn't tell you exactly when it was lifted. But it was – it's a temporary pause of the exercise at that point.

FLTLT ROSE: But, effectively, for your team, it was a cancellation because your efforts were redirected to the search and rescue.

10 CMDR POST: The minute we left Gladstone Harbour, we had dropped everything to do with TALISMAN SABRE and were now primarily focused on the search and recovery – rescue and recovery efforts.

15 FLTLT ROSE: At paragraph 30 of your statement you state that:

20 [REDACTED]

[REDACTED]

25 CMDR POST: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
30 [REDACTED].

35 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

40 FLTLT ROSE: [REDACTED]
[REDACTED]

CMDR POST: That's right, yes.

FLTLT ROSE: Mapping.

45 CMDR POST: [REDACTED] [REDACTED] [REDACTED]
[REDACTED]

MS McMURDO: Of course, that's unmanned that - - -

CMDR POST: Sorry, ma'am?

5

MS McMURDO: It's unmanned.

CMDR POST: That's correct, it's unmanned.

10 FLTLT ROSE: Was this information that you were collecting from ■■■
■■■■ and the ROV shared with other agencies that were on site searching
with the search and rescue? And by that, I mean the QPS.

15 CMDR POST: I don't believe it was. It was a seabed imagery of all the
debris – main debris field that we could find. It was just another visual
representation for us that confirmed what we had identified with
HMAS *Huon* and her mapping of the seabed. So it was a confirmation,
really, of those main points. The imagery and the mapping that were
20 produced out of that I don't believe was shared directly with QPS.
However, the positions of key items were passed through to CAPT Hay
and her team, which I don't know what they did with them at that point.
But those key positions definitely set out focus for the recovery
operations.

25 FLTLT ROSE: Can I take it from your evidence that you had no direct
involvement with QPS Officers?

30 CMDR POST: We had direct contact with the QPS divers at the scene
throughout the whole operation. Obviously when you're working a
couple of metres away in boats, you have regular interactions with them.
But our official discussions or coordination of when and where we were
going to be diving and what the plan was for that dive, was all filtered
through JTF1116 and their team.

35 There was one interaction early on with the QPS divers, which was
between my diving supervisors out on the water and the QPS staff that
were out on their dive tender. That was quite a lengthy conversation about
what the restrictions were that they had in their diving, what our
restrictions were, what our dive profiles looked like, chain of evidence,
40 how we were going to hand over anything that we recovered. There was
discussions about their vessel being used as a medevac for our divers
should we have a diving incident. So just the general on-scene
coordination piece was the focus of our interactions with the QPS.

FLTLT ROSE: So the Inquiry has heard evidence that the JTF actually wasn't stood up until a few days into August, but you arrived on scene on 29 July.

5 CMDR POST: Yes.

FLTLT ROSE: Is it the case that on 29 July there were already QPS divers in the area of operations?

10 CMDR POST: I believe they were, yes.

FLTLT ROSE: For those days from 29 July until the date the JTF was stood up, who were you speaking to to communicate things like data relating to where the items from the MRH-90 had been seen on the seabed?
15

CMDR POST: Any data that we had of locations or positions was passed to the Headquarters AAF, and CAPT Hay and her team. The QPS divers that we spoke to on scene – because we started diving on the 30th, which was – or the 31st, which was two days – the day after we arrived, that was the first real interaction we had with the Queensland Police divers.
20

FLTLT ROSE: Sorry, yes, I did – I misspoke before. You arrived on scene on the 30th, yes, not – I said the 29th.
25

CMDR POST: Sorry, we arrived on the 30th and we first dived - - -

FLTLT ROSE: At paragraph 31, I think, you said that your first dive was - - -
30

CMDR POST: Yes, sorry, on the 31st.

FLTLT ROSE: - - - area of operations on the 31st.

CMDR POST: That's right. So we didn't actually do any diving without the presence of the QPS Police divers on site. So that was our major interaction there, on the 31st, yes.
35

FLTLT ROSE: Had there been a request by QPS – not necessarily the divers – but the coordinator for the QPS, to view the footage that the ROV [REDACTED] was collecting?
40

CMDR POST: I don't recall any formal requests to view that footage, no.

FLTLT ROSE: Were you aware of any DFSB staff on site from the 30th, when you arrived?

5 CMDR POST: I couldn't tell you if it was on the 30th, when I first arrived, that they – we saw them, but I was aware of the DFSB team quite early on. I couldn't tell you exactly what day we first met them.

10 FLTLT ROSE: Were they asking to see, and did they in fact see, any of the footage that your team had been collecting?

15 CMDR POST: There was one point, after we'd moved onto *ADV Reliant* around 4 August, we had a number of people come on board, and I believe there was a QPS Officer and DFSB personnel present, and we viewed – it wasn't on the 4th – it might've been the 5th – but we viewed some of that ROV footage that we had from HMAS *Huon*, and we tried to identify the possible locations of any HR or sensitive items that were down there, to get a better feel for what we were looking at.

20 So I can't recall exactly who was there, but it was – would've been likely that the DFSB personnel were on board that day. Whether they were in the room when we went through the footage or not, I can't tell you.

25 FLTLT ROSE: Was there any reluctance from your team, or in fact from Headquarters, about sharing the location of items you'd found or, in fact, footage, that you had obtained showing debris or human remains?

30 CMDR POST: Not officially. As in, we're not officially sharing that information. We're happy to pass that information on, but we were acutely aware of the media frenzy that was occurring over the incident, and if we started releasing footage of underwater vehicles to every person that asked for it, it would've been front-page news straightaway. So we did hold on to that quite tightly. But it did feed our prime focus, which was the undersea search and rescue and recovery effort.

35 Since no one else was actually conducting the diving on – [REDACTED] [REDACTED] – or USV (sic) operations – ROV operations, sorry, on the wreckage itself, there was no need to share those particular things with anyone else. It was feeding our planning, mostly.

40 FLTLT ROSE: So there was a concern in your mind that if you shared information about the footage, specifically with QPS, that somehow that would make it to the media?

45 CMDR POST: Releasing it rather than showing. So showing's one thing, but releasing it in a digital form or a photograph is something else.

FLTLT ROSE: I understand.

5 CMDR POST: So we were informed – I can't remember who told me to, but at the time it was, "No imagery, no photographs". It was all to be held and not released, basically, to the broader community, until it was cleared.

10 FLTLT ROSE: Someone within your ADF chain of command gave that Direction not to release - - -

15 CMDR POST: The imagery piece, yes. So it was – there was definitely commentary from day one. Probably, most likely, my first brief with CAPT Hay was about media coverage. That's always a major topic of initial handovers and briefs.

20 FLTLT ROSE: At paragraph 31 of your statement – and this is in relation to the diving operations on 31 July – you state that the divers were able to make the main rotor assembly with the datum line and float, which was used as a reference point for further diving operations. What is a datum line and a float?

25 CMDR POST: So the first dive was a reconnaissance dive of the subsea conditions of what the – what it was like when you leave the surface, what it's like on the seabed, so that we can make an assessment and tailor our diving accordingly. The second dive was onto the largest piece of wreckage, which we assumed was the main rotor assembly because of the imagery that we had of it.

30 And what we did, to make it easier than – because of the – because of the subsurface conditions, when you left the surface, you were being moved quite a lot through the water column. You didn't just go straight down.

35 And what that meant was that, from the minute you leave the surface to get to – getting to the [REDACTED] metres depth takes around about two metres. And, if you're moving at two or three knots in any direction, you could be a hundred metres off your contact when you get to the seabed.

40 Now, that's particularly challenging when you've got half a metre to two metres of visibility. You can't just find it a hundred metres away. Plus, it uses up valuable bottom time. So what we do is, on that second dive we placed a rope, which is a datum, or a datum line as we call it, and attached it to the main rotor head, and then we run that to the surface with a float. And what means is that, when we put the divers in the water, they

basically hold onto that line, follow it down, and then they're at a determined reference point where they can start their dive from.

5 FLTLT ROSE: Okay. When you were talking about the componentry of the MRH-90, was there someone advising you, next to the divers, that was able to identify these particular parts of MRH for you, or was that something that you and your team had specific expertise in yourselves?

10 CMDR POST: So identifying them visually, a helicopter is a helicopter. We've worked with them. We've got the experience. We've served in the military. Many of us have flown on them. So identifying parts – larger parts were quite obvious. The smaller parts, you know, obviously that would take an expert to actually identify those. At one point we took the footage that we had, when we were on the *Adelaide*, to some of the aircraft maintainers that we knew on board there, and they were able to identify some of the comms boxes and items that we'd thought were potentially the flight recorder or something like that, so that we could narrow it down.

20 But as for who was the authority to say that it was the aircraft, it was an aircraft, and it matched the physical description of what aircraft we knew it was.

25 FLTLT ROSE: In paragraph 32 you said that QPS divers were also in the water with you, as you stated before, and that the first face to face between your Clearance Divers and the QPS divers was on a QPS dive tender or catamaran?

30 CMDR POST: Yes.

FLTLT ROSE: Were you involved in the discussions between the two sets of divers and the parameters for which they could operate?

35 CMDR POST: No, I wasn't there, personally. I was still on the *Miguel Keith* at that point. The divers on site – the supervisor would've been the Lieutenant and probably the Chief, and a Petty Officer would've been there for that discussion. And it was – as I mentioned a little earlier, it was purely that coordination piece of how they were going to go about the diving, what their capabilities and limitations were, and figuring out, yes, how they were going to get after the diving component of the operation.

40 FLTLT ROSE: How deep can the Clearance Divers dive?

CMDR POST: So there's – the QPS divers could only do 30 metres. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] It was deemed that that was the best
5 equipment to use for that dive, and that allowed us the most bottom time,
the most – the minimal decompression schedule that we could, and also
it's the most simple equipment that we have to dive with.

The other equipment that we thought we'd need to use we had with us, but
10 it's quite a complex set. And on previous recovery sort of efforts – like
the Osprey incident that occurred a couple of years ago, we had a couple
of learning points out of that, that that's not the ideal set to be doing these
sorts of recovery operations and searches because of the complexity of it,
and the build-up of carbon dioxide in the set. [REDACTED]

15 [REDACTED]

FLTLT ROSE: In terms of the procedures that you discussed, or your
teams, Petty Officers and Clearance Divers, discussed with the QPS
divers, what was decided about the handling of human remains?

20

CMDR POST: So the discussion centred around the continuity of
evidence between when we picked anything up off the seabed and brought
it up. Now, our diving profile required us to do about 15 minutes of
decompression in water, so that meant that you needed to do a stop at
25 six metres, and another one at three metres, and just sit there and wait.
Now, the risk of dropping something, or it being damaged or disturbed by
the surface conditions, was real. So the decision that was made was to
have the QPS divers enter the water once our divers reached the first stop.

30 FLTLT ROSE: At six metres?

CMDR POST: At the six-metre stop, and they would come down and
take carriage of any human remains, or equipment, or debris that we had
recovered in that dive. And we had a series of signals that we could send
35 to the surface to indicate what we had, whether it was human remains or
just other items. And then they would, yes, send their diver down and
come up, and it would go straight onto the police vessel and it wouldn't
come back to the Australian diving vessels.

40 FLTLT ROSE: In addition to human remains, debris, equipment that
you've mentioned, you also refer to something called "sensitive items" in
your statement.

CMDR POST: Yes.

45

FLTLT ROSE: What do you mean by that?

5 CMDR POST: So we had a sensitive items list, which included things like cryptographic material, things that hold a higher classification nature that we just don't want them just being – they're controlled items, basically. Things that we hold onto. That included comms gear, weapons systems, and anything along those sorts of lines. Yes.

10 MS McMURDO: Did it include the flight data retrieval?

CMDR POST: Sorry, ma'am?

MS McMURDO: The flight data recovery?

15 CMDR POST: Yes, the flight data recorder was definitely on that list, but that was a separate list to the primary – sorry, the Defence sensitive items, if you know what I mean. The weapons systems, cryptographic material, was one thing that we needed to control. We needed to bring that back onto *Reliant* and hold it as the ADF, not hand it to the QPS, whereas the
20 flight data recorder was on the highly important list of items that would be most valuable for the investigation process. So that was when it was brought up, it was handed straight to QPS for that.

25 FLTLT ROSE: Were QPS aware that there was a sensitive items list, and had they viewed it, and did they agree that they did not need to record it alongside other items recovered?

30 CMDR POST: I don't know if it was officially discussed. However, my understanding was that the carriage of any of those items were the chain of evidence was coming back to the ADV *Reliant*.

FLTLT ROSE: Had your Clearance Diving Team had any training during your career on the recovery of human remains?

35 CMDR POST: We don't do formal training specifically on the recovery of human remains. It was something that was in the program many years ago. However, it was – that practice stopped, where we used to do morgue visits and so forth. But we found that that was doing more
40 damage than it was good. The actual practice of human remains recovery is not something we practice or train directly.

MS McMURDO: Could I just ask, did you communicate with the QPS divers about the high security items that you were not going to be handing over to them? Did you explain that to them?

45

CMDR POST: We explained that we would hand the human remains to them, yes.

5 MS McMURDO: The high security items.

CMDR POST: The high security items.

MS McMURDO: The high classification items.

10 CMDR POST: I don't know what the discussion was with QPS directly, but the understanding between them and us was that we would recover and maintain carriage of those. I don't think they wanted to have carriage of those, noting the sensitivity of them.

15 MS McMURDO: So as far as you know, that was an amicable arrangement that you made with QPS?

CMDR POST: That's correct.

20 MS McMURDO: That they accepted without any tension at all?

CMDR POST: Yes, I don't recall any formal process stating that we were going to retain those.

25 MS McMURDO: No, but you don't recall any tension between QPS and your team – the QPS divers and your team over that?

CMDR POST: I believe they discussed it on site, so I would have that discussion with them.

30 MS McMURDO: Well, it never – if there was any tension, it didn't come – you didn't hear about it. Is that the story?

CMDR POST: No, that's correct. Yes.

35 MS McMURDO: Okay. Thank you.

40 FLTLT ROSE: Noting the evidence you just gave about your team not having had any specific training around the recovery of human remains, did your team get a briefing from the QPS divers about safe handling and custody issues?

45 CMDR POST: I recall my team talking to me about discussions around – the discussions they'd had with the QPS team about their experience in handling human remains, and therefore our team received, if you like, an

on-the-job quick – what we call a soldier’s five, a quick training session on the correct procedures and handling of it, so that we didn’t interrupt the chain of evidence, and it could be passed to them in the correct way.

5 FLTLT ROSE: You mentioned before the items on the list, the list of sensitive items. Were any such items recovered from the dive?

CMDR POST: Yes, absolutely. We recovered, from what I can tell, probably over 75 per cent of the sensitive items. I’m not sure what was
10 recovered after we left with the civilian dive salvage company, but our – I think we recovered 12 or so of the 17 or 18 items.

FLTLT ROSE: Do you know where those items ultimately were taken to, their final destination?

15 CMDR POST: They were initially brought back onto *ADV Reliant*, where they were catalogued and logged, if you like, and then they were stored until we handed them to JTF1116 when we handed the main debris over at the end as well at Shute Harbour. I’m not sure where they went
20 from there.

FLTLT ROSE: At paragraph 36 you state that:

25 *The Huon finished mapping the seabed on 31 July, and identified a debris field that was approximately 100 metres wide and 300 metres long.*

Did you obtain or recover any human remains that day?

30 CMDR POST: No, we did not recover any human remains that day. That was 31 July. We didn’t recover any human remains prior to the 7th.

FLTLT ROSE: 7 August?

35 CMDR POST: Of August, yes.

FLTLT ROSE: On 1 August – this is at paragraph 37 – your team continued ROV and diving operations, and that you were able to mark other large pieces of wreckage, but then you suspended all diving
40 operations that afternoon. Why is that?

CMDR POST: The weather conditions were not conducive to diving operations. It was placing our divers at risk, putting them in the water in those conditions. It was outside of our safety limits, and it was just the
45 risk versus reward was just not there at that point.

FLTLT ROSE: So how many diving runs – I’m not sure if that’s the correct term – were you able to complete on 31 July?

5 CMDR POST: I’d have to get back to you with the actual details, but I believe that we got a full set of diving in. It was that evening that it sort of – the weather really came in and we stopped diving. So it would’ve been – six dives would’ve been conducted that day.

10 FLTLT ROSE: Then at paragraph 38 you said that:

The Huon suffered a major defect on her ROV during a run on the main rotor assembly that night.

15 That’s being 1 August. Did that mean that the *Huon* actually had to stop its ROV runs from that point?

20 CMDR POST: Yes, that’s correct. Unfortunately, due to the number of snag hazards that were down on the seabed from the wreckage, when *Huon* was running their ROV in and around of wreckage, with the amount of surge and swell and currents on the seabed, the vehicle got effectively caught up with its tether on some of the sharp hazards that were down there, and it damaged one of the main control boxes on the ship itself, which led to a defect which actually put both of their ROVs out of action at that point in time. Which kind of reinforces the conditions that they were facing on the seabed and why it was totally unsuitable for diving operations at that time.

30 Unfortunately, those defects couldn’t be rectified until *Huon* went back in alongside into Mackay, I think around about 6 August. So we didn’t get any more ROV runs for a few days.

35 FLTLT ROSE: You’ve mentioned the diving conditions quite a number of times. At paragraph 21 of your statement, you state that the subsurface diving conditions during that recovery operation were the worst your divers had ever experienced.

40 CMDR POST: Yes, that’s correct. We had a mixture of divers from some of our most senior divers in the branch to a couple of people that were straight off their diving course, and the most senior members of our team were very clear in saying that it was the worst conditions that they’d ever dived in, and that means a lot when it comes from those experienced divers.

5 FLTLT ROSE: Some of the difficult conditions you list at paragraph 22,
that the currents were between one knot and three knots, visibility was
from 0.5 metres to two metres with silt stirred up at 30 metres. Divers
relied on hand-held sonars to navigate the wreckage. It was difficult to
maintain situational awareness and because of the depth – it was at [REDACTED]
[REDACTED] at the seabed – they had to tie on to the bottom – or being able
to tie on to the bottom was limited to 10 minutes per dive, which as you
said before, required then an additional 15 minutes of in-water safety stops
at two different intervals before they could surface.

10 CMDR POST: That's right.

15 FLTLT ROSE: You've mentioned some underwater hazards from the
wreckage, including sharp carbon fibre shards protruding six metres up
from the seabed.

20 CMDR POST: That's right. The main road ahead posed the biggest
concern for snags and stab hazards and cut hazards, abrasions,
entanglement and so forth. Our divers have a float line to the surface so
we can monitor where they are. But also, we would send divers down in
pairs so that if the lead diver was in trying to find something or having a
look in and around an area and gets tangled, then the second diver who's
attached to them could go in and untangle them, effectively, and get them
out of the wreckage itself.

25 The conditions were, to say the least, atrocious. They were – on the
surface you were bouncing around with the sea state and the swell. Just
below the surface, it was just a churn of white water. You couldn't really
do much until you sort of proceeded below that, and you started getting
30 affected by different tidal streams as you went through different layers.

35 But when you hit that 30-metre mark, it was like someone turned the
lights out. So the only visual reference you had was the visibility which
could have been between half a metre for the first couple of weeks until,
maybe right towards the end of our diving periods, where you could see
up to two metres under water.

40 When you were in and around hazards which were sticking upwards of
about six metres from the seabed and they are basically a rotor blade
which has been splayed open like a fan and every one of those is razor
sharp, it's quite difficult to come down onto a wreckage that's like that.

45 So, yes, to say it was dangerous, it was challenging, it was definitely some
of the most technical diving that our guys have done, with the added risks
associated with everything that was there was terrible.

FLTLT ROSE: You also said at paragraph 22(e) that your divers had a real fear of unexpectedly being confronted by human remains without warning?

5

CMDR POST: That's true. Whilst you had a hand-held sonar with a display on it, which gave you a bit of a better idea of what was ahead and around you, it produced a light as well so you had a little bit of light down there. But it was being reflected off all the silt and sediment. The first time you would see something was when it was about this far away from you.

10

So I guess the discussions that I've had with a number of the team that were diving have been around the innate fear, not a present fear that's going to stop you from moving forward. But just in the back of your mind you're always cautious that when you turn that seat over or when you turn that piece of metal over or you come around a corner into a – around an object, that there's going to be something there that is going to be – it's going to challenge you, I guess, yes.

15

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FLTLT ROSE: For the benefit of the transcript, the witness held his hands about 30 centimetres in front of his face when he was measuring the distance for what the divers could see in front of them. At paragraph 39, you state there was a Direction given to cease search and rescue operations and transition to recovery operations. Who gave that Direction?

25

CMDR POST: I don't recall if it was CJOPS or if it was MAROPS. However, it was directed via, I believe, the internal Signal messaging system. I believe it was also publicly announced by the Exercise Director, noting that the time that had elapsed, it had been – an assumption had been made that there was no rescue to be had and the evidence – the information that we had from our searches indicated that it was now shifting more to recovery of remains, rather than searching for anyone that had survived.

30

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FLTLT ROSE: Do you remember what date that was?

CMDR POST: I don't recall exactly. It may be in my statement.

40

FLTLT ROSE: It's not exclusively in your statement. It seems to be that it may have been early 1 or 2 August.

CMDR POST: That sounds about right, yes. It would have been 72 to 96 hours after the initial incident, I would say.

45

5 FLTLT ROSE: At paragraph 40 you state that your team relocated from the *Miguel Keith* to the HMAS *Adelaide* on 2 August. Then at paragraph 41 – is that correct, sorry?

CMDR POST: That's correct, yes.

10 FLTLT ROSE: At paragraph 41, on 3 August the *Huon* managed to launch a small boat. Were they able to conduct any operations on 3 August?

15 CMDR POST: They were right on the limits of launching any small craft in the area due to the sea state, which is why we couldn't do any diving operations at that period. But we had just received the information that we'd requested about the flight recorders locating beacon which sends out a frequency that we can hear with our hand-held sonars and, as a result, we knew that it was making a – it was still sending its signal underwater because we listened [REDACTED] on HMAS *Huon*, and we could hear the signal.

20 So we made the call that if it was safe to launch a seaboat, they would. They launched a seaboat and lowered the hand-held sonar over the side of the seaboat and they could triangulate basically the location of the cockpit voice recorder. As a result, we narrowed it down to be almost directly in and around the main rotor head assembly. But there was no diving operations or any other ROV operations conducted that day.

25 FLTLT ROSE: You state that on 3 August GPCAPT Jason Pont arrived at the Whitsundays that day.

30 CMDR POST: That's correct, yes.

FLTLT ROSE: What was his role?

35 CMDR POST: He was going to take over as the Commander of Joint Task Force 1116.

40 FLTLT ROSE: In terms of the Command structure of the recovery operation, at paragraph 17 you provided an org chart setting out the Command structure for the Clearance Divers who are part of this Joint Task Force that was working on the recovery efforts. If that could be put on the screen. I have a laser pointer which may or may not work. So you've got the JTF1116 you just mentioned.

45 CMDR POST: Yes.

FLTLT ROSE: You've referred to CJOPS before in your evidence. Can you just explain or give the full title for CJOPS?

5 CMDR POST: Commander of Joint Operations.

FLTLT ROSE: And was CJOPS in Canberra?

CMDR POST: Yes.

10

FLTLT ROSE: And then you've got DGMAROPS?

CMDR POST: Yes. Director-General of Maritime Operations, who was Commander – I've lost his name – yes, Director-General MAROPS at the time. Yes.

15

FLTLT ROSE: In Canberra as well?

CMDR POST: Yes, he is.

20

FLTLT ROSE: Then MCDTG?

CMDR POST: That's me. That's Mine Warfare and Clearance Diving Task Group.

25

FLTLT ROSE: And you were the Commander – the OC, the Commanding Officer?

CMDR POST: I was the Commander of that element at the time, and currently am.

30

FLTLT ROSE: So then there's a dash line between you and the JTF. Why is there a dash line, and what does that mean?

CMDR POST: The dash line is like an associated line. We are not directly under Operational Command, but we operate together, to achieve what we need to. So we've got a direct link in. But the JTF Commander can't directly command and control our elements without going through the operational chain of command which is the solid lines on the diagram.

35
40

FLTLT ROSE: Did that have any practical limitations when you were in the field?

CMDR POST: Not really. Because the dotted line creates an open dialogue between myself and GPCAPT Pont who was CJTF1116 at the

45

time. And whilst – if he wants to re-task us into doing something else, he would need to go through the official channels. We were communicating so regularly that we were both heading towards the same goal. We were both trying to achieve the same thing. So the discussions – when we
5 needed QPS or one of the organisations that worked for him directly, we would request them through him, and then he would assign them appropriately to come and be on the scene when we were conducting our diving or recovery operations.

10 FLTLT ROSE: And then under you, you have the ADV *Reliant*?

CMDR POST: Yes.

15 FLTLT ROSE: So that's Australian Defence Vessel *Reliant*?

CMDR POST: That's correct. That was the vessel that we'd moved to from *Adelaide*, and that was basically just the ship, and the crew that were on there, Headquarters and everyone, but also the craning operations and trained drivers on there.

20 FLTLT ROSE: So the ADV *Reliant* is a large enough vessel for you to live and work on?

CMDR POST: Yes, it is. It's an oil rig tender-style vessel. So it's got a large crane in – crane on the back. It's got a large deck area where you can place things and operate off. It's also got large accommodation spaces and crewing, messing, accommodation for it.

25 FLTLT ROSE: And then - - -

30 CMDR POST: And an Operations Room, and things like that, as well.

FLTLT ROSE: Sorry. You have mentioned when HMAS *Huon* previously was under your command, there was an issue with the ROV, so
35 it went back to port to have that fixed. Is that right?

CMDR POST: They did. They only had a short port visit to basically restock their food and supplies because they'd been re-tasked from TALISMAN SABRE, and to get that defect rectified on their ROVs. But
40 they were with us the rest of the time, yes.

FLTLT ROSE: And then, of course, your own Clearance Divers?

CMDR POST: And then, yes, the diver team that was on board.

45

FLTLT ROSE: At paragraph 19 you state that the JTF was established on 4 August; is that - - -

5 CMDR POST: That's my understanding. Although GPCAPT Pont arrived on the 3rd, the official handover was on the 4th, when *Adelaide* departed for follow-on taskings that they had. At which time, yes, GPCAPT Pont took control of the recovery operation.

10 FLTLT ROSE: At paragraph 15 you set out your initial responsibilities in the early days of the recovery, which was prior to the JTF being set up, and then you state that it was redefined once the JTF was stood up. In practical effect, what changes did having the JTF in place mean for you and your team?

15 CMDR POST: It really – practically, it just meant a different reporting chain of command. Whilst our chain of command was still through DGMAROPS, we now had that liaison piece. Rather than going through AAF, we were going through JTF1116. Practically, that was really the biggest change.

20 FLTLT ROSE: And was it the case, at any rate, there was no diving operations during those - - -

25 CMDR POST: I'm sorry, say again.

FLTLT ROSE: There were no diving operations during those early days of August?

30 CMDR POST: Not during the handover period, no, because of the weather.

35 FLTLT ROSE: At paragraph 16, you state that on 4 August a selected team of personnel relocated to the ADV *Reliant* as, you said before, the HMAS *Adelaide* departed the area. So I take it that you remained on the ADV *Reliant*?

40 CMDR POST: We transitioned to the ADV *Reliant* on the 4th as well. So we got off *Adelaide* with our equipment, because we were on *Miguel Keith* when we arrived. However, *Miguel Keith*, being a US warship, had other taskings that it needed to get to. So we took advantage of that poor weather window to move a smaller team, a more bespoke team, that was more suitable for the ongoing recovery efforts, move them onto *Adelaide* while we waited for *Reliant* to come down from their taskings up north. They arrived on the 4th, at which time myself and
45 my team of the divers and Headquarters staff moved onto *Reliant*.

FLTLT ROSE: Were you aware of the role of the Coroner in the recovery efforts?

5 CMDR POST: No, I didn't have anything to do with that. My understanding was it was all through JTF1116.

FLTLT ROSE: So did you have any awareness that the QPS were investigating on behalf of the Coroner?

10

CMDR POST: I was unaware.

FLTLT ROSE: At paragraph 19 you state that on this 4 August, when your team moved over to the ADV *Reliant*, the JTF became the single point of contact for all of you, and acted as the conduit to all the other supporting agencies, including the QPS and the DFSB?

15

CMDR POST: Yes, that's correct.

20 FLTLT ROSE: And then the JTF started coordinating all the various ADF assets in the area?

CMDR POST: That's correct. Except for HMAS *Huon*, and ourselves, who were conducting the underwater salvage/recovery effort.

25

FLTLT ROSE: What did you understand the DFSB's role to be, in the recovery operation?

CMDR POST: Sorry, say again.

30

FLTLT ROSE: What did you understand the DFSB's role to be, in the recovery operation?

CMDR POST: DFSB were the primary investigators of why the crash occurred. That was my understanding. Which meant that they were looking for as much supporting evidence to indicate why the incident occurred. And through the few discussions that I had with them when they came on board *Reliant*, their focus was around preserving the evidence that we – the evidence, the debris, that we had recovered, so that it wasn't further degrading, with the salt water and so forth.

35

40

So they made sure, as soon as we recovered any large items, that the debris was maintained the best it could, so that they could piece together, basically, what the – what had occurred and why.

45

FLTLT ROSE: Did you feel any pressure from the DFSB to prioritise your efforts into the recovery of items, like the flight data recorder or the cockpit voice recorder, above the recovery of human remains?

5 CMDR POST: I wouldn't say that I felt any pressure, but I could tell that that the voice recorder was – the black box was the most important thing that we needed to recover, from their perspective. I didn't feel like we were pressured to focus on getting that. But we had a list of items that they would – that they really would've preferred us to recover, if we
10 could, and that included the main engine and gear box, the tail rotor assembly, the rear stabiliser fin, and those sort of items. But I didn't feel direct pressure from it, no.

15 FLTLT ROSE: Were you able to recover most of the items on the DFSB's high priority list, for want of a better word?

CMDR POST: Yes. We recovered a lot of smaller items, debris, whether they were little console boxes or displays, and things like that, from the cockpit. Items of opportunity, really, as we were swimming – or diving
20 on the seabed, if you came across something that would fit in your bag, you'd grab it and you'd put it in because you don't know if you'd be able to find it again.

25 And with the seabed being churned up by the sediment, I think the smaller items that we saw day one diving, they weren't there anymore and they were probably just covered in sediment. So the idea was if you saw something of value, grab it and bring it up and we'll figure out what it is later.

30 But when it came to recovering the larger items, we recovered the main rotor head and gearbox, two main engines and a couple of other items. We probably got – I don't know, maybe out of the top five items, we probably got three or four of them off their list. There was a couple of things that we were aware of but we just couldn't find them.

35 FLTLT ROSE: In your statement you set out that you didn't do any diving on 4 August or 5 or 6 August. Was that due to the continued poor weather conditions?

40 CMDR POST: That's correct, yes. The weather was very persistent at that time.

FLTLT ROSE: Then at paragraph 48 you state that:

The Clearance Divers' supervisors reviewed all the available imagery on 5 August that was gathered from the divers and the ROVs.

5 CMDR POST: That's right. We spent – we made the most out of the
time when we weren't diving to go through any footage, any hand-held
sonar imagery, any ROV footage from *Huon* in detail over and over again
to try and identify any items of HR or organic material that we could find,
10 so that we could really focus our effort to dive straight down on those in
the first opportunity we had to get back in the water.

FLTLT ROSE: Was it on 5 August that you showed – you gave evidence
before that you did show some footage to QPS and the DFSB staff.

15 CMDR POST: I believe QPS was there. I'm not sure if it was a DFSB
team. There was, I think, a DVI team, the Disaster Victims Identification
Unit. I think they were the primary audience for that viewing, if you want
to call it that, primarily because we wanted to have them confirm what we
thought we were seeing when it came to human remains.

20 FLTLT ROSE: At paragraph 49 you state that you recommenced diving
operations on 7 August.

CMDR POST: That's correct.

25 FLTLT ROSE: And that you recovered some items that day, including
the cockpit voice data recorder.

CMDR POST: That's correct. The voice data recorder was recovered on
30 the first dive of that day and I won't say that that was our intent to go and
get it directly, but we kind of came over it by chance as we were
swimming towards the points of HR that we were going to investigate. As
we were diving along, the first diver swam over the top of it and the
buddy diver pulled up the lead diver and said, "Hey, I think that's it".
35 And that's how we came across it.

We did intend to use our hand-held sonars to really zero in on it
throughout that day but our primary focus for that dive was to recover HR.

40 FLTLT ROSE: Human remains?

CMDR POST: Correct.

FLTLT ROSE: Did you recover some human remains that day?

45

CMDR POST: We did, yes. The first human remains we recovered was in the third dive of that day.

5 FLTLT ROSE: I'm going to hand you a document. You provided this document to the Inquiry at the same time you provided your statement. Can you please confirm what that image is of?

10 CMDR POST: So this image is of a mud map or a concept of what the seabed looks like to the divers. This mud map was created by the supervisors of the diving team, based on basically many hours of watching back all that footage and trying to figure out where things were in relation to other things. So it's not perfect, but it is what we were using as our primary point of reference for every dive before we went down.

15 FLTLT ROSE: I tender that document.

MS McMURDO: Exhibit 30.

20 **#EXHIBIT 30 - MUD MAP OF SEABED**

25 FLTLT ROSE: Could I ask that that document be shown on screen, so I can see there was some alterations or some overlay that has been made to this – in post?

There's red lines and wordings. Is that annotations that you've made?

30 CMDR POST: That's correct. I've added those to the photograph. The photograph is of a whiteboard that we had on the vessel at the time, which is what we used for briefings. As I was reviewing it, to make it clearer where the human remains were identified, I've added some overlays.

35 FLTLT ROSE: So the main rotor gearbox that you're referring to, there is an image in the top left where my pointer is.

CMDR POST: Yes.

40 FLTLT ROSE: Is that where it was on the seabed in relation to the black beam?

CMDR POST: Very close to it, yes.

45 FLTLT ROSE: So if we start in the middle, we've got a black beam and a black pole, some parts scattered around with some wires and more parts.

What does that “20 something else ??” - - -

CMDR POST: That’s about a 20-metre swim across the seabed to more debris bags/boxes.

5

FLTLT ROSE: What’s this item, this rectangle?

CMDR POST: It could be a large beam or something like that. It’s unknown exactly what it was.

10

FLTLT ROSE: Then if we go to the right, what’s “LJ”?

CMDR POST: Life jacket and a 9-millimetre pistol in the vicinity of the life jacket.

15

FLTLT ROSE: Then you have a box, a seat, an M4?

CMDR POST: M4 is a rifle, a military rifle.

20

FLTLT ROSE: Some wires, a seat, and a life jacket.

CMDR POST: Yes.

FLTLT ROSE: And some wires, and HR.

25

CMDR POST: Human remains.

FLTLT ROSE: So you’ve annotated here in the red, with the circles:

30

Locations of human remains identified and video but no longer present at the time of dive.

CMDR POST: That’s correct. The follow-on dives that we did, we went to those locations where we had identified the potential for human remains to be while we were watching back that initial footage and video that we had, and the DVI personnel also confirmed that that was most likely human remains. Then when we got back to it on the seventh and eighth subsequent dives, we turned the seat over but at that point there was no longer any indication of human remains in those locations.

40

FLTLT ROSE: But you were able to recover the human remains that were near the black box?

CMDR POST: That one were the X is, that’s correct. That was the one that was recovered on the third dive, and that was the boot.

45

FLTLT ROSE: I take it that you handed those human remains over to the QPS?

5 CMDR POST: That's correct. They were on site during that dive, yes.

FLTLT ROSE: That image could be taken down.

10 MS McMURDO: So on the first dive when the flight data recorder was recovered, no human remains were recovered?

CMDR POST: Not during that first dive.

15 MS McMURDO: Not the first dive.

CMDR POST: It was the first dive that the data recorder was recovered and some other small items.

20 MS McMURDO: Yes.

CMDR POST: But the third dive of that day.

25 MS McMURDO: So just concentrating on the first dive, do you know if any human remains were seen on that first dive and not recovered?

CMDR POST: I was not informed that any human remains were visually identified and, if they were, they would have been recovered at that time.

30 MS McMURDO: Okay. So as far as you know, there wouldn't have been any bypassing of human remains in preference to get the flight data recorder?

CMDR POST: They didn't – yes, they didn't deliberately pass any human remains to get the flight data recorder.

35 MS McMURDO: Thank you.

40 FLTLT ROSE: In that image you refer to some weapons. Is that part of the sensitive items list?

CMDR POST: Yes, they were on the list, yes.

45 FLTLT ROSE: Those are items that the ADF retained and did not hand over to the QPS?

CMDR POST: They were returned to ADV *Reliant* and then handed to JTF1116 once – in Shute Harbour later in the – just as we were about to depart.

5 FLTLT ROSE: But weapons would have been on the sensitive items list, I take it?

CMDR POST: They were, yes, by serial number, yes.

10 FLTLT ROSE: At paragraph 52 you state that the *Huon* returned to the area of operations and then recommenced its ROV runs after the defect was rectified and a number of items were moving along the seabed and beginning to break up.

15 CMDR POST: So the initial identification of the debris field by HMAS *Huon* of the seabed showed that we had a debris field of about 300 metres long by about 100 metres wide. When they came back after their defect rectifications, about 7 or 8 August, they did a full area search again to identify how much of the debris was moving around on the
20 seabed. At which time, we pretty much expanded the search area to now about a 500-metre length by about 80 metres. So those smaller items were moving around quite a lot. The smaller loose items were moving around, but also some of the larger items, like parts of the cab, were being affected by the undersea currents.

25 FLTLT ROSE: At paragraph 53 of your statement you said that:

30 *On 10 and 11 August, the main tail rotor and the gear box assembly were recovered to the Reliant and these were part of the high priority or critical list that the DFSB had identified.*

CMDR POST: That's right, yes. We lifted them from the seabed and brought them up onto the deck.

35 FLTLT ROSE: Do you know what happened to the debris after it was taken to the ADV *Reliant* in terms of who took possession of it? Was it QPS or was it DFSB?

40 CMDR POST: So DFSB came on board and assessed the items and made sure that we were maintaining them appropriately with, you know, washing them down and so forth and then covering them as well. So we were cautious of media attention, so we covered things with large tarps and so forth on the rear deck.

I don't know who took carriage of them off the vessel, but I know DFSB was definitely present in the breaking down of the larger items to get them ready for road transport.

5 FLTLT ROSE: On 12 August, at paragraph 54, you said you recovered the main rotor head, two engines and the main gearbox in one piece and the DFSB personnel investigated that debris and made recommendations on actions required to preserve it, as you've described, and then it was prepared for the road transport. Transport to where?

10 CMDR POST: I believe that it was heading to Proserpine once it was transported ashore. So we were – we, as in *ADV Reliant*, received a number of flat racks which were what they used for transporting on the back of trucks. So the idea was to break them down with appropriately qualified people to make them the right size that they could be moved by road transport because when they came up, they were a mess.

20 The rotors were sticking out in all different directions and you couldn't physically move that on the road. So I believe engineers came and removed the rotors and removed a lot of the wiring and so forth and made them ready for transport. So that was all handed over right towards the end, all in one lot. All the equipment went ashore.

25 But JTF1116 and DFSB were all present with the offloading, so I'm not sure where it went from there, but I was told that it was heading to Proserpine.

30 FLTLT ROSE: At paragraph 55 you advised – you personally advised DGMAROPS that it would take six months at your current rate of effort to recover the majority of the items on the seabed and you recommended that a civilian company should be considered as the long-term solution for the recovery of the salvage.

35 CMDR POST: That's correct, yes.

FLTLT ROSE: Had you had experience in recommending civilian salvage operations to take over from ADF operations in the past?

40 CMDR POST: I'm aware of what the capabilities of civilian companies are. I'm also aware that we only had 12 divers on our team and six on the *Huon* to conduct these recovery efforts. The risk that you go to, which increases, is with time, so we start getting fatigued if you're diving every day and you're doing decompression stops.

5 The risk versus reward becomes a little bit unjustifiable when you're getting only a 10-minute bottom time and you're really just conducting little circular searches hoping that you're going to find something else of value, if you're not doing big lifts on certain items. But we'd recovered sort of those main ticket items and as we were seeing the silt covering smaller items like, you know, weapons systems and things like that, we needed more specialist equipment that we don't have for things like sifting sand and basically breaking that bottom layer down and seeing if there's anything there as well.

10 So it was becoming – each dive would bring up a couple of items, but it was, you know, a war of diminishing returns at the end, when we were – some dives you'd come up with one or two little things. We'd recovered the majority of the things that we needed to recover and we came to the decision that anything else that we were really looking for has either been washed away with the current or it was starting to be covered.

FLTLT ROSE: In terms of the timeline, at paragraph 56 you said:

20 *On 13 August, the Huon recovered the horizontal stabiliser fin to the Reliant and then all diving operations ceased on 14 August.*

25 CMDR POST: That's right. We had – the stabiliser fin was actually much further away than the main rotor head assembly. *Huon* could easily identify it with their sonar again and then their divers recovered it and brought it back to *Reliant*. Diving ceased at the end of that day's operation, so that was the last day of diving.

30 FLTLT ROSE: Then, as you said, in one go, on 15 August, you removed all the items from the *Reliant* to onshore.

35 CMDR POST: Yes, it was over the two-day period where we were – we came into Shute Harbour. I think we had an LCM-8 which we transferred the flat racks onto, and they would shuffle them ashore. All the smaller items, including the weapons systems and sensitive items, went at the same time.

40 FLTLT ROSE: You then refer, at various stages in your statement, that the *Reliant* and the *Huon* and then another ADF vessel called the HMAS *Albany* remained on duty near the incident site up until 21 August?

45 CMDR POST: That's right. The *Reliant* departed first, leaving *Huon* to maintain an ADF presence over the site to make sure that there was no one coming in from other agencies or just to have that presence there on site.

5 They remained there for a few days before *Albany*, which was an Armidale-class patrol boat, came down and relieved them basically to take over those roles, but during that time, after we'd taken the equipment off in Shute Harbour and departed, there was no more diving or ROV operations occurring during that time. It was purely a team holding the site until the civilian diving company came.

10 FLTLT ROSE: So when you're saying the ADF didn't want any other agencies to enter the area of operations, did that include QPS?

CMDR POST: I might have misspoken saying "agencies". I meant any civilians that might have thought that they could go down and get a trophy or something like that, just to keep a presence in the area.

15 FLTLT ROSE: Then at paragraph 63 you say that you're aware that the ADF did in fact engage a civilian contracted diving or salvage company called the Pacific Marine Group to continue salvaging the remaining debris. Do you know when they commenced their operations or when they concluded them?

20 CMDR POST: I don't know the exact dates they commenced their operation, but it was approximately a month later, I believe. We did engage directly with them in the early days of the contract being created so that they could get a good idea of the extent of the debris field so they could quote appropriately, but that's kind of the extent of interaction we had with them.

25 FLTLT ROSE: Are you aware if they did recover any further human remains?

30 CMDR POST: I don't know the extent of their recovery. I asked a couple of times, but there was no reports at that point.

35 FLTLT ROSE: At paragraph 23 of your statement you said that your team achieved 10 days of diving operations, but there was the five-day pause in early August, and that that pause occurred at the most critical time in the operation, where the recovery of substantial human remains was the most favourable.

40 CMDR POST: That's right. It was extremely unfortunate that the weather closed in and didn't allow us to dive to do any sort of recovery operations during that five-day window that really is the most critical for recovery of human remains. Organic material doesn't last long underwater and we didn't recover anything in the first two days of diving and then the following week anything, from, you know, marine creatures

45

and so forth – it's terrible to think, but it's reality that after a week to two weeks there is nothing to recover – or very, very little to recover, should I say.

5 FLTLT ROSE: Paragraph 67, you mentioned the effect the operation has had on your team and that it's been varied amongst your team members. Can I take it from that statement that there have been some long-term effects on some of the members of your team from assisting in the operation?

10

CMDR POST: Everybody processes these sorts of incidents differently. Some it's just business as usual, it's just another job. And then other people it's – you get emotionally invested in what you're doing and what happened and, you know, the risks and the dangers of what we do every day turning up to work, that you might not come home. The Clearance Divers work in particularly hazardous environments, much like airmen that are flying around in the sky. So, yes, there is definitely some lasting effects that are going to be felt for many years to come. I wouldn't say that anything was so acute that it requires immediate special attention, but it's definitely in the back of my mind and something I'm tracking for my team, particularly into the future as well.

15

20 FLTLT ROSE: In your statement you state that as you:

25 *departed the area of operations, both physically and mentally exhausted, we collectively reflected on our efforts and hope that we had done enough to recover everything we could in spite of the challenging conditions that we faced.*

30 CMDR POST: That's right, yes. It was definitely a sombre moment sailing away from there and just hoping that everything that we'd done from day one was enough. You always wish you could do more, but it was what it was. It was a tragic, terrible incident and hopefully avoidable next time.

35

FLTLT ROSE: Those are my questions.

MS McMURDO: Thank you.

40 Could I just ask you one question? Paragraph 51 of your statement, CMDR Post, if you look towards the end of that paragraph, you say:

45 *The presence of human remains was identified in a number of personal items, such as on clothing and equipment that was recovered throughout the operation. Any identified human*

remains was immediately reported to the taskforce and transferred to QPS - - -

5 CMDR POST: Sorry, ma'am, I'm struggling to hear you a little bit. Sorry.

MS McMURDO: I'm just reading the last bit of that paragraph 51. See paragraph 51?

10 CMDR POST: Yes.

MS McMURDO: The last couple of sentences, and then up to the point where:

15 *Any identified human remains was immediately reported to the Joint Task Force and transferred to QPS or DFSB.*

I'm just wondering why human remains would have been transferred to DFSB?

20

CMDR POST: It might be just me misunderstanding who we were transferring it to. When we recovered some personal items that may have had presence of human remains on them, we had DFSB on board with us and made assessments to what they were. So I'm not sure who it was directly transferred to, whether it's QPS or DFSB.

25

MS McMURDO: I see. So you wouldn't have any record of what you might have transferred to DFSB in terms of human remains?

30 CMDR POST: I could check with our – I'll have to check our log of our evidence register to confirm that. I could take that on notice, ma'am.

MS McMURDO: Thanks very much. If you could do that and let the Inquiry know, that would be helpful.

35

CMDR POST: I will.

MS McMURDO: Thank you very much. Yes, any questions?

40 AVM HARLAND: Just reflecting on the recovery operation there. Are there any things that in hindsight or on reflection you would have done differently in terms of lessons for the future?

45 CMDR POST: We wrote a rather comprehensive post-activity report which addressed a lot of lessons learnt and things that we would try to

address. But I think, looking back, with the time and the equipment that we had, and the conditions that we were facing, we did everything in our power and we were 100 per cent focused the whole time. So I think – would I do it differently? I think I would do it the same.

5

AVM HARLAND: Thank you.

CMDR POST: Thank you.

10 MS McMURDO: Yes, applications for leave to cross-examine? Yes, LCDR Tyson.

<CROSS-EXAMINATION BY LCDR TYSON

15

LCDR TYSON: Commander, my name's LCDR Matthew Tyson. I represent the interests of one of the deceased aviators, CPL Alexander Naggs. So the main topic that I want to explore with you is some of the equipment and sensor suite that was used in the operation, and with a mind possibly to looking forward to reviewing the equipment that we have and whether recommendations need to be made about the equipment that we use.

20

25 But just before I come to that topic, sir, in your evidence just then you talked about a priority list and I think you said that there were five items on the priority list. And you said that a couple of items were not found. Can you remember what were the couple of priority items that were not found?

30

CMDR POST: There's only one that I can think of that wasn't recovered that we were looking specifically for, especially around the main cockpit debris, and that was the control lever, I believe it was called, or the pilot's control lever.

35

LCDR TYSON: Thanks, sir, that makes sense. So, sir, just then going back to – so in July 2023 HMAS *Huon* had two ROVs embarked. Is that right?

40

CMDR POST: That's right, yes.

LCDR TYSON: And the type, is that the Double Eagle?

CMDR POST: That's correct, yes.

45

LCDR TYSON: And that particular variant, that's been in RAN service for quite some time, hasn't it?

5 CMDR POST: Yes, it has, yes. Very reliable vehicle.

LCDR TYSON: Now, you've given some evidence that one of the features of that ROV is that it actually is tethered to the ship, isn't it?

10 CMDR POST: That's correct, yes.

LCDR TYSON: And that gives a vulnerability to snagging and that sort of thing, doesn't it?

15 CMDR POST: It does.

LCDR TYSON: That in fact happened in this operation?

CMDR POST: It did, yes.

20 LCDR TYSON: Both ROVs were snagged?

25 CMDR POST: No, one ROV was snagged, which sent a fault to the primary – one of the primary controllers on board the ship, which there is one of. So if we snagged a vehicle and the tether is severed or damaged, we can manually recover it by pulling it back in and then swap the tether and run the second vehicle. But in this case it was one of the control boxes or control modules that was – the fault occurred in, and that could only be replaced.

30 LCDR TYSON: And in terms of – you'd be familiar with the type of UAVs and ROVs that other peer Navies operate, would that be right?

CMDR POST: That's correct.

35 LCDR TYSON: Are there similar submersibles that other Navies operate that don't have the tether?

40 CMDR POST: Not that I'm aware of that have the real-time feedback. So you have the optical and your sonar imagery which you can control via a laptop or a control system, somehow. They are all tethered, which is – the grand problem of communications through water is real [REDACTED]

LCDR TYSON: [REDACTED]
[REDACTED]

5 CMDR POST: [REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
10 [REDACTED]
[REDACTED]
[REDACTED]

15 LCDR TYSON: [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

CMDR POST: [REDACTED]

20 LCDR TYSON: [REDACTED]
[REDACTED]

CMDR POST: [REDACTED]
[REDACTED]
25 [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

30 LCDR TYSON: [REDACTED]
[REDACTED]
[REDACTED]

CMDR POST: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
35 [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

40 LCDR TYSON: Just to understand the sequence, so on 30 July '23
HMAS *Huon*'s ROVs did some runs over the area of operations; is that
correct?

CMDR POST: Yes, they did.

45 LCDR TYSON: And then you explained, on 31 July – and I'll just
remind you, you said this in paragraph 30 of your statement:

5 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

You remember that evidence, sir?

10 CMDR POST: Yes, I do.

LCDR TYSON: [REDACTED]
[REDACTED]

15 CMDR POST: [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

20 LCDR TYSON: [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

25 CMDR POST: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

30 LCDR TYSON: But - - -

35 MS McMURDO: Lieutenant Commander, I don't want to interfere with your cross-examination, but I'll feel a lot more comfortable if I could just remind you about keeping in mind security clearances and so forth with the answers to your questions. I'm assuming that you are very cognisant of that, and that there's no issue, but I have to feel a bit more comfortable if I mention it, please. Sorry to interrupt.

40 LCDR TYSON: And I'm mindful of that as well, ma'am.

MS McMURDO: Thank you.

45 LCDR TYSON: A lot of this equipment is companies listed on, for example, stock exchanges in the US that are contractors and so forth.

MS McMURDO: Excellent. Well, that gives me some comfort.

LCDR TYSON: So I'm trying not to talk about equipment or features that are secret.

5

MS McMURDO: I understand. I just thought a reminder might be in place. Thank you.

LCDR TYSON: But thank you, ma'am, for that reminder.

10

Just in terms of the analytical side of things with the type of operations that were conducted on 30 July 2023, if you, for example, had to do a supplementary witness statement or make some recommendations, is there anything in that field of data analysis that you think that the RAN would benefit from having, or developing a better capability in that area?

15

CMDR POST: The purpose of exercises like TALISMAN SABRE and the mine warfare specific components are all about sharing that information, and learning from each other. It is something that we're working very heavily on to develop our own capabilities more in those areas, and the US that are leading – the US and the New Zealand guys that are leading experts in those areas. So we are developing those technologies, and – yes.

20

LCDR TYSON: One of the things that this Inquiry can do is make formal recommendations of things that need to be done in the future. Is that an area that the Inquiry should look at, in your view, or should consider looking at, or is it already in train?

25

CMDR POST: It wouldn't hurt to increase the awareness of the capabilities that other nations possess, especially in the ROVs [REDACTED] capabilities, and with the decommissioning of the minehunters in the next couple of years we lose that ROV capability that we need to develop further, we need to maintain for these sorts of activities.

30

35

MS McMURDO: If you'd had that additional capability that Lcdr Tyson has just talked to you about, would that have helped, or may it have helped you get more debris, find more human remains, in this case?

40

CMDR POST: Well, we had the other – we had the capabilities there with us initially. It probably would've helped us continue to map it throughout the operation better. But yes, if we lose those capabilities in Australia, then we – in the coming years, we need to have something to replace those.

45

MS McMURDO: Thank you.

5 LCDR TYSON: If that [REDACTED] hadn't been present on 31 July, would that have disadvantaged the operation, or led to at least some delay in it?

10 CMDR POST: We would've used other systems that we had available to us. So the US were there. They were the best at the time, so we used them. But if not, and we just had [REDACTED], we would've used those and we would've had a similar product.

15 LCDR TYSON: I mean, there are two sort of themes that come out of your statement. So one is the incredible professionalism of the divers in very challenging circumstances, but then there's this frustration with equipment failing. You've described the circumstances where the *Huon's* ROVs were out of action from 31 July until 9 August. Is that correct?

20 CMDR POST: When they came back on task, that would've been about right, yes.

25 LCDR TYSON: And the significance of that was that by the time they came back, the window for recovery of substantial human remains had effectively closed.

CMDR POST: That's right. However, with the *Huon's* vehicles, they couldn't have done any human remains recovery anyway.

30 LCDR TYSON: But they'd be useful for reconnaissance purposes, wouldn't they, to identify - - -

35 CMDR POST: To some extent, weather permitting as well. The weather at the time was just outside the limitations for operating those vehicles off the side of the ship. The ship's sitting there, pitching and rolling. It becomes quite dangerous. So whilst they probably could've got down for a couple of runs, that probably wouldn't have been every day.

40 LCDR TYSON: In your statement you talk about defects affecting the ROVs, and I think you've given some evidence about one of those defects. What was the other defect?

CMDR POST: Of the ROVs?

45 LCDR TYSON: Yes.

CMDR POST: It was the one, the control box for the ROV, was the major defect.

5 LCDR TYSON: Did that affect both of them, sir?

CMDR POST: It did, yes. Yes, so it's the control box which you plug the tethers into, which is on board the ship. So that was where the defect was.

10 LCDR TYSON: The fact that you had that same defect affecting two ROVs, does that suggest a problem with the ROV in terms of perhaps fitness for purpose or maintenance issues?

CMDR POST: I see it as a single point of failure for them, and that – it's not a spare that we carry on board, or that can be fixed on board.

15 LCDR TYSON: But it did coincide with a critical period in this search and recovery operation.

CMDR POST: Yes, it did.

20 LCDR TYSON: I think you also gave some evidence, sir, that you had some knowledge and involvement in the recovery of the US Marines Osprey. Is that right?

25 CMDR POST: No, I didn't personally, but there was a couple of people in our team that had been involved directly in the body recovery from the Osprey.

30 LCDR TYSON: And the *Huon* is, of course, one of, I think, three coastal minehunters that we have left in our fleet. Is that right?

CMDR POST: Correct.

35 LCDR TYSON: And they're all near the end of their service lives, aren't they?

CMDR POST: Sorry, I'll counter that with it was one of four. *Huon* was decommissioned two weeks ago.

40 LCDR TYSON: So we've got three left.

CMDR POST: Correct.

45 LCDR TYSON: Do they have valuable capabilities in terms of their sonar suite and so forth?

CMDR POST: Absolutely.

5 LCDR TYSON: When that class is entirely decommissioned we don't have a specialist minehunter that's going to replace them, do we?

CMDR POST: No, we do not.

10 LCDR TYSON: Looking back at – you may not have heard this evidence, but GPCAPT Pont gave some evidence before you gave evidence about the commercial ship *Emerald*, and a particular type of decompression chamber that was in that ship that can lead to sustained operations and also better medical treatment if necessary. Is that a capability that we have in the RAN, that type of decompression chamber?

15 CMDR POST: We have decompression chambers, and we do use them, but the kind of diving that's done on the commercial vessels is not something that we could sustain ourselves. What I mean by that is that their diving profiles have long periods of decompression in a dive chamber, whereas that, for us, is not sustainable. The more time you do, or require decompression, the higher risk to the diver, and whilst we can do it, we deliberately decided not to do surface decompression during this activity because it increases the risks of DCI to the divers.

25 LCDR TYSON: Stepping back from this, sir, and looking at our equipment, whether that's ships, sensors, ROVs, even I think you gave some evidence about a particular type of scuba equipment – for this type of search and recovery activity, are there improvements that the RAN should be looking at in terms of the equipment that we have if operations like this come to the fore in the years ahead?

30 CMDR POST: I think every kind of recovery operation is different. The Osprey was deeper than the [REDACTED], so their options were limited. They used the equipment that they had with them at the time. This operation was favourable for using scuba air, therefore there isn't really a one size fits all. Having better equipment is always something that everyone strives for. Is there one golden bullet for this? No, there isn't. It's going to be a pick what you've got, and is that safe to use to do the operation.

40 LCDR TYSON: I don't want to put you on the spot now, but if it's something that if you gave some thought to and reflection on, that you could prepare perhaps a supplementary witness statement that said some of these other types of, for example, ROVs are available in other Navies,

and if we had them that would enhance the search and recovery operations that we might need to do in years to come.

5 CMDR POST: I'll certainly give it some thought. Thank you.

LCDR TYSON: Thank you. They're my questions, ma'am.

10 MS McMURDO: Thanks, LCDR Tyson. Any other applications to cross-examine? Any re-examination?

<FURTHER EXAMINATION-IN-CHIEF BY FLTLT ROSE

15 FLTLT ROSE: Just one question. It's not necessarily re-examination. It's a question I did forget to put to the witness earlier.

MS McMURDO: Yes.

20 FLTLT ROSE: In the role that you were undertaking in terms of the recovery operations, do you think it would be beneficial to you and your team if there was a Memorandum of Understanding between the ADF and other agencies, such as the QPS, to differentiate the roles and make clear to everyone from the JTF down to the Troops who was to do what in this situation?

30 CMDR POST: An MOU definitely clears things up in that space so that you know what your left and right of arc is. What your tasks are versus what other agencies' tasks are. It definitely wouldn't hurt to have it.

FLTLT ROSE: Thank you. Nothing further.

35 MS McMURDO: Thank you. Thanks very much, CMDR Post. The Inquiry really appreciates your efforts in giving evidence today, and what must have been a very difficult period for you and your team, and we thank you for that.

CMDR POST: Thank you, ma'am.

40 **<WITNESS WITHDREW**

MS McMURDO: We'll adjourn now until perhaps 12.45. Yes, 1.45.

FLTLT ROSE: 1.45.

5 MS McMURDO: 1.45. Thank you, 1.45.

HEARING ADJOURNED

HEARING RESUMED

5 MS McMURDO: Yes, COL Streit.

5

COL STREIT: Thank you, Ms McMurdo. The next witness is D15. But before I call D15, can I indicate something for the assistance of the Inquiry and for Counsel at the Bar table? The Commonwealth has raised with me some matters in relation to some portions of D15's statement, and I have adopted a method to deal with those matters.

10

There are some portions of D15's statement that cannot be addressed in open hearing and can only be addressed, in terms of procedure, in a private hearing. When D15 is called, I will take him through his statement and identify those particular paragraphs. I'll be asking him to circle the number relevant to that particular paragraph or paragraphs, and I ask that Counsel at the Bar table do the same.

15

And I won't ask questions in relation to those paragraphs, but if any of the Counsel representing wish to, then they'll need to bring that to the attention of the Inquiry at the appropriate time so that steps can be taken to conduct a private hearing, which will require a short adjournment of the public hearing, to take the appropriate steps.

20

That's the first point. The second point is that steps have been taken to disconnect the visual stream insofar as it applies to this witness, and it's only the audio stream that will record this witness' evidence to members of the public hearing – the audio stream. And that has been conducted in accordance with your Direction number 5.

25

30

MS McMURDO: And, again, there's to be no filming or photography, or any images whatsoever, of him coming to or from the hearing room.

COL STREIT: That's correct, yes. Unless I can assist the Inquiry any further on those matters, I call D15.

35

<D15, Affirmed

40

<EXAMINATION-IN-CHIEF BY COL STREIT

COL STREIT: Thank you. Can I just ask you to first turnover the document that's in front of you.

45

Can I just ask you to first turn over the document that's in front of you and just tell me whether the pseudonym D15 is you, as recorded in that document?

5

D15: It is.

COL STREIT: Thank you. I will refer to you as D15 throughout my questions. Can I ask you to – no doubt you will be, but can I just remind you to be careful of your responses in terms of any security issues. If you are asked a question by me or by another Counsel, that you consider in giving your response would elevate the security classification of this hearing – which is at Official level – to another level, can you indicate that to the questioner, and steps will be taken for the hearing to be adjourned and a private hearing to commence.

10
15

D15: I will.

COL STREIT: Thank you.

20

MS McMURDO: That applies to any questions from the Air Vice-Marshal and me too. Thank you.

D15: Yes.

25

COL STREIT: First, can I begin by simply asking you, did you receive a section 23 Notice to appear here today?

D15: I did.

30

COL STREIT: When you received that Notice, did the Notice also require you to attend for an interview with a member of Counsel Assisting?

35

D15: It did.

COL STREIT: As a result of your interview with Counsel Assisting, was a statement prepared?

40

D15: It was.

COL STREIT: You ultimately settled your statement and signed it. Is that right?

45

D15: I did.

COL STREIT: Now, when the section 23 Notice was issued to you, did it also contain an extract of the Inquiry's Directions?

5 D15: It did.

COL STREIT: And a document called a Frequently Asked Questions Guide for Witnesses?

10 D15: Yes.

COL STREIT: Did it contain FLTLT Alexandra Rose's appointment as an Assistant IGADF?

15 D15: It did.

COL STREIT: Finally, but by no means last, was there a Privacy Notice, together with a section 23 documentation?

20 D15: Yes.

COL STREIT: Thank you. What I'm going to do now, D15, is provide you a copy of a document. I'll just ask you to take your time to go through it. Can I confirm with you that that document is a copy of your statement?

25

D15: Yes, it is.

COL STREIT: That's your statement for the purposes of these proceedings?

30

D15: Yes.

COL STREIT: Your statement is dated 7 June; is that correct?

35

D15: It is.

COL STREIT: Is it comprised of 24 pages?

40 D15: Yes.

COL STREIT: And a total of 173 paragraphs?

45 D15: Yes.

COL STREIT: Now, before I seek the tender of that statement, I'm going to ask you to do something with one of the pens that are in front of you on the table? There are some paragraphs I'm going to identify by number and, when I do so, I would ask you to draw a circle around the paragraph number. The reason I'm asking you to do that is because the contents in relation to that paragraph number, or the contents of the paragraph, are contents that, should you be asked questions about those matters, can only be addressed in a private hearing. Do you understand?

5
10 D15: I understand.

COL STREIT: So if, for some reason, I, or somebody else, inadvertently asks you a question in relation to those paragraphs, or any one of them, then can I ask you to alert the questioner to that fact, not answer the question, and steps will be taken to adjourn the hearing for a private hearing?

15
D15: Yes.

20 COL STREIT: Thank you. So let's begin. The first paragraph I asked you to identify and draw a circle around the paragraph number - - -

MS McMURDO: I might just put a limitation on that and say that "they may be of that category", rather than that "they are", because there hasn't been a detailed hearing on that.

25
COL STREIT: Yes.

MS McMURDO: So I think that would be safer to say, that "they may be".

30
COL STREIT: They may be. Yes, thank you, Ms McMurdo.

So the issue is this: that the contents of the paragraphs that I will draw to your attention may be of a classification that requires a private hearing and, out of abundance of caution, that is the course of action to occur should we need to ask you any questions about those matters. Is that clear?

35
40 D15: That's clear.

COL STREIT: Now, the first paragraph I ask you to draw a circle around the paragraph number is paragraph 23. Next is paragraph 24. Next is paragraph 56. Next is paragraph 102. Next is paragraph 103. Next is

paragraph 105. Next is paragraph 109. Next is paragraph 110. Next is paragraph 115. And, finally, paragraph 142. Thank you.

5 Before I tender that document, I will ask whether any Counsel representing seek for me to repeat the paragraphs? I will ask the Commonwealth's Counsel, have I missed anything? Thank you. Well, with those steps undertaken, I tender the statement.

10 MS McMURDO: Exhibit 31.

#EXHIBIT 31 - STATEMENT OF D15

15 COL STREIT: Thank you. That statement can remain before you, D15. Now, what I propose to do is to take you through your evidence chronologically and to draw your attention to certain parts of your statement and ask you a question in relation to a particular part, and that's how we'll proceed. If at any time you wish to have a break, that's
20 perfectly fine. Can you just indicate to the Inquiry Chair, Ms McMurdo, that you wish to have a break, and that will occur. All right. Can I begin by asking you about your qualifications, pilot training and posting history, which commences at paragraph 3 of your statement? So you enlisted in the Australian Army as a General Service Officer in 2015; is that correct?

25 D15: Correct.

COL STREIT: Is that straight from school?

30 D15: No.

COL STREIT: How old were you at the time, do you recall?

35 D15: I was 20 at the time.

COL STREIT: You enlisted under a pilot scheme; is that correct?

D15: Correct.

40 COL STREIT: So when you undertook General Officer training, it was you had it in your mind that you were – the next series of training that you were to be undertaking was pilot training. Is that right?

45 D15: That's correct.

COL STREIT: Is that what occurred?

D15: Yes.

5 COL STREIT: You completed 18 months at Duntroon?

D15: Correct.

10 COL STREIT: What happened following your 18 months at Duntroon?

D15: I posted to the Basic Flight Training School in Tamworth.

COL STREIT: That was for a period of 12 months, was it?

15 D15: That's correct.

COL STREIT: That's where you learnt to fly on what kind of aircraft?

D15: CT/4.

20 COL STREIT: That's a fixed-winged aircraft?

D15: That is.

25 COL STREIT: In 2017, you posted to the Helicopter Qualification Centre in Oakey for six months; is that right?

D15: That's correct.

30 COL STREIT: That was to complete a conversion course on the Kiowa helicopter.

D15: Correct.

35 COL STREIT: You remained in Oakey in a holding platoon for another six months after that; is that right?

D15: Yes.

40 COL STREIT: What was the reason to remain in the holding platoon for that period of time?

D15: Availability of course positions for Black Hawk.

COL STREIT: In paragraph 6 you say you have a total of 133.9 flying hours on the Kiowa, including 110.5 hours by day, 23.4 hours by night, of which 16.2 hours were on NVDs. Is that right?

5 D15: That's correct.

COL STREIT: When you say "NVDs", is that a reference to night-vision device?

10 D15: Yes, that is.

COL STREIT: Can you remember, it's a little while ago, I appreciate, but can you remember what type of NVDs you used in the Kiowa?

15 D15: They were ANVIS-9s.

COL STREIT: Did you continue to use that version or that type of NVDs on Black Hawk?

20 D15: Yes, I did.

COL STREIT: So in 2018 you posted to the 6 Aviation Regiment. That's right?

25 D15: Correct.

COL STREIT: That was into 171 Squadron, and you completed your six-month conversion course on Black Hawk.

30 D15: That's correct.

COL STREIT: Paragraph 8, you say you have a total of 206.6 flying hours on Black Hawk, including 158.2 hours by day, 48.4 hours by night, of which 41.3 hours were on NVDs. Is that correct?

35 D15: That's correct.

COL STREIT: You were a Category D pilot on Black Hawk and you never obtained a Special Operations Qualification on Black Hawk. Is that right?

40 D15: That's correct.

COL STREIT: You were an Aircraft Captain only on one Black Hawk flight, otherwise you flew as a co-pilot.

45

D15: Correct.

5 COL STREIT: At paragraph 9 of your statement you say at the end of 2019 you completed a four-month MRH-90 conversion course at Oakey. Is that right?

D15: That's correct.

10 COL STREIT: Undertaking the conversion course, that was just simply as a consequence of transitioning from Black Hawk to MRH-90?

D15: Yes, that's correct.

15 COL STREIT: You then returned to 6 Aviation Regiment and posted into 173 Squadron, and remained there until you posted out in January 2024.

20 D15: Yes, that's correct. An edit to that is that I spent one year at Regiment Headquarters, still at 6 Aviation Regiment.

COL STREIT: And what was your role at Regiment Headquarters for 12 months?

25 D15: That's in paragraph 11, just as the Regiment Technical Adjutant.

COL STREIT: I see. So I take it from your posting and flying history, you didn't have the opportunity to spend any time at 5 Aviation Regiment on a posting?

30

D15: No, I didn't.

COL STREIT: In paragraph 10 you say in 2020 you were a Troop pilot in 6 Aviation Regiment. Being a Troop pilot, what does that mean?

35

D15: That just means that you're a pilot in a Troop. As at that stage not qualified on SOQC in the early stages of 2020, so you just fly when requested and – or when available, and any other secondary duties that might be given to you.

40

COL STREIT: Does that mean you didn't have any administrative or Regimental duties in addition to being a pilot?

45 D15: When you come in as a Troop pilot, you generally get given some form of smaller responsibility. So mine was ensuring that we had

organised functions for the Squadron. It's the title, the specific title, was called the "Tea and Coffee Officer". However, it involves a little bit more than tea and coffee.

5 COL STREIT: You might find yourself being the Duty Officer on occasion?

D15: Yes, there's also a Duty Officer as well.

10 COL STREIT: One thing I didn't ask you at the start in relation to your evidence is you've had an opportunity to go through the pseudonym list that's in front of you against the redactions in your statement prior to giving evidence today, haven't you?

15 D15: I have.

COL STREIT: And you are satisfied that the pseudonym list in relation to pseudonyms mentioned in your statement accurately records the persons who would otherwise be identified in your statement but have a
20 pseudonym?

D15: Yes.

COL STREIT: 2021, at paragraph 11 you say you moved out of the Troop structure and into the Regimental Headquarters where you became the Regiment Technical Adjutant. What did that role entail for you?
25

D15: I worked for the Regiment Standards Officer and I would liaise with other elements of the unit to find out what they could use to do their job better and then submit a – at the time it was called a Statement of Requirement, so that that project could be handed off to Aviation Command, or at the time it was Brigade Command.
30

COL STREIT: What was the cause that put you into that position instead of remaining as a Troop pilot?
35

D15: I requested it.

COL STREIT: Was there any reason for that?
40

D15: Yes, particularly at the time I wasn't particularly enjoying being a Troop pilot.

COL STREIT: And so is this exploring another role within the Regiment?
45

D15: That's correct.

5 AVM HARLAND: Could you describe the – or talk about the relationship between the Regiment Headquarters during your posting there and the Squadrons?

D15: Are you specifically referring to my personal relationship with members in Regiment Headquarters or - - -

10 AVM HARLAND: Your personal relationship and also, in a more general sense. whether there were any frictions or whether it was a good working relationship?

15 D15: I personally had good relationships with members in Headquarters. There's always friction when it comes to requesting whether – requesting a task get completed, prioritising the tasks, workload. There's always friction. I would argue there probably always will be.

20 AVM HARLAND: So that's between the Regiment Headquarters and the Squadrons in the Regiment?

D15: That's correct.

25 AVM HARLAND: Okay, thank you.

COL STREIT: At paragraph 12 you say in 2022 you went back to 173 Squadron as the Assisting Operations Officer. What was your function there as the Assisting Operations Officer? So what did you do?

30 D15: I did everything that an Operations Officer would do. It's a high workload job. So when the Operations Officer was overwhelmed with work, I would take that burden off his shoulders. The only thing that I didn't do was write Performance Appraisal Reports for the Troops within operations.

35 COL STREIT: In terms of operations – that is, the tasking to do certain things concerning operations – where did that tasking come from? Was it from the Regimental Headquarters?

40 D15: Yes. So tasking would come from Regiment Headquarters.

45 COL STREIT: So in one sense Regimental Headquarters might develop a plan for an operation, allocate the task to 173 Squadron, and your role, as the Assistant Operations Officer, was to do those things necessary so that the task could be achieved by the Squadron?

D15: That's correct.

5 COL STREIT: You say at paragraph 12 you were not able to fly as often in this role; that is, as the Assistant Operations Officer. Is there a reason for that?

D15: Yes, I was very busy in that job as well.

10 COL STREIT: So this Assistant Operations Officer function meant you – I'll start again. At the time, I take it you were required to maintain currency on MRH-90?

D15: Yes, I was.

15 COL STREIT: Was there a difficulty in you doing that because you had an Assistant Operations Officer role which was busy, and therefore less time to undertake flying?

20 D15: So it is – maintaining currency requires not as much effort. Proficiency, however, is different.

COL STREIT: Sure.

25 D15: And so maintaining currency, I found that it was okay – the workload to do that. However, to maintain proficiency – which is what I would classify as being an expert in my role in the aircraft, as well as do a good job of the Assistant Operations Officer, yes, that was difficult.

30 COL STREIT: So maintaining currency is maintaining that minimum level required to be authorised to fly an aircraft?

D15: That's correct.

35 COL STREIT: Whereas proficiency – if I understand your evidence correctly – proficiency is that level of comfort you might have as a pilot – because you're flying regularly – that level of comfort you might have as a pilot to essentially be comfortable in the operation of the aircraft?

40 D15: That's correct.

COL STREIT: You identified in paragraph 12 – as I said earlier – you're not able to fly as often in this role, and some weeks you did not fly at all. Is that right?

45

D15: That's correct.

COL STREIT: And did that, as a consequence, affect your confidence as a pilot in the aircraft?

5

D15: That was a short period of that year - - -

COL STREIT: Yes?

10 D15: - - - before I was subsequently downgraded for medical reasons. Had it continued for longer, I would say, yes, it definitely would have.

15 COL STREIT: You've set out, at paragraph 13, what the medical reasons are. But suffice to say, you suffered a physical medical issue that required you to undergo rehabilitation for a significant period of time. Is that right?

D15: That's correct.

20 COL STREIT: And ultimately you made a decision, as a result of a risk – that physical injury occurring again, and also because of circumstances in relation to your family, that you've decided that the perceived risk in the job of continuing flying was effectively enough, and you ceased flying. Is that right?

25

D15: That's correct.

30 COL STREIT: When you talk about perceived risk, is that a reference to the risk of the physical injury manifesting, or is it a reference to perceived risk in flying the MRH-90?

D15: That's a reference to both.

35 COL STREIT: Now, as a consequence of that particular medical condition, your physical medical condition, you're in the process of undertaking medical discharge. Is that correct?

D15: That's correct.

40 COL STREIT: Now, can I just move on to 2023, if I can, where we start at paragraph 18. In 2023 you became the Operations Officer for the Squadron; that is, 173 Squadron. Is that correct?

D15: That's correct.

45

COL STREIT: So no longer the Assisting Operations Officer, but now actually the Operations Officer?

D15: Correct.

5

COL STREIT: And so did that mean your workload increased from your experiences being the Assisting Operations Officer?

D15: Yes, it did.

10

COL STREIT: And are you able to explain, if you can, or assist the Inquiry as to what were the causes of your workload increasing?

D15: When you become the Operations Officer from the Assistant Operations Officer, you are now responsible for that – for the outcome, I suppose, of running the activity. I note Regiment Ops does a portion of the planning before handing over to the Operations Officer. But once it's handed over to you, there's a sense of responsibility to ensure that it runs smoothly. Additionally, you have to manage the Troop that you have at the time, which includes writing the performance reports.

15

20

COL STREIT: So it's not just an operational function, essentially, receiving tasks from higher Headquarters and making sure the tasks are done, but there's also a management function as well, and an administrative function in relation to preparation of performance reports for members of the Squadron?

25

D15: That's correct.

30

COL STREIT: How many hours would you say you ultimately started working as the Operations Officer in 2023 – a week – would you say?

D15: There was no set standard. If we were in busy periods, I would work from 8 until – yes, even up until 8 o'clock if necessary. When it's busy, you can work 14-hour days. When it's less busy, you're working less. It was a mature working environment, so there was no set hours.

35

COL STREIT: Sure. But did that mean you'd go home and you'd have to do work at home as well?

40

D15: Yes. There was always messages coming through. Noting that I wasn't flying at the time, and that is a flying position. Generally, an Operates Officer would align their crew duties with the afternoon into night shift. However, because I wasn't flying and I had a young family, I

tried to align my days with my family. It just meant that I would still get messages into the night.

5 COL STREIT: And you'd have to jump on the system and action those, I take it?

D15: Sometimes, yes.

10 COL STREIT: At paragraph 19 you say you have a total of 436.3 flying hours on MRH-90, including 263 hours by day, 172.5 hours by night; of which 156.5 hours were on NVDs. And you were a CAT C pilot on MRH-90. Is that correct?

15 D15: That's correct.

COL STREIT: And in terms of NVDs, that's a reference to night-vision device, I take it?

20 D15: That's correct.

COL STREIT: And what was the night-vision device you were using on MRH-90?

25 D15: We were using TopOwl.

COL STREIT: And what was your experiences – earlier, you gave some evidence about using a different systems on the Kiowa and the Black Hawk – was your experiences and the differences between that system and then TopOwl on MRH-90?

30 D15: The TopOwl gave less acuity when I originally flew MRH-90, and it also induced some visual illusions as well. It was more difficult to fly on TopOwl.

35 COL STREIT: And this is at night, I take it?

D15: That's correct.

40 COL STREIT: Now, when you say "illusions", are you able to give any further clarity about what you mean by that?

45 D15: Yes. So the image intensifier tubes on TopOwl sit on the outside of your helmet. Your eyes are far closer together than the tubes. So that discrepancy of how far apart those tubes are, versus your eyes, impacts depth perception – was the main illusion that I noticed. But also, just the

lesser acuity, as well, would also induce, you know, some of the common illusions that can be experienced on other night-vision devices.

5 COL STREIT: So with the illusion you're describing, did that have the effect of objects appearing closer than what they actually were?

D15: Yes.

10 COL STREIT: Was that something that you experienced – so was that a new experience for TopOwl on MRH-90, which you hadn't encountered before?

D12: Yes.

15 COL STREIT: Now, in terms of the regularity in which you were flying, you've given some evidence earlier, at least insofar as 2022, you were not able to fly as often in that role, and some weeks you didn't fly at all. Did that then have a difficulty for you in becoming attuned or getting used to the illusion you describe when you were using TopOwl at night?

20

D15: By that stage, I'd felt relatively comfortable. However, as I alluded to, if that position and that lack of flying continued for much longer, I would be confident that, yes, that would've made it more difficult.

25 COL STREIT: It's not like riding a bike, sort of once you're trained on TopOwl then you can just overcome those illusions. Is it your view you need to regularly fly to get used to using illusions generated via TopOwl?

D15: Yes, that's correct.

30

COL STREIT: Now, at paragraph 20 you say you're currently posted to Headquarters Aviation Command. This is in a non-flying role; is that right?

35 D15: That's correct.

COL STREIT: You're working in Aviation Systems in relation to helping them project manage ancillary equipment for Aviation across different platforms. It's a two-year posting, but that will come to an end this year. Is that right?

40

D15: That began this year.

45 COL STREIT: I see. You're also currently completing some tertiary study as well.

D15: That's correct.

5 COL STREIT: Can I just take you briefly to your experiences in flying the MRH-90, which commences at paragraph 22. I'm cognisant that I won't ask you anything about paragraphs 23 and 24. You say:

10 *By 2022, I was approaching the point of being a mid-level MRH-90 pilot. I was flying about 180 hours per year on the MRH-90 between 2020 and 2022. Had I kept flying, I would have tried to get my SO Captain Qualification. There's a big difference between a Safe SO Co-pilot and a Safe SO Captain and I still had a way to go to become a Safe SO Captain.*

15 Can you just explain what you mean by that last sentence:

There's a big different between being a Safe SO Co-pilot and a Safe SO Captain.

20 D15: Sure. When you become an SO Captain your responsibility increases. The complexity of the flights that you can undertake as an Aircraft Captain increases significantly. As an Aircraft Captain you can do tasks that you've been trained to do previously on courses. But as an SO Aircraft Captain you are taking on that additional level of complexity
25 added with the responsibility of the people in the back.

COL STREIT: Is it also a circumstance where – I withdraw that. Can I take you to paragraph - - -

30 MS McMURDO: Sorry. Could I just ask you? Were you a qualified SO Co-pilot?

D15: I was, ma'am.

35 MS McMURDO: You were, thank you. Yes.

COL STREIT: Are able to recall when you completed your Special Operations Co-Pilot Qualification?

40 D15: That was in 2020.

COL STREIT: Thank you. Can I take you to paragraph 26? You say:

45 *When I was flying MRH-90, I generally sat on the right-hand side of the cockpit, purely because Aircraft Captains like to sit on the*

left.

To your observation, was there any reason why your experience was “Aircraft Captains like to sit on the left”?

5

D15: In general day-to-day flying, the left seat had three multi-functional displays and then there are two on the right. That, I would guess, is why. But it was mostly a preference thing. Some Aircraft Captains preferred the right seat, and if that was the case, I would fly on the left for missions that were Special Operations and HR. It would alternate based on whether the Aircraft Captain would get the best view of the target that they would be hovering over.

10

COL STREIT: As the co-pilot, you did most of the flying?

15

D15: The hands-on flying, yes.

COL STREIT: Now, at paragraph 28 and onwards you describe a safety incident – they’re my terms – but you describe a flying incident in which you were involved, that you still think about. Is that correct?

20

D15: Yes, that’s correct.

COL STREIT: Can you just explain in your words what that particular flying incident was about?

25

D15: That was on my SO Co-pilot Qualification course. That was flying in formation at night, near Singleton. We had planned to hit a target by night and to summarise what’s written, essentially in the remaining paragraphs, we came awfully close to hitting the ground due to poor weather and the term “Knock it off” was used as a result, which should universally mean that we go home; however, it was decided we would have another go at that target that night.

30

COL STREIT: And it was the Aircraft Captains, did they decide to have another go at the target as you describe?

35

D15: They did.

COL STREIT: What occurred immediately before that though was a safety incident, is that correct - - -

40

D15: Correct.

COL STREIT: - - - where one of the aircraft involved in the sortie – it

45

was a three-ship sortie?

D15: It was.

5 COL STREIT: One of those aircraft involved in the sortie nearly impacted the ground?

D15: Correct.

10 COL STREIT: Was there also a near miss between two of the aircraft?

D15: It was. I would classify it personally from how I saw it as a near miss.

15 COL STREIT: And which ship were you in in the formation of flying?

D15: I was in ship 3.

COL STREIT: You were the last aircraft in the sortie?

20

D15: Correct.

COL STREIT: You had visibility of what was happening in front of you concerning the other two aircraft; is that right?

25

D15: I could clearly see the other two aircraft.

COL STREIT: Now, the term “Knock it off” you described earlier, when is that used?

30

D15: That is used when somebody is uncomfortable with the flying circumstance. Everybody has the right to call “Knock it off”, and that is the trigger to terminate the flight and return home.

35 COL STREIT: And that would permit, essentially, what you describe – well, would you describe what you saw as a significant safety incident?

D15: I would.

40 COL STREIT: That would mean “Knock it off and return home to base”, would allow then discussion about that significant safety incident amongst the crews?

D15: Yes, it would.

45

COL STREIT: And the reporting of that incident to the chain of command?

D15: Yes.

5

COL STREIT: Is there a requirement to report safety incidents to the chain of command?

D15: There is.

10

COL STREIT: And as a consequence of reporting of those incidents, an Aviation Safety Report is generated?

D15: There is.

15

COL STREIT: And on occasion, subject to what the seriousness of the Aviation Safety Incident Report reveals, but that might mean an investigation by the Defence Flight Safety Bureau. Is that correct?

D15: Yes.

20

COL STREIT: In this instance, that didn't occur, or at least didn't occur immediately. Is that correct?

D15: No, that's incorrect. The safety report did occur.

25

COL STREIT: Sorry. What I mean is, is that after "Knock it off" was said, you didn't go home?

D15: No. No, we didn't go home at that point.

30

COL STREIT: It was decided amongst the Aircraft Captains involved in the sortie that they would re-engage what was the mission at the time. Is that right?

D15: That's correct.

35

COL STREIT: And seek to achieve a training outcome for a Special Operations Qualification course?

D15: Correct. Yes, that was the assessment flight.

40

COL STREIT: Now, if the mission had stopped when whoever said, "Knock it off", and the ships returned home, that would've meant that that training outcome which the mission was designed to achieve would have

45

been delayed to another stage. Is that right?

D15: That's correct.

5 AVM HARLAND: How did you feel about continuing the mission after that incident?

10 D15: In the aircraft, I remained pretty comfortable and composed. However, it wasn't until talking to co-pilot of 82 and other aircrew that the weight and the significance of that dawned on me.

15 AVM HARLAND: So at the time when the decision was made to continue after the "Knock it off" was called, you actually felt okay to do that?

D15: I still felt okay to be an active member of the crew of my aircraft, yes.

20 AVM HARLAND: Okay. Thank you.

25 COL STREIT: At the time that you were observing the events unfold in front of you concerning the other two aircraft, you were flying, weren't you, in ship 3?

D15: No, not when the incident occurred. I had handed over to my Aircraft Captain on the run in to that target.

30 COL STREIT: What was the reason for you handing over to the Aircraft Captain on the run in to the target?

35 D15: So, essentially, two reasons for that. First, is I began to express some discomfort in the weather conditions, but it was also that stage of flight where the Aircraft Captain could take over and fly the assault to the target.

40 COL STREIT: So at paragraph 29 you say:

We were in ship 3 in a three-ship formation. We were either in a staggered trail or heavy right formation, but ship 2 was to the left of ship 1, and ship 3 was to the right of ship 2. I started to lose visual with the ground due to cloud.

I handed over controls to the Qualified Flying Instructor who I was flying with. He was also the Air Element Commander. I then started performing my co-pilot duties, calling out distances to

run, heights, and track, and making sure we were en route. I mostly went eyes in to do this.

Is that correct?

5

D15: That's correct.

COL STREIT: And a reference to "eyes in" means you're looking inside the cockpit, and not outside the aircraft.

10

D15: That's correct, yes. To call those distances, you need to reference instruments inside.

COL STREIT: You describe – at paragraph 30 you say:

15

I saw ship 1 climb to get over a ridge line, then it suddenly flared because the bowl –

now, "the bowl" was the target area, wasn't it?

20

D15: Yes, the target was inside a bowl of terrain, mountainous terrain.

COL STREIT: So a bowl of mountain terrain is – how would you describe that?

25

D15: Just a building, or a target, in the centre of undulating terrain.

COL STREIT: "The bowl was full of cloud."

30

D15: Yes.

COL STREIT: I'll start again. So you saw:

35

I saw ship 1 climb to get over the ridge line, then it suddenly flared because the bowl was full of cloud, and turned left. Ship 2, which was sitting on the left of ship 1, had to flare to not fly past ship 1. But then ship 2 also turned into ship 1's path.

Is that correct?

40

D15: That's correct.

COL STREIT:

The pilot, who was the co-pilot of ship 2, MAJ D14, was the Qualified Flying Instructor.

5 It's correct, isn't it, that that's what happened? What I just said to you in your statement?

D15: One moment. Yes, that's correct.

10 COL STREIT: Then the Aircraft Captain of your aircraft "later told me he handed over controls over" – so I'll start again:

15 *CAPT Reid later told me he handed over controls to MAJ D14. At this point, MAJ D14 had to make that turn to keep visual with the ground. Ship 2 almost crashed right in front of me as it got stuck between ship 1 flying towards them and slowly down, and the terrain that was on the left-hand side. Ship 2 ended up in an ugly hover about 15 to 20 metres off the trees.*

20 You then say:

25 *We, and ship 3, aborted the formation. I remember ship 2 called "Knock it off" to abort the mission, but the Aircraft Captains had a discussion over comms and decided we should all have another go at that target because it was an assessment for our SOQC. About three to five minutes later we rejoined the formation and made the approach again, but we decided to abort it at that point because of the weather.*

30 So if I understand your evidence correctly, there was a significant flying incident that you observed which nearly resulted in the impact with ground of one aircraft, and another aircraft running into another aircraft. The "Knock it off" was called. The exercise was stopped, but it was then recommenced three to five minutes later.

35 D15: It was, yes. I'd probably just correct you on your heights as well. You referred to metres. It was actually 15 to 20 feet.

40 COL STREIT: 15 to 20 feet is actually a shorter distance off the ground, isn't it, than 15 to 20 metres?

D15: Yes.

45 COL STREIT: Then in any event the training activity wasn't achieved because the second run at the target was aborted because of the weather.

D15: Based on what we'd done to that point, I believe the qualification was awarded in the end.

5 COL STREIT: I see. So then it was a return to base, was it, from there?

D15: Yes, so we had to change category, fly into cloud to get home, and then we did some emergency training in the circuit back at Holsworthy before then landing and finishing the flight.

10 COL STREIT: At paragraph 33 you say:

LTCOL Helen Mammino, Commanding Officer of 6 Aviation Regiment at the time, was made aware of the incident and an Aviation Safety Report was completed as a result.

15 Is that right?

D15: That's correct.

20 COL STREIT: Did you ever read the Aviation Safety Report?

D15: I did, after it was published. Yes.

25 COL STREIT: In the compilation of that safety report, were you ever asked to provide any input into it?

D15: No.

30 COL STREIT: Do you know who completed the Aviation Safety Report?

D15: I can't recall who did that.

COL STREIT: At paragraph 34 you say:

35 *The Squadron did not fly the next day while we discussed the incident with the OC, MAJ D23, and the QFIs involved in the SOQC.*

40 Is that correct?

D15: That's correct.

COL STREIT:

45 *Junior aircrewman were invited to express our concerns.*

That's what you say.

5 D15: That's correct.

COL STREIT: You also say this:

10 *I thought we were more focussed on operational output than safety, but I chose my words more carefully than this when I spoke up about the incident. I talked about the operational impact of flying over a target in cloud not knowing where you were, and how not assaulting the target would result in mission failure.*

15 That's correct?

D15: That's correct.

20 COL STREIT: In respect of where you say:

I thought we were more focussed on operational output than on safety, but I chose my words carefully –

25 what are you really saying there in that evidence?

30 D15: So concerns regarding safety had been raised in that discussion and I felt that if I could relate it to the operational outcome of flying over a target, giving away your intentions to the enemy, that that would hold more impact and essentially achieve the same outcome that myself and my other co-workers wanted, which was to not fly in weather that poor for an SO mission again.

35 COL STREIT: Can I ask you this? You had, as a result of your experiences in that matter, regarded it as a significant safety event?

D15: Yes.

40 COL STREIT: You had concerns for your own safety, and that of your aircrew, and other pilots in the other ships?

D15: Yes.

45 COL STREIT: But you detected in the discussion wash-up after the mission that there was more of a focus on the operational outcomes of the training mission than on safety. Is that right?

D15: That's correct.

5 COL STREIT: So you sought to use the vehicle to get your point across about safety. You sought to use the vehicle to couch the safety matters and your concerns in the context of describing an operational effect.

D15: Correct.

10 COL STREIT: In the hope that people would listen to you.

D15: Yes.

15 COL STREIT: Because you were talking about operations, and not safety.

D15: Correct.

20 AVM HARLAND: Did you find it unusual that you weren't consulted in the drafting of the ASR, and weren't involved in that process?

D15: Yes, I think upon reflection I do find that unusual.

25 AVM HARLAND: Thank you.

COL STREIT: At paragraph 35 you say:

30 *There was a contention between the junior and senior pilots that flew the mission about how close the aircraft were and how bad the visibility was.*

That's right?

35 D15: Yes, that's correct.

COL STREIT: You say:

40 *We were required by law to maintain at least 800 metres visibility at all times, but I felt that we were probably pushing a few hundred metres on that sortie, even before we reached the ridgeline.*

Is that correct?

45 D15: That's correct.

COL STREIT: So from your view of it, you were already operating outside what you regarded were the legal bounds of at least 800 metres visibility before you even reached the ridgeline?
5

D15: Yes, in my view.

COL STREIT: In your view?

10 D15: Yes.

COL STREIT: And you say:

15 *This is why I handed over controls to my senior pilot because I felt uncomfortable with losing visual of the ground at a hundred feet.*

D15: Yes. I would just probably add to that that we didn't fully lose visual. It was we began to experience some loss of visual acuity due to cloud.
20

COL STREIT: Was this by day, this mission?

D15: We attempted – well, we did the mission by day, before doing it by night.
25

COL STREIT: So this was by night when this incident occurs?

D15: Yes.
30

COL STREIT: Now, are you able to recall approximately when this particular event occurred? I know you say it was on your qualification course. That was in 2020, was it?

35 D15: It was in 2020 and it was in either June or July 2020 as well.

COL STREIT: Do you know if this incident resulted in a DFSB investigation?

40 D15: It resulted in an ASR being raised, a safety report, which was classified as a Class C investigation.

COL STREIT: To your knowledge, what does that mean in terms of what DFSB might do?
45

D15: They might see it, but they won't conduct it.

COL STREIT: Sorry, they might see it?

5 D15: They might see the report, but they won't conduct the report.

COL STREIT: They won't conduct a report.

10 D15: The investigation, yes.

COL STREIT: Were you aware or did you have any knowledge that in November 2020 there was a near miss between two MRH-90 aircraft out of 5 Avn in Townsville?

15 D15: Yes.

COL STREIT: Were you aware that that resulted in a DFSB investigation?

20 D15: Yes.

COL STREIT: But at least to your knowledge, the event you have just described which occurs earlier in time, at least to your knowledge did not result in a DFSB investigation?

25 D15: No.

COL STREIT: And even if it did, nobody spoke to you about it, is that right?

30 D15: That's correct.

COL STREIT: Now, in paragraph 39 you say:

35 *In December 2023, I received a phone call to discuss this particular incident with a CDRE Chris Smallhorn and AVM Alan Clements.*

Is that correct?

40 D15: That's correct.

COL STREIT: You say as part of a review into Army Aviation. Can you just explain to the Inquiry what you recall of that phone call? First, can I ask you was it a surprise to receive the phone call?

45

D15: It was a surprise to be requested to talk through the incident as I have not outwardly sought to talk about it with anybody.

5 COL STREIT: Sure. So in broad compass in terms of your recollection of the effect of the conversation, what can you remember about what you were asked about in the conversation and what – the call I told you that they were doing? What was the reason why they rang you?

10 D15: They had told me that there was a request to do a review into Army Aviation and they wanted to look at incidents around in the last few years, yes, excluding the crash last year. Then they wanted to use this to get some insight into 6 Aviation Regiment.

15 COL STREIT: Did they give you any information – sorry, I'll start again. Were you on speakerphone with both officers you've identified?

D15: Yes, I was.

20 COL STREIT: Did they give you any indication in the phone call as to how they became aware of your presence in the sortie?

D15: I believe they had spoken to another pilot earlier, but I had no idea how they even knew about the incident itself.

25 COL STREIT: So you're getting this phone call in December 2023. That's right?

D15: Correct.

30 COL STREIT: The incident occurs at some stage in 2022, on your qualification course?

MS McMURDO: 2 July 2020.

35 D15: 2020.

COL STREIT: I apologise. 2 July 2020; is that right?

40 D15: Correct, yes.

COL STREIT: So we're effectively looking June/July 2020, '21, '22, '23; a bit over – nearly about three and a half years?

45 D15: Correct.

COL STREIT: So from the period of the actual incident in June/July 2020 and even including the wash-up discussion with your chain of command, did you have any other discussion with your chain of command about that very incident in a formal setting before the phone call in December '23?

D15: No.

COL STREIT: And that includes not having received any contact from DFSB in that period as well?

D15: Correct.

COL STREIT: At paragraph 40 you say:

15

I'm not an investigator or a Commander, so I cannot comment on whether the response to the incident was lawful and justified, but I know that I did not feel satisfied by my experience of it.

20 Is that a reference to not being satisfied by simply the experience of being involved in the sortie and what happened, or is it a reference to not being satisfied by the subsequent analysis and dealing with the incident as a safety matter, or both?

25 D15: All right. So that specific element of the – that you've just read is referring to, I suppose, two aspects. The first is I wouldn't put myself in – I can't put myself in the shoes of a CO because I'm not qualified to do that. The second part of that is that I understand that mistakes happen when flying. The purpose is to learn from those mistakes and the processes I think should support that. And I, in my opinion, did not feel
30 satisfied that we, you know, had treated it appropriately.

COL STREIT: That's the opinion you hold today?

35 D15: Correct.

COL STREIT: So that's the opinion of an MRH-90 pilot and also someone who has been the Operations Officer at 6 Aviation Regiment.

40 D15: Yes, that's my opinion.

COL STREIT: So, in other words, the opinion expressed by somebody who has not only conducted MRH-90 flights, but also been involved in the conduct of operations for MRH-90 flights?

45

D15: Correct.

COL STREIT: Paragraph 41 you say this:

5 *I'm not an investigator. However, I do know that if all risk controls become ineffective and the only remaining control preventing a catastrophic incident is luck, the report should be categorised as Class B.*

10 What do you mean by that? Is that a reference to the incident you described earlier?

D15: Yes, that's correct.

15 COL STREIT: That is your view, and I accept the limitations you put on it, but your view is that it should have been classified or categorised as a Class B event and therefore investigated by DFSB?

20 D15: Yes, I would say just because the worst that can happen is that it is scrutinised and the DFSB say, "We're happy with the investigation and the lessons learnt. Move forward". It doesn't hurt to class it as a Class B.

COL STREIT: Paragraph 42, you say:

25 *Prior to this incident, I had a false sense of security about flying and safety. From that point on, I was more on edge regarding safety instead of having blind trust in the experience of 6 Avn Regiment pilots. It was an early lesson to learn.*

30 What did you mean by that statement?

D15: I think more accurately I took upon myself more awareness of safety, more responsibility to ensure my own safety and those in my aircraft.

35 COL STREIT: You weren't going to let yourself be put in that same position again, I take it?

D15: I planned not to.

40 COL STREIT: At paragraph 45 you say:

I found the incident to be impactful.

45 Is that still the case?

D15: It is.

5 COL STREIT: I just want to now turn to your experiences using TopOwl, some of which you've described already. But before I do that, do you need a break?

D15: I think I'm all good.

10 COL STREIT: Now, you've given some evidence before about your views – or your experiences, rather, concerning night-vision devices used in the Kiowa and on Black Hawk as against TopOwl in MRH-90. You say at paragraph 45:

15 *I noticed the difference when using version 4 and version 5.1 of TopOwl. The upgrade did not change the illusions that a pilot could get when flying at night, but the acuity definitely improved.*

20 What do you mean by that?

D15: The version numbers I'm not entirely familiar with. However, I know that the NVG or the NVDs were upgraded early on in my MRH career, and I know that the visual acuity improved to the point where it was classified equal to the NVGs that we were using on Black Hawk. However, the tubes are still in the same position on your helmet and the visual illusions remain the same.

25 COL STREIT: Which one? I appreciate pilots have different views on things, but which one did you prefer using, the TopOwl version 5.10 or what you were using on Black Hawk earlier?

D15: I had preferred to use the ANVIS.

35 COL STREIT: I just want to turn now to your role in 6 Aviation Regiment in 2023. So at paragraph 47 you were the Squadron OPSO, as you've given evidence earlier, for 173 Squadron. You reported to the Officer Commanding of the Squadron, MAJ D10; is that correct?

D15: That's correct.

40 COL STREIT: But you also say you worked closely with the Regiment Operations Officer, MAJ D23; is that right?

D15: That's correct.

45

COL STREIT: What was the reason for working also closely with the Regiment Operations Officer? Could you just explain that relationship?

5 D15: Okay. The Regiment Operations Officer and their team, they essentially hand exercises over to the squadron ops team. They also do a lot of external to the unit liaison. So it was a – we had a good working relationship with them to ensure that the passage of information was as good as it could get.

10 COL STREIT: At paragraph 50 you say – I’m sorry, beginning with paragraph 48, you were not part of flying Troops in this role that you had as the Squadron Ops Officer. That’s correct?

15 D15: That’s correct.

COL STREIT: You had a Troop of your own mission support soldiers. What did they do for you?

20 D15: So I had a mixed bag of qualified soldiers, so some of them were ground crew mission support. They man radios. They set up planning. They are essentially the first responders on the radio for crash. They’re everything to do with mission planning and comms for the aircraft. They load cryptography into the aircraft. Then I also had a team of logistics, one Logistics Officer and a few logistics soldiers to help me plan for
25 exercises, the standard logistical requirements, sleeping, food, water. Then I had an Assistant Operations Officer and I also had an officer that was also a pilot to help plan Squadron-specific training events.

30 COL STREIT: You had to review or complete the PARs for most of those persons in your Troop?

D15: Correct.

35 COL STREIT: Now, at paragraph 50 you say, as the OPSO, you would create the flying program. Is that right?

40 D15: The flying program was a balance between what was tasked of the Squadron to do, versus what was left for the Troops to fly. So I would be the first to populate the tasks which was based on obviously the task given by Regiment Ops, but also aircraft availability. Then I would sit down with the Troop Commanders and we would talk through opportunities for currencies and training.

45 COL STREIT: One of the Troop Commanders, was that CAPT Lyon?

D15: It was.

COL STREIT: Was that other Troop Commander D20? If you could just have a look at that pseudonym list.

5

D15: It was.

COL STREIT: At paragraph 51 you say:

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The Troop Commanders were always thinking about the aircrew, how many hours they had, how to balance those hours across the workforce, who was coming up to qualification and who needed developing in certain areas.

15

Was there any reason that the Troop Commanders were focused on those matters, that you understood?

20

D15: Yes. I suppose 6 Avn has a couple of lines of effort. One of them is maintaining preparedness directed by government. But in order to maintain that preparedness, 6 Avn also has to have qualified pilots to do that. 6 Avn also has to train those pilots to be qualified to do that, and even to meet the gate. To do a qualification course also requires – also has certain requirements.

25

There are a number of unit training progression events that occur just to be in the position to provide some effect for the unit to maintain that preparedness Directive and so this was the Troop Commander and their role to ensure that, as best as they could, with the resources allocated, balance those priorities.

30

COL STREIT: At 52 you say:

35

There were sometimes more available than what was operationally needed, so the Troop Commanders would plan those additional hours to fulfil their Troop's currency and development.

D15: That's correct.

40

COL STREIT: Was that an ongoing challenge, the availability of hours and doing all the training that needed to be done?

45

D15: Yes, in my time as OPSO – Operations Officer, sorry – it was a hard balance of time available. So it was a matter of necessity for them to fill those spare hours with currencies and development.

COL STREIT: So you held that role as the OPSO of 173 Squadron. It started in January '23; is that right?

5 D15: Correct.

COL STREIT: When did it finish?

10 D15: It finished in, I believe, September. It was shortly after the accident.

COL STREIT: At paragraph 53 you say:

In terms of culture in 6 Aviation Regiment, from 2020 to 2023 –

15 and I pause there. That period you've identified is the period you were posted to 6 Avn; is that right?

D15: That is posted – sorry, that is flying MRH-90 for that period.

20 COL STREIT: Yes. I'll start again. 53:

25 *In terms of the culture in 6 Avn, from 2020 to 2023, I did not think that any safety regulations were violated but I also do not think the safety regulations really encapsulate all the things that need to be considered to be safe. The result was that as long as there was not a safety regulation preventing 6 Aviation from doing something, we would do it.*

30 Is that the view you had at the time in that period, or did you form that view looking back?

D15: No, that was my view.

COL STREIT: During that period?

35

D15: During and since.

COL STREIT: Are you able to – what led you to that view? Was there something in particular?

40

D15: So, like I referred to before, the competing priorities – maintaining, preparedness, directive, currencies, development – there wasn't really enough time to do all of those things well. So I refer to currency versus proficiency minimum requirements; hitting the minimum requirements

versus excelling in the tasks you've been given. I believe that we were at a point where we were hitting minimum requirements.

5 AVM HARLAND: So if I could just get that clear in my mind. If you take away operational tasking, flights which are related to qualifications and getting people upgraded within the unit, do you have much time to be able to do training where you could actually just, I guess, work on your skills and proficiencies in the different roles of 6 Avn? Or were you primarily always either doing a training serial or an operational task?

10 D15: There are rare times where you can just go flying, but it's primarily operational task and training serials. And I'll probably expand a little bit on that. In major exercises, which were sometimes back-to-back, meaning a weekend space, into the next one, then every available aircraft would be dedicated to that exercise. And then in times where we were on a lower tempo flying period we might have two aircraft dedicated to a task given to us and another two for currencies and development.

15 AVM HARLAND: Were you able to work on your proficiencies and flying skills during exercises and operational tasking?

20 D15: You could work on the proficiencies that were specific to those exercises, which was essentially NVG flying and Special Operations flying. However, basic proficiencies, such as night-unaided flying and instrument flying, sometimes fell by the wayside.

25 AVM HARLAND: Thank you.

30 MS McMURDO: While we've interrupted COL Streit, I'll have a question too.

35 Paragraph 53, you say, in terms of the culture, from 2020 to 2023 you don't think that any safety regulations were actually violated. And yet when you describe that – the incident in 2020, you did say that – and this is in paragraph 35, if you want to have a look:

We were required by law to maintain at least 800 metres visibility at all times but I felt we were probably pushing a few hundred metres on that sorties.

40 So sometimes safety regulations were violated, would that be fair? But not often, but sometimes?

45 D15: I understand the question, thanks, ma'am. So there was contention in that specific sortie about how – what the weather conditions actually

were. It would be hard for me to, in a Court, give you an exact “we were violating at that time”.

5 MS McMURDO: I see. It would depend on what you assess the weather conditions as.

D15: That’s exactly right.

10 MS McMURDO: Yes.

D15: But I do understand the contradiction, and if I was looking at that entire period, that one specific event would be in my belief.

15 MS McMURDO: So different people might have different views on whether it was a breach or not.

D15: That’s correct.

20 MS McMURDO: I understand. Thank you.

COL STREIT: Can I just take you to paragraph 57, 58 and 59 and 60, which deal with RMPs, which are – what does RMP stand for?

25 D15: It’s the Risk Management process that’s completed before every activity.

COL STREIT: So it’s a risk – is it Risk Management Plan?

30 D15: Yes.

COL STREIT: So that’s effectively, as the acronym is described, is a plan that deals with potential risks associated with whatever task or mission you’re about to do.

35 D15: That’s correct.

COL STREIT: Is it a document designed to force the mission planners to think about risks and to create risk management strategies to reduce the possibility of a risk manifesting?

40 D15: Yes, that’s correct.

45 COL STREIT: At paragraph 57 you say in relation to the formulation of risk management profiles, that you use the phrase, effectively, that a process turned into a copy and paste, whereby wording used in previous

RMPs gets copied and pasted into a new RMP which gets circulated to relevant units then signed off with very little or no changes to the wording. What do you really mean when you make or give that evidence?

5 D15: So the identified risks per activity were generically the same and the controls for those risks usually referred to publications that already existed to control those risks. So the document was full of generic identified risks and already controlled measures.

10 AVM HARLAND: Did those Risk Management Plans talk about the novel or different hazards that are associated with a particular activity or were they just a re-run of old RMPs?

15 D15: They're generally just a re-run and, if they did refer to specifics, it was rare and it was generally surrounded by the noise of all of the generic writings that were already in the previous ones.

20 AVM HARLAND: So, for example, if you're going to Darwin in the wet season versus the dry season, would you address the differences of the hazards that the weather would pose to you and your operations?

D15: Likely not.

25 AVM HARLAND: Thank you.

COL STREIT: Paragraph 58, you say:

It takes time to plan an exercise and conduct the risk assessment and then wait for all COs from relevant units to sign off on it.

30 Was that your experience?

D15: Yes, it was.

35 COL STREIT: You then say:

But I think Army Aviation needs to be better at actually assessing the risks inherent in an activity rather than replicating the same RMPs across all activities no matter how varied they are.

40 Why do you say that, express that view?

45 D15: Well, I think that if there is a control that's already written in a publication, then it shouldn't be in a risk assessment because the control already exists. If it's empty it forces you to sit down and have a look at

specific risks associated with that very specific activity that you're doing and come up with new controls for those new risks that you've identified. And I think that is a more valuable procedure.

5 COL STREIT: So did you have an evolving concern that risk management planning was essentially just running on the coat-tails of previous Risk Management Plans and not being tailored to a current operational task?

10 D15: Yes, the risk management planning was the approval authority essentially to do a task, and that became a box-ticking exercise.

COL STREIT: So a risk, to a Risk Management Plan process, is essentially a risk of a level of lethargy in the preparation of Risk Management Plans just being a box-ticking exercise.

15 D15: That's correct.

COL STREIT: Did you try to do something about that within the extent of your authority?

20 D15: So the Risk Management Plan document was status quo, generally. We would try and add value in the meetings that we had with 2 Commando – so I'm not sure if I'm allowed to say that. But we would try and add value in meetings that we had. And where we identified different risks to an activity, if we could get them included in orders, we would do that. But, generally, I think you would find that sometimes these things aren't documented down as well as what they would be if they were in a risk assessment.

25 30 COL STREIT: In paragraph 63 you say:

35 *There are inherent risks in Aviation flying operations. Particularly, Special Operations can never be made perfectly safe. However, after the Singleton flight in 2020, I gradually started to feel as though the balance between safety and the desire to fulfil operational and training demands at 6 Aviation Regiment was swaying towards the operational training side and away from the safety side.*

40 Was that a view – can you definitively say, in your time at 6 Aviation Regiment – obviously after your Singleton flight incident – when that view started to consolidate?

5 D15: I think it just gradually consolidated. There was the palisade era, which was the introduction of MRH-90 into Service at 6 Aviation Regiment. And just competing priorities of the training pilots: qualifying them, making them current but then also meeting operational demand with the limited personnel that we had. And not only just limited personnel, but limited personnel with the requisite qualifications to do specific jobs.

10 COL STREIT: In 64, you say you discussed your concerns about this with other aircrew in the Regiment:

How a unit manages its own tempo is not prescribed in Standing Instructions at 6 Aviation Regiment, and 6 Aviation Regiment were running back-to-back activities.

15 Is that a reference to a significant workload that 6 Avn had, to your observation?

D15: That's correct.

20 COL STREIT: And are you able to say, in terms of "back-to-back activities", what year you're talking about there? Or is that just something that existed since you were at 6 Avn, from 2020 onwards?

25 D15: I would say it gradually got worse. 2023 was a busy year, but also, so was 2022. So it would be hard for me to say exactly where that started to occur.

COL STREIT: You go on to say:

30 *The aircrew in the Regiment had been working hard for years, and I could see many were suffering cumulative fatigue. This was evident in the feedback that aircrew submitted to the annual snapshot surveys for the DFSB.*

35 First, in terms of your evidence about the aircrew in the Regiment "been working hard for years" and you could "see many suffering from cumulative fatigue", was that based on your own observations of aircrew?

40 D15: That's based on my observations of aircrew that were lumped with fairly senior responsibilities and flying qualifications as well. But it's also built on the results of the snapshot survey, where there was a clear trend.

45 COL STREIT: Sure, and we'll come to that shortly. But before we do that, can I ask you this: would you include yourself in that category of aircrew suffering cumulative fatigue? Did you feel that way?

D15: Coming through to 2023, I certainly felt the effects.

5 COL STREIT: Now, you talked about annual snapshot surveys for the DFSB. Can you just explain what they are?

10 D15: They're a survey, essentially, to assess the safety, culture, human factors of a particular organisation. They get done once a year. The results of those are then cumulated into a report, which is then briefed to the Command at 6 Aviation Regiment, and sometimes the remainder of the Regiment as well.

15 COL STREIT: And so the snapshot survey, are they – you've participated in those surveys?

D15: Yes.

COL STREIT: And are they anonymous?

20 D15: They are. However, they're grouped into categories such as aircrew, maintenance, et cetera.

25 COL STREIT: So anonymous in one sense. But in another sense, an individual assessing the snapshot surveys would be able to know, within boundaries, which group had said what, because it might just relate to aircrew. Is that right?

D15: That's correct.

30 COL STREIT: And within a limited pool of aircrew, that might not be a big number within a Regiment; is that right?

D15: Correct.

35 COL STREIT: And you mentioned that sometimes the outcomes of the surveys were briefed to the Regiment; is that correct – your experience?

D15: Yes.

40 COL STREIT: And you indicated – if I understood you correctly – that, on other occasions, the outcomes of the surveys were not briefed to the Regiment?

45 D15: In my experience, there was at least a brief given to the members of the Regiment. However, sometimes – for example, D10 would give a

comprehensive view of those surveys. There was no requirement to be as transparent, I suppose.

COL STREIT: At para 66 you say:

5

I recall that fatigue and job hinderance were the two biggest issues in the 2022 snap survey results.

That's correct?

10

D15: That's correct.

COL STREIT: And, can you recall, was that outcome given to you individually, or did you attend a unit briefing?

15

D15: I both attended the unit briefing and that was also emailed. The report was specifically emailed to the Squadron.

COL STREIT: You go on to say, at 66:

20

Job hinderance refers to aircrew having numerous other tasks to do, other than their primary task, which is to fly. It got to the point that aircrew were on their phones taking work calls as they would walk out to the airframe on the tarmac. This took their focus away from flying.

25

That's correct?

D15: That's correct.

30

COL STREIT: At 67 you say:

I do not think that there have been any positive results from the snapshot survey since MRH-90 was introduced to 6 Avn Regiment. Fatigue was a consistent issue in each of the 2020, 2021 and 2022 results.

35

D15: Correct.

40

COL STREIT: And did you – obviously we've just dealt with the 2022 snapshot outcome. So did you get briefings on the 2020 and 2021 snapshot outcomes, that you recall?

D15: Yes.

45

5 AVM HARLAND: Just going back to para 66 – apologies, COL Streit – just regarding aircrew getting calls on their phones while walking out to the airframe on the tarmac, are you at all familiar with the concept of a flying box, or effectively a time within which your focus should be quarantined purely for the job at hand, i.e. flying?

D15: I'm familiar with the concept, yes.

10 AVM HARLAND: Was that applied at 6 Aviation Regiment?

D15: No.

AVM HARLAND: Okay. Thank you.

15 COL STREIT: At 68 you say:

20 *I think the management of aircrew fatigue is a collective responsibility of all leadership in a unit, which starts with the CO, and works its way down.*

You say:

25 *LTCOL D19, the CO of 6 Avn Regiment, in 2022 and 2023, initiated a fatigue study.*

Is that right?

D15: Yes. Sorry, that should be “2022 or 2023”.

30 COL STREIT: And that you believe, in 2022, CAPT D21 started to undertake that fatigue study. Is that right?

D15: Correct.

35 COL STREIT: Were you ever interviewed or consulted in relation to that fatigue study?

D15: Not me personally.

40 COL STREIT: Now, you say, in 68 onwards, you don't know the scope of the study but you think that it involved looking at fatigue on exercises. What led you to that view?

45 D15: That's just the fragmented recollection that I have, after talking to D21 about the scope of the fatigue study.

COL STREIT: Further, at 68, three lines up from the bottom, you say:

5 *In my view, it was common knowledge that the workforce in
6 Aviation Regiment was highly fatigued.*

When you say “common knowledge”, is that common knowledge, to your
view, within 6 Avn, or common knowledge outside 6 Avn, to your
observation?

10

D15: I think that was common knowledge within 6 Avn at least.

COL STREIT: At the bottom of para 68 you say:

15 *I’m not sure if the fatigue study was ever completed or if it ceased
prior to completion, but it was not ongoing at the time of Exercise
TALISMAN SABRE.*

20 How do you know it “wasn’t ongoing at the time of Exercise of
TALISMAN SABRE”?

D15: Because nobody had spoken to me specifically about any fatigue
study.

25 COL STREIT: At paragraph 69 you say you:

30 *spoke to the Aviation doctor at Holsworthy, Dr David
Clay-Williams, about workplace stresses in general conversation,
but I do not think I specifically talked to him about being fatigued.
My understanding is that it’s not his job to monitor aircrew
fatigue.*

Who do you understand has that responsibility?

35 D15: I believe that’s captured adequately in the snapshot surveys.

COL STREIT: As to who has the responsibility?

40 D15: I would say depending on who’s informed. I know that the CO
knew about it but I also know that higher command knew about it as well.
So to put responsibility on one person’s shoulders, I think, would be
unfair.

45 COL STREIT: Sure. And that at least insofar as 2023 is concerned, did I
understand you earlier to say – 2022, I’m sorry – that you received a unit

briefing about the outcome of the 2022 snapshot results?

D15: That's correct.

5 COL STREIT: That was a unit briefing. Was that attended by the whole of the Regiment?

10 D15: There was a generic for the whole of the Regiment, and then we were separated into our specific groups where our individual breakdown of group results, i.e. aircrew maintenance were briefed.

COL STREIT: At paragraph 70 you say:

15 *Lack of serviceable MRH-90 did not really have an impact on aircrew fatigue. The last-minute changes to plans and tempo management had a greater impact on fatigue as it increased workload right before you had to fly.*

Is that correct?

20

D15: That's correct.

COL STREIT:

25 *These constant changes in plans also made it hard to switch off from work as aircrew, would have to respond to messages after they completed a night flight.*

And was that your observation?

30

D15: That's correct.

COL STREIT: And was that your own experience when you were actually flying as well?

35

D15: Yes.

COL STREIT: You go on to say:

40 *Many pilots also had secondary roles that required them to manage soldier welfare, which is a huge task that requires a lot of attention. I believe that constant last-minute changes to plans was born out of the high tempo associated with the unit. Usually, the real planning rigor to the flying element of an exercise was*
45 *done once the previous exercise was completed.*

And when exercises are spaced together so closely, changes become last-minute, i.e. the day before.

5 D15: That's correct.

COL STREIT: At 71, you say:

10 *Troop Commanders manage welfare of their Troops, but the XO also fulfills a welfare role. In my view, it is difficult for SO Captains who are undertaking the most dangerous flying duties to also be expected to manage the welfare of Troops. I think Troop Commanders will likely always be pilots. However, the balance of an increased responsibility in an aircraft as well as increased*
15 *responsibility on the ground should be more carefully considered.*

Is that correct?

20 D15: That's correct.

COL STREIT: And so when you say "should be more carefully considered", who are you saying should more carefully consider those matters?

25 D15: Well, I think that the balance of qualified SO Captains within a Squadron, if you were to have a look, I think it was only a few. One of those, being Dan, had no Captains in his Troop – SO Captains in his Troop. So it's quite a huge responsibility for one person to take on an SO Captain for the Squadron and Troop Command position as well. And I
30 know for a fact that Dan was feeling the pressure of that.

COL STREIT: You say at 73 you're aware a number of pilots had needed to take extended periods of leave after posting out of 6 Avn due to burnout type issues.

35 D15: Correct.

COL STREIT: Were those pilots your mates?

40 D15: Some of them, yes.

COL STREIT: Seventy-four, you say:

45 *In terms of flying hours, 6 Aviation Regiment flew nights Monday-Thursday. Friday was a non-flying day. We did not fly*

5 *in school holiday unless it was for maintenance test flights. 2023, I would generally plan a three-hour afternoon window for crews to conduct their day flight and then a three-hour window for them to conduct their night flight. The Troop Commanders would then set the crew duty hours around that.*

Is that correct?

10 D15: That's correct.

COL STREIT: Ms McMurdo, I note the time. Would a short comfort break - - -

15 MS McMURDO: What would you prefer? Would you prefer a break or would you prefer to go on?

D15: I'd be happy with a break, if that's all good, ma'am.

20 MS McMURDO: Of course. Yes, we'll have a break now. A 10-minute break.

COL STREIT: Thank you.

25 **HEARING ADJOURNED**

HEARING RESUMED

30 MS McMURDO: Yes, COL Streit. Thank you.

COL STREIT: Thank you, Ms McMurdo. Can I take you to paragraph 75 of your statement, please. You say there:

35 *I watched the 60 Minutes program in April 2024 about the incident and I do not disagree with the Minister for Defence's comments that the MRH-90 is safe when it is flying in its normal role. However, I also think that flying it the way 6 Aviation Regiment was – i.e. for Special Operations – made it unsafe.*

40

Why do you say that?

45 D15: I believe, referring to comments made earlier about culture and safety, I think the compound effect of all of those elements that we've

previously spoke about put 6 Aviation Regiment in an unsafe predicament.

5 COL STREIT: The comments you refer to, is that your evidence in relation to – my words – but essentially an operational focus first over a safety focus?

D15: That's correct.

10 COL STREIT: At 76 you say:

I also think that the system to support the airframe, including the maintenance supply chain, induced unnecessary friction in the workplace.

15 Why do you say that?

20 D15: Probably not just the supply chain, but just the maintenance system as a whole. Sending aircraft parts back overseas to be serviced to return back to Australia, I think the influx of technical instructions that would incur a grounding or a stop fly or some sort of maintenance action to occur, usually over a weekend, I think presented the Command with a multitude of dilemmas when it came to MRH-90.

25 COL STREIT: The friction, is that a reference to friction between the maintainers of the aircraft and the aircrew who were tasked to fly the aircraft?

30 D15: I think that's friction with the expected output that the MRH-90 would have from government to what it was actually providing.

COL STREIT: So expected output was higher than the reality on the ground in terms of output.

35 D15: Yes.

COL STREIT: And that impacted availability of aircraft to conduct training?

40 D15: Yes.

COL STREIT: And missions.

45 D15: And the consequential flow on on that is it also impacted pilots' ability to maintain proficiency, as you referred to in your earlier evidence.

COL STREIT: That's correct.

5 D15: So minimum qualifications were being maintained, but proficiency was impacted.

COL STREIT: Correct.

10 D15: You also say at 76:

15 *On the safety day that 6 Avn Regiment held after the incident on 28 July 2023, the Commander of Aviation Command, MAJGEN Steve Jobson, told us that with all of the issues that arose from the MRH, it distracted from Headquarters Aviation Command's ability to make good operational decisions about the MRH-90.*

Is that correct?

20 D15: That's correct.

COL STREIT: And you have a recollection of him saying that?

25 D15: Yes.

COL STREIT: The safety day at 6 Aviation Regiment, is that something that occurred regularly – sorry, annually, or was that a specific safety day for some other reason?

30 D15: Generally, a safety day would occur at least twice a year.

35 COL STREIT: This safety day, are you able to say – so you've given some evidence that it's after the incident on 28 July 2023, but are you able to say, approximately by reference to a month, as to when it occurred in 2023?

D15: I would say probably around two months.

40 COL STREIT: To your understanding, what was the purpose of the safety day at 6 Aviation Regiment?

45 D15: So it held the same purpose as any other safety day, on one hand, which was to talk about any potential safety issues within the Regiment. Sometimes we would use case studies to study certain things, but on the other hand, it was also an opportunity for the Aviation Commander to

address 6 Aviation personnel. And at that point, we were given an update on where the investigation with DFSB was at and also an update from the incident earlier in the year, which resulted in an MRH crashing or ditching into the water of Jervis Bay.

5

COL STREIT: So in terms of the DFSB investigation update given to the unit, what do you recall was said?

10 D15: I recall the words called from 84, I suppose, that they had from DFSB, which was requesting the aircraft to pull up, I believe. And I recall the talk about the Jervis Bay accident, but I don't – to be honest, I don't – there wasn't a huge deal of information passed about the DFSB investigation at that point. There was a rough flight path given to us as well, that the aircraft took.

15

COL STREIT: Do you recall whether in that briefing MAJGEN Jobson said anything further about any particulars about why all the issues that arose with the MRH-90 distracted the headquarters, Command's ability to make good operational decisions? Did he give any examples?

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D15: He did refer to a, I suppose, tactical or operational example where a Commander should be focused on what the enemy is doing and how we can defeat the enemy, yet the MRH-90 presented with so many issues that it distracted Command from having the capability to do that – words to that effect.

25

COL STREIT: Turning to the Jervis Bay incident in March 2023, you weren't involved in that exercise, were you, in the Jervis Bay in March 2023?

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D15: I was not involved in the conduct of that exercise. I was – I planned it with my team, but I didn't conduct it.

35 COL STREIT: There's an issue, can I identify, that you raise at 78, 79 and 80 in relation to what were the possible causes for the ditching and what Command knew about a certain defect. Do you just want to explain to the Inquiry your understanding of those matters?

40 D15: Yes. So it was found that there was a defect which was known in the engines of MRH-90 and they were briefed to both the Command of Army and Navy. The defect was essentially briefed to say that there was a chance that an engine could fail in the exact way that it failed on that particular flight. It presented with that problem, the Army decided not to immediately upgrade to the newer engines to, I suppose, mitigate that risk and do it over time. Navy, on the other hand, opted to immediately

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replace their engines and mitigate the risk. I believe it was some time, spanning the course of a year or two, before the engine then failed in Jervis Bay over water. In addition to that decision, the defect wasn't briefed to the aircrew prior.

5

COL STREIT: So if I can understand your evidence, first you say that there was – Army knew of a defect in the engines of the MRH-90 – that there was a possibility of a risk of engine failure, and that was the defect. Is that right?

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D15: That's correct.

COL STREIT: That Army's response was to engage in a process of ameliorating the engines by replacing them over a process of time, so not immediately.

15

D15: Correct.

COL STREIT: Which meant Army MRH-90 aircraft were flying, were they, with at least one engine not having been ameliorated, changed?

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D15: Yes, some aircraft were flying with the upgraded engines, some weren't.

25

COL STREIT: And some weren't. But your observation, or your knowledge, is that Navy, on the other hand, with their NH90, swapped out both engines for their aircraft before they recommenced flying. Is that your understanding?

30

D15: That's what we were briefed.

COL STREIT: You also say that the aircrew weren't briefed about the defect in the engine; is that right?

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D15: That's correct.

COL STREIT: When, to your recollection, were aircrew briefed about the defect in the engine – and this is at 6 Avn, I'm talking about?

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D15: This is in that safety snapshot – safety day, correction.

COL STREIT: So is that the first time you learn that there was actually a defect in the engine?

45

D15: That's correct, me personally.

COL STREIT: You personally. What was your observation of the reaction by aircrew around you when this briefing was being given?

5 D15: I would classify the reaction as frustration.

COL STREIT: Did anyone ever explain to you why they had that level of frustration? It might be an obvious question but are you able to indicate what the frustration was?

10

D15: Yes, the frustration was that there was essentially we should know about these things before we go flying so that we can understand what risks we are personally taking as individual people before we get in these machines.

15

COL STREIT: So the frustration, if I can summarise it this way, was the frustration that those actually flying the aircraft at 6 Aviation Regiment were not briefed that there was a risk of possible engine failure?

20

D15: That's correct.

COL STREIT: And that nonetheless they were still flying aircraft where that risk was present?

25

D15: Yes.

COL STREIT: Then the Jervis Bay incident happened in March 2023; is that right?

30

D15: That's correct.

COL STREIT: It's only after that, at least to your understanding, you first learn that there was in fact a risk of engine failure in either of the MRH-90 engines?

35

D15: That's correct.

AVM HARLAND: Could I ask a question regarding MRH-90 maintenance documentation? Would that defect have been recorded in the maintenance documentation?

40

D15: I believe that it was briefed at the safety day that it wasn't included.

AVM HARLAND: In the maintenance documentation?

45

D15: That's correct. There was – in the brief, I specifically remember that in some way, shape or form, there was a lack of communication that would enable aircrew to have knowledge of the specific defect.

5 AVM HARLAND: Okay, thank you.

COL STREIT: At paragraph 80 you refer to a decision by the then Brigade Commander, I take it of 16 Aviation Brigade. Is that right?

10 D15: That's correct.

COL STREIT: The decision of the Brigade Commander, BRIG Hafner, to accept the risk outlined in the 2021 AATS report that said that MRH-90 was inescapable for aircrew once it went under water?

15 D15: That's correct.

COL STREIT: What was the risk that was being accepted by the chain of command in relation to that matter?

20 D15: The risk was declassified, I suppose, or reduced based on the presumption that the likelihood of an engine failure was significantly less or tiny essentially. So because there was a low or very low risk of engine failure resulting in an aircraft going into the water, that it was acceptable to sign that the aircraft would be inescapable if it went under water.

25 COL STREIT: To your observation, what was the reaction by some aircrew to the acceptance of that risk?

30 D15: Some of the aircrew felt that the risk was probably not the Brigade Commander's to acknowledge at that point and nor to sign off on. So the result was that aircrew would fly with gloves off because it was known that the reason that that risk existed was because of the amount of cords and the thickness of the cords that were hanging from both the HMSD and helmet on your head, so the connection points to the aircraft, made it really hard to escape under water. And the hope was that by taking your glove off, that you would have the fidelity in your fingers to be able to remove yourself from the aircraft.

40 COL STREIT: That risk though, that was briefed down to the aircrew, wasn't it?

D15: That one was, yes.

COL STREIT: As opposed to the risk of a possible engine failure not being briefed down to the aircrew?

D15: Correct.

5

COL STREIT: Can I turn to paragraph 82. This deals with your relationship with CAPT Lyon. So you first met CAPT Lyon, who you call Dan, when you were at Duntroon. He was an instructor; is that right?

10 D15: That's correct.

COL STREIT: You got to know him properly when you posted to 6 Aviation Regiment?

15 D15: That's correct.

COL STREIT: He was more senior than you, so when you flew together on MRH-90 he was the Aircraft Captain and you were the co-pilot.

20 D15: That's correct.

COL STREIT: And you never had any concerns about his flying abilities?

25 D15: No.

COL STREIT: Over time, you and he developed a strong friendship and he was your best mate at the Regiment.

30 D15: That's correct.

COL STREIT: Now, I just want to talk to you about what Dan said to you about fatigue, which is at paragraph 85. You say:

35 *Dan constantly talked to me about feeling fatigued. He also discussed workplace fatigue with the OC, MAJ D10, and the CO, D19. He was aware of fatigue, not just in aircrew but in supporting elements that supported flying operations.*

40 Now, first of all, in relation to speaking to D10 and D19, did you observe any of those conversations or is that what Dan has simply told you he did?

D15: So Dan was constantly talking about fatigue. So some of those were public forum and then some of them were events where he told me about fatigue as well, so a combination.

5 COL STREIT: Now, could I just take you to 86. You say:

Dan expressed his concerns –

and I take it that's concerns about fatigue. Is that right?

10

D15: Yes.

COL STREIT:

15

On a Regimental Officers' Intermediate Course –

that you and he were on together with other mid-level Captains in 2022. Is that right?

20

D15: That's correct.

COL STREIT: Where was that course held, can you remember?

D15: Yes, partly in Brisbane and partly in Oakey.

25

COL STREIT: You say:

There were about six or seven of us on the course and we were a mixture of MRH-90 and Chinook pilots from 5 Avn Regiment and 6 Avn Regiment.

30

D15: That's correct.

COL STREIT: It's correct, isn't it, that you had to complete the Regimental Officers' Intermediate Course before progressing to senior roles such as Troop Commander or XO?

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D15: Some of us were in those positions before completing that course. The big-ticket item for that course was the privilege to authorise flights.

40

COL STREIT: You identify some people in paragraph 86 who were also on the course with you. That's correct?

D15: That's correct.

45

COL STREIT: Now, at 87 onwards you refer to a session on the course at Gallipoli Barracks with senior Brigade leadership, including the Director of Operational Airworthiness. You can't remember who that was at the time; is that right?

5

D15: I can't remember his name but I would be able to remember his face.

COL STREIT: Sure. You also recall the Brigade OPSO, who had the nickname Pidge, was also there.

10

D15: He had been in and out, yes.

COL STREIT: Sorry?

15

D15: He was in and out of that course, yes.

COL STREIT: He was in and out. And you say you were given the opportunity to voice any concerns that you had about Aviation to them; that is, the course was given the ability to voice any concerns. Is that right?

20

D15: That's correct.

COL STREIT: At 89 you say:

25

Can't recall the exact words Dan said, but he was talking about fatigue and tempo management, and he said words to the effect of, "Seeing as there has been a lack of action from the safety snapshot survey, it seems that Army Aviation is waiting for an aircraft to crash with a fatality before it has to change anything".

30

Do you recall him saying that?

D15: Yes.

35

COL STREIT: At paragraph 90 you say you thought this was a bold statement to make to senior leadership but you knew how frustrated Dan was about this. Can I just come back to what you recalled Dan saying to senior leadership at that time. What was, to your observation, their response, if any, to what he said?

40

D15: I think there was a period of silence, and then just an acknowledgement.

45

5 COL STREIT: When you say, “an acknowledgement”, is there something specific you remember? In other words, was there a verbal acknowledgement, or some sort of physical acknowledgement or indication by body language that you took as an acknowledgement of what he said?

10 D15: No. It would’ve – I can’t remember the exact words, but I know that there was a verbal acknowledgement, and it was – I suppose the message was that “I understand”.

COL STREIT: Did you have one of those experiences of a junior officer, having an increased heart rate when something significant has been raised to a more senior officer, has put that senior officer on the spot?

15 D15: Did I feel that?

COL STREIT: Yes.

20 D15: No, I did not feel that. I felt that the comment was warranted.

COL STREIT: Did any other individuals in that group that were with you – do you recall them saying anything at that time?

25 D15: I remember that – at any opportunity that they had to talk to senior leadership – that concerns were raised throughout that course. Obviously, that specific comment is firm in my memory, but I do remember that, as a collective, the course was generally dissatisfied with Aviation.

30 COL STREIT: Paragraph 91, you say:

I saw no improvements in fatigue or tempo management from the time Dan said these comments at the Regimental Officers’ Intermediate Course in August ‘22 to the day I left 6 Avn in January 2024.

35 Is that correct?

D15: That’s correct.

40 COL STREIT: Now, you had some discussions with Dan about stopping flying in about May 2023; is that right?

D15: Yes.

COL STREIT: You were off on a morning surf with Dan, and you said words to the effect, to him – quote:

5 *This job is particularly dangerous, and you have to ask yourself, when doing something dangerous, “Is it really worth dying for?”*

You remember saying those things to him?

10 D15: Yes.

COL STREIT: Now, you say, at 93 and 94, effectively, that at that stage, Dan wasn't convinced either way, and you broadly discussed other potential flying jobs for him should he wish to leave 6 Avn or the Army. Is that right?

15 D15: That's correct.

COL STREIT: And that, subsequently, about a month later, after that conversation, Dan came back to you and said words to the effect of, “I still love flying. I want to keep going”. Do you remember that?

20 D15: Yes.

COL STREIT: Now, I just want to turn to your professional engagement with other members in the aircrew. So you'd met Max Nugent, who you called Max, when he posted to 6 Avn?

25 D15: Yes.

COL STREIT: And that was in 2023?

30 D15: Yes.

COL STREIT: You didn't fly with Max, though, at that time?

35 D15: No, I didn't.

COL STREIT: Because you had a role as an OPSO at that time?

40 D15: And I'd ceased flying.

COL STREIT: And you'd ceased flying. In terms of your relationship with Phil Laycock, you first met WO2 Laycock, who you called Phil, when you posted back into 6 Avn, or at least did some work with him in 2021. Is that correct?

45

D15: That's correct.

5 COL STREIT: He was the Regiment Standards Warrant Officer, and you and he worked together on planning exercises?

D15: That's correct.

10 COL STREIT: He's somebody who you would defer to on issues of safety; is that right?

D15: Correct.

15 COL STREIT: You'd ask him for advice, to make sure what was being proposed was safe for the aircrew in the back of the aircraft?

D15: Yes.

20 COL STREIT: He was a bit of your go-to guy, I take it?

D15: Yes.

25 COL STREIT: And you considered him to be one of the best aircrewmen in the Regiment?

D15: Yes.

30 COL STREIT: Just in terms of CPL Alexander Naggs, you first met him in 2020, when he posted to 6 Avn?

D15: I think it was around 2020, yes.

35 COL STREIT: You flew with him on a number of occasions, and you respected him as an aircrewman?

D15: Correct.

40 COL STREIT: You never had any concerns about his ability as an aircrewman?

D15: No.

45 COL STREIT: I'm just going to turn now to Exercise TALISMAN SABRE. Now, you deployed on Exercise TALISMAN SABRE, didn't you?

D15: Yes.

5 COL STREIT: The lead-up to the deployment on Exercise TALISMAN SABRE, would you describe it as being hectic and busy?

D15: Yes.

10 COL STREIT: Was there any reason for that, do you know?

D15: There were reasons which, confidentially, are circled in the paragraphs, and I can't talk about.

15 COL STREIT: I see.

D15: Would you like me to refer to the specific - - -

20 COL STREIT: No, that's fine. I'll move on. Can you turn the page to paragraph 113?

MS McMURDO: Just in terms of the Risk Management Plan, was there any difference to this – well, was this Risk Management Plan any better than what the usual formulaic process was?

25 D15: No, ma'am. It was very much the same.

MS McMURDO: Thank you.

30 COL STREIT: At paragraph 112, before we flip the page to 16, at the bottom of page 15 you say:

35 *In one of the planning briefings for Exercise TALISMAN SABRE, I insisted that we plan for day rehearsals for all the night missions, even though we could have pushed for a site-unseen approach. My view was that, even if the SIs allowed for negotiations of the requirements, we should always aim to complete what was stipulated in the build-up.*

40 Is that correct?

D15: That's correct.

COL STREIT: And D19 was immediately supportive of that idea?

45 D15: That's correct. I think everybody was supportive of that.

COL STREIT: Now, at paragraph 13 you go on to say that the Regiment Operations were planning for Exercise TALISMAN SABRE nine months before July 2023. You only started getting involved about a month before the exercise.

D15: That's correct.

COL STREIT: And is that simply just a distinction between what was happening in Regiment Operations and what was happening in Squadron Operations? So, in other words, there was no need for you to be involved earlier?

D15: Yes, that's correct.

COL STREIT: Paragraph 14, you say:

For those of us in 6 Aviation Regiment that were not flying on Exercise TALISMAN SABRE, we worked for two weeks straight before we even departed for Proserpine. The aircrew were working hard, too, but they worked within the SI fatigue management plan, which was mandated that they have a break.

Is that correct?

D15: That's correct.

COL STREIT: Paragraph 17, you say:

We took six airframes with us on Exercise TALISMAN SABRE. I was not involved in the crewing of the sorties on Exercise TALISMAN SABRE. That was usually managed by the Troop Commanders and the OC.

Is that correct?

D15: That's correct.

COL STREIT: You then, at paragraph 18, describe observing an argument between D20 and D10, and you say that D10 was complaining about fatigue and changes being made to shift structure due to having to leave early in the morning to deploy up to Proserpine and then having to go back to night shifts for the exercise. Is that correct?

D15: That's correct.

COL STREIT: Do you remember specifically – or do you have a recollection of where the argument was occurring?

5 D15: Yes. The argument occurred in the hallway upstairs in 173 Squadron, just outside the entrance to the Executive Offices or – of the Squadron’s doorways.

10 COL STREIT: Were you present in the observation of both of those individuals or were you simply hearing the conversation because it’s in the hallway?

D15: No, I was present in the conversation.

15 COL STREIT: At paragraph 119 you say:

D20 had also talked to me previously about –

20 let me confirm something in case I’ve misstated this. Prior to leaving Exercise TALISMAN SABRE, you saw D20 having an argument with D10; correct?

D15: That’s correct.

25 COL STREIT: D20 was complaining about fatigue and changes being made to the shift structure due to having to leave early in the morning to deploy up to Proserpine and then having to go back to night shifts for the exercise. Is that correct?

30 D15: That’s correct.

COL STREIT: D20 is the Troop Commander?

D15: Correct.

35 COL STREIT: And D10 was D20’s superior?

D15: That’s correct.

40 COL STREIT: At paragraph 119 you say:

D20 had also talked to me previously about her disappointment that she might not be able to complete one of her tasks for the captaincy upgrade while on Exercise TALISMAN SABRE.

45

Is that right?

D15: That's correct.

5 COL STREIT: Did you, after what you've described as the argument finished, did you say anything in the course of the exchange between D20 and D10?

10 D15: One of the outcomes of that discussion was to ensure that the crews were appropriately fed for their early morning department, so I assured D20 they would be and I suppose I contributed but I can't remember. I was pretty much mostly observing that conversation.

15 COL STREIT: At paragraph 120 you say:

Prior to leaving for Exercise TALISMAN SABRE, I briefly raised my concerns with the Regiment S4, D13, and possibly the OC, about the sleeping arrangements on the exercise.

20 What were your concerns?

25 D15: Probably concerns similar to most aircrew that get sent out field. It's unusual, for 6 Aviation Regiment at least, anyway, to sleep in tents like that and we hadn't done it in my posting, except for one exercise in Coffs Harbour which was in a car park, a multi-storey car park, so we were under cover. So I suppose it's about having the ability to sleep effectively in the day was pretty much the concerns and the quality of sleep.

30 COL STREIT: So you had a concern about aircrew's ability to sleep in tents?

D15: That's correct.

35 COL STREIT: Your second concern was in relation to – did you have a second concern about being in North Queensland, where it's hot?

40 D15: That was my original thought but I would say that whilst I had concerns about those arrangements, I was also conflicted with the thought that we are in the Army and there is an expectation that we would operate in these environments. So those concerns, I probably could have voiced them stronger but I probably didn't.

45 COL STREIT: At paragraph 122 you say:

Personnel were not able to –

this is on TALISMAN SABRE.

5 *Personnel were not able to sleep during the day because of the heat and noise so they would complete their night shift, sleep for a few hours until daylight and then get up and start their day.*

10 Was that your observation?

D15: Yes.

COL STREIT: Is that what happened to you, that's what you were doing too?

15

D15: Yes.

COL STREIT: You say:

20 *The start of the sleeping tents were about 100 metres away from the Operations tent which was the closest tent to the flight line. 6 Aviation Regiment were the only people flying at night at Proserpine Airport but during the day, commercial traffic were coming in and out while our aircrews were trying to sleep.*

25

Is that right?

D15: That's correct.

30 AVM HARLAND: Could you describe the set ups inside the tents?

D15: They were stretcher beds laid about a foot to a foot and a half apart, enough room to swing your legs over the side and stand up and walk either side and with as many stretcher beds on either side of the tent that could fit within those probably dimensions I'd say.

35

AVM HARLAND: Okay. Did you think that was an arrangement that was conducive to quality sleep?

40 D15: No, it was not.

AVM HARLAND: Thank you.

COL STREIT: At 23, you say:

45

On the morning of 28 July 2023, I remember D6 came up to me about 0900 concerned that all aircrew were up and about when they were flying a sortie that night.

5 Is that correct?

D15: That's correct.

10 COL STREIT: You say:

I had noticed that the aircrew were fatigued too, and I could feel tension between people as their nerves and relationships started to fracture because of the fatigue.

15 D15: That's correct.

COL STREIT: So you were making an observation or you could feel the tension between people and a fracture in relationships starting to occur, and you put that down to fatigue?

20

D15: Yes.

COL STREIT: You agreed with D6's concerns, didn't you?

25 D15: Yes.

COL STREIT: On the side, was it the case that in fact you were doing something about trying to rectify the issue?

30 D15: I was trying to – well, I was drafting a proposal to have the exercise finish earlier than intended.

COL STREIT: Why did you take that action?

35 D15: It was a combination of reasons. We had another task to complete in Sydney which we were told was no fail.

COL STREIT: "No fail" meaning it must go ahead?

40 D15: Yes.

COL STREIT: And it must be successful?

45 D15: Yes.

COL STREIT: Right.

5 D15: In addition to that, I was concerned about being able to essentially complete the last flight, get a maintenance workforce to get aircraft on line early, transit back to Sydney, and just the huge toll that that would have on the workforce just to complete that no-fail task. And my view was that if this task was no fail, then we should be willing to finish early.

10 COL STREIT: Ultimately, your work in drafting that proposal didn't come to fruition; is that right?

D15: In drafting that proposal, was the night of the 28th.

15 COL STREIT: Yes. Now, at 127 you say:

I was aware that some of the aircrew were taking sleeping medication to help them sleep.

20 You say:

I would never recommend to medicate a fatigue problem away but I understand it is permitted in the SIs.

25 You say:

Dr Dan –

30 I apologise to the medical officer if I mispronounce his name. Well, do you know how to pronounce his name?

D15: Szczudlo.

COL STREIT: Szczudlo. Thank you for that assistance.

35 *Dr Szczudlo, the OC, and the Troop Commanders managed that for the Troops.*

You did not take any sleeping medication; is that correct?

40 D15: That's correct.

45 COL STREIT: Have you previously taken sleeping medication as a fatigue – sorry, I'll start again. Have you previously been prescribed sleeping medication for the purposes of fatigue and management of fatigue as a pilot?

D15: I have completed a ground trial for Temazepam, I think it was, but I am reluctant to take medication, based on my personal beliefs.

5 COL STREIT: Sure. So a ground trial, was that a process by which you had to be assessed and engage with a medical officer as to whether that medication was appropriate to you?

D15: That's correct, yes.

10

COL STREIT: If you got through that hoop, then you could be prescribed that medication to take in accordance with what the prescription said?

15 D15: Yes, the idea to use sleeping pills on operations is to essentially medicate fatigue away, allowing pilots or aircrew to sleep when they would otherwise probably not normally sleep.

20 COL STREIT: I'm just now going to talk about the mission on 28 July 2023. At paragraph 128 you say there was a rehearsal for the mission; that is, the mission being the night of 28 July 2023. A rehearsal was conducted on Thursday, 27 July 2023; is that right?

D15: That's correct.

25 COL STREIT: Dan flew in that rehearsal?

D15: That's correct.

30 COL STREIT: And there was no day flight on 28 July 2023?

30

D15: Correct.

35 COL STREIT: You're aware that D20 left the exercise on Friday, 28 July 2023, but you don't know why.

35

D15: Yes, I knew that there was – that she was upset when she left, but I wasn't made aware of the specifics of why she was leaving at the time.

40 COL STREIT: You go on to say, at paragraph 130, that from what you remember about the weather on 28 July '23 it was not pristine flying conditions, but was still within the bounds of what is legal. The mission itself was also fairly simple. It was an extraction with no threat on route to the target or at the target. The aircrew just had to fly to Lindeman Island, pick up the ground force and come home. They also had a suite of administrative moves they had to complete. Is that correct?

45

D15: That's correct.

5 COL STREIT: When you say "the flying conditions were not pristine", or "pristine flying conditions", what's your recollection about the weather on the 28th?

10 D15: My recollection was that they would have to avoid weather in some circumstances. So there would likely be showers around that if you were to fly through that would reduce your weather conditions to poor. However, there is a way they are able to fly around, essentially, those weather systems. So, yes, the weather was poor in some areas but there was breaks in it that enabled them to go flying.

15 COL STREIT: Paragraph 131, you say:

20 *I did not have any specific concerns about the flight on 28 July 2023. I kept asking myself why I did not, considering that I was proposing to cancel the remainder of the sorties on the exercise. I think it was because it was simpler than other flights we had done, and over time you start to normalise your own fatigue levels.*

25 What do you mean "normalise your own fatigue levels"?

D15: Well, I think when it's been communicated repetitively over a number of years it's fairly well known and there is no – nothing to distinguish between yesterday and today because you were tired yesterday and you still went flying and successfully flew that mission. You're tired today, and that's the insidious nature of cumulative fatigue, I suppose.

30 COL STREIT: You go on to say:

35 *Your judgment slowly deviates over time. We were fatigued on 28 July 2023 but we were fatigued the day before and the day before that. And so much has already been said about fatigue. What is to distinguish yesterday from today? It's not like you can go on strike in the Army.*

40 D15: That's correct.

COL STREIT: You then say this at 132:

45 *The junior pilots coming into 6 Avn Regiment in 2023, like Max, did not have as many opportunities to fly as I did when I was a*

junior pilot. Max would have flown in formation at night over water as part of his SOQC, but he only completed that immediately before Exercise TALISMAN SABRE. So the sortie on 28 July 2023 may have been his second time flying such a profile.

5

Is that right?

D15: That's correct, but the reference – so “opportunities to fly as I did”, is my particular scenario was unique in that I was very lucky in the amount of flying that I got as a junior pilot.

10

COL STREIT: Paragraph 134, you say:

15

Flying in ship 3 in a four-ship formation also takes a bit of experience in the heavy left formation because you're forming off ship 1, which is a bit further away from you.

I pause there. Have you ever flown in a four-ship formation?

20

D15: Yes.

COL STREIT: And have you flown in ship 3 in that four-ship formation?

25

D15: Yes.

COL STREIT: You go on to say at 134:

30

It is harder to see the formation lights when the aircraft in front of you is further away. Then, if sitting in the left seat, you are looking across the cockpit to ship 2 to make sure you're not getting ahead of them. So you are referencing two airframes instead of one.

D15: Yes, you're referencing two airframes across the cockpit.

35

COL STREIT: At 135 you go on to say:

40

If you're conducting a left turn in this situation, you're starting to go faster on the inside of a corner therefore, to avoid ending up in front of the other airframes. The more experienced pilots would flare, wait a short moment for the two airframes in front to move a bit closer to the centre of their windscreen, then reciprocate the turn. This stops any overtake from the inside aircraft while also keeping the formation visible for the flying pilot.

45

If the flying pilot in ship 3 turned straightaway, then there was a higher chance the instrument coaming would lift so high that it would block the flying pilot's view of the other two aircraft.

5 Have you had that experience?

D15: Yes.

COL STREIT: You say at 136:

10

This manoeuvring requires small movements and adjustments. It would be a quite unnatural feeling until you get used to it.

D15: Yes, that's correct.

15

COL STREIT: When you say "you", did you ever get used to it?

D15: Yes, towards the later stages I did. It took me some time to get used to it. The urge that I felt when I first got my qualification was that I did not want to be flying so close to other aircraft, so I would tend to space myself out further. And, additionally, if I was flying cross-cockpit and aircraft turned towards me, the natural instinct is to flare and slow down and turn with them to avoid them. So it was counterintuitive to your natural instincts – to mine anyway.

20

25

COL STREIT: You go on to say that:

Some of the pilots were also the only people who could perform certain roles. So if they FACE'd out, that aircraft could not fly. And perhaps even the mission could not go ahead. 6th Aviation Regiment also recruits people that are intrinsically motivated and want to be successful, so are less likely to FACE out. I still think there is a stigma at 6th Aviation Regiment about FACEing out at the aircraft, leaving it until the last-minute to do so.

30

35

What is FACEing out? What does FACE stand for?

D15: So a FACE check is a check that the Aircraft Captain does with their crew pre-flying, where everybody's requested to consider their own fatigue, alertness, complacency, and any other external factors that could cause them to not perform their duties appropriately. This brief was generally done at the aircraft.

40

Dan used to do it significantly before that period of time to give people the opportunity to talk about it. But, generally speaking, the Aircraft Captains would do it at the aircraft.

5 COL STREIT: You were in the Operations tent, weren't you, on 28 July 2023, during the sortie?

D15: Yes.

10 COL STREIT: Your soldiers were manning radios nearby when the call came through concerning the incident involving Bushman 83; is that right?

D15: Yes.

15 COL STREIT: Your soldiers acknowledged the call and there was a flurry of activity in the tent, which snapped you out of what you were doing and you immediately grabbed the crew card and saw who was in Bushman 83. Is that right?

20 D15: Yes.

COL STREIT: Yourself, D29 and D16 then spent the night coordinating the search and rescue.

25 D15: Yes.

COL STREIT: I just want to talk to you about the search and rescue aspect and the role of D29.

30 D15: Okay.

COL STREIT: Are you right to continue?

35 D15: Yes.

COL STREIT: D29 was from Regiment Operations and she prepared the exercise governance documents for Exercise TALISMAN SABRE. Is that correct?

40 D15: That's correct.

45 COL STREIT: And you say that she also had access to all the safety procedures and the Signal chat, so she could begin coordinating various exercise-specific safety parties. Is that right?

D15: That's correct.

5 COL STREIT: You think D29 also called Triple Zero and coordinated with the 6 Avn Regiment Headquarters.

D15: Yes.

10 COL STREIT: At 144 you say:

D16 had completed a civilian search and rescue course, so he called the Australian Maritime Safety Authority and coordinated the response with them.

15 Is that right?

D15: That's correct.

20 COL STREIT: What was the relevance of referring to the fact that D16 had completed a civilian search and rescue course?

25 D15: I can't remember the exact name of the course, but it's a course that's held to specifically, in detail, go over maritime or just search and rescue efforts, the processes, and who gets informed.

COL STREIT: At some point, a QPS Officer arrived in the Operations tent. You saw that person?

30 D15: I did see one, yes.

COL STREIT: And you say at 147:

35 *The Australian Maritime Safety Authority took over control of the airborne elements of the search and rescue at about 0400 on 29 July 2023.*

D15: That's correct.

40 COL STREIT: At 148 you say:

45 *We had not practised what to do in a prolonged situation like this very often. We learned things through this experience, including that civilian helicopters do not necessarily have winches to assist in recovery of survivors.*

Is that right?

D15: That's correct.

5 COL STREIT: Do you know if there was any on-call search and rescue element as part of Exercise TALISMAN SABRE?

10 D15: Not specifically. I know that to – as in when I say “not specifically”, I don't know which specific element was assigned, but I do remember that there was to be an on-call search and rescue element, which is I think, essentially, why D29 coordinated that piece.

COL STREIT: At 149 you say:

15 *The link between Army and the AMSA was also very critical. And I wonder, if we did not have D16 in the tent, who had done the civilian search and rescue course, if we would ever have even known how to engage with AMSA.*

20 Is that right?

25 D15: That is somewhat correct. So we would have known to engage with AMSA. We've worked with AMSA in the past. However, the specific expertise were invaluable and, I would say, in that specific circumstance, necessary.

COL STREIT: You also, at 151, say:

30 *I think it would be beneficial for 6 Avn Regiment to practice going through what would happen if an aircraft crashed from the start of the incident until handing over to civilian authorities, as that can be a long period of time.*

Why do you say that in your evidence?

35 D15: I think the initial actions were handled very well by both D16 and D29, and my soldiers on the radio, quite well versed what would happen initially. I think as time went on, we had not experienced that before. The Jervis Bay ditching was over very quickly. Initial actions worked.
40 However, this prolonged experienced, I suppose, induced more areas where we kind of had to consider decisions to make at the time.

COL STREIT: Do you conduct crash exercises at 6th Aviation Regiment?

5 D15: We do. They're focused primarily on initial actions, and at the start of every exercise, in 2023 at least, we did desktop crash exercises where we would discuss what we would do if someone crashed in that specific area. So again, a lot of initial actions stuff. As time went on, there were some other things that popped up that we hadn't really thought of before.

COL STREIT: Do you have checklists to guide you through that response?

10 D15: We do, yes.

COL STREIT: Yes, thank you. You asked D10 to start pushing out the notification process right away?

15 D15: When D10 landed, I was concerned – one of my thoughts was notifying families, and I wanted to ensure that that would happen before the media notified them.

20 COL STREIT: At about 5 am – or 0500, D19 and the Brigade Commander, BRIG Thompson, arrived at Proserpine and were in the Operations tent. Is that right?

D15: Yes, that's correct.

25 COL STREIT: You left for a brief time, but returned; is that correct?

D15: Sorry, which paragraph are you referring to there?

30 COL STREIT: You left the Operations tent for a brief time, paragraph 154.

D15: Correct, yes. By about 5 o'clock the search and rescue coordination on our end was completed and we were collating evidence for the FSB, at which point I just had to separate myself for a little moment.

35 COL STREIT: Yes. You'd completed a notebook. You were using a notebook throughout the search and rescue operation. That's right?

40 D15: Yes.

COL STREIT: And you had put that in a bin which had been quarantined for DFSB?

45 D15: Yes. An MO bin, I think it was.

COL STREIT: You left Proserpine Airport with other members of 6th Aviation Regiment on Saturday, 29 July at about midday on a C-130?

D15: That's correct.

5

COL STREIT: And you finally got some sleep on the plane and then landed at Richmond. You went straight to Dannel Lyon's house and spoke with Cait.

10

D15: Yes.

COL STREIT: Is that correct?

D15: Yes.

15

COL STREIT: You stayed at Mrs Lyon's house for a few hours. You were frequently there over the next few days; is that right?

D15: Yes.

20

COL STREIT: I just want to talk to you briefly about funeral arrangements. Paragraph 160, you say:

25

I also was at Cait's house when CHAP Bruce Hammonds visited her to discuss the preparations for Dan's funeral. Cait wanted to make the eulogy for Dan, but CHAP Hammonds told her that it was abnormal and that he would read her eulogy out instead. Cait did not agree with this.

30

Were you present at the time when this discussion was occurring?

D15: Sorry, just a correction to that statement. I was actually phone conferenced into that one.

35

COL STREIT: You were phone conferenced in?

D15: Yes. Cait wanted me to be present for some of the funeral planning, and so I rang in and was over the phone.

40

COL STREIT: You joined the conversation virtually, by way of a phone?

D15: That's correct.

COL STREIT: At paragraph 161 you say:

45

She –

meaning Mrs Lyon –

5 *then gave him –*

being CHAP Hammonds –

10 *a reading to read out, and specifically told CHAP Hammonds to
only read out the words from the reading.*

Is that your memory?

15 D15: Yes.

COL STREIT: You say:

20 *But he ignored her request and made a speech at the funeral
about how grateful he was that Cait had forgiven him for not
giving her the bad news of Dan's passing.*

D15: For giving her the bad news.

25 COL STREIT: That's your recollection of the funeral?

D15: That's what happened at the funeral.

COL STREIT:

30 *She was specific about telling CHAP Hammonds to only read out
certain words because he had previously gone on tangents at
other funerals. She told me that she did not want this for Dan's
funeral.*

35 Is that correct?

D15: That's correct.

40 COL STREIT: At 163 you say you expressed frustrations to D23 and he
told you that D19 had told him that he was concerned that you were
getting too involved.

45 D15: That was not expressing concerns about the Chaplain. That was I
expressed concerns about Cait not having access to Dan's will.

COL STREIT: I'll start again. So at 162 you say:

5 *The reason why Cait delayed in holding Dan's funeral was because she knew that Dan had prepared a funeral plan as part of his will, but because Dan was missing, Defence would not release his will to her even though she was the Executor of the Will. Cait wanted to make sure that she was following Dan's preferences for his funeral, so she wanted to see his plan.*

10 D15: That's correct.

COL STREIT: Is that something Cait expressed to you?

15 D15: Yes.

COL STREIT: At 163 you say:

20 *I expressed my frustrations about this to D23 and he told me that D19 had told him that he was concerned I was getting too involved.*

D15: Yes, or inappropriately involved.

COL STREIT: At 164 you say:

25 *I think my chain of command were aware that Cait had asked me to assist her, so they eventually accepted the situation.*

Is that right?

30 D15: Yes.

COL STREIT: And that:

35 *Defence released the will once Dan was declared missing, feared dead.*

D15 Correct.

40 COL STREIT: At 166 you say:

45 *I took a few days of personal leave after the incident, but otherwise continued to work at 6 Avn Regiment up until January 2024.*

D15: Yes.

COL STREIT: So you didn't have any downtime after this incident?

5 D15: Well, I went on – other than Christmas leave is when I posted, and then I did have personal leave, as stated.

COL STREIT: Sure. But a few days of personal leave after the incident?

10 D15: That's correct.

COL STREIT: And then back to it, back to work?

15 D15: Yes. But too, it was a different environment. I would say that the primary effort at the Regiment at that time was to ensure that we did a good job of the funerals.

COL STREIT: Was there also some work being undertaken with the transitioning to Black Hawk?

20

D15: That was happening in the background, yes.

COL STREIT: At 168 you say you had a critical incident mental health screen –

25

which we were ordered to turn up to. There was a follow-up screening for those of us impacted by the incident six months later, but that was not compulsory.

30 That's your recollection? So the first critical incident mental health screen, that was – you were ordered to do that?

35 D15: We were ordered to parade at the mental health screen, we weren't ordered to complete the mental health screen. So we had the option at that point whether to do it or not.

COL STREIT: 169, you say you:

40 *recall having a briefing about the incident a few weeks after it occurred. We were told that Airbus announced there was nothing mechanically wrong with the airframe and that it would likely be deemed a controlled flight into terrain.*

Do you recall where you received that information from?

45

D15: I recall that being briefed in one of the hangars and I think it was by D19.

5 COL STREIT: A few weeks after the incident you were replaced as the Squadron OPSO; is that right?

D15: That's correct.

10 COL STREIT: And the MRH-90 was temporarily grounded at that stage, so there was no flying. Is that correct?

D15: Correct.

15 MS McMURDO: Could I just ask, at paragraph 169, "that it would likely be deemed a controlled flight into terrain", what does that mean?

D15: That means that the aircraft was under the control of aircrew and flew into terrain without any mechanical failure causing it to do so.

20 MS McMURDO: Does that mean that would be found to be the cause of the accident?

25 D15: Well, I think it would have been an assumption made at the time of the cause of the accident. However, I don't think that we had really, or even still do, have the information to determine what caused the accident.

MS McMURDO: No, I understand that. I just wanted to know what you perceived to be the meaning of that phrase.

30 D15: I think the meaning behind that was just a deduction based on the fact that Airbus had released a statement.

MS McMURDO: Thank you. Yes, thank you, COL Streit.

35 COL STREIT: In April 2024, you took medical leave from work and you've not been back since; is that right?

D15: That's correct.

40 COL STREIT: You've been interviewed by the DFSB and Comcare about the incident?

D15: Correct.

COL STREIT: Do you remember when you were interviewed by DFSB, when that occurred?

5 D15: It was later in the year of 2023, probably two months after the accident.

COL STREIT: Sure. Do you remember when you were interviewed by Comcare?

10 D15: That was early this year.

COL STREIT: Thank you. That took some time, but that evidence is important. That's my questions, thank you.

15 MS McMURDO: Yes. Are there questions?

AVM HARLAND: I have a few before we go to the cross-examination.

20 MS McMURDO: Thank you.

AVM HARLAND: Could you give me your opinion on the effectiveness of the MRH-90 formation lights?

25 D15: I think the lights, the system as a whole, the panel, is quite complicated, turning on lights, turning off lights. Making sure that you have them correctly configured is often something that gets misconfigured because of its complexity. You'll find the switches say things – or the names of the switches will refer to some light, but then actually the operation of that switch does something different to what it is named for.
30 The effectiveness of the brightness of the formation lights, I think I personally don't have an opinion on. I think that I've found them satisfactory personally.

35 AVM HARLAND: That's great, thank you. MAJ Gallatly made a statement in paragraph 75 of his submission. He talked about you telling him that another pilot of the unit had accidentally switched an engine to idle in flight while trying to change a light. He thinks the incident occurred in 2020 in 6th Aviation Regiment, and assumes it's reported as an ASR in Sentinel or an Aviation Safety Report. Do you have anything
40 more to add to that? Can you recall that conversation?

D15: I can recall the flight happening, yes. I know who the crew were for that flight. I wouldn't be able to give you specific dates without going
45 back through safety reports and checking.

AVM HARLAND: Was a safety report submitted on that, do you know?

D15: I would say so, yes.

5 AVM HARLAND: Just a question regarding FACEing out as a control in Aviation. How effective do you consider that control to be?

10 D15: I would say not effective in its current form. I think there is merit on addressing those individual factors before going flying, but doing it at the aircraft, going through the planning, going through the authorisation brief, walking out, getting all the gear on and saying that you're fatigued or that you can't complete the flight, the odds of somebody saying something like that at that specific point are slim.

15 AVM HARLAND: So I'm reading from that, you consider it to be an ineffective risk control.

D15: In its current form, yes.

20 AVM HARLAND: Okay, thank you.

25 MS McMURDO: Just one other matter from me. If you could have a look at paragraph 73 of your statement, if I could just remind you about that, you spoke there about a number of pilots who needed to take extended periods of leave after posting out of 6th Aviation Regiment due to burnout-type issues and that some of them were your mates.

D15: That's correct.

30 MS McMURDO: Have you kept in touch with them?

D15: Yes, some of them.

35 MS McMURDO: Have you discussed with them the possibility of them speaking to the Inquiry or making a submission?

D15: I haven't, no.

40 MS McMURDO: You haven't discussed that with them, no. Okay, thank you. Are there applications to cross-examine?

SQNLDR NICOLSON: Yes, ma'am. There's myself and my colleague.

45 MS McMURDO: Sorry, yourself and your colleague? Yes, two.

SQNLDR NICOLSON: Yes.

MS McMURDO: Yes. Will they be very long?

5 COL GABBEDY: Look, noting the time, my suggestion to you will be that we do this tomorrow morning.

MS McMURDO: Well, I expect Captain would probably like to finish today if possible, but what would you prefer? How long do you think
10 you'd be?

COL GABBEDY: Do we have a hard cut-off at 5?

MS McMURDO: Sorry?
15

COL GABBEDY: Do we have - - -

MS McMURDO: No, we don't. We don't have a cut-off at 5.

20 COL GABBEDY: Okay. I suspect 15, 20 minutes, possibly.

SQNLDR NICOLSON: And probably likewise for me.

MS McMURDO: All right. So we're talking about another 30 to
25 40 minutes. Would you prefer to come back tomorrow and have a break, or would you prefer to continue today? I don't want it to be like FACEing out, you know? Feel completely free to say whatever you'd prefer to do.

D15: I think I'd prefer to get it done today if I can, ma'am.
30

MS McMURDO: You would. Okay. Do you need to have a break before we start cross-examination?

D15: If I could just have a quick break, that would be good.
35

MS McMURDO: Okay. We'll just have a short break.

HEARING ADJOURNED
40

HEARING RESUMED

5 MS McMURDO: Yes, if I could just ask that, in the circumstances, those
cross-examining be as brief and as focused as they can be, consistent with
their obligations to their clients. Thank you.

10 COL GABBEDY: Thank you, ma'am, sir. Look, I certainly used the
time we had to try and sharpen my questions for this witness.

<CROSS-EXAMINATION BY COL GABBEDY

15 COL GABBEDY: D15, I'm COL Nigel Gabbedy. I appear on behalf of
MAJGEN Jobson, the Commander of Army Aviation. With reference to
your statement, I just have a few questions for you. At around about
20 paragraph 18 you made a comment about the work environment at 6 Avn
being a mature work environment. Do you remember that?

D15: Yes, I do.

25 COL GABBEDY: Good. What I just want to ascertain then, is that my
understanding of what that means is the same as yours. My understanding
of a mature work environment is one where decision-making is devolved
down to lower levels. So when you're busy, you're there and you're
working, but on days when there isn't much to do, you're able to cut
yourself or your Troops away early to get home and try and restore a bit of
30 that work-life balance. Is that what you meant?

D15: Yes, that was the general intent.

35 COL GABBEDY: Okay, thank you. At paragraph 27 you said that as a
co-pilot you did most of the flying. My understanding is that's how it was
at 6th Aviation, that the time was put in to develop the co-pilot's flying.
Is that right?

40 D15: When I say "most of the flying", I'm talking about if you're
referring specifically to SO flying. Is that what your question refers - - -

COL GABBEDY: Any flying. Was there a bias towards co-pilots flying,
is what my question is, I suppose?

D15: The bias was there to ensure that the Aircraft Captain was managing the aircraft as far as air space checks, emergencies that may arise. So that was the delineation of duties: co-pilot flying, Aircraft Captain managing.

5 COL GABBEDY: Thank you for that. That helps. You gave some evidence, and it's in your statement at about paragraph 30 onwards, about an incident that occurred in 2020. My understanding of what happened in that incident was that when ship 1 suddenly flared, at that stage in your aircraft the Aircraft Captain took over. Is that right?

10

D15: No, that's incorrect. My Aircraft Captain took over en route, on that final leg called the intermediate point to target run, probably about the first quarter of that run in.

15 COL GABBEDY: Had the Captain taken over prior to that point because the run in was more complex than anticipated?

D15: He took over because I had made the statement that visibility was decreasing.

20

COL GABBEDY: So in those circumstances that was the right thing for him to do, was it not?

D15: Yes.

25

COL GABBEDY: And when ship 1 flared, wasn't it trained that the different aircraft in formation then flew arcs to avoid colliding with each other?

30 D15: That is the expectation. However, when you compound a flare and a turn that's not expected at the same time, if you were to use that arc the – you would essentially strike the other airframe. At that stage of the run in the aircraft are at two rotor diameters apart and that combination of flare and turn rapidly reduces those rotor diameters, and particularly it
35 doesn't allow you to use that arc to then move across to the other side of that airframe.

40 COL GABBEDY: Thank you. That helps me understand that. So the way that ship 1 reacted meant that the arcs you would normally fly would not have worked?

D15: That's correct.

45 COL GABBEDY: So other actions were taken to de-conflict the three ships?

D15: Yes.

5 COL GABBEDY: You say, in paragraph 34, that the next day the Squadron didn't fly.

D15: That's correct.

10 COL GABBEDY: And part of the purpose of that was so everyone could discuss this particular incident.

D15: Yes.

15 COL GABBEDY: Are you saying that that wasn't a full and frank discussion? Did you feel constrained in what you could say?

20 D15: No. I did make the statement that safety concerns were raised as a part of that discussion. I felt that the point was better – the outcome that we wanted was to not fly in conditions like that again, hence why I made the decision to use operational effect versus safety.

COL GABBEDY: And you believe an ASR was raised, and that you read it?

25 D15: I know it was.

COL GABBEDY: And you read the ASR?

30 D15: I have, yes.

COL GABBEDY: Did you agree with it, when you read it?

35 D15: I agreed mostly with it. Like I said, there was contention about how close, how poor visibility was, the necessity to fly in conditions like that, and also the classification of the report.

COL GABBEDY: You had concerns that it was a – that it should have been categorised as Class B.

40 D15: Yes.

COL GABBEDY: Did you raise those concerns with anybody?

45 D15: Yes.

COL GABBEDY: Who were they raised with?

5 D15: They were just raised with, at one point I believe there was a Safety Officer at the Regiment. I can't remember his name, but he did come and have a general discussion. Actually, I do have his name, but I'm not sure if I'm allowed to use it.

COL GABBEDY: Can you use his acronym if it's there?

10 D15: Yes, I don't think it's on here. He's at the unit.

COL GABBEDY: No need to name him today. You spoke to the Safety Officer.

15 D15: But I remember just a general conversation where we discussed our concerns with that and the fact that it probably should be Class B. I believe at the time he was either the Regiment Aviation Safety Officer or he was acting in a reserve capacity to fill an expert safety role.

20 COL GABBEDY: Do you know if there was any follow-up from that discussion?

25 D15: I know that he probably took what we said into consideration, but I don't – the outcome of, essentially, the classification remained as a Class C.

30 COL GABBEDY: Thank you for that. In paragraphs 64 and 74 you make some comments about workload at the Regiment. In relation to that, we've had evidence from other Squadron members that flying only occurred Mondays to Thursdays, that you didn't fly on school holidays, and that generally December and January there was no flying either. Now, I understand that DACC and other tasks could cut into that general program, but what do you say it was that was impinging on what otherwise looks like a reasonable program for managing fatigue?

35 D15: Yes. So I'll refer to your comment about DACC – regularly took some of those times. Additionally, to stand an exercise up requires a lot of staff work and a lot of planning, which doesn't involve flying. And the fact that they're back-to-back a lot of the time means that that time is compressed. So you would get time in the reduced tempo periods over the school holidays to complete your otherwise normal duties as an Army Officer, which would generally be used for doing performance reports or personnel management that you'd lacked the opportunity to do previously. However, in the lead-up and the build-up of planning activities, in the tempo and how closely together they were, it meant that you were

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generally very busy in your day-to-day and you would – often your day would be a blur based on how busy you were. And I'm referring specifically to pilots who had more senior positions and additional responsibilities.

5

COL GABBEDY: With that, we've heard evidence from a couple of pilots, including D20 yesterday, and they talked about issues that were taking up their time, admin style tasks relating to allowances and pay and other issues. Was there sufficient support from the Orderly Room or from the Chief Clerk, do you believe?

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D15: There was definitely not.

COL GABBEDY: Do you know why that was?

15

D15: I believe that the positions, as in the unit established position numbers, were allocated for the unit to have those clerks. However, I think retention was an issue at some point and, yes, I know that we have spent periods of time where even I, myself, would be doing administration for travel for personnel on any exercise, as well as doing all of the operations stuff just to ensure that, from a financial perspective, we were compliant.

20

COL GABBEDY: So the Orderly Room wasn't fully staffed?

25

D15: No.

COL GABBEDY: Okay, thank you. You gave some evidence in relation to a safety day conducted post the incident in July of last year.

30

D15: Yes.

COL GABBEDY: My understanding is that when that safety day came around, the airframe had been stood down.

35

D15: Yes.

COL GABBEDY: A decision had been made that it wouldn't be used again.

40

D15: Okay.

COL GABBEDY: Is that your recollection as well?

D15: I'm not sure about your timeframes, as in if I had the dates backed up. And to be certain about it, I would need to reference both the article and the safety day administration instruction.

5 COL GABBEDY: In fairness to you, I'll put it this way: do you remember that prior to that safety day, the decision had been made to replace the MRH-90 with the UH-60M Black Hawk?

D15: That had been made prior to the crash, I believe.

10

COL GABBEDY: At the safety day, you say you attributed to MAJGEN Jobson a comment that the issues that arose with the MRH distracted Headquarters Aviation Command's ability to make good operational decisions about the airframe. That's your summary of what was being told to you, I take it?

15

D15: Yes.

20

COL GABBEDY: Do you remember him saying – or hearing these particular points when he was speaking to you? He said that the MRH-90 was an immature and unreliable system?

D15: I can't remember that specific terminology.

25

COL GABBEDY: I'll put a number of things to you and perhaps in advance if I say it like this: if you remember him actually making that comment, please let us know. If you remember him making a comment of that type, could you please clarify that? If you have no memory, then let us know that?

30

D15: Okay, perfect.

COL GABBEDY: The first one was, he said that it was an immature and unreliable system?

35

D15: I believe he did make a comment of that type.

COL GABBEDY: He said it was an underperforming system?

40

D15: Yes.

COL GABBEDY: He said, "It was a system that created a burden for our people"?

45

D15: Yes.

COL GABBEDY: He said it wasn't cost effective?

D15: Yes.

5

COL GABBEDY: He said it wasn't delivering capability?

D15: Yes.

10 COL GABBEDY: And he said it was right that the MRH-90 be withdrawn and replaced?

D15: Yes.

15 COL GABBEDY: MAJGEN Jobson then went on to say that what Army Aviation needed was an aircraft system that restored reliability and good operational outcomes?

D15: Yes, I remember something of that type.

20

COL GABBEDY: And he endorsed the UH-60M as being the system that would provide that?

D15: Yes.

25

COL GABBEDY: Okay, thank you. You gave some evidence about the ditching at Jervis Bay, and we've had some evidence from other witnesses about that. My understanding is that prior to the ditching at Jervis Bay the issue with the engine was known. Was it something that was known to you prior to the ditching at Jervis Bay?

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D15: When you make the statement, "it was known", who are you referring to?

35 COL GABBEDY: Let me put it this way. The understanding by the maintenance area of Army Aviation, and particularly by the civilian contractors prior to the ditching at Jervis Bay, was there was an issue with the engine, that the issue didn't require immediate rectification, and that the rectification could occur as part of deep maintenance. So there was a problem there. The problem needed to be monitored, but it wasn't a problem that required immediate replacement. Were you aware of that?

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D15: I am aware that there are maintenance elements that were clearly made aware, because if Avn Command knew about it then they would

have referred it to SMEs, or subject-matter experts, about the case. But I do know for a fact that there were aircrew that were not made aware.

5 COL GABBEDY: My understanding is that post the ditching in Jervis Bay two things happened. One of them was that all of the airframes used by 6th Aviation had an engine upgrade. Sorry?

D15: Yes, that's correct.

10 COL GABBEDY: And each of those airframes had two modified engines.

D15: Correct.

15 COL GABBEDY: The other thing that happened was that the flying envelope for 5 Aviation was changed so that there was more safety built into that envelope because they didn't have the upgraded engines.

20 D15: Yes, except – to amend your comment – 6th Aviation Regiment, not 5.

25 COL GABBEDY: Sorry, my mistake. At paragraph 122 – I've only got a few things left to talk to you about – you were talking about the difficulties associated with sleeping in tents on exercise. Just a few points to raise with you in relation to that. D20 said that, "Look, sleeping in tents is not ideal, but that they were open at each end, with mosquito nets. There was a breeze that went through, so it wasn't that bad". I'm paraphrasing her, but do you have any comment to make about that?

30 D15: I would say that experiences are relative to individuals.

COL GABBEDY: Fair enough.

35 D15: I would also say that the segregation of day and night shift in those tents was not apparent, so there was movement in the tents, the proximity of sleeping together. Yes, experiences will vary.

40 MS McMURDO: I think that comment was related to the heat, not so much to the quietness.

COL GABBEDY: Yes, certainly the breeze would be right with the heat.

45 MS McMURDO: She didn't suggest that it was conducive to sleeping well.

COL GABBEDY: I don't think anyone would, ma'am.

The other thing in relation to that was, was it common to use earplugs or eye shields as a way of blocking out both the light and the noise?

5

D15: While sleeping?

COL GABBEDY: Yes.

10 D15: Again, experiences may vary. I personally didn't have an eye shield, and again, as I stated, I had not operated like this at 6th Aviation Regiment since posting there, which meant that some people may have thought to bring eye shields. A lot of people didn't.

15 COL GABBEDY: And I take it this was the first time you'd been sleeping in a tent on exercise for quite some time?

D15: Yes.

20 COL GABBEDY: Just one final question. You say at paragraph 137 that you weren't aware of any aircrew FACEing out on TALISMAN SABRE. Wasn't it the case that D20 FACE'd out?

25 D15: It could have been. I also made the comment that I wasn't aware of her specifics. I wasn't witness to that.

COL GABBEDY: I make no criticism of you. I was just asking you as a general comment. Look, thank you very much for your help.

30 D15: Thank you.

MS McMURDO: Thanks, COL Gabbedy. Yes, SQNLDR Nicolson.

35 **<CROSS-EXAMINATION BY SQNLDR NICOLSON**

40 SQNLDR NICOLSON: Good afternoon. My name is Michael Nicolson. I appear for D10 in these proceedings. Can I just get you to have a look at the pseudonym list and just confirm D10 was the Officer Commanding in 2023?

D15: Yes.

SQNLDR NICOLSON: The questions relate just to his involvement as the Officer Commanding and you, as the Regimental OPSO, had a lot of dealings with him when you posted, particularly in '23?

5 D15: Yes.

SQNLDR NICOLSON: In terms of the output for 6th Aviation, it was the 173 Squadron that did all the output? There was only one flying Squadron; correct?

10

D15: Yes.

SQNLDR NICOLSON: And that was 171. There was a Squadron there, but it wouldn't have any flying capabilities in 2023?

15

D15: Yes.

SQNLDR NICOLSON: In terms of 173 Squadron, that was an SO Squadron?

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D15: Yes.

SQNLDR NICOLSON: Is there a difference between an SO Captain and a normal Captain to do with flying MRH-90s?

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D15: Yes.

SQNLDR NICOLSON: Is that to do with the level of complexity that the missions – required by the SO aircraft?

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D15: Yes.

SQNLDR NICOLSON: In terms of fatigue issues, you've identified at paragraph 70 of your statement – I'll get you to go and refer to paragraph 70. What I just wanted to check with you is, in respect to what you've noted in matters of impact of aircrew fatigue, are they the factors in paragraph 70 that you're taking about today about issues of fatigue? And if there's any other issues of fatigue that's not mentioned at paragraph 70, can you just identify that, please?

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40

D15: Sorry, can you just repeat that question? You've asked me to refer to paragraph 70.

SQNLDR NICOLSON: It's paragraph 7-0, which is on page 10 of 24.

45

D15: Yes.

5 SQNLDR NICOLSON: It talks about the lack of serviceable MRH didn't really have an impact on aircrew, but then you talk about last-minute changes, that many pilots having secondary roles, the high tempo associated with the unit, and the changes to the last-minute to do with the mission or the exercise. Were they matters that impacted fatigue?

D15: Yes.

10 SQNLDR NICOLSON: Were there any other factors that impact upon fatigue apart from the matters you didn't mention in paragraph 70?

D15: Generally, or on that exercise?

15 SQNLDR NICOLSON: Let's talk about in 2023.

D15: I think that pretty well sums it up.

20 SQNLDR NICOLSON: And I guess the point for you, as the OPSO, like an exercise, you were planning the exercise – it was planned up to nine months before the exercise?

D15: Yes.

25 SQNLDR NICOLSON: And you came into it about a month before?

D15: Correct.

30 SQNLDR NICOLSON: When the unit or the Squadron came into play?

D15: Yes.

35 SQNLDR NICOLSON: And any last-minute changes really had an impact upon the Squadron and an impact upon you as your work performance?

D15: Yes.

40 SQNLDR NICOLSON: An example, on the Monday, when the Squadron flew up to Proserpine from Holsworthy, there were a number of changes, left to right, of when the Squadron was going to leave. Correct?

D15: Yes.

45

SQNLDR NICOLSON: And they were outside the control of 6th Aviation?

D15: Yes, I would say so.

5

SQNLDR NICOLSON: In an open format, there were other elements that had to be connected up to the flight up to Proserpine; correct?

D15: Yes.

10

SQNLDR NICOLSON: And that was something that 6th Aviation didn't control?

D15: Correct.

15

SQNLDR NICOLSON: And the only way 6th Aviation, or D10, could control is, if there was a fatigue issue, you could FACE out?

D15: That's correct, and complying with the SIs, which D10 did, yes.

20

SQNLDR NICOLSON: So D10 complied with the SIs. That's the rules?

D15: Yes.

25

SQNLDR NICOLSON: And you, as a Squadron OPSO, complied with the rules?

D15: Correct.

30

SQNLDR NICOLSON: So at the time, in 2023, you, D10, operated within the rules?

D15: Yes.

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SQNLDR NICOLSON: And that was the guideline that you had, and D10 had, in relation to operate. So provided you operated within the rules, that's the best you could do?

D15: I would say yes, with a caveat that we can always do better. If the rules aren't fit for purpose, we do have the flexibility to impose more rules.

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SQNLDR NICOLSON: And in terms of the rules, for example – the SIs or the rules – they did dictate about how many hours you could fly and your resets?

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D15: They do dictate that, yes.

5 SQNLDR NICOLSON: Yes, and were you comfortable with those reset and those flying hours?

10 D15: As a whole, yes. However, I wasn't comfortable with the levels of fatigue, which again goes back to that – the greyness is if you're not comfortable with fatigue, you can always do something about it. But I'm not referring specifically to D10, that's me and the collective.

SQNLDR NICOLSON: No, and I'm just trying to address the questions particularly for D10.

15 D15: Yes, okay.

20 SQNLDR NICOLSON: We've talked about FACE out. In 2023, what other options did the Squadron have if there was high fatigue and pilots, aircrew couldn't fly? Is there anything that you could think of at that time?

D15: Cancelling.

25 SQNLDR NICOLSON: When, in terms of the tempo, the tempo really resolved around training currency exercises?

D15: Yes.

30 SQNLDR NICOLSON: And government-controlled – or government action in terms of involvement with the DEAC (sic). Is that correct?

D15: Yes.

35 SQNLDR NICOLSON: And was the DEAC constantly last-minute, very short notice?

D15: Sorry, can you just repeat that word that you're using? The - - -

40 SQNLDR NICOLSON: I'm not a pilot. The government work that was done by 6th Aviation.

D15: Sorry, you're talking DACC, Defence - - -

45 SQNLDR NICOLSON: That's right. So let's talk about DACC.

D15: Okay, yes.

SQNLDR NICOLSON: Was that short notice, last-minute work?

5 D15: Yes, generally.

SQNLDR NICOLSON: There was some mention in your statement about following the end of July you had to transit back to Sydney, to Holsworthy, because there was a no-fail mission.

10

D15: Yes.

SQNLDR NICOLSON: Was that a mission that was obviously something that had to be done in Sydney on your return?

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D15: It was in Sydney, yes.

SQNLDR NICOLSON: Was that, in terms of getting back to Sydney, that there was a plan where you put in place to have a two-day transit?

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D15: Yes.

SQNLDR NICOLSON: In terms of what was happening after 28 July, was there another mission planned on the exercise?

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D15: There was, and that was a mission we were proposing to cancel.

SQNLDR NICOLSON: So that was something that you were discussing with that extra mission, to cancel?

30

D15: Correct.

SQNLDR NICOLSON: And you had discussions with D10 about obviously cancelling that mission?

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D15: Yes.

SQNLDR NICOLSON: Because the priority was to get back in transit for two days back to Holsworthy?

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D15: Yes.

SQNLDR NICOLSON: And there was a no-fail mission the following week?

45

D15: Correct.

5 SQNLDR NICOLSON: So from what your evidence is, that there's a balance you need to strike in terms of the tempo and the work requirements to fit in with the fatigue and the tempo?

D15: Correct.

10 SQNLDR NICOLSON: And what D10 and yourself, as a Squadron OPSO, had to play is within the rules?

D15: Yes.

15 SQNLDR NICOLSON: And you don't suggest, in your statement, around this time that there was no breaching of the rules in July 2023?

D15: No.

20 SQNLDR NICOLSON: And what you talk about in your statement is that the tempo was very high and had been constantly high for a number of years.

D15: Correct.

25 SQNLDR NICOLSON: That there was only one Squadron that could maintain the output of 6th Aviation?

D15: Yes.

30 SQNLDR NICOLSON: And the work 6th Aviation does was complex compared to other aviators within Army?

D15: Correct.

35 SQNLDR NICOLSON: Just excuse me. Also, in terms of safety to do with D10, was he open and frank in terms of issues of safety?

D15: Yes.

40 SQNLDR NICOLSON: There's evidence about a gearbox issue that he'd raised with the aircrew. There was a planetary gearbox. Do you recall that discussion?

45 D15: Yes. Are you talking – are you referring to the mount, the - - -

SQNLDR NICOLSON: Yes, the main gearbox planetary gear cracking.

D15: That was the incident where an aircraft had to return and land.

5 SQNLDR NICOLSON: Do you recall D10 having a frank discussion with the Troops about. "If anyone has any concerns about that, they should come and speak to it. And if anyone's got any issues, come and chat to us. Everyone has a right to question the systems and raise concerns"?

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D15: I do remember that, yes.

SQNLDR NICOLSON: Is that what D10 had said?

15

D15: Pardon?

SQNLDR NICOLSON: Is that what you recall D10 saying?

D15: Yes.

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SQNLDR NICOLSON: So from D10's perspective, as the Officer Commanding, safety was an important matter?

D15: Yes.

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SQNLDR NICOLSON: And he was trying to build a culture of safety?

D15: Yes.

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SQNLDR NICOLSON: In terms of the tempo, there was factors in terms of fatigue that was outside the control of 6th Aviation, in terms of the output?

D15: Yes. I would say outside the control of D10 there were, definitely.

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SQNLDR NICOLSON: Thank you.

MS McMURDO: I think his evidence was that it wasn't one individual that was at fault, it was the system.

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SQNLDR NICOLSON: Thank you, Ms McMurdo. I just want to make sure that my representation of D10 is clarified and clear. I don't have any further questions, thank you.

MS McMURDO: Okay. Thank you, SQNLDR Nicolson. There's no other cross-examination? Any re-examination?

5 COL STREIT: No, thank you.

MS McMURDO: Thank you very much for coming and giving evidence to the Inquiry. We know it must have been difficult for you to do it, and we greatly appreciate it.

10 D15: Thank you, ma'am.

<WITNESS WITHDREW

15 MS McMURDO: Could I say to those here and those listening to the live stream, we have heard some confronting evidence today and you may have found it challenging. I'd just like to remind you that support is always available. For example, there's the Defence all-hours number, 20 1800 628 036; the Defence Member and Family Support number, 1800 624 608; and Lifeline, 13 11 14.

25 All right, we'll adjourn now. We might try for 1045 tomorrow morning. We'll just get an extra 15 minutes in if we can. So we'll resume at 1045 tomorrow morning.

**PUBLIC INQUIRY ADJOURNED UNTIL
FRIDAY, 21 JUNE 2024 AT 1045**