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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**

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Counsel Assisting**

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CPL A Naggs
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MR G O'MAHOONEY, representing Airbus Australia Pacific Limited
MS K MUSGROVE, representing the Commonwealth**

1000, FRIDAY, 9 AUGUST 2024

DAY 16

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	18/08/24	(Transcription)

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MS McMURDO: Yes, FLTLT Rose.

5 FLTLT ROSE: Good morning, Ms McMurdo. The first witness I will be calling is via video link, and I call CAPT Benjamin Jackson. CAPT Jackson, can you see and hear me?

CAPT JACKSON: Yes, I can.

10 FLTLT ROSE: And I can see and hear you. Could you please state your rank, your full name, and unit?

15 CAPT JACKSON: CAPT Benjamin Jackson. I'm currently posted to B Company, 122, 3rd Aviation Regiment, (Indistinct), United States of America.

FLTLT ROSE: Which town are you currently located in, or city?

CAPT JACKSON: The State of Alabama, in the City of Fort Novosel.

20 FLTLT ROSE: And what date is it there?

CAPT JACKSON: It's currently 8 August.

25 FLTLT ROSE: And what time is it?

CAPT JACKSON: It is 1900.

30 FLTLT ROSE: Before we commence, I'm just going to ask the Court Officer to take either an oath or to swear you in – either oath or affirmation.

<CAPT BENJAMIN JACKSON, Sworn

35 **<EXAMINATION-IN-CHIEF BY FLTLT ROSE**

40 FLTLT ROSE: I take it, CAPT Jackson, that all the responses that you provided to me initially were the truth?

CAPT JACKSON: Yes, they are.

45 FLTLT ROSE: Can you confirm whether there is anyone in the room with you now?

CAPT JACKSON: No, there is not.

FLTLT ROSE: And I think we didn't quite establish what time it is where you are?

5

CAPT JACKSON: It is 1900 on the evening of 8 August.

FLTLT ROSE: Thank you. Can you confirm you received the following documents from the Inquiry: a section 23 Notice requiring your appearance to give evidence?

10

CAPT JACKSON: I did.

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

15

CAPT JACKSON: I did.

FLTLT ROSE: A copy of my appointment as an Assistant IGADF?

20

CAPT JACKSON: I did.

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

25

CAPT JACKSON: I did.

FLTLT ROSE: And a Privacy Notice?

CAPT JACKSON: I did.

30

FLTLT ROSE: Did you prepare a statement for these proceedings?

CAPT JACKSON: I did.

35

FLTLT ROSE: Do you have a copy of that statement in front of you?

CAPT JACKSON: I do.

FLTLT ROSE: Could you confirm that that statement is dated 24 July 2024?

40

CAPT JACKSON: It is.

FLTLT ROSE: Is it five pages?

45

CAPT JACKSON: It is.

FLTLT ROSE: Is that your digital signature on page 5?

5 CAPT JACKSON: It is.

FLTLT ROSE: Do you wish to make any amendments to this statement?

10 CAPT JACKSON: I do not.

FLTLT ROSE: I tender the statement. I appreciate the witness hasn't seen the version that I would think we should use as the exhibit copy, but if it's appropriate, I tender this copy.

15 MS McMURDO: Yes. Is that Exhibit 44?

FLTLT ROSE: Forty-four.

20 MS McMURDO: Exhibit 44, thank you.

#EXHIBIT 44 - STATEMENT OF CAPT JACKSON

25 FLTLT ROSE: CAPT Jackson, can I please ask you to be mindful of your security obligations. This hearing is being run at the "Official" level. If you are asked any questions that you think the responses to which would lead into a classification of "Official: Sensitive", or higher, then please do let us know. And if we need to take that evidence, we can do so in a private hearing.

30 CAPT JACKSON: Understand.

35 FLTLT ROSE: You've also been provided with a pseudonym list prior to appearing today. I may direct you at times to look at that pseudonym list.

CAPT JACKSON: I've got it.

40 FLTLT ROSE: I'll start with your background and qualifications. You joined the Army in 2014 and started your flying training in 2016; is that correct?

CAPT JACKSON: That is correct.

45 FLTLT ROSE: You are qualified on a number of different aircraft,

including the CH-47F Chinook helicopter?

CAPT JACKSON: That is correct.

5 FLTLT ROSE: In 2019, you posted to C Squadron in 5 Aviation Regiment in Townsville?

CAPT JACKSON: That is correct.

10 FLTLT ROSE: You performed various roles there, including Troop Pilot, Troop 2IC, Aviation Safety Officer, Aviation Non-Technical Skills Facilitator, and Squadron Training Officer?

CAPT JACKSON: Correct.

15

FLTLT ROSE: You're currently posted, as you noted before, to the US Army Aviation Centre of Excellence in Fort Novosel, Alabama?

CAPT JACKSON: That is correct.

20

FLTLT ROSE: Is that as a Chinook Instructor Pilot?

CAPT JACKSON: It is.

25 FLTLT ROSE: At paragraph 4 of your statement you state that prior to this, you completed your Instructor Pilots' Course in the US?

CAPT JACKSON: Yes.

30

FLTLT ROSE: Is that correct.

CAPT JACKSON: That is correct.

FLTLT ROSE: Was that also at Fort Novosel?

35

CAPT JACKSON: It was.

FLTLT ROSE: So when did you post to the US?

40

CAPT JACKSON: So I posted to the US in January of this year. So 15 January 2024 was my post-in date to the USA.

FLTLT ROSE: When will you post back to Australia?

45

CAPT JACKSON: 15 January 2025.

FLTLT ROSE: Which unit will you post back into?

5 CAPT JACKSON: I will post to the School of Army Aviation in
Townsville, the CH-47 Wing.

FLTLT ROSE: In paragraphs 5 to 7 of your statement you outline that you
are a Category A pilot.

10 CAPT JACKSON: Correct.

FLTLT ROSE: And that you are a six-year Captain.

15 CAPT JACKSON: Correct.

FLTLT ROSE: And an Aircraft Captain on the Chinook.

CAPT JACKSON: That is correct.

20 FLTLT ROSE: We can add to that also, now, a QFI on the Chinook, I take
it?

25 CAPT JACKSON: Well, I am not yet qualified as a QFI. So the way it
works for our CH-47, we undertake Instructor Pilot Course here at
Fort Novosel. We do our, what we call YOI, or year of instruction, on
United States Flight School Students, and then when I go back home to the
School of Army Aviation, I will conduct an Australian Instructor
Standardisation. Then from there, I will be categorised as an Australian
QFI.

30 FLTLT ROSE: Understood. At paragraph 12 of your statement, you set
out that you actually met WO2 Phil Laycock at Fort Novosel in Alabama
when he was on a course there in June or July 2023.

35 CAPT JACKSON: I did.

FLTLT ROSE: Do you remember what course he was on?

40 CAPT JACKSON: He was on the UH-60M AQC.

FLTLT ROSE: Is that a Black Hawk?

CAPT JACKSON: A Black Hawk course, yes.

45 FLTLT ROSE: Was it in relation to Aircrewman Instructor Training?

CAPT JACKSON: I can't recall if it was Aircrewman Instructor Training or if it was just a qualification course on the airframe.

5 FLTLT ROSE: I take it, though, you never flew with him on that airframe?

CAPT JACKSON: I did not.

FLTLT ROSE: Did you know CPL Alex Naggs?

10

CAPT JACKSON: I did not.

FLTLT ROSE: Did you know LT Max Nugent?

15 CAPT JACKSON: No, I did not.

FLTLT ROSE: I'll ask you some questions now about a course you undertook in 2022, the Regimental Officers' Intermediate Course. At paragraph 15 of your statement, you set out that in 2022 – this is when you were at C Squadron in Townsville – you attended the Regimental Officers' Intermediate Course at Gallipoli Barracks and at Oakey.

20

CAPT JACKSON: I did.

25 FLTLT ROSE: Gallipoli Barracks is in Brisbane?

CAPT JACKSON: Correct.

FLTLT ROSE: Oakey is near Toowoomba in Queensland?

30

CAPT JACKSON: Yes, it is. Yes.

FLTLT ROSE: So the course was split between those two locations?

35 CAPT JACKSON: It was. I think we spent the first – it may have been; I can't recall – it may have been the first week or two at Gallipoli Barracks in Brisbane, and then we went up to Oakey where the School of Army Aviation is to complete the second-half of the course.

40 FLTLT ROSE: At paragraph 16 of your statement, you set out the other persons or trainees that were on the course and they were all Captains, as I understand?

CAPT JACKSON: Correct.

45

FLTLT ROSE: Can you turn to your pseudonym list and I will just ask you to confirm certain persons that were on the course, some of whom have pseudonyms, and some don't. There was CAPT Matthew Goodridge?

5 CAPT JACKSON: Correct.

FLTLT ROSE: He's a Chinook pilot from C Squadron as well?

CAPT JACKSON: Correct.

10

FLTLT ROSE: There's CAPT Campbell Rogan?

CAPT JACKSON: Correct.

15

FLTLT ROSE: He's also a Chinook pilot from C Squadron?

CAPT JACKSON: That is correct.

20

FLTLT ROSE: Now, if you could look to that pseudonym list, a person with the pseudonym of D129, was he on the course?

CAPT JACKSON: Correct, he was.

25

FLTLT ROSE: Is that an MRH pilot from 6 Aviation Regiment?

CAPT JACKSON: Yes.

FLTLT ROSE: A person with the pseudonym of D15?

30

CAPT JACKSON: Yes.

FLTLT ROSE: Another MRH pilot from 6 Aviation Regiment?

CAPT JACKSON: Yes.

35

FLTLT ROSE: D55?

CAPT JACKSON: Yes.

40

FLTLT ROSE: Another MRH pilot from A Squadron in 5 Aviation Regiment?

CAPT JACKSON: Correct. At the time, he was A Squadron.

45

FLTLT ROSE: Currently now in 6 Aviation Regiment?

CAPT JACKSON: Correct.

5 FLTLT ROSE: Then CAPT Danniell Lyon?

CAPT JACKSON: Correct.

FLTLT ROSE: He was an MRH pilot in 6 Aviation Regiment?

10 CAPT JACKSON: Correct.

FLTLT ROSE: Did you know CAPT Lyon prior to attending this course?

15 CAPT JACKSON: I did not personally know CAPT Lyon. I knew of him from his time that he had spent over in New Zealand, but I didn't personally know him before the course.

FLTLT ROSE: So I take it you had never flown with him in a packet?

20 CAPT JACKSON: No, I had not, or not that I can recall.

FLTLT ROSE: At paragraph 17 you refer to a conversation you had with DOPAW at the Gallipoli Barracks Officers' Mess on the evening of Wednesday, 10 August 2022.

25 CAPT JACKSON: Correct.

FLTLT ROSE: Can you confirm what "DOPAW" stands for?

30 CAPT JACKSON: The Director of Operational Airworthiness.

FLTLT ROSE: And who was DOPAW then?

CAPT JACKSON: COL Gilfillan.

35 FLTLT ROSE: You said you were in the mess. So was this a formal part of the course you were on or an informal part of it, after hours?

40 CAPT JACKSON: So we just spent that day with COL Gilfillan presenting some – did some professional military education and did some presentations on case studies of some things. So after that had finished, we went to the mess for an informal chat with him.

45 FLTLT ROSE: Were there any other course coordinators or presenters from that course with you during this discussion in the mess?

CAPT JACKSON: No, there was not.

5 FLTLT ROSE: Was it the full cohort of trainees that I just read out that were with you during the conversation at the mess?

CAPT JACKSON: It was the full cohort, yes.

10 FLTLT ROSE: You said that it was a frank and honest conversation that you had with COL Gilfillan?

CAPT JACKSON: It was, yes.

15 FLTLT ROSE: What topics were you speaking about?

CAPT JACKSON: The topics at the time that we were discussing – because we did see a lot of senior officials from Aviation throughout that week while we were at Gallipoli Barracks, and the points that we brought up were flying gloves not being acquired fast enough, because at the time our flying gloves were an issue. Our flying boots, we've had a few issues with them. That just didn't seem to get fixed. And additional duties and not enough time flying for Troop Pilots or senior Troop Pilots were the topic of conversation.

25 FLTLT ROSE: At paragraph 18 you said that CAPT Lyon raised concerns about the high tempo of his role in 6 Aviation Regiment.

CAPT JACKSON: Correct.

30 FLTLT ROSE: Do you recall what role he had at that time?

CAPT JACKSON: I don't recall exactly what role it was. I think it was a – it may have been a Troop 2IC or a Troop Commander; I'm unsure.

35 FLTLT ROSE: But you said that CAPT Lyon said that this had an effect on him professionally and personally.

CAPT JACKSON: Correct, yes.

40 FLTLT ROSE: What kind of effect was that having on him professionally and personally?

45 CAPT JACKSON: Dan was a very passionate and motivated aviator, and his philosophy was if he didn't do the job or if he just left the job open, it would mean someone else would have to do it for him. So he was very

adamant in finishing off his work, tying up loose ends before going home. So he would spend a lot of time at work.

5 FLTLT ROSE: When you say “complete his tasks”, are you referring to the non-flying tasks that he had in his secondary role?

CAPT JACKSON: I am, yes.

10 FLTLT ROSE: You said that he raised concerns about night flying recency and proficiency.

CAPT JACKSON: Yes, he did.

15 FLTLT ROSE: Can you recall what he said to COL Gilfillan about those issues?

20 CAPT JACKSON: It was a while ago now, so I can’t recall exactly what he said. It was to the effect of that they just don’t have enough time flying at night for the complex tasks that they are to fly. Just not enough practice, essentially, flying at night.

FLTLT ROSE: Was it the case that he said there wasn’t enough flying hours available, or that he couldn’t find enough flying hours available because of his secondary duty?

25 CAPT JACKSON: I’m unsure.

FLTLT ROSE: You said that he said that if the extra administrative workloads weren’t reduced so they could spend more time flying, that something catastrophic would happen.

30 CAPT JACKSON: Yes.

35 FLTLT ROSE: What do you think he meant by that?

40 CAPT JACKSON: I think he – it was pretty heated. I think he was a little bit sick of saying the same thing over and over again to people, and he would wear his heart on his sleeve. I sort of think he meant if nothing was done – they were being vocal about it, that if nothing was done, I mean something catastrophic – an aircraft crash – would happen.

FLTLT ROSE: Was this the only time that CAPT Lyon raised these concerns during that course?

45 CAPT JACKSON: No, I think – it was a while ago now, but we would all

chat as a group, would have dinner together, would have coffees together, would spend most of the days together, so we did discuss, from what I can recall, the issues that all of the Regiments were facing, that we were facing.

5 FLTLT ROSE: So when you're saying you discussed it, do you mean as a cohort of trainees you discussed it amongst yourselves?

CAPT JACKSON: Yes, between ourselves.

10 FLTLT ROSE: Were there other sessions during the course where you were also invited to provide frank and honest feedback to leadership and Aviation Command?

15 CAPT JACKSON: Yes. The only other senior leaders that we met with to discuss things with was the current – or at the time Brigade Commander, the Brigade S3 and, on the pseudonym list, D9.

FLTLT ROSE: What role did D9 have?

20 CAPT JACKSON: He was the Brigade Major at the time.

FLTLT ROSE: Who was the Brigade Commander?

CAPT JACKSON: BRIG Thompson.

25 FLTLT ROSE: Is that Dean Thompson?

CAPT JACKSON: Dean Thompson, yes.

30 FLTLT ROSE: Was it SO3 or S3 that you referred to?

CAPT JACKSON: The S3 for Brigade, LTCOL Pidgeon.

35 FLTLT ROSE: So those were the only other three senior leaders that you spoke to on the course?

CAPT JACKSON: At Gallipoli. And then when we got to Swartz Barracks up in Oakey, COL Lynch – and I'm unsure if he was the Commandant of AAvtC or if he was the CO of SAA at the time.

40 FLTLT ROSE: Did CAPT Lyon raise his concerns about the high tempo of work in 6 Avn, the impost of his secondary duties, and his concerns about flying recency and proficiency at night with BRIG Thompson, D9 or LTCOL Pidgeon?

45

CAPT JACKSON: I can't recall.

FLTLT ROSE: But you do recall him saying those things to LTCOL Gilfillan?

5

CAPT JACKSON: Yes, I do.

FLTLT ROSE: Did you share his concerns, as a Chinook pilot? That's CAPT Lyon's concerns.

10

CAPT JACKSON: I did, yes.

FLTLT ROSE: What specifically? Is there workload concerns that you shared, or is it about the secondary duties specifically and the lack of night flying recency?

15

CAPT JACKSON: Yes. So I think the three of those things work hand-in-hand with each other. As you can see from my statement, if I bring you over to paragraph 9, under "Qualified Airframes", the CH-47 split day hours into night hours to NVD. I would say the most riskiest type of flying that we do is at night, especially in low illumination or in formations. And as you can see there, we fly significantly more during the day than we do by night.

20

FLTLT ROSE: To be clear for those who don't have the statement, your total hours on the Chinook are 1120.6 flying hours.

25

CAPT JACKSON: Correct.

FLTLT ROSE: And that's made up of 775.9 hours by day.

30

CAPT JACKSON: Correct.

FLTLT ROSE: 334.7 hours by night, with 229 hours on NVD.

35

CAPT JACKSON: Correct.

FLTLT ROSE: And 170 hours in formation, approximately.

40

CAPT JACKSON: Correct.

FLTLT ROSE: So your evidence is that there is significant more flying hours during the day, and less at night, and even less on NVDs, and in formation, even though that is the most complex flying that you can do.

45

CAPT JACKSON: Correct.

FLTLT ROSE: Is it your evidence that - - -

5 CAPT JACKSON: I will - - -

FLTLT ROSE: No, I won't assume. You go ahead.

10 CAPT JACKSON: Right. I will add further to that. As we discussed, I'm a Category A pilot. I've been in the Squadron for about six or seven years now. My total hours on a Chinook relative to everyone else in the Squadron are quite high, but when you compare it to, say, a civilian aircraft pilot or a civilian helicopter pilot, they are quite low.

15 FLTLT ROSE: Is there a reason for that?

CAPT JACKSON: As Army pilots, we just don't fly as much as other organisations outside Defence.

20 FLTLT ROSE: When you say "Army pilots", are you also comparing that to the other Services: Air Force and Navy?

CAPT JACKSON: I haven't actually spent any time in Air Force or Navy to comment on their flying rates.

25 FLTLT ROSE: Can I take it from your evidence that you wish that you could be flying more?

CAPT JACKSON: Absolutely.

30 FLTLT ROSE: And, if possible, doing more night flying to improve your skills on NVDs and flying at night.

CAPT JACKSON: Correct.

35 FLTLT ROSE: And that one of the reasons you aren't flying as many hours as you would like to is because of your secondary duties that you've been assigned.

40 CAPT JACKSON: Correct.

MS McMURDO: You said the risk is flying at night, low illumination and in formation. Did night-vision devices add another layer of risk?

CAPT JACKSON: Yes, ma'am, they do. However, using night-vision devices at night significantly reduces the risk, as opposed to if you didn't have them at all.

5 MS McMURDO: But, of course, that's right because the whole purpose of them, of course, is to make your vision better at night. But on the other hand, is there another layer of complexity that comes with using them?

10 CAPT JACKSON: There is. Absolutely there is, ma'am. And it's a perishable skill. So if it's not practised quite regularly, the skill operating on night-vision devices degrades quite rapidly.

MS McMURDO: Thank you.

15 FLTLT ROSE: What system do you use as a Chinook pilot for night-vision devices?

CAPT JACKSON: ANVIS.

20 FLTLT ROSE: So you've never used TopOwl?

CAPT JACKSON: I've never used TopOwl, no.

25 FLTLT ROSE: You gave evidence that you shared CAPT Lyon's concerns that he raised with COL Gilfillan. Did you also voice similar concerns to COL Gilfillan during that session in the mess?

30 CAPT JACKSON: I was in agreeance with CAPT Lyon. I don't think I raised the same concern myself.

FLTLT ROSE: Did other trainees or participants on the course raise their concerns as well as CAPT Lyon?

35 CAPT JACKSON: So that was what – so his concern was what stuck out to me the most. I can't recall the other conversations that we had in there, but we were all – the cohort was all in agreeance with his concerns.

40 MS McMURDO: Did you communicate your agreement to COL Gilfillan?

CAPT JACKSON: Yes, ma'am.

MS McMURDO: Thank you.

45 FLTLT ROSE: How did COL Gilfillan respond?

5 CAPT JACKSON: He took it on board. I can't recall anything else that was said after that. Much like most meetings with senior leadership, they just take your concerns on board and you just trust that they'll deal with it in good faith.

FLTLT ROSE: You used the word "heated" before, when describing the conversation. Why was it heated, or who was getting heated?

10 CAPT JACKSON: So I think – so CAPT Lyon and D15 are quite – I think are quite good friends, and they spend a lot of time together at 6 Aviation Regiment, and they share a couple of common hobbies. So I think, between the two of them, they were – at a point, I guess, they were frustrated, and I guess that can show itself in those kind of discussions.

15 FLTLT ROSE: Do you recall what role or secondary duties D15 had at that time in 6 Aviation Regiment?

20 CAPT JACKSON: I'm unsure.

FLTLT ROSE: Was this a once-off occasion for you to share your concerns about issues like this with senior leadership in Aviation Command, or have you been given other opportunities to be frank and honest about issues that are concerning pilots at other times in your career?

25 CAPT JACKSON: We have been given opportunities – not that I can recall off the top of my head – but there are quite often opportunities for us to bring up concerns that feel like are out of our reach to fix at the local level. We had – towards the end of last year, KPMG conducted a town hall with all the Aviation Regiments. And that was conducted online and they – I can't recall the exact questions, but it was a lengthy process and they gathered comments and feedback from pilots at all the different Regiments. But I'm unsure the progress or the status of that report from KPMG.

30 FLTLT ROSE: Do you understand what the purpose of that town hall was, or why KPMG were involved?

35 CAPT JACKSON: No, I do not.

40 FLTLT ROSE: Did you, at that time, share any views during that town hall similar to issues that you may have raised to COL Gilfillan?

CAPT JACKSON: Yes, I would have.

FLTLT ROSE: Was that orally, or was it through a survey, or a chat function?

5 CAPT JACKSON: It was through a chat function. It was an online live chat across all of the Regiments at once.

FLTLT ROSE: Have you ever been briefed on any follow-up from KPMG's project?

10 CAPT JACKSON: No, I have not.

FLTLT ROSE: If I understand your evidence, it was a town hall and all pilots across Aviation Regiment – or was it wider than that, aircrew generally – invited to attend that town hall?

15 CAPT JACKSON: I'm unsure if the aircrewman had their own opportunity, but I think it was just pilots from across the three Regiments.

FLTLT ROSE: Do you remember when that was? You said late last year, was it?

20 CAPT JACKSON: I can't recall if it was late last year or late the year before; I've been in and out of the Squadron for the past couple of years.

25 FLTLT ROSE: Were the topics generally you were being asked about workload, tempo, secondary duties? Was that the gist of it?

CAPT JACKSON: Yes, that was the theme.

30 MS McMURDO: Were you aware of any outcomes from that feedback?

CAPT JACKSON: No, ma'am, I was not.

35 MS McMURDO: What about when you had given previous feedback? Did you ever notice any outcomes, any results, coming from that feedback? For example, you mentioned the complaints about flying gloves, and the flying boots being inadequate.

40 CAPT JACKSON: No, not personally. It was an issue raised by pretty much all of the aircrew. We went through a period where our gloves wouldn't work on iPads or touchscreens, and the process to get new gloves introduced into the system so we could use our iPads with the gloves was quite lengthy. And the gloves that were introduced weren't usable from an aircrew perspective, just because of the fit. And it just went back and forth

for a number of years, to the point where people would go out and source their own flying gloves.

5 FLTLT ROSE: We've also heard evidence that some people cut the fingers out of their flying gloves.

10 CAPT JACKSON: That is correct. Yes, and it was approved to cut the fingers – three fingers off the flying gloves. I'm not sure if it was early 2023 or late 2022 when the SFI came out to approve that, but we were – people were doing that before then, just out of frustration.

AVM HARLAND: You're currently in the United States. What do they do to solve or work around these problems?

15 CAPT JACKSON: Sir, I haven't actually spent any time at an operational unit in the United States. And the Flight School here, as you could appreciate, is quite down the line, and there's not many issues that there are workarounds for. So it kind of happens, yes, in accordance with all the documents. I'm unaware of any issues that they're trying to rectify at the
20 moment. Or I'm not privy to that.

AVM HARLAND: Do you have workable gloves that work on iPads and the like while you're flying over there?

25 CAPT JACKSON: Sir, yes, I do. I was issued two pair of gloves from the clothing store here.

AVM HARLAND: Thank you.

30 FLTLT ROSE: What's the issue with the boots, the flying boots?

CAPT JACKSON: So we had some boots, commonly referred to as Terrors, five or six years ago now, and they were phased out and replaced with a black-coloured variant of that boot, and they were very heavy and very, very hot, as you can imagine, in the summer in Townsville, to wear. We had them for a number of years with lots of complaints about wearing them, to the point where people would horde their old boots and only wear those boots for flying, just to kind of extend the Service life of them.

40 We have been issued new boots now that I find are quite good, but it did take quite a while to - - -

FLTLT ROSE: Having heavy boots, apart from it being uncomfortable in terms of heat, did it also affect your ability to hands and feet fly effectively?

45

CAPT JACKSON: No, I don't think it affected that.

5 FLTLT ROSE: Just turning back to that KPMG town hall, was it just for pilots or were there also senior leaders from Aviation Command that were part of that KPMG project?

CAPT JACKSON: I can't recall whoever it was on that.

10 FLTLT ROSE: Was it your understanding that whatever KPMG were working on, they were going to feed those results back to senior leadership and Aviation Command?

CAPT JACKSON: That was my understanding, yes.

15 FLTLT ROSE: Are you also aware of snapshot surveys?

CAPT JACKSON: I am, yes.

20 FLTLT ROSE: Have you participated in snapshot surveys?

CAPT JACKSON: I have, yes.

25 FLTLT ROSE: Have you received briefings of those results of those snapshot surveys from your Commanders?

CAPT JACKSON: I've received a briefing every year from my Commander that I've done a snapshot survey.

30 FLTLT ROSE: Does fatigue feature in the results of those snapshot surveys?

CAPT JACKSON: It does, yes.

35 FLTLT ROSE: In what way?

CAPT JACKSON: Fatigue is usually the highest – or the worst reported on, on the snapshot surveys.

40 FLTLT ROSE: I take it you've received some briefings – is it annually?

CAPT JACKSON: Annually, yes. Towards the start of the year is when they're released.

45 FLTLT ROSE: So you've received a briefing over, say, five or six years that you've been in the Squadron.

CAPT JACKSON: I have, yes.

5 FLTLT ROSE: Can you recall what the trajectory of concerns are about fatigue over that time? Are the complaints getting worse, or better, or stabilised?

10 CAPT JACKSON: The complaints are fairly stabilised, and it's more to do with around – I'm talking specifically to C Squadron now. I haven't spent any time at 6 Aviation Regiment, 1 Aviation Regiment, or A Squadron, when it was there in 5 Avn. But it's normally around the operational tempo of our Squadron. So we're out for the December, January, February period, for the hottest weather season, and Defence aid to the civil community.

15 We come back, we work up our flight training recency. We get back into our formation night flying/mission flying profiles, and then we'll go into our mid-year exercises. So our TALISMAN SABREs, HAMELs, that kind of thing. And then towards the end of the year, we hope for high-density altitude training over in Papua New Guinea – or this year, for instance, the Indo-Pacific Excursion, IPE, towards the end of the year. So the operational tempo is quite high, and I think that's what contributes a lot to fatigue.

20 FLTLT ROSE: Are you aware of any tool that Aviation Command has introduced following the incident on 28 July 2023 to enable aircrew to assess their own fatigue levels at the start of crew duty, or prior to a sortie?

25 CAPT JACKSON: Yes. So I have seen the DFSB Fatigue Risk Awareness Tool that's been released. I haven't personally used that tool.

30 FLTLT ROSE: Would you know when it was released to your Squadron?

CAPT JACKSON: I do not.

35 FLTLT ROSE: But was it after the incident on 28 July last year?

CAPT JACKSON: Yes, it would've been because I hadn't used that tool prior to that.

40 FLTLT ROSE: You mentioned TALISMAN SABRE just then. Were you in the US on 28 July 2023?

CAPT JACKSON: I was, yes.

FLTLT ROSE: So you didn't deploy on Exercise TALISMAN SABRE 2023?

5
CAPT JACKSON: I did not.

FLTLT ROSE: Paragraph 23 and 24 of your statement, your responses – if you can turn to that – say, “As per paragraph 22”.

10
CAPT JACKSON: Yes.

FLTLT ROSE: Was that a response to some questions that you were asked to answer as part of the section 23 Notice you were sent by the Inquiry?

15
CAPT JACKSON: Yes, it was.

FLTLT ROSE: And those questions were about your role, if any, that you had on Exercise TALISMAN SABRE 2023.

20
CAPT JACKSON: Yes, that was the question.

FLTLT ROSE: And you replied as you did because you were not on Exercise TALISMAN SABRE 2023.

25
CAPT JACKSON: Correct, I was not on TALISMAN SABRE 2023.

FLTLT ROSE: Those are my questions.

30
AVM HARLAND: Just a question for you regarding the ongoing snapshot surveys and their routine reporting of fatigue as one of the most important issues, in the time that you've spent at the Squadron – six to seven years – have you seen any evidence of Command intervention to try and manage fatigue?

35
CAPT JACKSON: Sir, not at the – at the local level, yes. So up to and including CO of 5 Aviation Regiment, yes. I am unaware of anything outside of that to help try and manage fatigue.

AVM HARLAND: Okay, great. Thank you.

40
MS McMURDO: Are there any applications to cross-examine? No? No applications to cross-examine.

45
Thank you very much, CAPT Jackson, for coming forward. The Inquiry greatly appreciates your assistance.

CAPT JACKSON: Thank you, ma'am.

<WITNESS WITHDREW

5

MS McMURDO: Yes, we can end the video link now and call the next witness.

10 FLTLT ROSE: I call CAPT Matthew Goodridge.

<CAPT MATTHEW GOODRIDGE, Affirmed

15

<EXAMINATION-IN-CHIEF BY FLTLT ROSE

MS McMURDO: Just help yourself to water if you'd like some.

20

CAPT GOODRIDGE: Will do, thank you.

MS McMURDO: Yes, FLTLT Rose.

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

CAPT GOODRIDGE: CAPT Matthew Goodridge, and I'm at the C Squadron, 5th Aviation Regiment.

30

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

35 CAPT GOODRIDGE: I was.

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

CAPT GOODRIDGE: I was.

40

FLTLT ROSE: A copy of my appointment as an Assistant IGADF?

CAPT GOODRIDGE: I was.

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

5 CAPT GOODRIDGE: I was.

FLTLT ROSE: And a Privacy Notice?

CAPT GOODRIDGE: I was.

10 FLTLT ROSE: Did you prepare a statement for these proceedings?

CAPT GOODRIDGE: I did.

15 FLTLT ROSE: I hand you this document. Can you please confirm that that's the statement you prepared?

CAPT GOODRIDGE: Correct.

20 FLTLT ROSE: Is it dated 30 July 2024?

CAPT GOODRIDGE: It is.

FLTLT ROSE: Is it five pages?

25 CAPT GOODRIDGE: It is.

FLTLT ROSE: Is that your electronic signature on page 5?

30 CAPT GOODRIDGE: It is.

FLTLT ROSE: Do you wish to make any amendments to the statement?

CAPT GOODRIDGE: No, ma'am.

35 FLTLT ROSE: I tender the statement.

MS McMURDO: It will be Exhibit 45.

40 **#EXHIBIT 45 - STATEMENT OF CAPT GOODRIDGE
DATED 30/07/24**

45 FLTLT ROSE: Can I please ask you to be mindful of your security obligations during your evidence today, and to let us know if I, or anyone

else, asks you a question that goes above the classification of “Official”?

CAPT GOODRIDGE: Yes.

5 FLTLT ROSE: And if we do need to, we can move into a private hearing to hear those matters.

CAPT GOODRIDGE: Okay.

10 FLTLT ROSE: You have also been provided a pseudonym list. That’s that A3 document before you. I will refer you to it at certain points, but you can also look to it if you’re concerned you’re about to mention someone’s name that you think may have a pseudonym.

15 CAPT GOODRIDGE: Okay.

FLTLT ROSE: I’ll start with your background and qualifications. Let’s just start in paragraph 3 of your statement. You joined the Army in 2012.

20 CAPT GOODRIDGE: Correct.

FLTLT ROSE: You started your flying training in 2016.

CAPT GOODRIDGE: Correct.

25

FLTLT ROSE: In 2018 you posted to C Squadron at 5 Aviation Regiment as a CH-47F Chinook pilot?

CAPT GOODRIDGE: Correct.

30

FLTLT ROSE: And that’s where you are today?

CAPT GOODRIDGE: Yes.

35 FLTLT ROSE: At paragraph 11 you state that you also qualified on the Kiowa helicopter.

CAPT GOODRIDGE: Correct.

40 FLTLT ROSE: And the CT/4B. Is that a fixed-wing aircraft?

CAPT GOODRIDGE: Yes, that’s a – yes, it’s a fixed-wing.

45 FLTLT ROSE: You are currently the Troop Commander of 6 Medium Lift Helicopter Troop in C Squadron in Townsville.

5 CAPT GOODRIDGE: Sorry, that probably is one amendment. I've only, just in the last week or so, just handed that role over to my successor, but that's only since I signed this statement.

 FLTLT ROSE: What is your current role now?

10 CAPT GOODRIDGE: I don't necessarily have a position, as such, within C Squadron, such as Troop Commander anymore, but I'm about to go on to specialisation training as a Qualified Flying Instructor.

 FLTLT ROSE: Will that be in Australia or overseas?

15 CAPT GOODRIDGE: The initial course is overseas.

 FLTLT ROSE: When will you leave?

 CAPT GOODRIDGE: In two weeks.

20 FLTLT ROSE: Will that be about a 12-month posting?

 CAPT GOODRIDGE: No, the initial course is just three months. So I'll be back before the end of the year, and then I'll be just in Townsville again as a Qualified Flying Instructor next year.

25 FLTLT ROSE: Were you in the role of Troop Commander of 6 Medium Lift Helicopter Troop in C Squadron as at 28 July 2023?

 CAPT GOODRIDGE: I was.

30 FLTLT ROSE: In paragraphs 7 to 9 of your statement you outline that you're an A Category pilot, and a sixth year Captain.

 CAPT GOODRIDGE: Correct.

35 FLTLT ROSE: And you are an Aircraft Captain for most tasks, unless flying with a more senior pilot.

 CAPT GOODRIDGE: Yes, correct.

40 FLTLT ROSE: At paragraph 11 you have a total of 1582 flying hours across all of the three airframes you're qualified on. That's the CT/4B, the Kiowa, and the Chinook.

45 CAPT GOODRIDGE: Correct.

FLTLT ROSE: I want to take you now to a course you attended in 2022 – paragraph 16 of your statement. This is when you were the Troop 2IC at C Squadron.

5

CAPT GOODRIDGE: Yes, correct.

FLTLT ROSE: You attended a Regimental Officers' Intermediate Course that was held at both Gallipoli Barracks and Oakey.

10

CAPT GOODRIDGE: Correct.

FLTLT ROSE: Gallipoli Barracks being in Brisbane.

15

CAPT GOODRIDGE: Yes.

FLTLT ROSE: And Oakey being a town near Toowoomba in Queensland.

CAPT GOODRIDGE: Yes, correct.

20

FLTLT ROSE: And the course was split between those two locations.

CAPT GOODRIDGE: Yes, it is. Yes, the first week – roughly a week – is in Brisbane, and then the following two weeks is in Oakey.

25

FLTLT ROSE: In paragraph 18 you list the other Captains that were on the course. Now, some of these persons have pseudonyms and some don't. I'll start with those who don't. If you can confirm that the following persons were on this course: CAPT Benjamin Jackson?

30

CAPT GOODRIDGE: Correct.

FLTLT ROSE: Is he a fellow Chinook pilot from 5 Aviation Regiment?

35

CAPT GOODRIDGE: Yes. Yes, he is.

FLTLT ROSE: CAPT Campbell Rogan?

CAPT GOODRIDGE: Correct.

40

FLTLT ROSE: Is he another Chinook pilot from 5 Aviation Regiment?

CAPT GOODRIDGE: Yes, he is.

FLTLT ROSE: Then, if you look to the pseudonym list, was there a Captain with the pseudonym of D129?

5 CAPT GOODRIDGE: Correct.

FLTLT ROSE: And that's an MRH pilot from 6 Aviation Regiment?

CAPT GOODRIDGE: At that time, he was, yes.

10 FLTLT ROSE: Previous to that, was he at 5 Aviation Regiment?

CAPT GOODRIDGE: Yes, I believe he was. Yes.

FLTLT ROSE: D15?

15 CAPT GOODRIDGE: Correct.

FLTLT ROSE: Was he an MRH pilot from 6 Aviation Regiment?

20 CAPT GOODRIDGE: Yes, he was. Yes.

FLTLT ROSE: D55?

CAPT GOODRIDGE: Correct.

25 FLTLT ROSE: Was he, at that time, an MRH pilot from 5 Aviation Regiment?

CAPT GOODRIDGE: Yes, he was, I believe.

30 FLTLT ROSE: Is he now at 6 Aviation Regiment?

CAPT GOODRIDGE: Yes, he is.

35 FLTLT ROSE: Then finally, CAPT Danniell Lyon?

CAPT GOODRIDGE: Correct.

FLTLT ROSE: He was the MRH pilot from 6 Aviation Regiment.

40 CAPT GOODRIDGE: Correct.

FLTLT ROSE: You say in your statement you think he was the Squadron 2IC in 2022.

45

CAPT GOODRIDGE: Yes, to the best of my recollection, he was the Squadron 2IC at that time. I believe he was just about to step into a Troop Command role the following year, I think, from memory.

5 FLTLT ROSE: You state at paragraph 12 that you did know CAPT Lyon prior to this course as you'd met him in 2012 at ADFA.

CAPT GOODRIDGE: Yes, just briefly. He was – as I've said there, he was two years above me at ADFA, so I didn't know him well but I'd met
10 him just around – you know, through my time at ADFA there.

FLTLT ROSE: Had you ever flown with him?

CAPT GOODRIDGE: No.
15

FLTLT ROSE: At paragraphs 13 to 15 you outline that you'd never met LT Max Nugent.

CAPT GOODRIDGE: Correct.
20

FLTLT ROSE: And you'd never met WO2 Phil Laycock.

CAPT GOODRIDGE: Correct.
25

FLTLT ROSE: And you'd never met CPL Alex Naggs.

CAPT GOODRIDGE: Correct.

FLTLT ROSE: Turning back to the course, the ROIC, at paragraph 19 you
30 state that there were some sessions on this course where you and your fellow trainees got to speak with BRIG Dean Thompson.

CAPT GOODRIDGE: Correct.

FLTLT ROSE: He was the Commander of 16 Aviation Brigade at the
35 time.

CAPT GOODRIDGE: Yes, he was.

FLTLT ROSE: And LTCOL James Pidgeon.
40

CAPT GOODRIDGE: Correct.

FLTLT ROSE: Do you know what role he was in at that time?
45

CAPT GOODRIDGE: No, sorry I don't recall.

FLTLT ROSE: And a COL Kim Gilfillan.

5 CAPT GOODRIDGE: Yes.

FLTLT ROSE: Do you recall what role he had?

10 CAPT GOODRIDGE: I believe he was DOPAW, but I'd have to confirm that.

FLTLT ROSE: By "DOPAW", do you mean the Director of Operational Airworthiness?

15 CAPT GOODRIDGE: Correct.

FLTLT ROSE: These conversations were held at various times throughout the week, and in both the classroom and at the Officers' Mess.

20 CAPT GOODRIDGE: Correct.

25 FLTLT ROSE: At paragraph 20 you state that at one of these sessions you recall CAPT Danniell Lyon talking about junior officers, and Army Aviation being forced to fill positions, such as Command and Executive positions, too early in their career, including Troop Commander, Squadron 2IC, and Operations Officer.

CAPT GOODRIDGE: Yes, correct.

30 FLTLT ROSE: And that CAPT Lyon said he had concerns that they had not been given sufficient time to develop their foundational flying skills while in the Troop.

CAPT GOODRIDGE: Correct.

35 FLTLT ROSE: And that once they were in these Command positions, it substantially reduced the time they had to fly because of the additional administrative and supervision tasks they had to perform.

40 CAPT GOODRIDGE: Correct.

45 FLTLT ROSE: Do you recall if each of BRIG Thompson, LTCOL Pidgeon and COL Gilfillan were in the room when CAPT Lyon raised those concerns?

CAPT GOODRIDGE: I believe BRIG Dean Thompson and LTCOL James Pidgeon were. I believe the conversation we had with COL Kim Gilfillan was at a later date – I believe in the Officers’ Mess at a later date.

5

FLTLT ROSE: Can you look at the pseudonym list and let me know whether D9 was also present at any of these conversations?

CAPT GOODRIDGE: Yes, he was.

10

FLTLT ROSE: What role did D9 have?

CAPT GOODRIDGE: I believe he was the Brigade Major at that point.

15

FLTLT ROSE: Which conversations was D9 present for?

CAPT GOODRIDGE: He was mainly present for the conversations we had with the Brigade Commander and LTCOL Pidgeon at that time in the classroom, and then I believe he did come back and chat to us a couple more times in the following weeks while we were at Oakey as well – just in our classroom at Oakey, just to touch base with us again.

20

FLTLT ROSE: When CAPT Lyon was raising these concerns – we’ll start with the ones that were during the class time which, as I understand your evidence to be, was before BRIG Thompson, LTCOL Pidgeon and D9?

25

CAPT GOODRIDGE: Correct.

FLTLT ROSE: What was their response to CAPT Lyon’s concerns?

30

CAPT GOODRIDGE: So as I’ve sort of stated there, I don’t really recall the specifics of what their responses were. I do just sort of recall them respectfully taking the concerns on notice, though. We didn’t really expect anything to come from those conversations. It was more just, as I understand it, a forum for us to sort of air our thoughts and let the Brigade Commander at that time sort of know what we’re feeling down to the Troop level. So – yes.

35

FLTLT ROSE: Did you share CAPT Lyon’s concerns?

40

CAPT GOODRIDGE: I did. For the most part I did, yes. What he was saying was, I think, true for his own circumstances, and true for the circumstances of a lot of my peers. However, at that time I was still a Troop 2IC, and I was a Captain year 4, so I personally felt that I’d had enough time to develop within the Troop before having to step into those higher-end

45

positions such as Troop Commander, or other staff positions. So it wasn't necessarily true for myself, but I could understand where he was coming from.

5 FLTLT ROSE: Did you understand from CAPT Lyon's concerns that he thought there was a particular stage in a Captain's career where they were still too young to go into those roles? Did he have a specific level that he was - - -

10 CAPT GOODRIDGE: Not that I can recall. I don't recall him sort of saying that it should be a certain Captain year, or anything like that, at that time. Yes, I don't recall him sort of making any comments like that.

15 FLTLT ROSE: Was that conversation heated in any way?

CAPT GOODRIDGE: It was passionate, I would say, but yes, it wasn't heated. It was still respectful, given the rank and who was in the room at that time. So it was still respectful, but it was – yes, CAPT Lyon was passionate in what he was saying.

20 FLTLT ROSE: Did anyone else – other trainees – raise similar concerns during those classroom sessions?

25 CAPT GOODRIDGE: Yes, I think everyone was of similar opinions at that time. Dan was definitely one of the more outspoken ones on the course, so he tended to probably speak the most, I would say.

30 FLTLT ROSE: Did he ever say what he thought the consequences were of people who were in positions higher than they should be, or not having enough time to fly?

CAPT GOODRIDGE: I don't recall him making comments about consequences, no.

35 FLTLT ROSE: You referred to a separate conversation with COL Gilfillan.

40 CAPT GOODRIDGE: Yes, we did have a separate conversation with COL Gilfillan in the Officers' Mess.

FLTLT ROSE: Was that during the – at Gallipoli Barracks?

CAPT GOODRIDGE: It was.

FLTLT ROSE: Do you recall if CAPT Lyon raised any concerns during that conversation?

5 CAPT GOODRIDGE: I do recall there being discussions, and I think, from memory, to the best of my recollection, it was along similar lines as the previous conversations that we've talked about. But I don't recall the specifics of it, just due to the time that's passed.

10 FLTLT ROSE: Do you recall whether that conversation was heated in any way?

CAPT GOODRIDGE: I don't believe so, no.

15 FLTLT ROSE: If my maths is correct – and tell me if I'm wrong – did you get promoted to the Troop Commander role when you were about a five-year Captain?

20 CAPT GOODRIDGE: Yes, correct. I was just at the end of my fourth year, but stepping – my first year as Troop Commander was, yes, Captain year 5.

25 FLTLT ROSE: The Inquiry has heard some evidence that Troop Commanders don't actually start getting the additional pay for fulfilling that role until they're a seven-year Captain.

CAPT GOODRIDGE: Correct.

30 FLTLT ROSE: So is that the same for you, you haven't yet been paid for the time – the additional pay for being a Troop Commander?

CAPT GOODRIDGE: Yes, correct. I should get that next year.

35 FLTLT ROSE: Even though you won't be fulfilling the Troop Commander role, you'll step up to a further entitlement because that's the way - - -

40 CAPT GOODRIDGE: That's my understanding, yes, as long as – my understanding is as long as you've done 12 months as a Troop Commander, you will then unlock that Captain year 7 pay bracket as a Troop Commander.

FLTLT ROSE: Did that concern you whilst you were fulfilling the role as Troop Commander, that you weren't receiving the additional pay for it?

CAPT GOODRIDGE: Yes, to an extent. Yes, getting paid for the position that you're filling at the time would definitely be beneficial, I would say.

5 FLTLT ROSE: The cohort that you were with at the Regimental Officers' Intermediate Course, had you discussed the concerns that CAPT Lyon was raising with leadership amongst yourselves prior to the classroom discussions?

10 CAPT GOODRIDGE: It was during – it was sort of during the course, I guess, is – you know, after hours and things like that, that we would discuss them as a course. So not necessarily prior to that particular conversation. I can't recall exactly which day. It could've been the first day of the course or it could've been the fifth day of the course. So I can't recall whether or not we'd had time to, yes, talk about that amongst ourselves prior to those
15 conversations.

20 FLTLT ROSE: Was this a one-off occasion that you were given to share, or voice concerns with the senior leadership in Aviation Command, or have you been given other avenues to express concerns about either the workload, the tempo, promotion to higher Command positions, pay, anything like that?

25 CAPT GOODRIDGE: I wouldn't say it's a once-off. We do get those opportunities at various times throughout the year. I think that one was different because it's not very often – I'll say "very often"; we do get the opportunity every now and then – but not very often that we get the opportunity to have a one-on-one, you know, sort of frank conversation with Brigade Commanders, for example; particularly in a small group forum that's not, you know, addressing a large room or something like that.

30 FLTLT ROSE: Do you recall being invited to join a town hall run by KPMG at some stage in the recent couple of years to voice some concerns?

35 CAPT GOODRIDGE: I recall that occurring. I never attended it. I'm not sure where I was at that time, but I never attended it.

FLTLT ROSE: Do you understand or recall what the purpose of that town hall was for?

40 CAPT GOODRIDGE: No, sorry, I don't, without referring to it.

FLTLT ROSE: Have you heard of snapshot surveys?

45 CAPT GOODRIDGE: I have.

FLTLT ROSE: What's your understanding of what they are?

5 CAPT GOODRIDGE: So my understanding of a snapshot is that it's a survey that's conducted, and it's designed to be just a snapshot of that particular day – or that particular point in time, to gather, you know, the frustrations or what people are feeling within the Regiment, to inform the Commanding Officer of that Regiment of, you know, how the people in his Regiment – or his or her Regiment are feeling at that particular point in time.

10

FLTLT ROSE: Is it run through the DFSB?

CAPT GOODRIDGE: I believe it is, yes.

15

FLTLT ROSE: Is it annual?

CAPT GOODRIDGE: Yes, I believe it is.

20

FLTLT ROSE: Have you participated or filled in a survey every year?

CAPT GOODRIDGE: I have, yes. Yes, I believe I have.

FLTLT ROSE: Do you get back briefed about the results of that survey?

25

CAPT GOODRIDGE: Yes, in my experience we have.

FLTLT ROSE: During those back briefs, has fatigue been a feature that's been discussed?

30

CAPT GOODRIDGE: I believe that's usually one of the common themes, yes.

FLTLT ROSE: Can you just elaborate on what exactly about fatigue is discussed?

35

CAPT GOODRIDGE: I think, in general, it's just – and, again, a generalisation, but I think it's people just feel at times potentially a little bit burnt out, just given the workload that they've been under at that time. That's usually treated with a little bit of caution though because again, it is a snapshot in time.

40

So if you've just come off the back of a very busy exercise period or something like that where people are naturally going to be a little bit more fatigued and the snapshot is run at that time, then that's, you know, potentially going to influence the results.

45

So, yes, sorry, I can't really elaborate too much more than that.

5 FLTLT ROSE: What about in your own experience? Have you felt acute fatigue or cumulative fatigue at any stages in your flying career?

CAPT GOODRIDGE: I definitely have, yes.

10 FLTLT ROSE: Is it something that is constant, or does it surge with the exercise?

15 CAPT GOODRIDGE: For the most part, I think it surges with the exercises and things like – you know, whatever is going on at that time. So definitely the build-up, and then the conduct of the exercise, is usually, you know, a busier period; particularly, in C Squadron. And again in C Squadron, because that's my experience, we have a fairly – you know, a reasonably high tempo for the majority of the year, I would say. So that also does tend to take its toll over time as well.

20 FLTLT ROSE: So there are obviously surge periods, as you've just said. Is there adequate periods of rest to recover from those intense periods?

25 CAPT GOODRIDGE: There is, I believe. We have the reduced tempo periods, which, for 5th Aviation Regiment, usually align with the school holiday periods, and that type of thing, where people are definitely encouraged to take leave. Some people may not choose to because of whatever reason. They might want to save their leave up to take a larger holiday at the end of the year, or they might want to take holidays at other times throughout the year.

30 So not everyone, I would say, uses those periods. It also depends on what – I think it also depends on what position you're filling because sometimes, just with the nature of our business, an exercise period may be immediately after a reduced tempo period, for example, and those dates may not be able to be changed. So if you're in a key role or a key position that is required to conduct some sort of lead-up planning or preparation for that exercise, that may impact your ability to take leave during that reduced tempo period.

40 There is usually always though a little bit of a stand-down period, or a few days at least after the exercise where everyone is sort of encouraged to take some leave.

45 FLTLT ROSE: Are you aware of any tool that Aviation Command uses for pilots to be able to assess their own fatigue levels prior to a crew duty starting or a sortie?

5 CAPT GOODRIDGE: Yes. So we have our FACE checks, which has now just recently been replaced by a tool, a Fatigue Tool I guess, that we use, and we brief that – at least in C Squadron, we brief that prior to every flight, or during the orders for every flight.

FLTLT ROSE: This Fatigue Tool, is it a DFSB-issued Fatigue Tool?

10 CAPT GOODRIDGE: I would have to check who actually issued it, to be honest.

FLTLT ROSE: Is it a series of short questions that ask you about your sleep and rest?

15 CAPT GOODRIDGE: Yes, for the most part. Yes.

FLTLT ROSE: And then about the type of tasks you're undertaking?

20 CAPT GOODRIDGE: Yes, and it's just – my understanding is it's just aimed to give you an understanding of how you may be feeling that day and whether you have ambers or reds or that type of thing, as the tool sort of comes out with.

25 FLTLT ROSE: Could I have the witness shown Exhibit 37.

MS McMURDO: Yes.

30 FLTLT ROSE: Also, I believe we have a copy of Exhibit 37 to put on the screen. Is this the Fatigue Tool you were referring to?

CAPT GOODRIDGE: Yes, it is.

FLTLT ROSE: You'll see in the top left-hand corner it says "DFSB".

35 CAPT GOODRIDGE: Yes, correct.

FLTLT ROSE: If you look down at the bottom right-hand corner, it says "Version 1, 10 November 2020".

40 CAPT GOODRIDGE: Yes, I can see that.

FLTLT ROSE: When was the first time you saw this document in C Squadron?

45 CAPT GOODRIDGE: Probably late last year, if I'm being honest.

FLTLT ROSE: November/December?

5 CAPT GOODRIDGE: Yes, late last year. Sorry, I don't recall specific dates.

FLTLT ROSE: Have you received any specific briefing on how to use this tool?

10 CAPT GOODRIDGE: We did receive, just within the Squadron, a small brief – a short brief, I should say – on sort of how to use, as it sort of began to take over what we'd always been using previous to that, which was the FACE checks, yes.

15 FLTLT ROSE: Did you use this every time before you do a sortie?

CAPT GOODRIDGE: Yes. So it's now a requirement, as I understand it, a requirement for everyone to complete this before they fly.

20 FLTLT ROSE: You say "a requirement". Is it in policy?

CAPT GOODRIDGE: I believe it is. I'd have to check which policy it's in.

25 FLTLT ROSE: Where do you record the results of this?

30 CAPT GOODRIDGE: My understanding is that we're not required to record the results of it. It was just a requirement that we conduct it and that we brief our results during – yes, brief our results during the orders for that flight.

FLTLT ROSE: So if you're conducting two sorties in a day, you'd do it before each sortie?

35 CAPT GOODRIDGE: It depends. In C Squadron, it's quite rare that we would do two sorties in a day. Our sorties are usually of a three to four-hour length, so we don't normally have time in a day for two separate sorties. I would say though that if you're conducting two separate sorties in a day that are separate missions – we'll call it – then, yes, you should complete
40 that prior to each. Any time you conduct a new set of orders for a mission, then you should conduct this tool, or you should brief this tool.

FLTLT ROSE: So do you and your fellow crew members get a pencil or
45 pen out and tick the boxes?

5 CAPT GOODRIDGE: It's up to individuals how they want to use it. Some individuals choose to print them off, I believe, and might choose to tick and flick. Others might just choose to use it as a reference tool, just to read through it and, you know, visually sort of identify where your fatigue may be.

FLTLT ROSE: Then you say you brief it at mission orders?

10 CAPT GOODRIDGE: Correct.

FLTLT ROSE: Is that to a particular Command?

15 CAPT GOODRIDGE: It will usually just be to the Aircraft Captain, so it's mainly just to identify if anyone had any concerns, or that this awareness tool raised any concerns that they think that the crew should know about, and it's briefed to the Aircraft Captain, and usually the Authorisation Officer will be somewhat aware of that as well.

20 FLTLT ROSE: Have you ever been in a situation where you, or any of your fellow crew, have been in the amber or red section?

25 CAPT GOODRIDGE: I have had some – yes, there are some people that have ambers at times. I've never personally been in a situation where someone has said that they were red for anything.

FLTLT ROSE: What happened when someone said they were amber?

30 CAPT GOODRIDGE: It could be a whole – it could be any number of things, really. Sorry, are you talking about the consequences?

FLTLT ROSE: What the consequences of being amber are?

35 CAPT GOODRIDGE: Usually it depends what it is. Usually, we'd just have a chat about it. In my experience anyway, we'll have a chat about it during the orders for that mission and ask that person how they're feeling and if they've got any concerns, or if they have any concerns with conducting that particular flight.

40 Then in my experience, personally, as an Aircraft Captain, I will usually make sure that that person – I'll have a chat with that person and make sure that they, you know, feel empowered, I guess, to speak up at any time throughout the flight; particularly if it's something to do with, you know, potentially not getting enough sleep the night before or something like that. That if they start to feel fatigued during that flight, that they let us know and we can adjust the sortie profile, or cancel it and come home.

45

FLTLT ROSE: So there's no requirement in the policy that if somebody is amber, they're not to fly that day?

5 CAPT GOODRIDGE: I am – not to my understanding, but I would have to check the policy to be sure of that.

FLTLT ROSE: Do you see on the right-hand side page where it says when someone is amber, to actively manage them? Do you see there?

10 CAPT GOODRIDGE: Yes, in the black. Yes, I do.

FLTLT ROSE: It says:

15 *Advise your supervisor of your heightened fatigue risk and ask team members to monitor you. Consider adjusting tasks. Increase team communication and task cross-checking. Consider taking a break or accessing controlled rest/napping. Consider strategic use of caffeine and food intake.*

20 CAPT GOODRIDGE: Yes, I can see that.

FLTLT ROSE: So you've just given some evidence that you might adjust the tasks if somebody is feeling - - -

25 CAPT GOODRIDGE: Yes, correct. So what's written there is basically, in my experience, exactly what we would do within C Squadron. So, yes, if someone was genuinely feeling tired or fatigued for whatever reason, we would make sure that person feels empowered to speak up at any time throughout the flight if they are feeling, you know, drowsy or anything like that. Absolutely, we can always – depending on what the nature of the task is, but there's usually always room to amend the profile of the flight to potentially end early, or to move that member to a different crew station, for example.

35 FLTLT ROSE: So if I understand your evidence, the crew member has already willingly identified that they're in the amber?

40 CAPT GOODRIDGE: Correct.

FLTLT ROSE: Then the sortie still goes ahead and it's still on that particular crew member to then manage it? It's not on the supervisor to start taking over the management of their fatigue for them?

5 CAPT GOODRIDGE: To an extent, the onus is on the member to identify and raise if they have concerns, at least from my experience. If they have concerns and they raise that they, you know, would appreciate – or that they would like the flight to be cancelled and brought home early, or that they would like to be moved to a different crew station, for example, then that onus then really comes down on the Aircraft Captain to actually enforce those changes at that time.

10 FLTLT ROSE: So it's not the situation where an amber is identified and the Authorisation Officer or the Aircraft Captain actually are then obliged to take that crew member out of that role and put them in a different role?

15 CAPT GOODRIDGE: No, not that I'm aware of, no. It's all situation-dependent at that time.

FLTLT ROSE: Do you understand what "strategic use of caffeine and food intake" means?

20 CAPT GOODRIDGE: I could take a stab at it, but I wouldn't – without referencing the policy behind it, I wouldn't - - -

FLTLT ROSE: So you haven't been briefed on what that means, haven't been given guidance?

25 CAPT GOODRIDGE: No, I don't recall being briefed on strategic use of caffeine, no.

30 MS McMURDO: What would you think it means if you were implementing these?

35 CAPT GOODRIDGE: Ma'am, so I would say that it's just a case of – as we all know, caffeine can help to keep you awake and reduce the effects of fatigue, at least for a period of time. So I'd say that if someone is feeling just a little bit drowsy that morning or something like that, that they should be encouraged to go and – if they want caffeine, then they should be encouraged to go and - - -

MS McMURDO: Have a caffeine drink?

40 CAPT GOODRIDGE: Yes, exactly, yes, prior to the flight, to try and wake them up a little bit.

MS McMURDO: What about the food intake?

5 CAPT GOODRIDGE: That one I would say just comes down to, you know, again, the fatigue and that sort of thing, and energy levels, I guess. So making sure that people have actually had breakfast or a snack or something before they actually go flying and they're not flying on an empty stomach for a full-hour flight, ma'am.

MS McMURDO: So you mentioned that this came into effect in late 2023, as far as you can recall.

10 CAPT GOODRIDGE: Yes, as far as I can recall, ma'am, yes.

MS McMURDO: Roughly since that time that this has come into effect, how many flights would you have conducted? Just a ballpark figure?

15 CAPT GOODRIDGE: For myself, ma'am?

MS McMURDO: Yes, yourself.

20 CAPT GOODRIDGE: I would say 30 to 50 flights for myself.

MS McMURDO: Sure. In all that period, no one's ever come up with a red?

25 CAPT GOODRIDGE: Not in my experience, no.

MS McMURDO: No. A few times there's been an orange.

CAPT GOODRIDGE: Correct.

30 MS McMURDO: But never to the point where they've said they didn't want to fly.

CAPT GOODRIDGE: Correct.

35 MS McMURDO: You say then you would actively manage it. Do you ever recall during the flights on those occasions, the people who did identify as orange asking for you to manage it in a certain way because they're feeling a bit tired?

40 CAPT GOODRIDGE: In my experience, no, I don't recall ever having someone during the flight – outside of what was briefed during the orders – during the flight, raising that they are feeling exceptionally drowsy or fatigued at that time, and that they would like to be sort of managed or moved to a different station or something.

45

MS McMURDO: Thank you. Yes, FLTLT Rose, thank you.

5 AVM HARLAND: Just to follow on from that, has the introduction of this DFSB Fatigue Risk Awareness Tool materially changed the way that fatigue management is addressed at the unit?

10 CAPT GOODRIDGE: My understanding is it hasn't, at least in C Squadron and 5th Aviation Regiment. I don't believe it's changed the way we manage or deal with fatigue to a great extent, no. I think this is just, in my experience, a new tool that really covers off on the same things that we were covering off prior to the introduction of this tool.

AVM HARLAND: Thank you.

15 FLTLT ROSE: Do you think there is an expectation or attitude within aviators in Army Aviation, particularly C Squadron, to just complete the task, push through fatigue to get the task done?

20 CAPT GOODRIDGE: That is something that can creep in from time to time, yes. But I will say that usually we are quite aware of that as well. I'd say the vast majority of missions that we do – or flights that we do, are just in training. So we do try to sort of reinforce that, that we are only in training at the end of the day, and we try not to let those pressures, I suppose, creep into the flight where we can. But, inevitably, they always do, to a certain extent.

25 FLTLT ROSE: Do C Squadron fly in that circadian low period between 2 am and 6 am?

30 CAPT GOODRIDGE: No, not regularly. Yes, very rarely we would fly between those periods.

35 FLTLT ROSE: At paragraph 23 you set out some evidence reflecting on whether the issue that CAPT Lyon raised at the ROIC in 2022 still exist within Army Aviation today.

CAPT GOODRIDGE: Yes, correct.

40 FLTLT ROSE: What are your views about that?

45 CAPT GOODRIDGE: So as I've said there, I believe they do still exist. So again, in my personal experience, it's not necessarily what I have seen for myself. As I've said, I was allowed four years to develop in the Troop prior to stepping into Troop Commander as a Captain year 5, at which point I felt well prepared to take on the role and the additional responsibilities,

and I felt that I'd had the opportunity to develop my flying skills to the point that I thought I needed to. But I have also seen some of my peers step into positions such as Troop Commander or other staff positions as early as a Captain year 2 or 3. So I think they definitely do still exist, yes.

5

FLTLT ROSE: Why is it that you think someone would be promoted to that Command position at year 2 or 3? Is there a need for them to go into that role?

10 CAPT GOODRIDGE: Yes. So in my experience, that's all it is. Those positions are positions that are crucial to the running of the Squadron or the Troop. So the position needs to be filled and, in my experience, it's just simply a case of that member who may be required to step into that role early is simply the most appropriate person to step into that role at that time, or there may be simply no one else above them who is more senior to be able to step into that role. So they're simply the next one in line, basically, and they have to just step into that role.

15 MS McMURDO: So it's a shortage of qualified people? It really comes down to that?

20 CAPT GOODRIDGE: To an extent, ma'am, yes. I'm unsure of what causes the shortages and things like that, but it's quite often the case. Well, not "quite often", but it's sometimes the case that just there's no one else above that person because they've moved on to specialist training, such as QFI or something like that, or they've transferred to a different Regiment, or they chose to leave Defence Force, or whatever reason.

25 AVM HARLAND: How is your experience as a Troop Commander in terms of workload and fatigue?

30 CAPT GOODRIDGE: It's a busy role. Particularly my experience in C Squadron, it's a busy role. It's a busy time. We're quite often out the door doing different activities and we're often supporting numerous other ground units. So it's busy. I would say it's manageable, from my experience. As I've said, I've just handed over, so I've spent almost two years as a Troop Commander. I think I managed it okay. There's things I could have done better. But, yes, I think it's manageable.

35 AVM HARLAND: Thank you.

40 FLTLT ROSE: Could I just ask that that Exhibit 37 be taken down off the video screen. I'm going to move to a different topic now, and it's about Exercise TALISMAN SABRE 2023. I take it from your statement, you weren't deployed on that exercise?

45

CAPT GOODRIDGE: No, I wasn't.

5 FLTLT ROSE: You were on leave from your Squadron at that time as you had just completed another exercise just prior to Exercise TALISMAN SABRE?

10 CAPT GOODRIDGE: Yes, that's correct. So I was the Troop Commander for the two exercises that led up to TALISMAN SABRE, and then I handed off the role of Troop Commander to CAPT Campbell Rogan for the conduct of TALISMAN SABRE.

15 FLTLT ROSE: So does that mean you were effectively on leave from the ADF on 28 July 2023?

CAPT GOODRIDGE: I was. Yes, I was on leave.

20 FLTLT ROSE: So you didn't play a part in the search and rescue for the Bushman 83?

CAPT GOODRIDGE: No, I didn't.

FLTLT ROSE: Those are my questions.

25 MS McMURDO: Thank you. Are there any applications to cross-examine? No.

Thank you very much, CAPT Goodridge.

30 CAPT GOODRIDGE: Thanks, ma'am.

MS McMURDO: I appreciate your coming and giving your evidence.

35 CAPT GOODRIDGE: Thanks, ma'am.

MS McMURDO: You can leave now. Thank you.

CAPT GOODRIDGE: Thanks, ma'am.

40 <WITNESS WITHDREW

45 FLTLT ROSE: The next witness has a pseudonym, so the camera to the witness box will be disconnected now.

MS McMURDO: Yes. I will remind everybody that no images of this person are to be shown, and only a pseudonym is to be used.

5 COL STREIT: Good morning, Ms McMurdo, AVM Harland. I will be taking the next witness and the witnesses this afternoon. Can I indicate for the assistance principally of Counsel representing, that I don't intend to go into a private hearing in respect of any of the witnesses to be called today. I will deal with matters publicly. But if any Counsel representing consider
10 they need to go into a private hearing to ask questions in relation to witnesses this afternoon, I ask that they raise that with me during the lunch break.

15 MS McMURDO: Yes, thank you, COL Streit.

CLERK OF THE COURT: Do you want to take the oath or affirmation?

D129: Affirmation.

20

<D129, Affirmed

<EXAMINATION-IN-CHIEF BY COL STREIT

25

COL STREIT: Can I just confirm with the Secretary that the video screen is only internal?

30 CLERK OF THE COURT: It's only internal; it's not (indistinct).

COL STREIT: Good morning, D129.

D129: Good morning, sir.

35

COL STREIT: Now, can I just ask you some questions, just some preliminary matters, if I may? First, do you recall receiving a section 23 Notice to be here today?

40 D129: I did.

COL STREIT: Did you also receive a Witness Frequently Asked Questions Guide?

45 D129: I did.

COL STREIT: A Privacy Notice?

5 D129: I did.

COL STREIT: An extract of this Inquiry's Directions?

D129: I did.

10 COL STREIT: Now, as a consequence of receiving the section 23 Notice, did that contain some questions and ask you to provide a statement for this Inquiry?

D129: Yes, it did.

15 COL STREIT: Before we turn to that statement, can I just remind you of your security obligations, and that if I ask a question, or anyone asks a question, where you feel that might be entering a classification higher than "Official", can you just indicate that to me or the person asking the question.

20 We might need to deal with that matter in a private session.

D129: Yes, I will, sir.

COL STREIT: What I'm going to do now is just show you a document. I'll just give you an opportunity to look through it.

25 MS McMURDO: Could you also ask the witness to have a look at the pseudonym list and confirm who he is on that?

COL STREIT: Just about to do that, ma'am.

30 D129: Yes, that's my statement.

COL STREIT: Thank you. Now, there is a sheet next to you. If you just turn that over? Just go to D129. Could you just indicate to that, whether the name that is adjacent to the pseudonym, is that you?

35 D129: Yes, that's me.

COL STREIT: Now, you've had the opportunity, have you, before giving evidence today, to compare your statement to that pseudonym list - - -

40 D129: Yes, I have.

45 COL STREIT: - - - in relation to where your statement has been redacted?

D129: Yes, I have.

5 COL STREIT: And are you satisfied that where your statement has been redacted and refers to a pseudonym, that accords with the correct name in the pseudonym list?

D129: Yes, I can confirm that.

10 COL STREIT: Thank you. Is there anything you wish to change or amend in your statement?

D129: No, there isn't.

15 COL STREIT: Now, your statement comprises a series of paragraphs and two annexures; is that right?

D129: That's correct.

20 COL STREIT: Now, is my understanding correct that you are content for the entirety of the information in your statement to be given in a public hearing

D129: That's correct.

25 COL STREIT: I tender – sorry, can you just identify for me the date of your statement, please?

D129: 24 July 2024.

30 COL STREIT: Thank you. And I tender D129's statement of that date.

MS McMURDO: It's Exhibit 46.

35 **#EXHIBIT 46 - STATEMENT OF D129 DATED 24/07/24**

40 COL STREIT: What I'm going to do now is just ask you some questions in relation to your background, and where I deem it appropriate I'll read parts of your statements out onto the record and I'll just simply ask you to confirm as to what I said is correct or not.

45 D129: Okay.

COL STREIT: You joined the Australian Army in January 2013 as a General Service Officer?

5 D129: Yes, that's correct.

COL STREIT: You entered through the Australian Defence Force Academy with an Aviation Cadetship, studying science; is that right?

10 D129: Yes, that's correct.

COL STREIT: In 2015, you transferred to the Specialist Service Officer career stream and you commenced flying training post your first SSO of first appointment course; is that right?

15 D129: Yes, that's correct.

COL STREIT: The first appointment course, that was conducted at the Royal Military College Duntroon?

20 D129: Correct.

COL STREIT: You graduated Basic Flying Training in Tamworth in early 2016, and then proceeded to the Army Helicopter School at the Army Aviation Training Centre; is that right?

25 D129: Correct.

COL STREIT: You graduated from that course in July 2016, spending six months in Graduate Pilot Troop?

30 D129: Correct.

COL STREIT: What's Graduate Pilot Troop? What do you do there?

35 D129: It's essentially a Troop which you hold while you wait for your operational-type transition continuing to fly Kiowa as a qualified pilot versus a trainee.

40 COL STREIT: Thank you. In 2017, you completed and graduated from the MRH-90 Initial Employment Training operational-type transition before posting to A Squadron, 5th Aviation Regiment in Townsville in 2018. Is that right?

45 D129: Correct.

COL STREIT: You posted to 6 Aviation Regiment in Sydney in January 2021?

D129: Correct.

5

COL STREIT: And you currently remain posted at that unit?

D129: That's correct.

10 COL STREIT: Now, you've worked in a variety of roles, including Regiment and Squadron operations, Training Cell and Technical Adjutant?

D129: That's correct.

15 COL STREIT: And you've participated in exercises, non-warlike operations and Defence aid to the civilian community in your Military Service?

D129: Correct.

20 COL STREIT: In terms of Defence aid to the civilian community, are there any particular examples come to light?

D129: Yes, sir. There was North Queensland floods, NSW floods, the bushfires as well of 2019/2020.

25

COL STREIT: And what was your role in that aid to the civilian community?

30 D129: The North Queensland floods and the bushfires was as an MRH-90 pilot, and then the NSW floods in 2022, it would have been – was in an Operations Officer type capacity.

35 COL STREIT: And in terms of those particular roles as an MRH-90 pilot you've just referred to, what type of taskings were you required to undertake?

40 D129: So for floods it was predominantly moving equipment, supplies, that sort of thing, to communities that had been cut off. A lot of the work during the bushfires was fire mapping. So taking somebody from a rural fire service by day and night and just mapping the fire lines, that sort of thing.

45 COL STREIT: On any of those Defence aid to the civilian community tasks, did you need to be recalled from leave?

D129: Yes, I believe I did, during the bushfires, if I recall correctly.

COL STREIT: “The bushfires”, what’s that a reference to?

5 D129: That was the bushfires of late 2019, early 2020.

COL STREIT: In New South Wales or somewhere - - -

10 D129: I participated – there were some in Queensland and then there were some in Victoria that I was deployed to as well.

15 COL STREIT: Sure. Now, if we just turn the page, at paragraph 3, you competed training on a fixed-wing aircraft at Basic Flying Training School 2015-2016 before you conducted your helicopter qualification course. Is that right?

D129: That’s correct.

20 COL STREIT: Graduated on a Kiowa Bell 206B helicopter; correct?

D129: Correct.

25 COL STREIT: Now, para 4, you’ve completed Black Hawk conversion training, recently attained Special Operations co-pilot qualification on Black Hawk?

D129: That’s correct.

30 COL STREIT: Turning to para 5, you posted to the 6 Aviation Regiment and you were in the S73 training role as at 28 July 2024.

D129: That’s correct.

35 COL STREIT: If you can just explain what the S73 role is that you undertake?

40 D129: So that role in the Training Cell acts as the 2IC of the Training Cell which is held at the Regiment Headquarters’ level. The primary duties of that are around ensuring that training is planned, organised and executed. And that sort of training might be something simple, as the mandatory training period at the start of the year. And at the time that I was in that role, that cell also planned and ran the SOQC suite of courses as well.

45 COL STREIT: Just in terms of the date, you’ve got 2024; is that correct?

D129: Sorry, that should be 2023.

COL STREIT: All right, thank you. So I'll read para 5, first sentence, is this:

5

I was posted to the 6th Aviation Regiment and was in the S73 (Training Cell) role as at 28 July 23.

D129: That's correct.

10

COL STREIT: Now turning to paragraph 6. You've been posted to the 6th Aviation Regiment as a Troop Pilot, and 173 Special Operations Aviation Squadron in 2021.

15

D129: That's correct.

COL STREIT: You were a line pilot, were you, at that time?

D129: Yes, in 2021 I was a line pilot.

20

COL STREIT: You've been the Regiment S35 Operations Officer Future Plans in 2022.

D129: Correct.

25

COL STREIT: Now, just explain briefly what that role was?

30

D129: That role was predominately focused on looking, you know, three to 12 months out at any exercises/activities that the unit was conducting and doing all the initial planning for that. In 2022, at that time the SOQCs were also being predominately planned by the S35.

COL STREIT: You then say, at paragraph 6, you were the Technical Adjutant and S73 in 2023. Is that right?

35

D129: Correct.

COL STREIT: What's the "Technical Adjutant"? What's that role?

40

D129: The Technical Adjutant looks after identifying and facilitating any capability gaps in the unit, and then working with 16 Brigade, DACM, to come up with solutions to fix any capability gaps or introduce solutions or equipment that make the job easier, essentially.

45

COL STREIT: You then say further at para 6 that you're now the

Operations Officer of 171 Special Operations Squadron. Is that right?

D129: That's correct.

5 COL STREIT: In broad terms, what's your role as the Operations Officer?

D129: The role of the Operations Officer leads the Squadron Operation Cell, which includes a mix of people from Intelligence, Mission Support, other aircrew. And their primary role is the analysis, planning, execution
10 of all the Squadron's operations and activities at the direction of the OC.

COL STREIT: Now, at paragraph 6(b), if I could just take you to that? In terms of your role in 2022, the second-last sentence, you say:

15 *Additionally, I was the Troop Commander of Special Operations Crash Response Troop over that period.*

D129: That's correct.

20 COL STREIT: So you held a Command appointment in 2022?

D129: Yes. The Special Operations Crash Response Troop, traditionally the Troop Commander of that Troop has been the S35 as an additional role for them.

25 COL STREIT: I don't want you to – I'm not going to ask you any questions about capability, but in broad terms can just explain what the role of the Special Operations Crash Response Troop is?

30 D129: So they serve both an operational role and a training safety role. So in training operations, they will be part of the landing zone party, and that is a group of Crash Response Specialist, medical personnel, and communicators and Commanders that are there to respond to any incidences that may occur at the LZ during training. And then, in an operational role,
35 they're focused on recovery of downed aircraft and personnel.

COL STREIT: Did you have to undertake any particular search and rescue training to undertake that role as the Troop Commander, or is it on-the-job training?

40 D129: No, it's on-the-job training. But as their Troop Commander, I was not involved in any technical aspects of that Troop.

45 AVM HARLAND: Did the SOCRT, the Special Operations Crash Response Troop, have any role to play in ADF exercises?

5 D129: Yes, sir, they did. So any time we conduct Special Operations Aviation Missions it is a requirement that the CRT are present at any landing zones that we're using.

AVM HARLAND: Are you aware if that was the case on TALISMAN SABRE '23?

10 D129: They were certainly up there. As for their exact location, I'm not sure. But it would have been whatever the LZ or the target LZ for the day was.

AVM HARLAND: Thank you.

15 COL STREIT: At paragraph 6(c) you set out some evidence in relation to your role as the Technical Adjutant, and you say, in the second sentence:

20 *The focus of the role was being the link between 6 Aviation Regiment, 16 Aviation Brigade, and Directorate of Aviation Capability Management, among other external agencies.*

So in that role in 2023, January to June, do you recall having that level of engagement between those different levels of Command?

25 D129: Yes, so occasionally there was. It was predominantly about minor equipment issues relating to iPad devices we might have used in the aircraft, and kneepad devices. There's some stuff about caving ladders and repair of those items. That was mostly it.

30 COL STREIT: Your primary role, July to December 2023, was the S73, which you've set out at paragraph 16. Is that correct?

D129: Correct.

35 COL STREIT: In paragraph 7 you have the following qualifications: Special Operations co-pilot MRH-90, March '21?

D129: Correct.

40 COL STREIT: Your Special Operations Captain MRH-90, November 2022?

D129: Correct.

COL STREIT: You're currently a Special Operations co-pilot UH-60M as of July this year.

D129: Correct.

5

COL STREIT: The UH-60M is Black Hawk?

D129: Correct.

10 COL STREIT: You're currently a Category C pilot on the Black Hawk?

D129: Correct.

15 COL STREIT: You hold a Command Night-Vision Imaging System rating and a Command Instrument rating.

D129: That's correct.

20 COL STREIT: You are presently a fifth year Captain.

D129: That's correct.

25 COL STREIT: Can I just ask you, when you held the role of Troop Commander of the Special Operations Crash Response Troop in 2022, were you a fourth year Captain at that time?

D129: I would have been a third year Captain.

30 COL STREIT: Third year. And did you receive any extra pay for having that command responsibility?

D129: No.

35 COL STREIT: Do you know if you had been a Captain of greater seniority, do you know if you would have received extra pay?

D129: No. The extra Troop Commander pay applies to Aviation Troops that fly helicopters. So this Troop was not an Aviation Troop and, therefore, didn't attract that extra pay.

40

COL STREIT: Did you fly helicopters, though, when you were in that Troop?

45 D129: Yes, I personally flew helicopters. However, the SOCRT do not operate helicopters.

MS McMURDO: Are you keeping your currency, your – were you still flying during that time?

5 D129: Yes, ma'am. During that role, I was flying as normal.

MS McMURDO: As normal. Yes. Thank you.

10 COL STREIT: You're currently an Aircraft Captain on the Black Hawk by day and night for non-Special Operations missions?

D129: Correct.

15 COL STREIT: Your current role, as you sit here today, is the Operations Officer of 171 SOAS Squadron?

D129: That's correct.

20 COL STREIT: At paragraph 12 you set out the role of the Operations Officer, and I won't – it's not necessary for me to lead that evidence from you. I just want to now turn to your hours in relation to MRH-90 Taipan as they were when that aircraft was in use. So you had a total flying hours of 1105.4 hours in aircraft. Is that right?

25 D129: That's correct.

COL STREIT: You had 141.1 hours sim?

D129: That's correct.

30 COL STREIT: Day hours, 751.9 hours; correct?

D129: Yes, correct.

35 COL STREIT: Seventy-four hours sim?

D129: Yes, correct.

40 COL STREIT: The night hours were 353.5?

D129: Correct.

COL STREIT: Sim was 67.1?

45 D129: Correct.

COL STREIT: Night-vision device, 310.6 hours?

D129: Correct.

5

COL STREIT: And the sim was 15.6 hours?

D129: Correct.

10

COL STREIT: The NVD, is that TopOwl?

D129: Yes, that was on TopOwl.

15 MS McMURDO: Was that also part of the night hours? So is that not an additional figure but, rather, that would have been - - -

D129: That's correct, ma'am. So the night hours include both night-vision device and night-unaided hours.

20

MS McMURDO: So 4 is just really a subset of 3?

D129: Correct, ma'am, yes.

MS McMURDO: Thank you.

25

COL STREIT: You've spent approximately 246 hours in formation flying?

MS McMURDO: In MRH-90, that's correct.

30

COL STREIT: MRH-90. It's not necessary I deal with Black Hawk; you've set it out in your statement. I take you to paragraph 13. You say:

35 *Aviation Command released a number of Special Flying Instructions that have placed additional requirements, considerations and restrictions around Night-Vision Imaging System flight, fatigue management, and formation and terrain flight, and degraded visual environment flying, currency requirements.*

40

Just in relation to fatigue management, was there a change in relation to what you needed to do as a pilot coming into the work environment at the end of last year in terms of needing to complete a particular fatigue awareness tool?

45

D129: Yes. So the Fatigue Risk Awareness Tool was started to be used towards the end of last year. However, I was not yet flying at that stage, so I wasn't completing that tool at the time.

5 COL STREIT: Do you recall when you first became aware of the requirement to use that tool for flying?

D129: It would have been towards the end of 2023 and then I didn't commence using it until I think it was March/April this year, when I recommenced flying on Black Hawk.

10 COL STREIT: Can you just explain what your understanding is of the purpose of the tool?

15 D129: It has a series of questions – five or six questions. They relate to your sleep time over the last 24-48 hours, your – sort of level of alertness, alongside how long you would be working and how long you'd be awake at the end of your period of duty. It's broken down into a green, amber, red light system, and it's meant to provide you, your crew and the Authorising Officer with some awareness of your fatigue state.

20 COL STREIT: Can the witness be shown Exhibit 37, please? I just ask if Exhibit 37, or the Fatigue Awareness Tool, could be placed on the screen. Exhibit 37 is before you. Is that the Fatigue – just tell me the title of it.

25 D129: Fatigue Risk Awareness Took. Yes, it is.

COL STREIT: Thank you. Shortened to FRAT?

30 D129: To FRAT.

COL STREIT: But that Fatigue Risk Awareness Tool, is that the tool you're referring to in your evidence you've just given?

35 D129: Yes, it is.

COL STREIT: Do you find it a useful tool?

40 D129: I do find it useful, yes.

COL STREIT: Do you find it's something that has enhanced, from your perspective, in any event, identifying the risk of fatigue in aircrew about to undertake Aviation tasks?

45 D129: Yes. I believe it assists in identifying, yes.

COL STREIT: Can you just explain, did you receive any training on the use of the tool or how to complete it?

5 D129: No specific training, no.

COL STREIT: Your use of this particular tool now, when you're undertaking your preparation for flight, you complete it yourself?

10 D129: Yes, that's correct.

COL STREIT: Do you need to complete it in the presence of anyone or are you completing it on your own?

15 D129: You complete it on your own via an electronic system and it's stored in a folder. It's then communicated to your Aircraft Captain and your Authorising Officer as well.

20 COL STREIT: So your understanding is they receive a copy of your completed Fatigue Risk Awareness Tool?

D129: It's not sent to them; they have access to it should they want to view it. And then you verbally tell them your series of greens, reds or ambers, whatever the case may be.

25 COL STREIT: When you say "it's stored in a folder", does that mean, at least as you understand it, there will be records at 6 Aviation Regiment for aircrew completion of that tool?

30 D129: Correct. There's currently – the policy is that they are all stored on Objective for both aircrew, GCMS – or Ground Crew Mission Support – personnel, and refuelling personnel – anyone involved in Aviation-related duties.

35 COL STREIT: Do you consider the Fatigue Risk Awareness Tool, and the way it's now utilised within your unit, as something that has improved Aviation safety?

40 D129: It has on occasion, yes.

COL STREIT: Have you ever had the experience, since you started using the tool, of falling into the amber category of "Actively Manage"?

45 D129: Yes, I have fallen in the amber category.

COL STREIT: What about falling into the red category of “Caution”?

D129: I personally haven’t, no.

5 COL STREIT: Have you seen it occur though in relation to other aircrew that you were identified to fly with on a particular day?

D129: Not that I’ve been flying with on a particular day, no.

10 MS McMURDO: So since this came in, how many flights would you have done, roughly? Just a ballpark figure.

D129: Somewhere between 50 and 100, ma’am.

15 MS McMURDO: Thank you. Have other people identified as amber on your flights?

D129: Yes, ma’am.

20 MS McMURDO: How do you manage that?

D129: So I haven’t had any ambers on the flights that I’ve been the Captain of. Other sorties, it’s acknowledged and it sort of depends on the context of the mission, the scores of the other crew, as to how that’s managed.

25 MS McMURDO: Have there been any significant changes to flights, flight missions, because of someone being amber?

D129: I haven’t observed that, no.

30 MS McMURDO: You’re not aware of it. You said I think you, yourself, had been in the amber on a couple of occasions.

D129: Yes, ma’am.

35 MS McMURDO: How did you manage that?

D129: I identified it and then, I guess, we continued flying.

40 MS McMURDO: Thank you.

COL STREIT: You may not have experienced this, but has there been any discussion where you were present sort of around the crew – in the Crew Room where other pilots have discussed whether they considered the Fatigue Risk Awareness Tool was a useful tool or not a useful tool?

45

5 D129: I have. I think the consensus is that it's useful in requiring people to talk about fatigue prior to a sortie; whereas previously there was no strict requirement to do so. However, at the moment there is some concern about the additional administrative burden prior to commencing a sortie to carry out this. You know, the need to log on, complete the tool, sign it, store it, that sort of thing. But it's been useful in requiring people to talk about fatigue, at least.

10 COL STREIT: What about the process of just the aircrew of a particular aircraft getting together in a group, completing the tool and then just handing the tool to the Authorising Officer – a hard copy? Somebody else can throw it on Objective.

15 D129: There's probably no one else to put it on Objective. Yes, I'm not sure who we would hand that job off to.

20 COL STREIT: So if there was some administrative support that didn't impact Aviation Operations, but just some administrative person who could just take the hard copies and put them on Objective, then what I've identified as a means of completion of the tool would release the admin burden, wouldn't it?

25 D129: It would reduce the burden a little bit, yes, sir.

COL STREIT: Might also assist in – it's a bit different when you complete the tool yourself as against doing it in a group where you have to eyeball your fellow aircrewman and be honest about what you're saying.

30 D129: Yes.

COL STREIT: Do you agree with that?

35 D129: I would agree with that. However, during formation sorties, in the formation orders there is an indication provided across the crews as to how many ambers that you may have. So it is known across the formation if a particular aircraft has a certain number of ambers in it.

40 COL STREIT: Can I turn now to paragraph 14 and onwards? Now, I'm going to read - - -

MS McMURDO: Just before you do that.

45 COL STREIT: Yes.

MS McMURDO: If you look at the “Actively Manage Fatigue and Alertness” in the amber, one of the things it says there is to:

5 *Consider taking a break or accessing controlled rest/napping.*
 Consider strategic use of caffeine and fluid intake.

Did you have any training about that?

10 D129: No, ma’am.

MS McMURDO: Thank you.

COL STREIT: If Exhibit 37 could be returned and the screen returned to
15 its normal function, please? I’m going to turn to paragraph 14 and onwards.
I’m just going to read aspects of this, D129, and I’ll just ask you to confirm
or otherwise what I’ve said. At paragraph 14 you say you first met Danniell
– that’s CAPT Lyon – in 2018, during your march in process to A Squadron,
5 Avn. It was a brief period as you believed he had not long returned from
20 his exchange with the Royal New Zealand Air Force and was completing
his march in/march out from 5 Avn, prior to posting to 6 Avn Regiment. Is
that correct?

D129: Yes, that’s my recollection.

25 COL STREIT: You then met him again in 2021 when you posted to
171 SOAS, 6 Squadron at 6 Aviation Regiment where he was the Squadron
Executive at the time. You say during your time at 6 Avn you became good
friends with Danniell and had a significant amount of respect for him as a
30 person, a professional and an aviator. You flew with Danniell on
approximately 10 occasions. You say he was a highly competent pilot, with
great passion for Aviation, and this was evident on each occasion that you
flew with him.

You say:

35 *He became a Troop Commander in 2023 and, while the workload*
 was high, his absolute priority was performing highly to ensure the
 members of his Troop were developed and had high morale and
40 *felt valued members of the team.*

Is that right?

D129: That’s correct.

45 COL STREIT:

He had a strong people-focused nature to his command, with a significant amount of emotional intelligence. He was a Commander that was respected, admired and trusted.

5

Is that right?

D129: That's correct.

10 COL STREIT: Turning to Max Nugent. You say you met Max after he posted to 6 Aviation Regiment in passing one of the Troop offices in about June 2023, after you'd returned from overseas. He attended an SOQC graduation ceremony – sorry, you attended an SOQC graduation ceremony and the subsequent social function. Unfortunately, you did not get much
15 time to get to know Max better. You did not fly with Max on any occasion. Is that right?

D129: That's correct.

20 COL STREIT: In relation to WO2 Laycock you say you first met Phil Laycock when he was posted back to 6 Aviation Regiment in 2022. You worked with him in the Standards Cell as the Technical Adjutant in 2023. You flew with Phil on approximately 30 or so occasions and he was an excellent aircrewman. He was calm, deliberate and consistently had high
25 levels of situational awareness. You recall always feeling comfortable and confident knowing you had Phil in the back of the aircraft.

You say Phil often provided both technical and general advice to you in your role as the Regiment S35 Technical Adjutant, and as a pilot, in his
30 capacity as the Regiment Standards Warrant Officer and an experienced aircrewman. You found his advice to be always well considered, relevant and helpful. He was widely respected across the unit as the Regiment Standards Warrant Officer and performed his duties to the highest standard. Is that correct?

35

D129: That's correct.

40 COL STREIT: In relation to CPL Naggs, you first met Alex on your posting to 6 Aviation Regiment in 2021. You say Alex was quiet but a competent and motivated aircrewman. You flew with him on approximately 20 occasions and always found him to be well prepared and a strong performing member of the crew. Is that correct?

45

D129: That's correct.

COL STREIT: Could I now turn to the Regimental Officers' Intermediate Course which you attended in 2022, which commences at paragraph 18 of your statement. So at that time you were posted to 6 Aviation Regiment as the Regiment S35 in 2022?

5

D129: That's correct.

COL STREIT: You were also a Special Operations co-pilot on MRH-90.

10

D129: Correct.

COL STREIT: Now, the Regimental Officers' Intermediate Course you attended was conducted at Gallipoli Barracks and Oakey in 2022?

15

D129: Correct.

COL STREIT: On that course was the following persons, you say: CAPT Lyon?

20

D129: Correct.

COL STREIT: D15?

D129: Correct.

25

COL STREIT: D55?

D129: Correct.

30

COL STREIT: CAPT Campbell Rogan?

D129: Correct.

COL STREIT: CAPT Matthew Goodridge?

35

D129: Correct.

COL STREIT: CAPT Ben Jackson?

40

D129: Correct.

COL STREIT: Paragraph 21 you say you were present at a number of sections during the Regimental Officers' Intermediate Course in which you were given the opportunity to engage in conversations with senior Aviation Officers across the Brigade and Command level with respect to

45

organisational concerns. Is that right?

D129: That's correct.

5 COL STREIT: And can I just pause there. Is that your experience of previous Aviation courses that you've attended, that there be an opportunity to basically sit down and for the pilots at the coalface to express concerns to chain of command? Or is this the first experience you've had?

10 D129: It's probably the first experience I've had in that specific setting. The ROIC is a course you do earlier in you career as a Captain, and it's one of the first Aviation-specific career courses you do post your graduation onto Operation-type.

15 COL STREIT: So can I take it from that, given that it's your first experience, you would've been – because it's new – fairly – you would've been paying attention to what was going on in those discussions?

D129: Yes. Yes, I was.

20

COL STREIT: Now, you say that you recall the following senior officers being present: BRIG Dean Thompson, then the 16 Aviation Brigade Commander?

25 D129: Correct.

COL STREIT: COL Kim Gilfillan, then the Director Operational Air Worthiness?

30 D129: Correct.

COL STREIT: COL David Lynch, then the Commandant of the Aviation Training Centre?

35 D129: Correct.

COL STREIT: LTCOL Vanessa Jordan, the SO1 psychologist Aviation Command?

40 D129: Correct.

COL STREIT: And LTCOL James Pidgeon, the S3 of 16 Aviation Brigade?

45 D129: Correct.

COL STREIT: You say there were a number of sessions held and that the majority were at Enoggera Barracks in Brisbane between 8 and 12 August 2022.

5

D129: Correct.

COL STREIT: When you say “Enoggera Barracks”, do you mean Gallipoli Barracks?

10

D129: Yes, I do.

COL STREIT: Now, you say you can’t recall which days “we spoke to senior officers”. Does that mean, paragraph 22 onwards, is that an aggregation of your recollection of different conversations with senior officers?

15

D129: Yes, that’s correct.

COL STREIT: Turning to paragraph 22, you say the peak concerns you recall CAPT Lyon raising were predominately around workload tempo, understaffing and fatigue.

20

D129: That’s correct.

25

COL STREIT: What was your observation of the manner in which he conveyed his concerns?

D129: He conveyed them honestly and directly but in a respectful manner, as was always the case. He was very passionate about the topic because he and his colleagues were living and breathing those issues on a day to day, and that’s the manner that he presented it in.

30

COL STREIT: Do you recall yourself saying anything in any of these discussions?

35

D129: Yes, I did.

COL STREIT: And what did you say?

40

D129: They were very similar to the things that CAPT Lyon sort of outlined and that I’ve outlined in my witness statement. It was predominately around high tempo pilots conducting duties not related to flying that was increasing the level of work they had to do and reducing their ability to prepare, both mentally and physically, for flying but also in

45

maintaining the high level of technical knowledge required to be a pilot that would often – you wouldn't have sufficient time to maintain that level of knowledge while also completing other duties.

5 COL STREIT: Now, at that point in time, you had some experience in this, did you, because you'd undertaken other duties whilst trying to maintain currencies in MRH-90 pilots?

D129: That's correct.

10

COL STREIT: Did that include command duties?

D129: At the time I was the S35. So, yes, the Troop Commander of the Crash Response Troop as well as being S35.

15

COL STREIT: So in the body of paragraph 22 you say:

20 *CAPT Lyon outlined how pilots often had little to no time to appropriately plan and prepare themselves prior to going flying as they were often spending the majority of their time conducting the duties of their primary role on the ground in positions such as Troop Commander, XO or OPSO.*

Is that right?

25

D129: That's correct.

COL STREIT:

30 *He also outlined how the high levels of knowledge about Aviation policy and procedures during training and the first year or two in an order degraded rapidly once placed in a high workload command or operations position as there was simply not enough time to complete that duty, fly regularly and allocate time to maintain a recallable level of knowledge about policy and procedures.*

35

D129: That's correct.

40 COL STREIT: Do you agree with him?

D129: Yes, I did.

COL STREIT: You say he went on further to say:

45

These factors, coupled with notable understaffing, would then in turn lead to sustained high levels of fatigue among personnel in key positions. They often needed to work long hours in order to meet all the requirements placed on them.

5

D129: That's correct.

COL STREIT: You recall him saying those things.

10

D129: Yes.

COL STREIT: And did you agree with him on those things.

D129: I did.

15

COL STREIT: You say the response from officers was varied. You say:

BRIG Thompson acknowledged the concerns and provided guidance that he wanted us to reduce, where possible, effort on aspects of our daily jobs that were not directly relevant or contributory to the required outcome. He provided one example of making an instruction of an activity on only two pages.

20

Do you recall him saying that?

25

D129: Yes, I do recall that specific example with respect to the administration.

COL STREIT: It was your view though that that suggestion wasn't simply possible because it didn't take into account the level of administration required to plan and execute an Aviation activity.

30

D129: That's correct.

35

COL STREIT: And that was something you were living with on a daily basis at that time?

D129: Correct.

40

COL STREIT: You say most of the other officers you've identified in your statement broadly acknowledged the concerns, but you can't recall specific details about their individual responses. Is that right?

D129: That's correct.

45

COL STREIT: You then say this:

LTCOL Jordon –

5 now, that's the Aviation psychologist – you say:

LTCOL Jordon, from my recollection, appeared to be most concerned about the issues we were raising and offered her support.

10

When you say she “appeared to be most concerned about the issues” that were being raised, how did you form that view? Did she say something to you?

15 D129: I think it was just in her response to us as a group talking about these things. Yes, I think she recognised the sort of pressure that people were under and how that might affect Aviation Operations.

20 COL STREIT: Now, if you cast your mind back to when you're observing her say these things to you and the group – is that right?

D129: Yes, that's correct.

25 COL STREIT: Who else was present in terms of the senior officers at the time?

30 D129: I can't recall. I don't think there were many. Those conversations occurred as an adjunct to the presentation that she was giving at the time about her role in the organisation. That was sort of part of the scheme of events was each of the officers providing us a brief on what their role was, what their job was.

35 COL STREIT: Can you remember whether this briefing that LTCOL Jordan is saying these things to you, was that at Gallipoli Barracks or at Oakey?

D129: That was at Gallipoli Barracks.

40 MS McMURDO: Her role was psychological support?

D129: Correct.

MS McMURDO: Welfare support.

45 D129: That's right, ma'am.

MS McMURDO: The support that seemed to come from the more senior officers was coming through her, and she was able to offer support and ways of dealing with stress?

5

D129: Yes.

MS McMURDO: Rather than alleviating the problem that was causing it?

10

D129: That's correct, ma'am. She was offering support in her role.

MS McMURDO: Yes.

COL STREIT: You then say this – last sentence of paragraph 22, you say:

15

Our session with DOP - - -

D129: DOPAW.

20

COL STREIT: DOPAW. Is that - - -

D129: Director Operational - - -

COL STREIT: Sorry. I'll let you say it. You're in Aviation - - -

25

D129: Director of Operational Airworthiness, sir.

COL STREIT: Thank you.

30

The Director of Operational Airworthiness, COL Gilfillan made the remark that we were engaging in "diatribes" with respect to the concerns that we were raising. He appeared to believe our concerns were exaggerated and not reflective of the reality.

35

D129: That's correct.

COL STREIT: Do you remember him using the word "diatribe"?

D129: I specifically remember that, yes.

40

COL STREIT: What did you take that to mean? Like, what did you understand the word "diatribe" - - -

45

D129: To be honest, I actually had to look that word up after the event. But given the context, I assumed it meant something to do with going on a

long sort of rant about a particular topic.

MS McMURDO: An unjustified rant, is that what you - - -

5 D129: Potentially, ma'am. Yes, from when I looked it up that many years ago I think I recall that.

COL STREIT: I turn now to paragraph 23 of your statement, please. Largely, paragraph 23 deals with matters – I think you've already given
10 some evidence about – or you indicate you agree with all of CAPT Lyon's concerns. You then say this about halfway down the paragraph, you say:

The current model in Army Aviation is that flying in a secondary role pilots and aircrew to be completed around your other duties within the unit and Army. These issues are amplified by a culture of mission success at all costs, a culture that is pervasive across the organisation even during foundation training.

15

Army Aviation units are consistently under pressure to support all tasks and missions assigned to them despite not having required levels of staffing capacity to achieve them, which usually results in highly compressed timelines that force aircrew into situations in which they are not prepared as they need to be, which in turn greatly reduces safety margins.

20

25 They're your views based on your experiences today?

D129: That's correct.

30 COL STREIT: You then say further:

Should aircrew identify they're not in a satisfactory position to execute a task, then a delay may incur in order to allow sufficient preparation. However, this delays timeline compression to any follow-on tasks or missions and acts only to defer the issue to a later period.

35

I take it from that you're saying there's a knock-on effect?

40 D129: Yes. We occasionally have buffers built into the program that, by moving things to the right, delaying them, that ultimately means that your next event or activity is further compressed.

45 COL STREIT: Is one way of summarising it, what you've said in paragraph 23 is that at the coalface there's a desire and a pressure to get the

job done?

D129: Correct.

5 COL STREIT: People at the coalface don't want to let the team down.

D129: Correct.

10 COL STREIT: They don't want to let the chain of command down.

D129: Correct.

COL STREIT: So they just push themselves to get the job done.

15 D129: Correct.

COL STREIT: I turn to paragraph 25 of your statement. There are certain aspects of paragraph 25 I won't lead because they deal with capability. And I ask Counsel representing to be mindful of that, should they wish to ask this witness any questions. But is the sum total of paragraph 25, in effect, that your experiences are, to date – that is, during 2024 – in terms of workload pressures and fatigue, it still exist today within the unit?

20 D129: That's correct.

25 COL STREIT: Are you familiar with snapshot surveys?

D129: I am.

30 COL STREIT: And have you participated in snapshot surveys?

D129: Yes, I have.

35 COL STREIT: Can you just briefly explain what a snapshot survey is?

D129: It's like a PULSE check survey that's taken at a point in time; usually sort of in the first half of the year. Its purpose is to provide Commanders with an overview of different aspects of the organisation in relation to how personnel safety is tracking. And there's a whole bunch of metrics and presentations that is generated as a result of the responses to that survey.

40 COL STREIT: Do you recall receiving any briefings about the outcome of snapshot surveys?

45

D129: I have in the past, yes.

COL STREIT: Do you recall when you received the last briefing?

5 D129: I think the last briefing I received would have been in 2022 while we were away on an exercise. And from memory that was the last one.

COL STREIT: Since you've been a pilot, have snapshot surveys been an annual event you've engaged in?

10

D129: Yes, every year.

COL STREIT: Would you receive briefs from the chain of command about the outcomes of those snapshot surveys?

15

D129: That's usually the case, yes.

COL STREIT: And to your recollection were there any recurring themes in terms of those snapshot surveys?

20

D129: Yes. Yes.

COL STREIT: What were they?

25 D129: Usually, it was fatigue and tempo were the predominate factors in which the data points were, you know, quite obvious.

COL STREIT: Are you aware of a KMPG town hall being conducted in recent times – the last couple of years or so, where pilots were engaged? Does that ring a bell for you at all?

30

D129: I've heard of townhalls but not specifically KPMG-run town halls, no.

35 COL STREIT: Thank you, D129. Ms McMurdo, they're my questions.

MS McMURDO: Thank you. Can I just ask a couple of things? You mentioned that you were a Group Captain when you were a third year Captain, which is relatively inexperienced. We have heard from others that it's not until a year seven that Captains are paid for being a Troop Commander.

40

D129: That's right, ma'am. Yes, Captain 7 is when that takes effect.

45 MS McMURDO: Did you feel that that you were still on too much of a

learning curve and still learning the role to become a Troop Commander at that stage?

5 D129: I guess my particular Troop Commander was of a capability that I didn't have much knowledge, yes.

MS McMURDO: Thank you. If I could take you to paragraph 6(c) on page 3 of your statement? You mention there when you were focused on identifying capability requirements at unit level and developing plans to mitigate capability gaps and enhance existing capability, your focus was in the final coordination and implementation of the 6th Aviation Regiment sleep study. Could you tell us a little bit about that?

15 D129: Yes, ma'am. So the sleep study was an initiative of the CO at the time. He wanted to gain more information – more objective information, I should say, about how exercises and different tempo periods affected personnel's sleep quality and quantity to better inform his fatigue management practices.

20 MS McMURDO: And this is in the first half of 2023?

D129: That's correct, ma'am.

MS McMURDO: And who was the CO at that time?

25 D129: I'll just have to refer to the lists. D19.

MS McMURDO: D19. And do you recall any results of that sleep study, or what it showed in general, or anything about it?

30 D129: The sleep study did not end up going ahead.

MS McMURDO: Not go ahead, okay. Right. Yes, thank you.

35 Did you have any questions? No. Any questions? No. Any applications to cross-examine? No applications to cross-examine.

40 Could I thank you very much for coming forward, for your courage and leadership. Other members of the ADF have shown like courage and leadership. And can I say that such courage, leadership and honesty is absolutely in the best interests of the Australian Defence Force.

D129: Thank you, ma'am.

45 MS McMURDO: Thank you. Yes, you're excused and free to go.

D129: Thank you, ma'am.

5 <WITNESS WITHDREW

MS McMURDO: I suppose it's lunchtime. Did you want to call – yes, another witness in first?

10

COL STREIT: I'm just going to see if the next witness is waiting outside.

MS McMURDO: All right then. Won't be long?

15

COL STREIT: Perhaps if I could make a - - -

MS McMURDO: Okay, you let me know then when you wish to - - -

COL STREIT: Yes.

20

MS McMURDO: All right then.

COL STREIT: I call GPCAPT Christopher Pouncey, please. Ms McMurdo, the camera can now return to displaying video.

25

MS McMURDO: Thank you.

CLERK OF THE COURT: Do you choose to take the oath or affirmation?

30

GPCAPT POUNCEY: Affirmation, please.

<GPCAPT CHRISTOPHER POUNCEY, Affirmed

35

<EXAMINATION-IN-CHIEF BY COL STREIT

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COL STREIT: Group Captain, we'll make a start with your evidence and then we'll shortly adjourn for the lunch break, and conclude your evidence immediately following lunch. Can I just begin by asking you to state your full name and rank?

45

GPCAPT POUNCEY: GPCAPT Chris Pouncey.

COL STREIT: And what is your current role?

GPAPT POUNCEY: I'm the Director of Aviation Operations in the Defence Aviation Safety Authority.

5

COL STREIT: Now, please feel free to pour yourself a glass of water if you wish. Can I ask you just some preliminary matters? Did you receive a section 23 Notice to appear here today?

10 GPCAPT POUNCEY: Yes.

COL STREIT: And did you also receive a Frequently Asked Guide For Witnesses?

15 GPCAPT POUNCEY: Yes.

COL STREIT: A Privacy Notice?

GPCAPT POUNCEY: Yes.

20

COL STREIT: An extract of the Inquiry's Directions?

GPCAPT POUNCEY: Yes.

25 COL STREIT: And in terms of the section 23 Notice, did that contain some questions which then asked you to generate a statement?

GPCAPT POUNCEY: Yes.

30 COL STREIT: What I'm going to do now is provide you a document. I'll just ask you to examine the document and I'll ask some further questions. Can I just confirm, is that document your statement?

GPCAPT POUNCEY: Yes.

35

COL STREIT: And is it digitally signed by you on 14 June 2024?

GPCAPT POUNCEY: Yes.

40 COL STREIT: Are there any amendments you wish to make to your statement?

GPCAPT POUNCEY: Yes, just one minor editorial in the reference list.

45 COL STREIT: Yes.

GPCAPT POUNCEY: At reference India, where it says “of 12 December ‘23”, it should read “of 12 December ‘22”.

5 COL STREIT: Thank you. Could you make that annotation on your witness statement and just initial where you have made that change, thank you. Ms McMurdo, I tender the statement of GPCAPT Pouncey of 14 June 2024.

10 MS McMURDO: That’ll be Exhibit 47. Thank you.

**#EXHIBIT 47 - STATEMENT OF GPCAPT POUNCEY
DATED 14/06/24**

15

COL STREIT: Now, Group Captain, can I just – no doubt you’re across this, but can I just remind you to be mindful of your security obligations. If I ask a question, or Counsel Assisting or anyone asks you a question for that matter, where you consider responding to that question would mean going into a security classification that’s higher than “Official”, could you just alert us to that matter. We can only deal with those issues in a private hearing.

20 GPCAPT POUNCEY: Understood.

COL STREIT: Thank you. Now, can I just ask you to go to paragraph 4 of your statement. What I propose to do is to lead you through aspects of your statement; that is, my reading certain things and asking you to confirm if I’ve accurately read out what you have said. And in other aspects of your statement, I’ll ask you to explain certain things by way of giving evidence.

30 So your background is an Officer in Aviation. You’re a fixed-wing pilot?

35 GPCAPT POUNCEY: Yes.

COL STREIT: You’ve served in the Air Force for over 30 years and you have over 5000 hours of military flying experience?

40 GPCAPT POUNCEY: Yes.

COL STREIT: You’ve flown a range of different aircraft, including the PC-21, the Tucano – is that how you pronounce it?

45 GPCAPT POUNCEY: Tucano.

COL STREIT: Tucano; the CT/4B, the Cariboo; and the PC-9A, including as a Roulette.

5 GPCAPT POUNCEY: Yes.

COL STREIT: So for those who don't know, what's a Roulette?

10 GPCAPT POUNCEY: That's a member of the Royal Australian Air Force's formation aerobatics display team.

COL STREIT: And do you recall how long you performed that role for?

15 GPCAPT POUNCEY: I performed the role for one season in 2009, approximately six months.

COL STREIT: And perhaps to state the obvious, needing to be a Roulette and flying as a Roulette requires a level of significant precision flying. Would that be correct?

20 GPCAPT POUNCEY: Yes.

COL STREIT: You have 82.8 hours flying on night-vision imaging systems?

25 GPCAPT POUNCEY: That's correct.

COL STREIT: Do you recall what that night-vision imaging system was? Was it, for example – it wasn't TopOwl, was it?

30 GPCAPT POUNCEY: It was not TopOwl, no.

COL STREIT: You've instructed at all of the ADF's fixed-wing flying schools, including as a Chief Flying Instructor of the 2nd Flight Training School. Is that correct?

35 GPCAPT POUNCEY: Yes.

COL STREIT: And you've been Commanding Officer of the 1st Flight Training School.

40 GPCAPT POUNCEY: Number 1 Flying Training School, yes.

45 COL STREIT: Number 1.

GPCAPT POUNCEY: Yes.

COL STREIT: Thank you. You've served on warlike operations in then East Timor and non-warlike operations in the Middle East.

5

GPCAPT POUNCEY: That's correct.

COL STREIT: You've held qualifications as a B CAT Aircraft Captain and Qualified Flying Instructor?

10

GPCAPT POUNCEY: Yes.

COL STREIT: You also have held qualifications as a senior Instrument Rating Examiner. I'll just pause there. Just explain what that role is?

15

GPCAPT POUNCEY: So perhaps it will be easiest to start with an explanation of what an Instrument Rating Examiner is.

COL STREIT: Sure.

20

GPCAPT POUNCEY: And then to the role of a senior Instrument Rating Examiner. So all Defence Aviation pilots are required to participate in a PIRS, or Pilots' Instrument Rating Scheme. The function of the Pilots' Instrument Rating Scheme is to ensure that pilots have the necessary skills, knowledge and attitudes to operate aircraft safely in IMC or Instrument Meteorological Conditions.

25

An Instrument Rating Examiner is a pilot who has been awarded the qualification of Instrument Rating Examiner which qualifies them to conduct instrument rating tests for participants in the Pilot Instrument Rating Scheme; that is, other pilots. A senior Instrument Rating Examiner is typically a Qualified Flying Instructor who has also held an IRE qualification, who's responsible for conducting the assessments on Instrument Rating Examiners to ensure that they have the knowledge, skills and attitudes required to perform their Instrument Rating Examiner duties effectively.

30

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COL STREIT: Thank you. You've also been a Unit Maintenance Test Pilot. And which aircraft – or was that multiple aircrafts?

40

GPCAPT POUNCEY: On the PC-9A.

COL STREIT: Thank you. You graduated from the Australian Command and Staff College, and the Australian Defence Force Academy. You hold a Masters degree in Military and Defence Studies, and Bachelor degrees of

45

Technology and Aeronautical Engineering. Correct?

GPCAPT POUNCEY: Yes.

5 COL STREIT: Now, can you just broadly explain your current role?

GPCAPT POUNCEY: So my current role is the Director of Aviation Operations and Defence Aviation Safety Authority, colloquially – or abbreviated to DAVN Ops. DAVN Ops is responsible for safety assurance functions 1 to 4 of a number of regulated entities typically of an operational nature, including Military Air Operators. And Aviation Command is a Military Air Operator.

15 COL STREIT: Can you just say – it might be obvious to you, but not necessarily others, but what is the Defence Aviation Safety Regulation?

GPCAPT POUNCEY: So the Defence Aviation Safety Regulations are a set of policy. They are part of the Defence Aviation Safety Program. The Defence Aviation Safety Program is established by the Joint Directive of the Secretary and CDF 21/2021. It's described in the Defence Aviation Safety Program Manual and, perhaps in plain English, the Defence Aviation Safety Regulations provide policy, explain Defence's WHS Act 2011 (Cth) obligations in the Defence Aviation environment.

25 COL STREIT: Now, at the bottom of paragraph 8 you say this:

Specifically in respect of Command, such as Aviation Command, reference A –

30 I pause there. Reference A is the Joint Directive 21/2021 by the Secretary and the Chief of the Defence Force, the Defence Aviation Safety Framework of 10 November '21. I continue –

35 *specifies, "Aviation safety is a Command responsibility. While this Directive establishes a framework for the management of Aviation safety within Defence, responsibility for ensuring the safe operation of Aviation systems rests with the command chain. Commanders and managers are, therefore, accountable to ensuring Aviation systems under their command or control are designed, constructed, maintained and operated to approved standards and limitations by competent and authorised personnel acting as members of an approved organisation.*

45 So that's what is incumbent on Commanders. How does the Defence Aviation Safety Regulation assist them in achieving what CDF and the

Secretary have asked?

5 GPCAPT POUNCEY: I just pause for a moment and refer to my notes and consider your question. So the Defence Aviation Safety Regulations assist Command in meeting the obligations that you've just described outlined in the Joint Directive of 21/2021 by providing those Commanders with a raft of regulatory passive controls compliance which will support them in putting in place safety controls against those hazards in Defence Aviation.

10 COL STREIT: Thank you. Ms McMurdo, I note the time. It might be appropriate for the luncheon adjournment.

15 MS McMURDO: Thank you very much. I know you've been waiting patiently, we still haven't finished with you but we'll have an adjournment for lunch now and resume at 1 o'clock.

COL STREIT: 1 o'clock.

20 MS McMURDO: Yes.

GPCAPT POUNCEY: Yes, ma'am.

25 **HEARING ADJOURNED**

HEARING RESUMED

5 MS McMURDO: Yes, COL Streit.

COL STREIT: Thank you, Ms McMurdo.

10 Group Captain, can I just take you to paragraph 7 – or more particularly the heading, “Implementation and Compliance”, and the proceeding – or the paragraphs that are after that. Can you just explain in broad terms how a Defence Aviation Safety Regulation may be amended, the process?

15 GPCAPT POUNCEY: So the process that directs DASA staff in terms of the methodology for updating a Defence Aviation Safety Regulation is one of the references to my submission. It is reference D, DASA Instruction Reg 1-2, DASR Amendment Management.

20 COL STREIT: Paragraph 12 perhaps might assist you as well in responding to this question.

GPCAPT POUNCEY: Thank you. In summary, the key artefacts and activities in that process include a concept endorsement decision brief for DGDASA, a Notice Proposing Amendment and an associated news break which advise the regulator community – in this case, including Aviation Command – of DASA’s intention to publish a new or updated regulation, including a draft of that regulation and inviting comments.

30 It also includes a Comment Response document, subsequent to the Notice Proposing Amendment, which document the comments from the regulator community and DASA’s response to those comments, including any subsequent amendments to the proposed regulation. It also includes a Regulation Impact Statement outlining the expected impacts of the new or updated regulation for Defence Aviation Safety Board endorsement; and, finally, an approval decision brief for DGDASA.

35 COL STREIT: In your experience – and I’m not asking for a precision response here; I appreciate that may not be achievable – but in your experience, approximate timelines from concept or considering an amendment to a regulation to the regulation being amended and published – is there, in your experience, an approximate timeline that occurs?

40 GPCAPT POUNCEY: Yes, certainly. So for this type of update to a regulation, which I would describe as a major update, that would take a minimum of nine months and could take up to 18 months from concept development to publication.

5 COL STREIT: From concept development to publication, that period of time, whether it's nine months or 18 months, or anything in between, involves engagement with relevant stakeholders so they can provide input into what's proposed?

GPCAPT POUNCEY: That's correct.

10 COL STREIT: That would include Aviation Command, for example, if it was relevant to their interests?

GPCAPT POUNCEY: That's correct.

15 COL STREIT: So a Command – if we think more broadly, the three Services – a Command would have knowledge that a change was being proposed; correct?

GPCAPT POUNCEY: Yes.

20 COL STREIT: And the ability to provide input into that change?

GPCAPT POUNCEY: Yes.

25 COL STREIT: So when the change occurred, in whatever manifestation, it would not come as a surprise to that Command?

GPCAPT POUNCEY: That's true.

30 COL STREIT: So in one sense, a Command that might be a little bit ahead of its time, anticipating that a change to the regulation is coming into effect, could already start their own internal appreciation processes about how they would give effect to that change within their own policies?

35 GPCAPT POUNCEY: That's true. I would add the qualification that that's not a requirement of the DASP and that the DASP has associated transition periods which follow publication to provide the regulator community time to put in place the necessary amendments to their system to comply with that new regulation.

40 COL STREIT: Now, in terms of those periods you just described – that is, the period from when the regulation comes into existence and the period before the regulation becomes enforceable; that is, that period of time to allow Commands to transition whatever policies they have – how is that period of time determined?

45

5 GPCAPT POUNCEY: So DASA nominates a period of time, typically 12 months. In the case, for example, of DASR SPA.55 Night-Vision Imaging Systems, we shortened that transition period to nine months. Part of the rationale for shortening that transition period to nine months was that there was a change to the cycle or the battle rhythm of DASA publications. Previously, updates were published in April and October of each year. We were moving to a February and July publication routine.

10 This regulation would otherwise have been published in the October 2022 but because of the change in cycle, it moved to February 2023. But in order that we didn't further delay the transition, the transition period was shortened from a typical transition period of 12 months to nine months, to also end in October 2023.

15 COL STREIT: Now, have you ever experienced a circumstance where a regulation is changed as a consequence of a safety issue that's been identified?

20 GPCAPT POUNCEY: So all of our updates, major updates to regulation, are informed by safety intelligence and that safety intelligence includes significant Aviation safety events, both within Defence Aviation and also in global aviation.

25 COL STREIT: Let's now turn to - - -

MS McMURDO: Could I just ask you if, for example – and I know this wasn't such a one – but if, for example, an amendment was needed because of urgent safety reasons, is there capacity to speed it up below the nine months in those situations?

30 GPCAPT POUNCEY: It's not beyond possible. In my tenure, I've not seen a transition period for a major update to a regulation in shorter than nine months, ma'am.

35 MS McMURDO: But then would that also be because you haven't seen one where it was an emergency situation, or some safety issue had to be urgently fixed?

40 GPCAPT POUNCEY: So there are other mechanisms that DASA has to deal with safety issues that have greater temporal pressure, ma'am.

MS McMURDO: Thank you.

45 COL STREIT: Can I take you to paragraph 14 of your statement, please? I apologise, we'll start at 13. I just want to now ask you some questions in

relation to the Regulation SPA.55 NVIS which came into effect – well, which was published on 23 February 2023. Is that right?

GPCAPT POUNCEY: That's correct.

5

COL STREIT: Now, first, what led to the amendment to the regulation in that matter?

GPCAPT POUNCEY: So there were a number of inputs to our scoping activity which led to that major update, including a review of safety intelligence, a benchmarking activity against exemplar Military Aviation Authorities, or MAAs, and Civil Aviation Authorities, or CAA regulation sets. There was also some hazard analysis and a review of the legacy Defence Aviation Regulations.

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15

COL STREIT: Was one of the catalysts for change - if you refer to paragraph 13(a), you say:

A review of safety intelligence (including references K and L).

20

Was one of the catalysts for change, reference K of your statement, which is a reference to a Defence Flight Safety Bureau Aviation Safety Investigation Report, MRH-90 formation near collision, Townsville, FTA of 11 November 2020.

25

GPCAPT POUNCEY: Yes.

COL STREIT: Can you just explain in broad terms what your understanding was of the outcome of that investigation?

30

GPCAPT POUNCEY: So one of the key outcomes of that investigation that informed the update to DASR SPA.55 was that that investigation centred on an event in which an MRH-90 aircraft, operating within an MRH-90 element of a larger formation of dissimilar aircraft, experienced a situation where that aircraft's crew went blind on the preceding aircraft in that MRH-90 formation and, in the subsequent events that followed, passed in close proximity without situational awareness of that preceding aircraft in the formation.

35

One of the contributing factors to that sequence of events was that at the time AVNCOMD had not prescribed minimum illumination levels for certain – or for any NVIS operations. And so it was a result of that element of safety intelligence that we considered including a regulatory hazard control requiring Military Air Operators to promulgate minimum illumination levels for certain NVIS operations.

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45

COL STREIT: Thank you. So an MRH-90 flying at night in formation; correct?

5 GPCAPT POUNCEY: Yes.

COL STREIT: Nearly collided with another aircraft?

10 GPCAPT POUNCEY: Yes.

COL STREIT: As a consequence of losing situational awareness of where that aircraft was?

15 GPCAPT POUNCEY: Yes.

COL STREIT: And one of the factors identified – was it as a causal factor concerning matters relating to low illumination?

20 GPCAPT POUNCEY: Yes.

COL STREIT: And that was one of the causal factors driving the change to the DASA regulation concerning night-vision imagery devices?

25 GPCAPT POUNCEY: It was certainly a safety intelligence input that we used to inform the drafting of the new regulation, yes.

COL STREIT: Also, there was, if I understood your evidence correctly, no Avn Command policy dealing with the conduct of operations in that level of low illumination?

30 GPCAPT POUNCEY: AVNCOMD had not, at the time, prescribed minimum illumination levels for NVIS operations.

35 AVM HARLAND: Were they required to, beforehand, under a regulatory guidance?

GPCAPT POUNCEY: They were not, sir.

40 AVM HARLAND: A question just regarding that. So when was the Notice of Proposed Amendment for DASR SPA.55 NVIS put out?

GPCAPT POUNCEY: Just bear with me a second. I'll refer to my notes, sir. So DASA issued the Newsbreak advertising the notice proposing amendment for DASR SPA.55 on 16 June 2022, sir.

45

AVM HARLAND: So at that stage it would be fair to say that the Aviation community, including Aviation Command, were aware of the intention to publish a new regulation, and would have been given a draft of that regulation, according to para 12(b)?

5

GPCAPT POUNCEY: Yes, that's correct, sir.

AVM HARLAND: Okay. That's all I have for now.

10 COL STREIT: Thank you.

Just for clarification, when you say you just need to refer to your notes, in case Counsel representing start wondering if I've disclosed to them notes that you have, you're actually referring to your statement, aren't you?

15

GPCAPT POUNCEY: Yes, that is correct. I'm referring to the statement. I do not have separate notes.

COL STREIT: Thank you.

20

AVM HARLAND: In fact – sorry, COL Streit – when did work begin on the draft regulation for DASR SPA.55?

25 GPCAPT POUNCEY: Give me a moment, sir, and I'll refer to my statement. Work would have begun on DASR SPA.55 in DASA in the weeks leading up to 22 May '22, sir.

AVM HARLAND: Thank you.

30 COL STREIT: At paragraph 14 you say this:

DASA communicated the expectation of timing implemented by DASR SPA.55 in reference H as follows:

35 *“DASA incorporated a transition plan with the update to DASR SPA.55. In this plan, DASA will provide a nine-month transition period commencing on date of publication of DASR SPA.55 (23 Feb '23). This transition period will allow the regulated community to make the necessary changes to their management systems. DASA will not enforce compliance with DASR SPA.55 when conducting oversight activity during the transition period. DASA will consider extensions to the transition period on request.”*

45

What I've just read out, is that correct?

GPCAPT POUNCEY: Yes.

5 COL STREIT: Just to break that down perhaps. So DASA recognised a need to amend DASR SPA.55 as a result of matters that you've addressed in paragraph 13 of your statement?

GPCAPT POUNCEY: Yes.

10

COL STREIT: So, in essence, the amendment to DASR SPA.55 is a – to state the obvious, it's an amendment for safety purposes, isn't it?

GPCAPT POUNCEY: Yes.

15

COL STREIT: One of the inputs as to why the amendment was necessary was because Aviation Command were conducting operations in low illumination without a policy dealing with that matter, which was one of the causal factors of the near miss in 2020 between an MRH-90 aircraft and another aircraft.

20

GPCAPT POUNCEY: Certainly it was a recommendation from the report, listed at reference K, that AVNCOMD should consider implementing such policy, yes.

25

COL STREIT: But DASA took its own action in relation to the matter and commenced an amendment of the DASR SPA.55 regulation; is that right?

GPCAPT POUNCEY: Yes.

30

COL STREIT: So what I want to ask is this. Given that DASA had identified there was a need to amend the regulation for a safety purpose – that there'd been a near miss of an MRH-90 with another aircraft at night in low illumination, which was an input to cause the amendment to the regulation – the regulation commenced and would not have been any surprise to Aviation Command, being a stakeholder and involved in the process of formulation of the regulation, why then would Aviation Command be permitted a nine-month window in which to bring in changes to their own policies before the regulation took effect?

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GPCAPT POUNCEY: I'll just refer to my statement.

COL STREIT: Sure.

45

GPCAPT POUNCEY:

New or updated Defence Aviation Safety Regulations may introduce new obligations on a Military Air - - -

5

MS McMURDO: Just tell us what paragraph you're referring to, please?

GPCAPT POUNCEY: Paragraph 11(b), ma'am.

10 MS McMURDO: Thank you.

GPCAPT POUNCEY:

15 *New or updated Defence Aviation Safety Regulations may introduce new obligations on a Military Air Operator, such as Aviation Command. These new obligations may require a change to the Military Air Operator's flying management system, quality management system, safety management system, or other elements of the Military Air Operator's Organisation. To conceive of and*
20 *implement such changes requires a finite amount of time and resources, including staff.*

25 *The staff necessary to implement such changes are often the same staff required to perform other functions that the relevant Command is obliged to perform. Accordingly, when DASA introduces a new Defence Aviation Safety Regulation, or an updated Defence Aviation Safety Regulation, DASA will publish a transition period.*

30 *This transition period allows the Military Air Operator time to implement the necessary changes to comply with the new or updated Defence Aviation Safety Regulation, after the new or updated Defence Aviation Safety Regulation is published, but before DASA will require the Military Air Operator to comply with*
35 *the DASR.*

COL STREIT: Why can't DASA simply issue a regulation and say, "Aviation operations are only permitted to this level of illumination from this date", and then let the Commands adjust their own processes and
40 missions, because all that's changing is the conduct of a mission in a particular illumination level, isn't it?

GPCAPT POUNCEY: In effect, that's exactly what we did. So the end of the transition period was that date from which DASA required
45 Avn Command and all Military Air Operators to, amongst other things,

incorporate minimum illumination levels as part of their hazard controls – the night-vision imaging system operations.

5 COL STREIT: Sure, I understand that, but what it means is that the regulation comes into effect and then there's a nine-month window where Aviation Command, or another Command, can continue to conduct operations in whatever illumination they want, which might be, if the regulation was in effect, contrary to the regulation. The regulation doesn't have any teeth because it's not in effect for nine months.

10 GPCAPT POUNCEY: That's true.

15 COL STREIT: Perhaps if you can assist the Inquiry, what is the magic in the 12 months or the nine months in allowing a transition in relation to this change to the regulation, and why wasn't it done earlier?

20 GPCAPT POUNCEY: Sir, there is no magic. I would describe the 12-month period as by convention, or based on historical experience of the timeframe necessary to make considered and comprehensive changes to a Military Air Operator's flying management system, safety management system, quality management system, and other elements of the Military Air Operator's Organisation.

25 MS McMURDO: Just following on from COL Streit's suggestion then, would it not be possible to still have that process to do the formal change to the regulation but to at least send out a warning, "We have this concern. We're changing the regulation. For safety reasons, you should consider in the interim", dah, dah, dah, so there's not flying in these low light conditions? Is that something that - - -

30 GPCAPT POUNCEY: That's not a documented part of the Defence Aviation Safety Program, ma'am, and the challenge to making that such a part of the Defence Aviation Safety Program would be that the change to the regulation in respect to minimum illumination levels is just of numerous changes to that regulation. The safety event that we referred to at reference K was just one of a number of safety events which informed that regulation to - - -

40 MS McMURDO: Well, there was K and L. Was there anything other than K and L in terms of safety events?

45 GPCAPT POUNCEY: I would have to take that question on notice, ma'am. Certainly K and L were notable safety events in the Defence Aviation aviation safety history. But to conclude my point, Aviation operations are a complicated activity, and to make a change to Aviation

operations effectively, and without having an adverse second order effect on safety or capability, requires a finite amount of time to put in place considered safety measures.

5 MS McMURDO: You mentioned, when I asked you about these questions earlier, that you had other safety – for urgent safety concerns, there were other processes.

GPCAPT POUNCEY: Yes, ma'am.

10

MS McMURDO: Can you just give us an outline of what they would be?

GPCAPT POUNCEY: So one example is an Airworthiness Directive. So in an Airworthiness Directive, typically associated with an aircraft design issue, the Defence Aviation Safety Authority may issue an Airworthiness Directive, placing certain restrictions on an aircraft's operation, and may place a certain time limit associated with that.

15

I would emphasise that DAVN Ops is not responsible, typically, for Airworthiness Directives, and further questions on Airworthiness Directives would best be directed to AIRCDRE Joe Medved, DGDASA, ma'am.

20

AVM HARLAND: In your experience as DAVN Ops, has there been an Airworthiness Directive issued to address an operational issue rather than a technical issue?

25

GPCAPT POUNCEY: Not as the primary means or the primary driving factor for the issue of that Airworthiness Directive, no, sir. But as you would be aware, sir, many – in Defence Aviation, particularly since the Sea King Board of Inquiry, we take an integrated view of Defence Aviation safety. So there are typically operational inputs into Airworthiness Directives which have as their initial trigger design or other matters - - -

30

AVM HARLAND: I'm just trying to, I guess, understand. So the DASR SPA.55 was introduced partly in response to an incident, which was an MRH-90 formation near collision. A significant or serious incident there. We then went through a process – or the ADF then went through a process of acknowledging that, assessing that, and decided that a regulatory response was required. Correct?

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GPCAPT POUNCEY: Yes, sir.

AVM HARLAND: That regulatory response commenced in June '22, some 18 plus months after that particular incident.

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GPCAPT POUNCEY: Yes, sir.

5 AVM HARLAND: At that stage, the Aviation community was alerted and given a draft of the regulation.

GPCAPT POUNCEY: Yes, sir.

10 AVM HARLAND: That was in June 2022. And then the process went through, and I understand that in February '23 the regulation was issued.

GPCAPT POUNCEY: Yes, sir.

15 AVM HARLAND: And at that stage, the community was given nine months to implement it.

GPCAPT POUNCEY: Yes, sir.

20 AVM HARLAND: This is a safety regulation; correct?

GPCAPT POUNCEY: As are all DASRs, yes sir.

25 AVM HARLAND: And it's a regulation which is based on, in part, a significant incident where two MRH-90s almost collided?

GPCAPT POUNCEY: Yes, sir. And also not unique to this regulation, but yes, sir.

30 AVM HARLAND: So two questions. The first one is, was there any interim guidance or otherwise given to the Aviation community to alert them of this risk and either encourage or direct them to take measures to, I guess, immediately address this safety concern?

35 GPCAPT POUNCEY: I'll just refer to my statement, sir.

AVM HARLAND: Thank you.

40 GPCAPT POUNCEY: So reference K is an artefact of that nature, sir, which is the Defence – rather, the DFSB Aviation Safety Investigation Report. And that report – that investigation commenced shortly after the event that we've been referring to on 11 November 2020. Director DFSB is the relevant Director for questions on that report, but what I can say is that that report included a number of recommendations to AVNCOMD, sir.

45 AVM HARLAND: Are you aware if any of those were taken up?

GPCAPT POUNCEY: No. That's a question for AVNCOMD, sir.

5 AVM HARLAND: My concern here is that as a regulator we've – or the regulator has identified a serious issue here and yet, unless we're presented otherwise, there appears to have been no action taken for quite some time.

10 GPCAPT POUNCEY: Sir, I wouldn't characterise it as no action. So certainly DFSB initiated an Aviation Safety Investigation Team, which led to the Aviation Safety Investigation Report referred to at reference K, in short order after the event occurred. DFSB is not a Regulatory Director within DASA, but once the relevant Regulatory Directorate, i.e. DAVN Ops, my Directorate, had access to the completed and cleared report, then we included planning for an update to DASR SPA.55, informed, amongst other things, by that report referred to at reference K.

20 And then as we've already established, in 2022, once capacity allowed in that team – and of course, we update other Defence Aviation Safety regulations informed by other safety intelligence – we commenced that process I've described this morning, sir. So I don't think it's accurate to say that no action was taken. An investigation report, led by DFSB, was undertaken almost immediately. And shortly thereafter that report was concluded, the DAVN Ops commenced work on an update to the regulation, sir.

25 AVM HARLAND: Yes, I wasn't inferring there was no action. I was actually trying to explore what actions might have been taken in the interim, and perhaps we need to explore that with DFSB and with Avn Command as we moved forward. One final question: in terms of publishing the regulation in February '23, and given the seriousness of the background to re-writing this regulation, did you feel that nine months was somewhat casual in terms of the implementation?

35 GPCAPT POUNCEY: No, sir. Typically, a transition period is 12 months, and we shortened that to nine months, allowing for the change to the battle rhythm, if you like, for publications/regulations, and so that there wouldn't be a further three-month delay. So, no, sir, we did not consider that it was casual; it was conventional.

40 AVM HARLAND: And is safety risk a consideration when you set the timeframe for implementation, or is it done purely on your battle rhythm?

45 GPCAPT POUNCEY: So there are opportunities to conduct out-of-cycle DASR releases. We consider safety risk amongst – in other places when we are setting the schedule for major updates to DASR. And, certainly,

DASR SPA.55 was brought forward in the overall deliberate review of Defence Aviation Operations regulations as a result of the associated risk, sir.

5 AVM HARLAND: Okay, thank you. COL Streit.

MS McMURDO: Well, just before – one more question from me. Reference L was also a reason for the regulation, another DFSB report. Do you recall, in broad terms, what that was about?

10 GPCAPT POUNCEY: Yes, ma'am. Reference L refers to an event where a sequel R on a visual approach at night-time to the deck of HMAS *Brisbane* in the Philippine Sea, experienced an NVG bloom; i.e., that a sailor on the deck of HMAS *Brisbane* turned on an infrared
15 inspection light at an inopportune moment during the aircraft's approach, which caused the bloom in the crew's goggles, and then the crew subsequently had a controlled flight into terrain and escaped the helicopter which then sank to the bottom of the Philippine Sea.

20 MS McMURDO: Thank you. And that wasn't involving TopOwl equipment?

GPCAPT POUNCEY: That would be a question for DFSB, ma'am.

25 MS McMURDO: Thank you. Yes, COL Streit. Thank you.

COL STREIT: Thank you. Group Captain, your statement goes on to deal with matters – paragraphs 16 – dealing with the DASR role in the continuing operation of the MRH-90 – and 17. Those matters formed part
30 of the evidence before the Inquiry and, because they form part of your statement – I don't propose to ask this witness any questions in relation to those matters. And so, in those circumstances, noting the time, I have no further questions for this witness.

35 MS McMURDO: Could I just clarify, when did you become – your current role, when did you take that up, as DAVN Ops?

GPCAPT POUNCEY: In January of 2023, ma'am.

40 MS McMURDO: Thank you. Yes, any applications to cross-examine? Yes. How long do you expect to be?

LCDR GRACIE: Ten minutes, ma'am.

MS McMURDO: Ten minutes. All right. I'll give you a warning, I think, today.

5 LCDR GRACIE: Eight?

MS McMURDO: Eight. I'll give you a warning at eight.

LCDR GRACIE: Thank you.

10

<CROSS-EXAMINATION BY LCDR GRACIE

15 LCDR GRACIE: Group Captain, sir, my name's LCDR Malcolm Gracie. I represent the interests of CAPT Danniell Lyon. I appreciate that your statement's at a very high level, and because of that I've just got some very basic questions to try and flesh out. I know that the Air Vice-Marshal mentioned the MRH-90 formation which suggested that there were two MRH-90s involved but, Counsel Assisting, you referred to an MRH-90 and
20 another aircraft. Can I just confirm they were both MRH-90s?

GPCAPT POUNCEY: So the incident formation described in reference K was a large formation which included an MRH-90 element and elements of other aircraft types. The two aircraft which passed in close proximity to
25 each other were both MRH-90s.

LCDR GRACIE: Thank you. And if I do understand the regulatory change in SPA.55 NVIS, is it only dealing with the part of the system that comprises TopOwl?
30

GPCAPT POUNCEY: No, sir.

LCDR GRACIE: So it applied to ANVIS, night-vision?

35 GPCAPT POUNCEY: It would apply to any night-vision imaging system used in Defence Aviation, yes, sir.

LCDR GRACIE: So although it was an MRH-90 incident that triggered the review process, this applied across the TopOwl system and the more
40 traditional ANVIS night-vision goggles?

GPCAPT POUNCEY: That's true.

LCDR GRACIE: And again, I apologise, because you've provided a lot of references but they're not part of your statement, so it's a little bit hard to know when one reads para - - -

5 MS McMURDO: The references are – you mean the actual document?

LCDR GRACIE: Sorry, yes, the actual document.

10 So just doing my best to work through paragraph 12 and 13 where you've referred to the references. As far as I can see, the documentation that is referenced doesn't go back to, let's say, 2021 or so, and I want to ask you something about that period: 2019, 2020, 2021. You were aware, in general terms, I take it, of the AATES testing in relation to the symbology upgrade from 4.8 to 5.10 in the TopOwl HMSD?

15 GPCAPT POUNCEY: I am aware. It's not my area of responsibility and I would direct any questions in that regard either to LCDR Reinhardt or, if you're looking at the regulator's role, to AIRCDRE Joe Medved.

20 LCDR GRACIE: Look, I appreciate that, and I'm just going to bookmark them. There was the AATES report of 14 June 2019 in relation to the symbology upgrade, there was the IITs AATES report of 24 April 2020, and then the one dealing with the FLIR of 12 July 2021. Now, I appreciate that they're not referenced, but would those sort of reports get included in
25 any of the briefings that you have referenced because they do touch on NVIS issues?

GPCAPT POUNCEY: I would have to take that question on notice and look back through our scoping and framing documentation.

30 LCDR GRACIE: And, look, I appreciate that you weren't copied-in the AATES reports or the OPEVAL, but – so I just wanted to check whether or not these sort of historical matters do get brought up with incidents that are triggered by – such as those at ref K and ref L.

35 GPCAPT POUNCEY: What I would say is that certainly references E, F, H, I and J would provide a documentary trail of any specific reports that were included in the consideration of the development of DASR SPA.55 ANVIS.

40 LCDR GRACIE: Okay. Thank you very much.

Thank you, sir. Thank you, ma'am.

45 MS McMURDO: Thank you. Any other applications to cross-examine?

SQNLDR NICOLSON: Ma'am, I do have a question.

MS McMURDO: Yes.

5

<CROSS-EXAMINATION BY SQNLDR NICOLSON

10 SQNLDR NICOLSON: Sir, I'm SQNLDR Nicholson. I appear for the Officer Commanding 6 Aviation. I just want to ask you about paragraph 14 of your statement in terms of the expectation about the DASR SPA.55. Do you understand what flying management system change it would be adopted into?

15

GPCAPT POUNCEY: The specific changes to the flying management system resulting from DASR SPA.55 should be questions for the relevant officers in Avn Command.

20 SQNLDR NICOLSON: Thank you. Thank you, ma'am.

MS McMURDO: Thank you, Squadron Leader. Any re-examination? Thank you very much, Group Captain.

25 GPCAPT POUNCEY: Ma'am.

MS McMURDO: You're free to go. Thank you.

GPCAPT POUNCEY: Thank you, ma'am, sir.

30

MS McMURDO: Yes. Next witness?

COL STREIT: Ms McMurdo, I call AIRCDRE Joseph Medved.

35 MS McMURDO: Okay. Thank you.

Just leave that, please. Thank you.

40 **<WITNESS WITHDREW**

COL STREIT: I note for the record that LCDR Gracie was about four minutes.

45

LCDR GRACIE: I was going to ask for another question.

MS McMURDO: You've set a good precedent there, so we'll look forward to you keeping it up.

5

LCDR GRACIE: It came about from a strategic (inaudible).

MS McMURDO: Fatigue management. Is that it?

10 CLERK OF THE COURT: Would you like to take an oath or affirmation?

AIRCDRE MEDVED: Affirmation.

15 <AIRCDRE JOSEPH JOHN MEDVED, Affirmed

<EXAMINATION-IN-CHIEF BY COL STREIT

20

MS McMURDO: Help yourself to water if you'd like it.

AIRCDRE MEDVED: Thank you.

25 MS McMURDO: Yes, COL Streit.

COL STREIT: Thank you. Sir, could you please state your full name?

AIRCDRE MEDVED: Joseph John Medved.

30

COL STREIT: I might give you an opportunity to pour yourself a glass of water while I reorganise my papers. Ms McMURDO, I understand that we can live-stream to 4.30 today, if that is convenient.

35 MS McMURDO: Thank you.

COL STREIT: Sir, could you please tell the Inquiry your current role?

40 AIRCDRE MEDVED: Director-General, Defence Aviation Safety Authority.

COL STREIT: Sir, in terms of your appearance here today, did you receive a section 3 Notice requiring your attendance?

45 AIRCDRE MEDVED: Yes, I did.

COL STREIT: Did that Notice also contain some questions to assist you in the preparation of a statement?

5 AIRCDRE MEDVED: Yes, it did.

COL STREIT: Did you also receive a Guide for Witnesses in IGADF Inquiries?

10 AIRCDRE MEDVED: Yes, I did.

COL STREIT: A Privacy Notice?

15 AIRCDRE MEDVED: Yes.

COL STREIT: And an extract of the Inquiry's Directions?

AIRCDRE MEDVED: Yes.

20 COL STREIT: As a result of the section 23 Notice, did you prepare a statement for your evidence today?

AIRCDRE MEDVED: Yes, I did.

25 COL STREIT: I'll show you a document, including the annexures. Sir, just take a moment to satisfy yourself that that is a copy of your statement that you provided to the Inquiry.

30 AIRCDRE MEDVED: Yes, it is.

COL STREIT: Thank you. Now, your statement is 31 pages in length; is that correct?

35 AIRCDRE MEDVED: That's correct.

COL STREIT: It comprises Annexures A through to E; is that right?

AIRCDRE MEDVED: That's correct.

40 COL STREIT: Annexures B through to E are an "Official: Sensitive" classification; is that correct?

AIRCDRE MEDVED: That's correct.

5 COL STREIT: We won't be addressing matters in those annexures in a public hearing. If any question I ask of you, or any other person for that matter, requires you to disclose evidence or information contained in Annexures B to E, can you indicate that to the questioner and we will need to move into a private hearing?

AIRCDRE MEDVED: I will.

10 COL STREIT: Now, sir, after submission of your statement to the Inquiry, you also provided the Inquiry an additional document by way of update to an annexure in your statement. I will just provide a copy of a document to you now and just ask you to identify it.

15 AIRCDRE MEDVED: Thank you.

COL STREIT: Just take your time to move through the pages of that document, please, sir.

20 AIRCDRE MEDVED: Yes, this is correct.

COL STREIT: Sir, do I understand correctly that that document that I've just handed to you is the update to what is Annexure A of your statement?

25 AIRCDRE MEDVED: That's correct.

COL STREIT: Sir, are there any amendments you wish to make to your statement?

30 AIRCDRE MEDVED: No, there aren't.

COL STREIT: Ms McMurdo, I tender the statement of AIRCDRE Medved of 31 May 2023 (sic), inclusive of Annexures A to E, and the addition of the document I've just taken the Air Commodore to, which is an addition to Annexure A.

35 MS McMURDO: Yes, the statement of AIRCDRE Medved, including the additional material to Annexure A, will be Exhibit 49 (sic).

40 **#EXHIBIT 48 - STATEMENT OF AIRCDRE MEDVED, INCLUDING ADDITIONAL MATERIAL TO ANNEXURE A**

45 COL STREIT: Thank you. Sir, it probably would assist if you are able to decouple the annexures from your statement and put them to the side so

they're out of the way. So I won't be asking you questions in relation to those annexures, but I will be taking you through your statement.

5 Sir, can I begin by asking you some questions about your background. I propose just to read out aspects of your background and simply ask you to confirm that what I have said is correct. You're presently an Air Commodore, the Director-General of Defence Aviation Safety Authority since December 2020?

10 AIRCDRE MEDVED: Correct.

COL STREIT: In the period January 2016 to December 2020, you were a Group Captain at the Director level leading the Defence Aviation Safety Aviation, Aviation Engineering Directorate and DASA International Recognition Activities of Foreign Military Aviation Authorities. Is that right?

AIRCDRE MEDVED: That's correct, or partially correct.

20 COL STREIT: What was incorrect?

AIRCDRE MEDVED: During that time, I was also Officer Commanding, Surveillance Response of the - - -

25 COL STREIT: Sure. I was just about to read that second sentence. So, sir, you were also the Officer Commanding of the Capability Acquisition and Sustainment Group, System Program Office. Is that right?

AIRCDRE MEDVED: Correct.

30 COL STREIT: You were, in that role, responsible for Major Capital Acquisition and Sustainment of Defence Aviation Surveillance and Response platforms?

35 AIRCDRE MEDVED: Correct.

COL STREIT: In November 2008 to December 2015, you were a Wing Commander at the Deputy Director level. You were the Director of the Engineering and Chief Engineer for the Engineering Management System supporting Defence Aviation Major Capital Acquisitions in CASG?

40

AIRCDRE MEDVED: Correct.

COL STREIT: And Project Engineering Manager responsible for the introduction of the C-27J Battlefield Airlifter into Defence?

45

AIRCDRE MEDVED: Correct.

5 COL STREIT: Also, the DASA Deputy Director within the DASA, responsible for developing European Military Airworthiness Requirement based elements of the current Defence Aviation Safety Regulatory Framework?

10 AIRCDRE MEDVED: That's correct, although the organisation wasn't DASA at that time; it was Directorate General Technical Airworthiness.

15 COL STREIT: Thank you. You have listed at 3(d) and (e) other aspects of your background. At paragraph 4 you've listed your qualifications. You have a Master of Management for the Australian National University; a Master of Engineering Science, Aerospace, the University of New South Wales; a Master of Science, Aircraft Vehicle Design from Cranfield University in the United Kingdom; and you have a Bachelor of Engineering, Aeronautical, from the University of Sydney. That's correct?

20 AIRCDRE MEDVED: That's correct.

COL STREIT: At paragraph 5 and onwards, you describe your current position and principal responsibilities. In broad compass, can you just explain what they are?

25 AIRCDRE MEDVED: Broadly speaking, I head-up the organisation of Defence Aviation Safety Authority and that organisation is responsible primarily for independent safety assurance of Defence Aviation activities, as well as execution of an independent investigative function of Defence Aviation incidents, or serious incidents or safety events.

30 COL STREIT: Sir, can I just jump to the back of your statement to paragraph 77. You note there that the ADF, and wider Defence, has no jurisdiction regarding an aviation incident which occurs in the public domain. You say this is because the Defence Aviation Safety Framework established by the Joint Directive 21 of '21 by the Secretary of Defence and the CDF has no legislative basis. Consequently, DFSB established under the Defence Aviation – sorry, DASF. What does DASF stand for?

40 AIRCDRE MEDVED: Defence Aviation Safety Framework.

COL STREIT: Thank you –

45 *under the Defence Aviation Safety Framework as Defence's independent accident and investigative capability has no statutory*

Aviation Safety Authority, the implementation of Defence Aviation Safety Program, promulgation of effective Defence Aviation Safety Regulations, and establishment of an independent accident and incident investigative capability.

5

Just in relation to all of those elements that underpin the Aviation Safety Framework, can you just explain the role and function of the Defence Aviation Authority, please?

10

AIRCDRE MEDVED: The Defence Aviation Authority. The Defence Aviation Authority, which is – the Chief of Air Force is appointed as a Defence Aviation Authority, and that position – and in that role is responsible for the safety of Aviation and establishing a regulatory capability.

15

COL STREIT: Can you assist the Inquiry to understand how – I'll start again. Is it important for the Defence Aviation Safety Authority to be independent of the Services?

20

AIRCDRE MEDVED: Can you clarify what you mean by “independent”? Well, clarify what you mean by “Services”.

COL STREIT: The three Services: Army, Navy, Air Force.

25

AIRCDRE MEDVED: It is important that the Defence Aviation Safety Authority is independent of the community, of the Aviation community, that is responsible for ensuring safety of Aviation operations.

30

COL STREIT: When you say “Aviation community”, is it not – that's the Aviation community that sits within those three Services?

AIRCDRE MEDVED: That is correct, but it's broader than that. It also includes other non-Service groups, as well as Australian industry.

35

COL STREIT: You mentioned that the Defence Aviation Authority is the Chief of Air Force.

AIRCDRE MEDVED: The Chief is appointed as the Defence Aviation Authority, correct.

40

COL STREIT: So the Chief of Air Force wears two hats. One is the Chief of Air Force; the other is the Defence Aviation Authority.

AIRCDRE MEDVED: That is correct.

45

COL STREIT: Is there any document or instrument that facilitates the Defence Aviation Authority's independence, separate of the Chief of Air Force's functions?

5 AIRCDRE MEDVED: I'm not aware of any instrument that – any separate instrument from the Chief of Air Force's responsibilities.

COL STREIT: In the circumstances where DASA is investigating, whether it be a policy change or an incident involving an Air Force aircraft,
10 is there some means by which you're aware that there is a separation between the Chief of Air Force's functions as the head of Air Force, and the Chief of Air Force's – that person's functions as the Defence Aviation Authority?

15 AIRCDRE MEDVED: Not that I'm aware of, beyond what's written in policy.

COL STREIT: Because the issue I suppose I'm trying to seek your evidence about is if DASA is investigating an aircraft accident involving an
20 Air Force aircraft, Chief of Air Force ultimately responsible for all Air Force assets, Chief of Air Force wearing a hat as the head of the Defence Aviation Authority whose subordinate organisation is conducting an Aviation investigation, there's an issue with independence there, isn't there, or at least a perception?

25 AIRCDRE MEDVED: I accept that there is, or there can definitely be a perception of lack of independence. But what I'd further add is in the absence of a statutory body, it is very difficult to completely remove a perception of lack of independence by virtue of the organisation residing
30 within Defence.

AVM HARLAND: A quick question. What is your personnel reporting chain for your performance reporting?

35 AIRCDRE MEDVED: Sir, my reporting chain is through Deputy Chief of Air Force; however, I have a direct line to Chief of Air Force as the Defence Aviation Authority for any emergent safety issue, or if there is a need to make contact.

40 AVM HARLAND: So who writes your annual reports?

AIRCDRE MEDVED: Deputy Chief of Air Force.

45 AVM HARLAND: Does anybody else do another part?

AIRCDRE MEDVED: Chief of Air Force, as my second line assessor.

AVM HARLAND: The Chief of Air Force and the Deputy Chief of Air Force do your annual assessment.

5

AIRCDRE MEDVED: Correct.

AVM HARLAND: Thank you.

10 COL STREIT: Sir, this is not relevant to your military career, but can you just explain in broad terms whether a person appointed to your position as the Defence Aviation Safety Authority, the Director-General Defence Aviation Safety Authority, can that person be posted – at the completion of that posting, be posted to another part of the ADF to continue their Military Service?

15

AIRCDRE MEDVED: Yes, that's possible.

COL STREIT: Does that happen, in your experience?

20

AIRCDRE MEDVED: Yes, it has. I guess I'd just like to add, albeit less of the historical people in the position I now reside in – it's been fewer people that have continued on in other posts, and people are separating at the end – the conclusion of their posting.

25

COL STREIT: At paragraph 10 you deal with the Defence Aviation Safety – sorry, what does the "DASP" stand for?

AIRCDRE MEDVED: Defence Aviation Safety Program.

30

COL STREIT: Program?

AIRCDRE MEDVED: Program.

35 COL STREIT: Thank you. Defence Aviation Safety Program functions and responsibilities. So the first is the prescription and interpretation of Aviation Safety Management Policy, inclusive of DASR and related Standards. If I pause there. Does that also involve consideration of international civil aviation standards?

40

AIRCDRE MEDVED: It definitely does consider, and a lot of our standards that are recommended are based on best practice international standards.

COL STREIT: There's also the issuance of authorisations, including permits, approvals and licences, to certify that Defence Aviation platforms, systems, organisations and personnel have shown compliance with the applicable DASR. Is that correct?

5 AIRCDRE MEDVED: That is correct.

COL STREIT: In relation to MRH-90, as it was operating in July 2023, pilots were using a night-vision system called TopOwl. To your knowledge, did the Defence Aviation Safety Authority perform any function in the approval of TopOwl?

10 AIRCDRE MEDVED: Yes, DASA did approve that major change to type design.

15 COL STREIT: So that's the major change - - -

AIRCDRE MEDVED: To the aircraft type design. Because that system is considered part of the aircraft type design.

20 COL STREIT: Are you aware whether DASA approved a software upgrade - - -

AIRCDRE MEDVED: Version 5.10, yes.

25 COL STREIT: Do you know when that approval occurred?

AIRCDRE MEDVED: In 2018, if I recall correctly.

30 COL STREIT: That was the upgrade to version 5.10.

AIRCDRE MEDVED: Correct.

COL STREIT: That's the version of TopOwl which was extant on MRH-90 in July 2023; is that correct?

35 AIRCDRE MEDVED: That is my understanding.

COL STREIT: You weren't the DG of DASA at the time in 2018, I take it?

40 AIRCDRE MEDVED: No, I was not.

COL STREIT: In terms of the Defence Aviation Safety Authority, it would have records, would it not, in relation to that approval process?

45

AIRCDRE MEDVED: We do have records of our approval and also our internal justification.

5 COL STREIT: So the Inquiry, in due course, will be able to obtain those by the issuance of an appropriate notice?

AIRCDRE MEDVED: Yes, you will.

10 COL STREIT:

15 *One of the other independent safety assurance processes applied by DASA is the ongoing oversight and enforcement activities to assure compliance with DASA and the continued validity of authorisations issued by DASA.*

So is that a reference to Airworthiness Boards?

20 AIRCDRE MEDVED: No, it is not.

COL STREIT: What's it a reference to?

25 AIRCDRE MEDVED: It's a reference to the functions that DASA as a – in performing its regulatory role – or in performing one of its regulatory roles.

COL STREIT: Can I take you to paragraph 14, sir, please? You say there that:

30 *DASA must manage the DASR on behalf of the Defence Aviation Authority. In doing so, DASA must, amongst other things, ensure that the Defence Aviation Authority is afforded adequate oversight and control of DASR amendments that may appreciably increase the compliance burden or appreciably reduce Aviation safety.*

35 Could you just break that down into layman's terms what that means?

40 AIRCDRE MEDVED: Sure. I guess before I do that, I'll provide some context – and it's clearly annotated in my statement – but DASA is not a legislative regulator.

COL STREIT: Yes.

45 AIRCDRE MEDVED: However, we do model ourselves on Australian government advice to government regulators that are legislated, and we

apply regulation impact analysis as part of our process. Now, what that means is that if you are putting a control or a regulation or additional requirements on a community, the burden associated with compliance is commensurate or not grossly disproportionate to the benefit you receive.

5

So, for example, in an Aviation safety perspective, if we are placing an additional burden of compliance from the community – and that’s regardless of whether it is the Military Flying Organisations or even if it’s an Industry Maintenance Organisation – that the additional burden must be commensurate and not grossly disproportionate to the safety benefit.

10

That comment also puts – flags that if we do make a change or if we are – and if I use colloquial language here – if we’re removing red tape and stripping out regulation, that in doing that process, we’re not appreciably reducing safety outcomes.

15

COL STREIT: So regulating what needs to be regulated for safety purposes, but not over-regulating, which just creates an unnecessary administrative burden on people.

20

AIRCDRE MEDVED: There has to be a demonstrable benefit for putting that burden on the community.

COL STREIT: Do I understand this correctly: DASA sets the regulation or the parameters of the regulation in the way the regulation is issued and its language, but it’s the users of that regulation who then have to set the policies to meet the regulation standard?

25

AIRCDRE MEDVED: Counsel, can you clarify what you mean by the users setting the policy?

30

COL STREIT: So DASA sets a regulation for the conduct of night flights in low illumination. That then requires the – a Command operating aircraft to have its own policies in place, flying instructions or similar, to reflect and give effect to the DASA regulation. Would you agree with that?

35

AIRCDRE MEDVED: I wouldn’t say “give effect”. I’d say “to demonstrate compliance with”. And what I’d also flag, when we talk about regulations, there are the regulations and then, supporting that, we do have guidance material as well as acceptable means of compliance. Guidance material is non-binding explanatory material. Acceptable means of compliance – like the words suggest, it gives examples of how the community can comply with the regulated requirement. That’s important because when a community develops their policy, for example, they don’t need to prove that that is – they don’t need to prove that that satisfactorily

40
45

addresses the requirement if it's consistent with the acceptable means of compliance.

5 Now, whilst we have acceptable means of compliance, that does not preclude the community from offering alternate approaches if it suits their operations or their business.

COL STREIT: Thank you for that. We will return to that topic because the fatigue management regulation will be something I'll take you through which might demonstrate that by way of example. Now, could I take you to paragraph 15, please, where you set out the DASA function and issue authorisations. When you refer to 19(c), second dot point, you identify:

15 *DASA must only issue authorisations to applicants that have a contractual relationship with Defence or a Defence contractor and where that contractual relationship permits enforcement of the DASR by the Defence Aviation Safety Authority.*

Is that correct?

20

AIRCDRE MEDVED: That's correct. But I would also flag there are – that it can extend beyond that point, with that fifth bullet point, where it – and it states, “where it is in Australia's interest to do so”.

25 COL STREIT: Sure.

AIRCDRE MEDVED: So, for example, we have issued a number of authorisations to industry organisations that are not directly contracted by Defence.

30

COL STREIT: One organisation that has been directly contracted by Defence in relation to MRH-90 is Airbus. That's right?

AIRCDRE MEDVED: That is correct.

35

COL STREIT: So Airbus have been issued, have they, at least to your knowledge, with authorisations under the Defence Aviation Safety Regulation to perform their particular functions?

40 AIRCDRE MEDVED: That is correct.

COL STREIT: Can I turn to paragraph 16, please, which deals with conduct and oversight? There you say:

DASA must conduct inspections, monitoring and investigations as necessary to assure compliance with the DASR and the ongoing validity of authorisations it has issued.

5 Could I just ask, in relation to conduct of inspections, can you just explain in broad compass how that occurs in terms of a process?

AIRCDRE MEDVED: In terms of the process, it involves a desktop analysis – or dependent on the organisation. And I’ll give an example of a
10 Maintenance Organisation, because that’s probably something people can more readily relate to. So for an Aircraft Maintenance Organisation, DASA will do its preparation, look at any artefacts, so look at any available information on the performance of that organisation, that Maintenance Organisation. They will look for any trends on other aircraft types, because
15 often we have an industry player that might support multiple aircraft types.

Based on what DASA has seen across industry more broadly, that will provide information to identify target areas of compliance with the regulations. There will be a desktop of procedures, and then there will
20 typically be face to face. For example, with Maintenance Organisations, it’s not only face to face with key position holders in that organisation, but it’s critical to sight the actual venues where maintenance is conducted because there’s a lot of content and context that can be attained just through visual cues and witnessing the conduct of maintenance in the designated
25 maintenance venue.

And post that, there will be an assessment of compliance. And when we look at compliance, we’re looking at the effectiveness. It goes beyond a simple black and white, “Was it strictly in accordance with the
30 regulations?” And then there will be a list of discoveries, if you like, from what occurred in that audit, and, following that, an assessment of those discoveries or findings to determine if there are any non-compliances. And there will be a rating associated with those non-compliances, dependent on their significance.

35 COL STREIT: Can I just ask this? In terms of the teeth that DASA has to enforce the regulation or provide consequences if there is a breach of the regulations, subject to the level of seriousness of course, DASA has the authority to remove a Command’s authorisation to fly an airframe if it fails
40 to comply with the regulation’s requirements?

AIRCDRE MEDVED: In theory, yes. But Command still have flexibility provisions where they could still continue to operate. And it states in our policy that if we were to consider a revocation or suspension of an approval

that has capability impacts, we would engage the relevant two-star or Band 2 head of the lead organisation before we pursued such action.

5 COL STREIT: Because that would have broader capability impacts for the ADF potentially being able to deliver capability to meet government's needs?

10 AIRCDRE MEDVED: It would, but it's not unprecedented. For example, on this capability, the Dutch Military Aviation Authority did suspend its maintenance approval for one of their key suppliers, which was the Fokker company, and that impacted the availability of undercarriages for a period of time.

15 COL STREIT: So the nuclear abolition is there, but there's a lot of steps to go through before it's ceased?

AIRCDRE MEDVED: It's a graduated enforcement approach, yes.

20 COL STREIT: Can I just take you to your organisational structure, please, which appears on page 9? So that diagram reflects your position as the head of the organisation. You have a headquarters immediately under you, and then you have six directorates reporting to you: the Defence Flight Safety Bureau, the Directorate of Initial Airworthiness, the Directorate of Continuing Airworthiness, the Directorate of Aviation Operations, the Directorate of Aviation Engineering; and the Directorate of Space. Have I said those correctly?

AIRCDRE MEDVED: That's correct.

30 COL STREIT: Can I take you to paragraph 20, please? At paragraph 20(a) you say that the – you, as the DGDASA, the principal authority on matters concerning implementation of the Defence Aviation Safety Program – that you're a delegate of the Defence Aviation Authority to approve amendments to the Defence Aviation Safety Program
35 Manuals 2 and 3, including approval of all Defence Aviation Safety Regulations.

40 I just pause there. So it's a function of your position as the DG that you approve all amendments to Defence Aviation Safety Regulations?

45 AIRCDRE MEDVED: That is correct. However, if there is a major change to regulations, and there's an appreciable impost, as we discussed earlier, or a reduction in Aviation safety outcomes, that needs – there needs to be a Regulatory Impact Statement which must be approved by the Defence Aviation Authority.

COL STREIT: What about in relation to the creation of a new regulation, is your position the authorising or signing authority for a new regulation?

5 AIRCDRE MEDVED: At what stage?

COL STREIT: Take the Aviation Fatigue Management Regulation which came into effect in, as I understand it, about 2021. Is that right?

10 AIRCDRE MEDVED: That's correct.

COL STREIT: So you weren't the DG of DASA at the time, were you?

15 AIRCDRE MEDVED: I was the DG.

COL STREIT: So when that regulation came into effect, was that a regulation you approved as a new regulation, or was it approved by somebody else?

20 AIRCDRE MEDVED: I did not approve the regulation because, at the time, my position did not have that authority. And there were changes made in July '22 which changed the delegations' framework.

25 COL STREIT: Prior to the change in delegations, who had the delegation to - - -

AIRCDRE MEDVED: It was the Defence Aviation Authority.

30 COL STREIT: I see. Separate to the Aviation Safety Management Regulation in 2021, did you have any other delegations concerning bringing into force a new regulation?

35 AIRCDRE MEDVED: Yes, I did. So I had scope for all changes to Initial and Continuing Airworthiness regulations, both development and approval.

COL STREIT: So that's all changes to existing regulations?

AIRCDRE MEDVED: And/or introduction of additional regulations.

40 COL STREIT: Thank you. I'm just trying to understand why – well, do you know the reasoning processes to why then you didn't have the delegation concerning the Fatigue Management Regulation?

AIRCDRE MEDVED: The reason I didn't have a delegation is based on historical evolution and split of regulations, and which positions were empowered to make approval of those changes.

5 COL STREIT: As you sit here today, to your knowledge, does the Defence Aviation Authority hold a delegation to amend a Defence Aviation Safety Regulation?

10 AIRCDRE MEDVED: The Defence Aviation Authority, by definition, can approve change to a regulation even today. However, that position has delegated that authority to – or positional delegation to DGDASA position.

15 COL STREIT: Can I turn to the Director of the Defence Flight Safety Bureau. You set out, at paragraph 20(c), a description of the DFSB role and responsibilities. Is it correct that the – I withdraw that. Where you record in your statement that Director of Defence Flight Safety Bureau is responsible for independent Aviation accident and incident investigations, how is that independence obtained or manifest?

20 AIRCDRE MEDVED: Independence is established through a separate delegation, positional delegation, from the Defence Aviation Authority to the Director of DFSB to conduct investigations. So although I administer all of DASA, I do not have direct involvement with investigations.

25 The Director of the Defence Flight Safety Bureau has a personal delegation to conduct – or it states in that delegation responsibilities that Defence Flight Safety Bureau is responsible to conduct all accident investigations and other Aviation safety events and issues. The delegation also includes the ability to conduct those without Command approval.

30 COL STREIT: Thank you, sir. Can I take you to 20(d) where you deal with the Director of Aviation Operations and you set out the role of the Director of Aviation Operations as the formulation and interpretation of policy, regulations and standards for aircraft operations, uncrewed aircraft systems, air navigation services and aerodromes.

35 You also identify education, the issue of organisational approvals, associated oversight and enforcement are also matters within their bailiwick. You then deal with the Director of Initial Airworthiness and the
40 Director of Continuing Airworthiness. In relation to the Fatigue Management policy I referred to earlier, the regulation, does that sit with the Director of Aviation Operations as the organisation facilitator?

45 AIRCDRE MEDVED: Yes, the regulation associated with Aviation fatigue management does reside within the remit of Aviation Operations

because that regulation is only applicable to aircrew and Air Traffic
Controllers.

5 COL STREIT: Sir, I'm just going to show you two documents. I'll
provide them to you together, and then I'll identify them separately.

AIRCDRE MEDVED: Thanks.

10 COL STREIT: Can you just take a moment to look at those two
documents and then I will ask you some questions. The first document that
you have, is that the Defence Aviation Safety Regulation, Aviation Fatigue
Management Regulation, printed as of – I can't read the date.

15 AIRCDRE MEDVED: 8 August '24.

COL STREIT: Thank you. I've got a staple interfering in that but thank
you for that. Now, can you just explain that document? What is it?

20 AIRCDRE MEDVED: The document contains the regulations associated
with Aviation fatigue management as it's called out by a number of other
regulations, so for flight operations, air navigation service providers, and
air battle management. The regulation contains the high-level regulations
guidance material, as I explained before, and acceptable means of
compliance.

25 MS McMURDO: The date you read out, I suspect that's the date it was
printed.

30 COL STREIT: Yes.

MS McMURDO: It was only yesterday.

35 COL STREIT: Yes. Sir, you provided this document in a PDF form to
the Inquiry, didn't you?

AIRCDRE MEDVED: That's correct.

40 COL STREIT: Now, just in relation to obtaining access to the document,
so I take it did you access the Defence Aviation Safety internet website?

AIRCDRE MEDVED: That's correct.

45 COL STREIT: By gaining access to that website, you were able to
examine the Defence Aviation Safety Regulation.

AIRCDRE MEDVED: That's correct.

5 COL STREIT: When you examine the regulation for Aviation fatigue management, the regulation appears in a particular format where you have to click on certain links which then drop down certain information.

AIRCDRE MEDVED: That's correct. Colloquially known as Twisties, but that's correct.

10 COL STREIT: Twisties. I've learnt something today. Thank you. On the first page you have (a), and then:

This regulation applies to organisations operating with approvals granted under –

15 and then it continues. And (b), if you go to the end of (b), you will see a little blue arrow or triangle pointing downwards and the letters "GM" next to it. What does the "GM" stand for?

20 AIRCDRE MEDVED: Guidance material.

COL STREIT: So is it the case that if you went to that link, clicked on a little arrow, then the information that appears in the box immediately under the letters GM would appear?

25 AIRCDRE MEDVED: Correct.

COL STREIT: All that's occurred throughout the regulation is that effectively you've clicked on all of the links, GM and ACM, so that all of the information is then extrapolated relevant to the regulation?

30 AIRCDRE MEDVED: That's correct.

COL STREIT: Now, if we were to turn the page and go to where you can see 2, 3(b), the number 2 says:

Be integrated with the organisation's DASR.SMS solution.

40 Then you have a triangle pointing downwards, "GM". Then another triangle pointing downwards, "AMC". First, what does "AMC" stand for?

AIRCDRE MEDVED: Acceptable means of compliance.

45 COL STREIT: If you click on the AMC, it drops down the information for acceptable means of compliance?

AIRCDRE MEDVED: That's correct.

5 COL STREIT: That appears in a box immediately under the AMC, doesn't it?

AIRCDRE MEDVED: Immediately underneath the regulation, yes.

10 COL STREIT: Yes. So coming back to your earlier evidence where the regulation identifies a particular standard, DASA will provide guidance as to acceptable means of compliance. That is, if a Command adopts that acceptable means of compliance, whatever it is, then DASA would consider that the Command is complying with the regulation?

15 AIRCDRE MEDVED: I would phrase it as the Command, or the community, has confidence that what they do is compliant with that regulation, yes.

20 COL STREIT: So they don't have to reinvent the wheel because DASA has already identified what is the Acceptable Means of Compliance policy?

AIRCDRE MEDVED: Yes, and there may be more than one acceptable means of compliance but it's non-exhaustive. So there may be other acceptable or alternate means of compliance that may be suitable.

25 COL STREIT: Can I just ask you to look at the second document I provided to you. We will come back to this document in a moment. But the second document, can you just explain what that second document is?

30 AIRCDRE MEDVED: So the second document is a summary of change whenever we issue updates to our policy, inclusive of regulation. Currently we release updates to our regulations every six months, and what accompanies that on the same day of release is a summary of the change and then a detailed content describing the change. This summary of change covers the release on 28 October '21, which included the introduction of the Defence Aviation Safety Regulation, Aviation Fatigue Management.

40 COL STREIT: So when a person accesses the Defence Aviation Safety Regulation via the internet and goes to the Aviation Fatigue Management policy, that person can also go to the area which addresses the amendments to the regulation, locate the summary of change document relevant to the Aviation Fatigue Management Regulation, and identify with a level of confidence as to when the regulation came into effect?

45 AIRCDRE MEDVED: Correct.

5 COL STREIT: So what this summary of change document reveals is that at paragraph 2, the Aviation Fatigue Management Regulation was a new regulation and came into effect in October 2021. Am I reading that correctly?

AIRCDRE MEDVED: You are.

10 COL STREIT: We return now to the Aviation Safety Fatigue Management Regulation. You will see under GM, which is at (b) – what’s “GM” again, sorry?

AIRCDRE MEDVED: Guidance material.

15 COL STREIT: Thank you. I’ll get the hang of this soon.

MS McMURDO: (Indistinct).

20 COL STREIT: Before it changes. At paragraph 1:

25 *Purpose/Context: Under the Workplace Health and Safety, Accountability Managers are accountable for the fatigue management of all staff, at all levels, of the command chain with their scope of control, including unit Commands. Personnel who are identified as safety-critical positions are required to perform under high levels of stress and work periods without the ability to rest are subject to fatigue-induced human factor errors that may comprise Aviation safety.*

30 *Regulating fatigue management practice for specific employment groups can provide independent assurance of controls that are designed to minimise fatigue-related human factor errors in Defence Aviation.*

35 So the Workplace Health and Safety Act is a piece of legislation that is front and centre for the Defence Aviation Safety Authority in the construction of its regulations insofar as fatigue management is concerned?

40 AIRCDRE MEDVED: Not insofar as fatigue management is concerned, no. The reason WHS Act is flagged here and also within the Defence Aviation Safety Framework policy is that we don’t – our Aviation Safety Framework is not legislated like in civil aviation.

45 COL STREIT: Sure.

5 AIRCDRE MEDVED: So in civil aviation there's a Civil Aviation Act. And under international conventions for aviation there's a separation of civil aviation from state-based aviation. And, in Australian context, that's Military Aviation. So we model ourselves on civil practices, standards and recommended practices but tailored, clearly, within a military context.

10 Defence is subject to the WHS Act and because the WHS Act was never designed to account for Aviation safety, because it does not apply in civil aviation at all, there is no applicable code of practice, for example, for Aviation in the WHS Act. So given that Defence is subject to WHS Act, we have set up the framework, the Defence Aviation Safety Framework, to amplify our obligations under the WHS Act.

15 COL STREIT: The Fatigue Management subregulation (2), Aviation Fatigue Management.20.A, Defence Aviation Management Construct Purpose:

20 *The safe and successful delivery of Aviation system capabilities supported by effective fatigue management policy.*

And then it has:

25 *(Hazard) If not properly managed, fatigue can introduce human factor errors that may compromise Aviation safety.*

In terms of the word "hazard", why, to your knowledge, does that appear in this regulation guidance?

30 AIRCDRE MEDVED: The reason this is described this way is it's consistent with the style in how to write regulations and having purposive regulations. And linking – and from a guidance material in explaining what the regulation's about, it gives it context. It identifies the hazard and the defence is the control, or what we do to mitigate risks from that hazard.

35 COL STREIT: I'd ask you to turn the page, please, and go to the – about midway down that page, to the box that has "GMAVFM.20.B(2) SMS integration". What's does "SMS" mean?

40 AIRCDRE MEDVED: Safety management systems.

COL STREIT: Thank you. So this identified its purpose as:

45 *How personnel are employed should always be weighed against their ability to perform without error over the required time periods.*

The hazard is:

5 *If employment tasks and time periods are not effectively assessed, there is potential for fatigue to create human errors that may compromise Aviation safety.*

And then:

10 *(Defence) Two globally accepted significant Aviation fatigue management controls are the imposition of duty limitations and rostering practices. However, these two controls alone may not eliminate or minimise SFARP Aviation Fatigue Risk.*

15 I pause there. What does “SFARP” mean, if you know?

AIRCDRE MEDVED: So far as reasonably practicable. And that’s straight from the WHS Act.

20 COL STREIT: Thank you. I’ll continue:

25 *The integration of fatigue management and SMS ensures that the future identification and continuous improvement of all controls to minimise Aviation fatigue risk.*

Then there’s a box titled, “Contextualisation”. Then if you turn the page, there’s a box titled, “Use of Benchmark Information”. And the drop down menu for Benchmark Information says this:

30 *A broad range of national and international fatigue management research regulations and guidance exists for both civil and Military Aviation with some better than others.*

35 *(Hazard) Not considering this benchmark information may result in deficient Aviation fatigue policy that could compromise Aviation safety.*

40 *(Defence) Fatigue management solution suitability is partially based on access to Defence benchmark information that can assist with development of local contextualised solutions. While benchmark information from any DASA recognised MAAs and CAAs –*

45 pause there. What does “MAAs” and “CAAs” mean?

AIRCDRE MEDVED: Military Aviation Authorities and Civil Aviation Authorities.

COL STREIT: I continue –

5

can be used to assist with the development of a DASR-compliant AVMFM solution. The Defence Aviation Fatigue Management Guidebook has been developed for ADF Aviation Commanders and Managers, summarising relevant global benchmark information. The Defence Aviation Fatigue Management Guidebook also aligns with ICAO's Fatigue Management Standards and Recommended Practices and reflects Defence's unique Aviation fatigue context.

10

15 So I take it from that “Use of Benchmark Information” box concerning the Aviation Fatigue Management Regulation, that CASA has identified the – sorry, CASA – DASA has identified the Defence Aviation Fatigue Management Guidebook as acceptable means of compliance for a Command to adopt in addressing the Aviation Fatigue Management Regulation?

20

AIRCDRE MEDVED: I'll draw you to the words within that guidance material, which says that it can be used to assist with the development of a DASA compliance solution. So you need context to develop a compliant solution for an operator. And that Fatigue Management Guidebook was developed and is maintained and updated by the Defence Flight Safety Bureau as part of their research function.

25

COL STREIT: So without being flippant, DASA has not included reference to the Fatigue Management Guidebook in that part of its regulation just to take up space; it's included in there because it's important?

30

AIRCDRE MEDVED: Absolutely.

35

COL STREIT: A Command would, at their own peril effectively, step away from what DASA is recommending as guidance to assist in meeting compliance with the regulations, would they?

40

AIRCDRE MEDVED: Counsel, can you repeat that question, please?

COL STREIT: So DASA is telling the world of ADF Aviation in relation to fatigue management that acceptable means of compliance, a document that will assist the Command meet the regulation and be acceptable means

of compliance is the Defence Aviation Fatigue Management Guidebook. Would you accept that?

5 AIRCDRE MEDVED: No, I don't. Because if you look above where it has "the acceptable means of compliance", it states that "the Fatigue Management Guidebook is not considered AMC". It's not structured against the regulation and cannot account for all the different operating scenarios and contexts, but it helps the community develop regulatory compliant solutions tailored to their context and operations.

10 COL STREIT: Sure. And that's why the word "assist" appears there in that box, doesn't it? That "the guidebook will assist"?

15 AIRCDRE MEDVED: I think that's reasonable. I did not author this regulation, but it seems reasonable, yes.

20 COL STREIT: Yes. So I'm just picking up on your earlier evidence, where you stepped back from agreeing with me that its compliance with the Defence Aviation Fatigue Management Guidebook would be acceptable means of compliance. I understood you to say, "No, it's simply a document that assists"?

AIRCDRE MEDVED: Correct.

25 COL STREIT: And my point or suggestion to you is that any Command would be a bit foolish not to look at the document that the regulatory authority has identified as being the document that would assist it in meeting compliance with the regulation.

30 AIRCDRE MEDVED: The way I'll – I'm not going to use the word "foolish", but the way I would interpret that, and my response would be the regulator would not look favourably upon an organisation, if they had a non-compliant system, if they had not considered content within the Aviation Fatigue Management Guidebook.

35 COL STREIT: Because this information that's in the regulation, which is the guidance, the regulator is saying that:

40 *The Defence Aviation Fatigue Management Guidebook has been developed for ADF and Aviation Commanders and Managers, summarising relevant global benchmark information. It also aligns with the International Civil Aviation Authority's fatigue management standards and recommended practices and reflects Defence's unique Aviation fatigue context.*

45

5 So, accepting that, if you were a Command and you didn't have regard to the contents of the Defence Aviation Fatigue Management Guidebook, or at least have a good reason why you step away from/not comply with it or use it, you'd run into difficulty, wouldn't you – if you were a Command, and you'd been assessed for compliance by the regulator?

AIRCDRE MEDVED: You would. Particularly if there was wilful ignorance of that guidebook.

10 AVM HARLAND: Who does assess Air compliance against this regulation?

AIRCDRE MEDVED: Directorate of Aviation Operations.

15 AVM HARLAND: And do you know what the result of the last audit was in terms of its presence, suitability, operating, and effectiveness? What was the last result?

20 AIRCDRE MEDVED: I do, because there was an audit in April of this year. There were a number of Level 2 findings. But I don't recall a Level 2 finding being raised in relation – DASA AVFM, Aviation Fatigue Management, was within scope of that audit, but I don't recall a Level 2 finding being raised against Army Aviation Command.

25 AVM HARLAND: That was in April this year. Were there any other audits done between the time this was published in October '21 and July '23?

30 AIRCDRE MEDVED: Yes, there were.

AVM HARLAND: Do you know the results of those audits? Or are you able to summarise them?

35 AIRCDRE MEDVED: I am able. They're contained within the DASA submission to the Airworthiness Boards where it summarises all of our audit outcomes.

AVM HARLAND: Could you give guidance as to where?

40 AIRCDRE MEDVED: So it's Annex C.

COL STREIT: Isn't that a document that - - -

45 MS McMURDO: That's Annexure C.

AIRCDRE MEDVED: It is. But in terms of – we can identify whether there was a finding raised against AVFM and that is – that in and of itself is not “Official: Sensitive”.

5 COL STREIT: That might assist one of the Counsel representing in the audience, thank you, in how we might formulate an approach. Can I first begin by tendering the two documents, Ms McMurdo. I’m sorry, I don’t remember what exhibit number we’re up to.

10 MS McMURDO: Of course. So the DSR AVFM will be Exhibit 49.

#EXHIBIT 49 - DSR AVFM

15 MS McMURDO: And the summary of change the DASR released 28 October ‘21 will be Exhibit 50.

20 #EXHIBIT 50 - SUMMARY OF CHANGE RELEASED BY DASR 28/10/21

25 COL STREIT: Ms McMurdo, it’s been drawn to my attention that AIRCDRE Medved’s statement may well be Exhibit 49.

MS McMURDO: I think it’s 48, isn’t it?

30 COL STREIT: Maybe if the - - -

CLERK OF THE COURT: It should be 48.

MS McMURDO: Forty-eight.

35 CLERK OF THE COURT: So that should be 49.

MS McMURDO: No, it was 48. It was always 48.

COL STREIT: Thank you. Counsel Assisting is correct.

40 MS McMURDO: Yes. 48. So 49 is the first document, and 50 is the second.

45 COL STREIT: Thank you.

5 Sir, can I return to your statement. And if you could put the Aviation Fatigue Management document and the associated document to one side. In some respects, sir, you've given evidence in relation to other parts of your statement, and there's no need to go over those matters. So if I could take you to page 17 of your statement, please.

AVM HARLAND: Have we completed the discussion on whether or not an audit was done?

10 COL STREIT: In your hands, sir.

MS McMURDO: We obviously can't go into the details, but he could just find it in the document and show us where it is. That's all we require, isn't it? Yes.

15 AIRCDRE MEDVED: So Annex C, on page 13, provides the outcomes of an Aviation Command Oversight and Enforcement Summary from an oversight of the period of 12 to 22 August '22.

20 AVM HARLAND: I guess what I'm really trying to establish is if this was actually audited specifically, as this Aviation Fatigue Management Regulation was ordered against, specifically, between October '21 when it was published, and July '23.

25 AIRCDRE MEDVED: Sir, I'd have to take that on notice, to look at the scoping documents – or DASA would need to look at the scoping documents, with those audits, to confirm the scope of – there were two audits done – but would need to confirm whether that was within scope.

30 AVM HARLAND: Great. Yes. Thank you. That'll be very useful.

COL STREIT: Sir, perhaps we could go even further. If I could take you to paragraph 42 of your statement, which is on page 18. At paragraph 42 you say:

35 *Compliance expectations of the regulated community.*

I pause there. "Regulated community", what is that a reference to?

40 AIRCDRE MEDVED: That's a reference to the Aviation community to whom the Aviation Safety Regulations apply.

COL STREIT: Is that inclusive of the three services: Army, Navy, and Air Force?

45

AIRCDRE MEDVED: And non-service groups, and industry.

COL STREIT: Thank you. It then says, under the “Accountability” section:

5

(a) The Vice-Chief of the Defence Force, Service Chiefs, the Chief of Joint Operations, and group heads, are accountable to the Secretary and CDF for ensuring the management of Defence Aviation activities under their control complies with the requirements of this Directive and subordinate Aviation Safety policy and regulations.

10

So that’s taken directly out of the Joint Directive 21 or 2021; correct?

15

AIRCDRE MEDVED: Correct.

COL STREIT: And at paragraph 43 – I withdraw that. Can I ask you this? Where it says the individual positions I’ve just identified are “accountable to the Secretary and CDF for ensuring the management of Defence Aviation activities”, et cetera, what does that really mean in terms of accountable? In other words, how is the accountability assessed and enforced?

20

AIRCDRE MEDVED: I’ll answer the first question: how it’s assessed.

25

COL STREIT: Sure.

AIRCDRE MEDVED: I would state that it’s assessed by DASA’s ability, first of all, to oversight – to confirm levels of compliance. And, secondly, the behaviours we witness. And, if there needs to be escalation within – up to that level – up to and including the group head level, that they are fulfilling or being compliant with the Joint Directive. Now, in terms of assessment, we have not seen – I’m not aware, in my tenure, of ever seeing wilful non-compliance throughout an organisation being evident right through the organisation up to a group head. So that’s taken directly out of the Joint Directive 21/2021; correct?

30

35

COL STREIT: Paragraph 43, you say:

DASA consults broadly on major regulation amendments often supplemented with targeted engagement to the regulatory development process. A significant regulation change will include an implementation transition period and possible unique transition arrangement for extant members of the regulated community –

40

45

and it goes on. So, in effect, a significant regulation change involves

engagement with the regulated community in the development of what is to be the new regulation, or a new regulation?

5 AIRCDRE MEDVED: Correct. So that would be in the order of, from recent experience in the last few years, at least 12 months, and sometimes much more.

COL STREIT: Can I take you to paragraph 51, please? This deals with DASA oversight and enforcement. At paragraph 49 you say:

10 *DASR GR60 specifies compliance, oversight and enforcement obligations and requires all Defence, civilian and contractor entities operating within the Defence Aviation Safety Regulatory Framework to comply with a DASR.*

15 What happens if they don't? What can happen to them if they don't?

AIRCDRE MEDVED: If they don't comply?

20 COL STREIT: Yes.

AIRCDRE MEDVED: What we look at is our oversight and enforcement approach, and we have a graduated response dependent on behaviours and ability to comply as well. And it's a graduated response. Particularly with a new organisation or new requirements, it starts with an education and coaching style of approach, then to the provision of findings or corrective actions, and then that escalates to the point of suspension or revocation.

30 And without an organisational approval – and I'll give an example of a Maintenance Organisation – and we saw it with, like, that example I provided before with Fokker in the Netherlands. They had their approval to do maintenance on undercarriages of MRH suspended and they were not permitted to release any items from maintenance. So it prevents you from conducting the services under that approval. Or similarly, if you think of even a civilian air operator, like an airline, if they lose their Air Operator's Certificate, they can no longer conduct flying operations.

40 COL STREIT: Is there some linkage between the Defence Aviation Safety Authority and other countries' equivalent aviation safety authorities in the military context for the operation of same aircraft?

AIRCDRE MEDVED: Yes, there are. There is the International Civil Aviation Organisation. There is no international Military Aviation Organisation. So we do have recognition arrangements. Again, modelling off a civilian approach and how they'd recognise national civil aviation

authorities, and there are constructs in place where you have multiple countries operating the same aircraft, as is the case with MRH-90, and the NH-90 as it's otherwise more commonly known.

5 COL STREIT: Thank you. Sir, I note at paragraph 58 you deal in some little detail about sanctions that may be imposed. I simply draw that to the attention of the Inquiry. Can I move to paragraph 60? This is where you describe what DASA findings are in relation to a particular process. So can you just explain the operation of the DASA instruction that you've listed
10 there and its purpose?

AIRCDRE MEDVED: The purpose of the instruction is to standardise the DASA approach for executing the oversight and enforcement function of different organisations. From the earlier piece of my submission, I stated
15 that the different directorates perform oversight of organisations within their remit.

So there is a directorate that looks after Maintenance Organisations. A separate directorate that looks after Design Organisations and another
20 directorate, for example, that looks after Military Air Operators. Not only is it important for consistency within a directorate, it's also critical across directorates that we apply the same approach to conducting oversight and enforcement with the total community.

25 And by having an instruction that cuts across all of DASA, it ensures a level of consistency in how we approach oversight, our graduated enforcement approach, and how we work with the community to address shortfalls.

30 COL STREIT: Now, that instruction that's available to members of the ADF, does that sit on the Defence system?

AIRCDRE MEDVED: It does. It sits on a DASA intranet site and it's an internal DASA instruction. But anyone with Defence Protected Network access can access that instruction.
35

COL STREIT: Can I take you to page 26 where you deal with Airworthiness Boards? Could you just assist the Inquiry by explaining what is an Airworthiness Board and its purpose?

40 AIRCDRE MEDVED: I'll need to explain this from a temporal or a time-based period because the role of the Airworthiness Board has evolved over time. As I've provided in my statement, it's an Independent Board of Review to provide assurance that a satisfactory basis – it says “airworthiness or safety has been established and is maintained”. Though,
45 they were first established – well, the first one was conducted in May 1991,

and at that stage we did not have organisations providing regulatory functions.

5 So the Board of Review, it comprises of two senior retired officers; one with an operations background and one with a technical background. And they complement what DASA does as a regulator. And whereas where DASA is constrained by the scope of the regulations, they have the flexibility to explore, it seems, within regulations, areas that may have second order effects to Aviation safety or organisations that are not directly
10 regulated or come under the Defence Aviation Safety Regulations.

COL STREIT: Now, could you just, as you sit here today – well, no, I withdraw that. As of July 2023, how was an Airworthiness Board conducted for MRH-90 – the process?
15

AIRCDRE MEDVED: The process is very similar to what is conducted today. So at the time, it's a forensic look by these two senior retired – I may have said Air Force before – I mean ADF Officers, who forensically review packages provided by the community, as well as a DASA
20 submission which contains DASA's independent views across all aspects that we regulate.

When I say that they review a package, that includes established documents of interest as well as the provision of answers to standardised question sets that have been developed for different types of organisations. So, for example, there are question sets for Maintenance Organisations. Maintenance Organisations, that's both industry as well as ADF. It includes question sets for Design Organisations, whether they're in Defence or industry, and it has question sets for the Flying Organisations as well.
25

30 MS McMURDO: Could I ask you if you have a look at the diagram on page 9 of your statement, do the Airworthiness Board sit in that diagram or do they sit directly under the Defence.

35 AIRCDRE MEDVED: Ms McMurdo, they do not sit within the DASA or the regulator.

MS McMURDO: Yes.

40 AIRCDRE MEDVED: They sit to the side, and they directly report to the Defence Aviation Authority.

MS McMURDO: Defence Aviation Authority. Yes, thank you.

COL STREIT: So just picking up on that, I was going to ask you first who selects the persons to comprise the Board, to your knowledge?

5 AIRCDRE MEDVED: It is the Defence Aviation Authority and every – or, annually, the tenure of existing Board members is reassessed and there are – if there are subsequent vacancies, there is a succession policy that we have in place for Board members, and where there are identified candidates and members who are genuinely interested to become an Airworthiness Board member.

10 There is a process to assess their suitability that I staff up to the Defence Aviation Authority, but it requires endorsement by the Airworthiness Board Panel Chairs. So you have an Operational Chair and a Technical Chair across the Airworthiness Board Panel members. We have 14 at the moment. So you have a lead for each who provide a coordination and standardisation function.

15 COL STREIT: Why is it necessary – what's the reasoning behind Board members being retired? Retired from the Defence Force, that is.

20 AIRCDRE MEDVED: Counsel, can you repeat that question?

25 COL STREIT: I may have misunderstood your evidence earlier. I understood you to say to the effect that Board members comprised at least one person who was retired.

AIRCDRE MEDVED: They are both Reserve members, so they're no longer full-time members of the ADF.

30 COL STREIT: I see. So they're still members of the Defence Force but in a Reserve capacity?

AIRCDRE MEDVED: Correct, in a Reservist capacity.

35 COL STREIT: The process of a person's selection is a process by which your office staffs to the Defence Aviation Authority for consideration?

AIRCDRE MEDVED: Correct.

40 COL STREIT: The Defence Aviation Authority - - -

45 AIRCDRE MEDVED: But I do stress, it must require endorsement from the two Airworthiness Board Panel Chairs and, historically, they had been referred to as the Airworthiness Board Panel Mentors.

COL STREIT: Are the two Airworthiness Board Panel Chairs Reservists as well?

AIRCDRE MEDVED: They are as well.

5

COL STREIT: Who appoints them?

AIRCDRE MEDVED: The Defence Aviation Authority.

10 COL STREIT: Can I take you now, please, to paragraph 67 and onwards.

MS McMURDO: Just before you go on with that, could I just ask you this? We heard that to amend a regulation or to introduce a new one takes time. It takes nine, 12, 18 months. I would expect that from time to time, 15 exceptionally, safety issues would arise – sudden, urgent safety issues would arise. So are they dealt with through this Airworthiness Board process?

AIRCDRE MEDVED: No, they're not, Ms McMurdo.

20

MS McMURDO: All right.

AIRCDRE MEDVED: If there is – whilst we do have our battle rhythm of two updates per year, if there was something of urgency, we could focus 25 our attention on it and we could do an out-of-session approval if required.

MS McMURDO: Through amending the regulation?

AIRCDRE MEDVED: That is correct.

30

MS McMURDO: So that would be done that way, rather than through the Airworthiness Board?

AIRCDRE MEDVED: The Airworthiness Board has no role or function – 35 now, currently, they have no role or function with the regulatory system. Previously, they did.

MS McMURDO: Thank you for clarifying that.

40 AVM HARLAND: Just a follow-on. With the DASA SPA.55 NVIS, so that was assessed as not sufficiently urgent to warrant anything other than a routine timeline. Is that a correct statement?

AIRCDRE MEDVED: It was prioritised because it was reshuffled in the 45 order of potential updates to the Operational Regulations. So it was by

virtue of a number of near misses and an accident, or a near miss and an accident. And again, this is contained within the documentation as to why we investigated it. We identified there were insufficient controls and that was prioritised over other scheduled regulatory updates.

5

AVM HARLAND: So you prioritised that in the order of build, if you like?

AIRCDRE MEDVED: Correct.

10 AVM HARLAND: Is there a prioritisation based on risk to deal with the order of publishing or, in fact, publishing out of cycle?

AIRCDRE MEDVED: Sir, could you repeat that question?

15 AVM HARLAND: We talked about the fact that you risk managed, in this case, DASA SPA.55, and prioritised it for work to get to the point where it was constructive. So that was prioritised in the build schedule, if you like. What I'm looking at is, when you're looking at the actual delivery and the time at which an organisation has to comply, do you base that timeline on
20 risk or is it just based on purely a cadence of delivery of regulations – a two-year drop, you talk – two per year drop?

AIRCDRE MEDVED: The compliance timeframe – when you say
25 “compliance timeframe”, that’s not to suggest that the community should not be compliant in a – I’ll start again. The compliance timeframe is associated when DASA will commence oversight and enforcement against that regulation. So regardless of whether the community is compliant, the community is still responsible for ensuring safety. So if they have significant gaps in their processes, it behoves the community to identify
30 where they are most exposed and to address some of those gaps sooner rather than later.

AVM HARLAND: That would seem perfectly reasonable. Would you
35 accept that if an organisation was significantly overtasked – under the pump, if you like – that they may prioritise compliance to the things that are closer to their current date than further away?

AIRCDRE MEDVED: That sounds reasonable, sir.

40 COL STREIT: Sir, I just want to now briefly deal with matters concerning MRH-90 and then I'll have concluded my evidence-in-chief and I'll be requesting perhaps an appropriate break at that point in time so I can discuss a matter with my learned friend as to whether a private hearing is necessary.

5 Sir, paragraph 67 of your statement reflects that since 2007 DASA and its predecessor organisations have conducted 12 Airworthiness Boards concerning MRH-90, two Remote Aviation Safety Reviews, and two out-of-session Airworthiness Reviews on MRH-90 Enterprise. A Board was scheduled for November 2022, but it was postponed to 2023. And, subsequently, that Board was cancelled following the government announcement to cease MRH-90 operations in September '23. Is that correct?

10 AIRCDRE MEDVED: That is correct.

COL STREIT: At paragraph 68 you say:

15 *Nine Airworthiness Board Corrective Action Requests have been raised against various parts of the MRH-90 organisations.*

First, can you just explain briefly what's an Airworthiness Board Corrective Action Request?

20 AIRCDRE MEDVED: That is the Airworthiness Board, when they review packs, they also, as part of their review, there is a board-style engagement which can last close to one working day. They also do site visits as well, for context. When they raise the report, they include things of note – correction – observations, safety items of note, and concerns. And they are
25 concerns to Aviation safety, whether it be immediate or a significant concern if nothing is done in the short to medium term.

30 Dependent on the seriousness of the concern, it may warrant, in the Board member's eyes – or justify them to raise an Airworthiness Board Corrective Action Request. They will be responsible for the drafting of it, and then the Defence Aviation Authority will sign that Corrective Action Request, and then that is issued to an organisation, regardless of whether they fall under the DASRs, to address the shortfalls.

35 COL STREIT: Sir, at paragraph 68 you say, in terms of Corrective Action Requests, five have been closed and four were open at the time of cessation of operations, but these ACARs were retired when the decision to withdraw MRH-90 from Service was made.

40 AIRCDRE MEDVED: Correct.

COL STREIT: So at the time of the crash of the MRH-90 in July 2023, five Airworthiness Board Corrective Action Requests had been closed and four remained open?
45

AIRCDRE MEDVED: That's correct. And a reminder: that is over the entire lifecycle of the MRH-90 in Army Service.

5 COL STREIT: At paragraph 70 you set out common themes across the Airworthiness Board reports concerning MRH-90. I'm going to read them out. You say:

10 *MRH-90 Airworthiness Board's summary details a long history of an Aviation system under stress.*

You say:

Common themes that are present in most reports are:

15 *(a) A developmental aircraft design that was under continuous design update during production, leading to complex configuration management issues.*

20 *(b) Complex maintenance history that was difficult to transcribe to the Defence Aircraft Maintenance Management System CAMM2, and a high maintenance burden to maintain airworthiness.*

25 *(c) A target-planned rate of effort for the platform that was not achieved, leading to the inability to maintain aircrew currency and proficiency.*

30 *(d) Complex technical publications for maintenance and aircrew, compounded by a large burden of temporary updates during operation of the platform.*

(e) Inadequate engineering and logistics support arrangements.

35 *(f) An aggregated risk to Aviation safety inclusive of airworthiness that was challenging to characterise and quantify.*

Is what I have read out correct?

40 AIRCDRE MEDVED: That's correct. And to clarify, with 70(c), the "planned rate of effort" is flying hours, if that wasn't clear.

COL STREIT: Yes. Thank you.

45 AVM HARLAND: A question: how many times did MRH-90 cease operations during its life in ADF?

AIRCDRE MEDVED: Multiple times, sir. I'll have to take that on notice to quantify, but I can recall multiple times across my current stint, and previous director stint, in DASA.

5

AVM HARLAND: Is that usual?

AIRCDRE MEDVED: The lengths of the cessation was unusual – or was higher than other platforms.

10

AVM HARLAND: And the number of cessations?

AIRCDRE MEDVED: Sir, I'd have to – anecdotally, yes, but I'd like to confirm that by comparing platforms with formal cessation. But, anecdotally, yes.

15

AVM HARLAND: Yes, that would be useful. A following question is then – I guess it comes down to when we read through paragraph 70 and its subparas, as COL Streit has done, the question that comes to my mind is where is the line in terms of, you know, ramping up enforcement action, or saying, “Hey, we've really got to stop here”? When does that happen?

20

AIRCDRE MEDVED: Sir, I think the reflection or – we saw Command take appropriate action by – as a reflection of the formal cessation of operations that they conducted, as well as the duration of those cessations. So, for example, in my tenure there was, if I recall correctly, in the order of a two-month cessation of operations due to lack of confidence that aircraft had complied with all the maintenance requirements.

25

AVM HARLAND: So the cessation of operations were indicative of a system that was working?

30

AIRCDRE MEDVED: I would suggest yes.

35

AVM HARLAND: An Airworthiness that was working?

AIRCDRE MEDVED: Yes.

40

AVM HARLAND: But a platform which was struggling?

AIRCDRE MEDVED: A platform – and I would characterise it as a platform and associated support arrangements.

45

AVM HARLAND: Could you just make a comment – or, I guess, provide your opinion on when you see this kind of background for a platform and

its history, what sort of follow-on effects does that create for the organisation in terms of does it make your life easier, does it make your life worse, does it increase workload and in turn stress?

5 AIRCDRE MEDVED: What we saw, and was clearly evident, that it dominates the effort of the Command of the Service, and even disproportionately compared to other platforms. And that was also reflected in even DASA assurance activities. The effort we expended on this platform was disproportionate compared to all the other support we provide to other platforms.
10

AVM HARLAND: That's helpful. Thank you.

15 COL STREIT: One final question, sir. To put it into context, paragraph 70, you've set out common themes across Airworthiness Board reports. So that's Airworthiness Board reports from 2021, backwards in time?

20 AIRCDRE MEDVED: Correct.

COL STREIT: Because the Airworthiness Board for November 2022 didn't go ahead.

25 AIRCDRE MEDVED: That is correct.

COL STREIT: And was then postponed into 2023. But because of the decision to cease MRH-90 operations in September 2023, there was no requirement for a Board report – an Airworthiness Board – at that time.

30 AIRCDRE MEDVED: That's correct. The Board was scheduled for early August. So, after the accident, it was indefinitely postponed until we had clarity of the outcome of the tragic accident. And then, when there was a formal cessation of operations announced by government, then the decision was to cease – well, cease with any planning with that Airworthiness Board.
35

COL STREIT: And just for context, you examined the 12 Airworthiness Board reports, and the other documents you identify at paragraph 16, to set out the common themes at paragraph 70. Is that correct?

40 AIRCDRE MEDVED: Counsel, can you repeat the question?

COL STREIT: If you look at paragraph 67.

45 AIRCDRE MEDVED: 67.

COL STREIT: You say there are 12 Airworthiness Boards, two remote Aviation Safety Reviews, and two out-of-session Airworthiness reviews on the MRH-90 enterprise. You then say – at paragraph 70, you set out common themes across the Airworthiness Board reports. So I’m simply asking you whether the common themes you’ve expressed – at
5 paragraph 70(a) through to (f) – you’ve drawn those common themes from your consideration of the 12 Airworthiness Board reports and other documents listed at para 67?

10 AIRCDRE MEDVED: That is correct. What I would state is that some of those points are more prominent at different phases, from introduction of Service right through to the last Board in 2021.

COL STREIT: Yes. Thank you. Sir, thank you for your time. That’s the
15 evidence-in-chief.

MS McMURDO: All right then. Well, you’d like a short break?

COL STREIT: Yes, please, Ms McMurdo. I note the witness has been
20 going for a little while, and the Board has been going for longer.

MS McMURDO: Yes.

COL STREIT: Or the Inquiry has been going for longer. So a short
25 comfort break of 10 minutes.

MS McMURDO: Okay. We’ll resume at 3.30 then. Thank you.

30 **HEARING ADJOURNED**

HEARING RESUMED

35 MS McMURDO: Just before we resumed, I think the Air Vice-Marshal has a question to - - -

40 AVM HARLAND: It’s just a question relating to the cessation of MRH-90 operations following the accident on 28 July and the decision to, I guess, formally, and permanently, cease operations. My question is just from a DASA point of view, from an airworthiness and safety point of view, asking whether you had any input to that decision?

AIRCDRE MEDVED: Yes, I did, per my statement. I was engaged and were consulted on the briefing material supporting the decision to Commander Avn Command over the weekend. And I supported that decision.

5

AVM HARLAND: And that was in the immediate aftermath?

AIRCDRE MEDVED: That was on 27 and 28 July. Sorry – correction – 29 and 30 July.

10

AVM HARLAND: And following on from that, that decision to more permanently cease operations and then dispose of the aircraft?

AIRCDRE MEDVED: I was not aware of the decision to – I was not engaged on the decision to cease operations. And in terms of the disposal, I was not engaged on the disposal strategy because the disposal strategy does not have any bearing on Aviation safety. But DASA did provide advice once they – when I say “they” – once a disposal strategy was communicated, DASA did provide advice on what the minimum approvals were required to execute that strategy.

15

20

AVM HARLAND: If I’m to take it from what you’ve said then, DASA, as the Airworthiness Regulator for Defence, didn’t have an input into the decision to permanently cease MRH-90 flying operations?

25

AIRCDRE MEDVED: We did not have a - - -

AVM HARLAND: After that initial decision had been made.

30

AIRCDRE MEDVED: Yes. I do want to correct. The decision was socialised with me directly, so I was consulted. But that was for factual correctness, not for providing any position per se on the decision.

35

MS McMURDO: So just to make sure I’ve understood it correctly then, unexceptionally, after such a dreadful accident, you wanted to ground the MRH until it was found out if there was involvement in – what the safety implications were of the accident. So that was the initial grounding of the MRH?

40

AIRCDRE MEDVED: That’s correct. That’s correct, Ms McMurdo.

MS McMURDO: Then as to the permanent and slightly earlier grounding of the MRH, that’s because it was going to be decommissioned in any case before too long?

45

AIRCDRE MEDVED: At the end of 2024.

5 MS McMURDO: Yes. You were informed about that. You were contacted about it only in respect of checking some details, checking some, facts but you weren't involved in the decision-making.

AIRCDRE MEDVED: That is correct.

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

COL STREIT: Thank you, Ms McMurdo. I can indicate there's no requirement for a private hearing. I understand there may be some applications.

15 MS McMURDO: Applications to cross-examine?

MR O'MAHONEY: Yes, please, Ms McMurdo, on behalf of Airbus Australia.

20 MS McMURDO: Thank you. I'm not sure if that means you're the only one or you're just going to be coming forward first, but please - - -

MR O'MAHONEY: Thank you.

25

<CROSS-EXAMINATION BY MR O'MAHONEY

30 MR O'MAHONEY: Sir, my name is O'Mahoney. I appear for Airbus in this Inquiry. I want to ask you firstly some questions about the role of Airworthiness Boards generally. You've given some evidence about that. Tell me if you agree with this: that the thrust of your evidence is that they form an important role in relation to Aviation safety in Defence?

35 AIRCDRE MEDVED: That is correct, in giving independent assurance to the Defence Aviation Authority.

40 MR O'MAHONEY: And I think you made it clear that that independent assurance is aimed at complementing or supplementing the assurance provided by DASA?

45 AIRCDRE MEDVED: That is correct. What I'd also flag is that a number of years ago DASA did not fulfill its regulatory remit against its full scope and was dependent upon Airworthiness Boards to complete that independent assurance, in particular, for flight operations.

5 MR O'MAHONEY: And I think you touched on this at paragraph 65 of your statement, but am I right in thinking that the Independent Airworthiness Boards, to your mind, play a particularly important role where DASA's assurance provides what might be described as "only limited confidence"?

AIRCDRE MEDVED: That is correct.

10 MR O'MAHONEY: In other words, if DASA doesn't express confident views in its findings as to Aviation safety, the Board then perhaps plays an even more significant role than usual?

15 AIRCDRE MEDVED: No, I wouldn't agree with that assertion. I would state that where DASA may provide limited oversight. For example, if we – or in instances where Defence may operate civil-registered aircraft, our level of oversight is markedly less. So Airworthiness Boards may wish, in some instances, where we conduct less assurance – it doesn't mean we're less confident.

20 MR O'MAHONEY: I see. No, thank you.

AIRCDRE MEDVED: But we conduct less.

25 MR O'MAHONEY: Thank you for explaining that. And am I right in thinking that as a general rule the Airworthiness Boards convene, more or less, each year?

30 AIRCDRE MEDVED: I would say on average it's probably closer to 18 months to two years but again, the scheduling is risk based. So some platforms are more frequent, up to 12 months, whereas others – we do have some platforms where the period is extended up to four years.

35 MR O'MAHONEY: And when you say "risk based" in giving that answer, is that another way of saying they convene really on a needs basis? If there's an amplified level of risk, they might convene more often, but if the opposite is the case, they might convene less often.

40 AIRCDRE MEDVED: Yes.

45 MR O'MAHONEY: And just focussing in on the Airworthiness Review Board for the MRH, you've given detailed evidence in your statement about that it's not a memory test, but does it accord with your recollection that that Board pretty much met once a year, every year, between 2007 and 2021?

AIRCDRE MEDVED: Well, you can do the maths, and where 16 independent reviews are conducted. So it is roughly once per annum.

5 MR O'MAHONEY: Quite. And there was at least a couple of years where there were out-of-session meetings. There was two meetings per annum; correct?

AIRCDRE MEDVED: There were two out-of-session reviews, yes.

10 MR O'MAHONEY: And I think in 2012 there was a deferral for a year; correct?

AIRCDRE MEDVED: I would have to check my notes to confirm that.

15 MR O'MAHONEY: No. And it's not a memory test, but I just wanted to see if that jugged a memory with you. But I think this will certainly align with your memory. After that position between 2007 and 2021, there was to be a meeting of the Airworthiness Board in November 2022; correct?

20 AIRCDRE MEDVED: Correct.

MR O'MAHONEY: DASA provided a submission in relation to that proposed Board meeting; correct?

25 AIRCDRE MEDVED: Correct.

MR O'MAHONEY: And you authored that submission?

30 AIRCDRE MEDVED: I signed and approved the submission but it was a collective effort across DASA staff.

MR O'MAHONEY: And just explain briefly the difference between signing and approving versus authorising?

35 AIRCDRE MEDVED: The difference is that I rely on my regulatory experts across different scopes in the authority to pull the data together, and then to compile the aggregated report. I review it. Based on my knowledge, I may deep-dive or question some elements. And then, when I'm satisfied, I sign it.

40 MR O'MAHONEY: And then the upshot of it is that you don't sign it unless you're satisfied as to the accuracy of the contents; correct?

45 AIRCDRE MEDVED: Correct. Correct.

5 MR O'MAHONEY: Now, I'll approach this with some sensitivity because I don't want to cause the Inquiry to go into closed session. But if I could just invite you to turn up Annex D to your statement? You've got that in front of you?

AIRCDRE MEDVED: Yes, I do.

10 MR O'MAHONEY: If you just go to what is internally page 12 of that document and look at paragraph 34. Please don't read it out. Have you read that to yourself?

AIRCDRE MEDVED: I have.

15 MR O'MAHONEY: Is it fair to say that that is a fair summary of the conclusion DASA arrived at in providing the submission to the Airworthiness Board before the proposed November 2022 meeting?

AIRCDRE MEDVED: That is correct.

20 MR O'MAHONEY: Sir, you may or may not be able to answer this, but was it the fact that the Board didn't convene as scheduled, in November 2022, because of the positivity in that ultimate conclusion?

25 AIRCDRE MEDVED: No, I do not recall that was the reason.

30 MR O'MAHONEY: Well, in light of the answers you gave moments ago about the Board convening on an "as needs" basis and doing so more often if it was necessary, having regard to the risk, can we take it, at least at a general level – you may not be able to agree with this – but is it your understanding that the reason the Board didn't convene as scheduled, in November 2022, was because there was a degree of comfort about the risk associated with this program?

35 AIRCDRE MEDVED: I would not characterise it as a degree of comfort with the program, but there were other sensitive drivers that dictated the delay to the Board.

40 MR O'MAHONEY: What were they?

AIRCDRE MEDVED: And the Command's responses and industry responses were all provided to support the Board, but I'm not willing to disclose those sensitive drivers in the open forum here.

MR O'MAHONEY: And I certainly won't invite you to. But can I ask you this: do you engage pretty closely with the Board in the context of this DASA submission process?

5 AIRCDRE MEDVED: Not the submission – not prior to the DASA submission, but we do engage the Board members in advance of each Board.

10 MR O'MAHONEY: Can the Inquiry take it that, based on your experience, an Independent Airworthiness Board would not go ahead with a decision to defer a meeting for a year if it thought there was amplified levels of risk in relation to a particular program?

15 AIRCDRE MEDVED: I think it's fair to say, if there was an immediate safety issue or safety concern, that they would have. And if they thought that risks were not adequately managed, they would have conducted a Board.

20 MR O'MAHONEY: You'd agree, in those circumstances, it would be irrational to defer an Independent Airworthiness Board meeting for 12 months?

25 AIRCDRE MEDVED: That is correct. My recollection is that when it was deferred, it wasn't deferred for that – it wasn't originally deferred until August. It was scheduled to be conducted earlier, but I'd have to go through records to determine exact dates on when it was originally deferred to.

30 MR O'MAHONEY: Thank you. It's not a memory test. If I could get you to turn up, please, Annexure C attached to your statement. Tell me, without saying anything about the detailed contents of this document, this is a submission that you signed on behalf of DASA ahead of what was to be the 9 August 2023 meeting of the Airworthiness Board. Correct?

35 AIRCDRE MEDVED: Correct.

MR O'MAHONEY: As it happened, you signed this four days before the tragic accident that brings us here?

40 AIRCDRE MEDVED: Correct.

MR O'MAHONEY: If you turn to page 15 of this document, and just read to yourself paragraph 43. You've read that quickly?

45 AIRCDRE MEDVED: I'm very familiar with it.

MR O'MAHONEY: I'm sure you are. Tell me, does that fairly capture the upshot of DASA's robust investigative work in advance of that proposed Board meeting?

5 AIRCDRE MEDVED: It does.

MR O'MAHONEY: Does it align with your recollection that the last time the Board met was in December '21?

10 AIRCDRE MEDVED: Yes, it does, because I participated in that.

MR O'MAHONEY: Does it also accord with your memory that there were no ACARs issued at that last Board meeting, now some years ago.

15 AIRCDRE MEDVED: That is correct.

MR O'MAHONEY: If I could ask you to turn up paragraph 71 of your statement, sir. This is a series of paragraphs directed towards the role of DASA in the continuing operation of MRH-90. Do you see that?

20 AIRCDRE MEDVED: I do.

MR O'MAHONEY: Tell me if you agree with this summary of your evidence in this regard, that at paras 71 and 72 you're setting out there a summary of the investigative work and regulatory role of DASA?

AIRCDRE MEDVED: I would say the regulatory role, not – and I don't want to confuse independent investigation. As a regulator, you do investigations as well, but it's separate to the DFSB investigatory function.

30 MR O'MAHONEY: Really, the point you're trying to make here and elsewhere in the statement, is I think that when it comes to DASA's regulatory work, it conducts robust assessments?

35 AIRCDRE MEDVED: That is my view.

MR O'MAHONEY: The upshot of those robust assessments, you would say to the Inquiry, is robust conclusions and recommendations?

40 AIRCDRE MEDVED: I would say robust independent assurance benchmarked against other comparable Military Aviation Authorities.

MR O'MAHONEY: Is it fair to say, looking at paragraph 73, that one such conclusion, based on the robust work of DASA, is set out there in relation to this MRH-90 capability; that the conclusion is that DASA has

45

been assured that the aircraft system has been designed, constructed, and operated to approved standards and limitations by competent and authorised personnel acting as members of an approved organisation? Is it fair to say that is an accurate summary of DASA's view?

5

AIRCDRE MEDVED: That is correct.

MR O'MAHONEY: Equally, where it goes on to say the response to product failures, malfunctions and defects identified in Service has been acceptable, that is again another accurate reflection of the ultimate conclusion arrived at by DASA in relation to this program?

10

AIRCDRE MEDVED: That is correct.

MR O'MAHONEY: Turning just briefly to paragraphs 69 and 70 of your statement, at paragraph 69 you refer to Annexure B. Again, I'm not going to ask you to traverse the detail of that for the obvious sensitivity reason, but am I right in thinking that you have crafted Annexure B based on your own review of some source documents?

20

AIRCDRE MEDVED: That is tabling – that is a summary of all the source documents, correct.

MR O'MAHONEY: But it's your summary; correct?

25

AIRCDRE MEDVED: That is correct.

MR O'MAHONEY: In other words, you sat down with those source documents and, to the best of your ability, tried to capture those in summary form?

30

AIRCDRE MEDVED: When you say "tried to", all of the items that are flagged are explicitly identified in the reports.

MR O'MAHONEY: I certainly wasn't being critical when I said "tried to".

35

AIRCDRE MEDVED: No, but there - - -

MR O'MAHONEY: But can I ask you this, though: what were the documents you had regard to in putting together Annexure B?

40

AIRCDRE MEDVED: All the source reports.

MR O'MAHONEY: Are they all annexed to your statement?

45

AIRCDRE MEDVED: No, they're not.

5 MR O'MAHONEY: Did you make a decision not to annex them?

AIRCDRE MEDVED: My understanding is that those documents have all been provided to the IGADF Inquiry, so I did not see the value of providing them again.

10 MR O'MAHONEY: Have you listed anywhere in your statement all of the documents that you summarised in Annexure B?

15 AIRCDRE MEDVED: I believe so. I'll just need to check. It does not appear that they've been individually referenced, but like I said, all those documents have been provided to the IGADF Inquiry.

MR O'MAHONEY: What are those documents?

20 AIRCDRE MEDVED: They are all of the Airworthiness Board reports signed by the respective Airworthiness Board panel members that conducted the Airworthiness Boards, Aviation Safety Reviews, and those two other reviews that were conducted that you highlighted earlier.

25 MR O'MAHONEY: What about submissions to the various Boards that have convened across the journey, did you have regard to those?

30 AIRCDRE MEDVED: No, I – given that some of the packages – for example, that December '21, the total package in page number count was in the order of 5000 pages. I did not go through individual components that comprised the data packs in compiling Annex B.

MR O'MAHONEY: So is that another way of saying you didn't have regard to DASA's submissions for the purposes of preparing Annexure B?

35 AIRCDRE MEDVED: No. For the purpose of providing Annexure B, the intent there was to summarise the Airworthiness Board reporting findings.

40 MR O'MAHONEY: I realise that. But if you could answer my question. Am I right in thinking that in putting together Annexure B, you didn't have regard to submissions made by DASA?

AIRCDRE MEDVED: I did not – for the purpose of Annex B, in the context of why I provided it against the questions I was asked in the submission, I did not view it was relevant to reconsider DASA contribution

to the data pack that underpinned the conduct of the Board and the subsequent Board report findings.

5 MR O'MAHONEY: Can we take it from that answer as well that you equally didn't review the submissions made by Airbus at different stages?

AIRCDRE MEDVED: That's correct.

10 MR O'MAHONEY: Again, I'm not being critical of you.

AIRCDRE MEDVED: Yes.

15 MR O'MAHONEY: I just want to understand what Annexure B is based upon.

MS McMURDO: Would that be beyond as far as they were contained in reports, or they were summarised in the reports?

20 AIRCDRE MEDVED: Ms McMurdo, the reason I only – I was referring to the findings of the Independent Board of Review, the Airworthiness Board.

MS McMURDO: Yes.

25 AIRCDRE MEDVED: And it's their words and how they weighed up different contributions.

MS McMURDO: Yes.

30 AIRCDRE MEDVED: And it was their conclusions that I was referencing.

MS McMURDO: Yes, I see. But what I'm saying is, it may be, in that doing that, they've made reference to submissions by DASA or Airbus in that report. And as far as that goes, did you have a look at that?

35 AIRCDRE MEDVED: The Board reports don't include references.

MS McMURDO: They don't.

40 AIRCDRE MEDVED: All they acknowledge is that there were – is the data pack, which is an aggregation of all the inputs.

MS McMURDO: Thank you.

5 MR O'MAHONEY: Thank you. And in the interests of saving a little time, I think you've already given evidence to this effect, but I just want to be clear, that where you say at paragraph 70, "common themes that are present in most reports", you'll accept, I think, that when one looks at the various subparagraphs (a) through (f), at least some of them only appear at specific points in time between 2007 and 2021?

10 AIRCDRE MEDVED: That is correct. And that's what I reflected in my earlier evidence, that the prominence of some of those themes does vary over time.

15 MR O'MAHONEY: Quite. You'd agree as well, some of them are historic in nature, in the sense that they emerged at an early point in the program but, with the passage of time, fell away.

AIRCDRE MEDVED: I think that would be – that could only be stated really for 70(a).

20 MR O'MAHONEY: Thank you. Going to the one immediately below that, which deals with CAMM2, that's a software program; correct?

AIRCDRE MEDVED: That is correct.

25 MR O'MAHONEY: It stands for Computer-Aided Maintenance Management system; correct?

AIRCDRE MEDVED: Correct.

30 MR O'MAHONEY: It's directed towards digitising logistics systems; correct?

AIRCDRE MEDVED: It is an electronic maintenance management system. Could you please repeat the question?

35 MR O'MAHONEY: It's a software system aimed at assisting with digitising management – logistics management.

AIRCDRE MEDVED: I wouldn't – and I'm sorry to be painful - - -

40 MR O'MAHONEY: You're not, but I'll move on, in the interests of time.

AIRCDRE MEDVED: I just don't – yes.

MR O'MAHONEY: Tell me this – well, you know it's a software system that Defence uses to assist with logistics. There's no doubt about that, is there?

5 AIRCDRE MEDVED: I would be more precise and use the term “maintenance”, “required maintenance to be conducted on the aircraft”.

MR O'MAHONEY: It was introduced in or about 2005?

10 AIRCDRE MEDVED: That is correct.

MR O'MAHONEY: Replaced what was called CAMM1?

15 AIRCDRE MEDVED: Simply CAMM, correct.

MR O'MAHONEY: Or CAMM; I won't cavil with that. And CAMM or CAMM1, that was bedevilled with problems – correct – by the time it was phased out?

20 AIRCDRE MEDVED: It was a legacy system developed in the late 70s, early 80s.

MR O'MAHONEY: It's been the case, hasn't it, that across the journey of CAMM2, it, itself, has been plagued with problems; correct?

25 AIRCDRE MEDVED: I'm not in a position to answer that.

MR O'MAHONEY: That's not something you're aware of?

30 AIRCDRE MEDVED: There have been – I'm aware that there have been some challenges, but there has been a continued process for updates. And from Australia's experience, and even with some other international operators, the CAMM2, as an airworthiness records management system, and from a configuration and control perspective, provides us much greater
35 confidence than some other systems used by large, respected foreign militaries.

MR O'MAHONEY: Have you received feedback, internally or externally, sir, to the effect that CAMM2 is both unsuitable and outdated?

40 AIRCDRE MEDVED: Could you repeat that, please?

MR O'MAHONEY: Have you received feedback, either internally or externally, to the effect that CAMM2, this software program, is unsuitable
45 and outdated?

AIRCDRE MEDVED: To the first part, unsuitable? No. Outdated? No.

MR O'MAHONEY: Never?

5

AIRCDRE MEDVED: There have been updates to address some vulnerabilities, I agree. But I have not heard that word "outdated", or – I'm not suggesting that it may not have been used, but not to my awareness.

10 MR O'MAHONEY: Do you have any views yourself on the appropriateness of Defence using a management software system that is now approaching 20 years old?

15 AIRCDRE MEDVED: No, I don't; on the basis that I know it's continually updated.

MR O'MAHONEY: Do you know whether or not it's earmarked for replacement?

20 AIRCDRE MEDVED: Yes, it is.

MR O'MAHONEY: Is one of the reasons it's earmarked for replacement because stakeholders within Defence have formed the view that it's no longer fit for purpose?

25

AIRCDRE MEDVED: I'm not aware of that view.

30 MR O'MAHONEY: You gave an answer earlier to learned Counsel Assisting in relation to the language of "rate of effort" that you use in paragraph 70. And thank you for clarifying that; it was a question I had for you. Am I right in thinking that that is a shorthand way of capturing what is sometimes referred to as "availability rates"?

35 AIRCDRE MEDVED: No, that's simply a measure of number of flying hours that were achieved. It does have a linkage to availability, but it's not directly linked.

40 MR O'MAHONEY: I want to ask you just a few questions about availability rates to see if I can jog your memory. Are you aware that in 2022 and 2023, 6 Aviation, in terms of the management of maintenance of its fleet, its MRH-90 fleet, was relying on industry?

45 AIRCDRE MEDVED: I'm not aware of specific details, but I am aware that industry was providing maintenance support services to Aviation Command.

MR O'MAHONEY: Specifically, when I say "industry", you'd know Airbus Australia?

5 AIRCDRE MEDVED: I do know that.

MR O'MAHONEY: Airbus has been heading up the maintenance efforts at Aviation 6 in 2022/2023; correct?

10 AIRCDRE MEDVED: I would have to check my notes to confirm that.

MR O'MAHONEY: If I said to you that availability rates at 6 Aviation for those couple of years have reached around 76 per cent, does that align with your recollection, broadly?

15 AIRCDRE MEDVED: I don't have – in my role, I would – I don't have any direct responsibilities, nor would it make sense to provide that information to me.

20 MR O'MAHONEY: And can I ask you this? In relation to 5 Aviation, is it your understanding that for those two years Defence was responsible for the maintenance of the fleet?

AIRCDRE MEDVED: I would have to confirm the notes – with the notes.
25

MR O'MAHONEY: Are you aware that, broadly speaking, for those two years, availability rates at 6 Aviation were around 34 per cent?

30 AIRCDRE MEDVED: Like I said earlier, that detail, from a performance perspective, is normally – it does not serve – or is not of importance and would not necessarily be raised – or that comparison would not necessarily be raised with me in my role.

35 MR O'MAHONEY: Has anyone drawn to your attention an offer that's been made by Airbus to assist 5 Aviation with its serviceability or availability rates?

AIRCDRE MEDVED: I don't recall.

40 MR O'MAHONEY: Thank you, sir. I don't have any more questions.

MS McMURDO: Yes, were there any other applications to cross-examine? Yes.

45

<CROSS-EXAMINATION BY LCDR GRACIE

5 LCDR GRACIE: I may be three minutes. Maybe I can bank the other five.

Sir, my name is LCDR Malcolm Gracie. I represent the interests of CAPT Danniell Lyon. Can I just ask you to look at paragraph 73 of your statement, please? I just want to tease out the words in the first sentence where you say:

10 *For the MRH-90 capability, DASA has been assured that the aircraft system has been designed, constructed and operated to approved standards and limitations by competent and authorised personnel acting as members of an approved organisation.*

15 Can I ask you what the source of that assurance is through these approved organisations, starting perhaps – I won't say at the bottom – but starting perhaps with – would it be with AATES, who might conduct some testing, or would it be something prior to that?

20 AIRCDRE MEDVED: If I talk about designed – I'll focus on designed and operated.

25 LCDR GRACIE: Yes.

AIRCDRE MEDVED: And I would also insert, although it's not stated explicitly, maintained.

30 LCDR GRACIE: Yes.

AIRCDRE MEDVED: So ongoing design work is conducted by Airbus as an approved organisation. Maintenance is conducted by approved organisations, both Aviation Command and Airbus, and other component Maintenance Organisations in Australia and overseas. And the operator at this point in time, in 2023, was Aviation Command. They were approved to operate it, and as part of that activity individuals and crew need to be authorised and approved.

40 LCDR GRACIE: But when we're talking about approved organisations, there is a series of layers, can I say, within Avn Command where there is a testing process, there is an evaluation process. I really want to see where AATES Aviation – Army Aviation Testing and Evaluation Section – fit into this structure. Do they come under the umbrella of Avn Command?

AIRCDRE MEDVED: That is my understanding, but you would need to confirm that with Aviation Command.

5 LCDR GRACIE: Yes, and then under Aviation Command – I don't think it's the case now, but it was the case that it came under the Commandant of the Aviation Training Centre. Is that how - - -

AIRCDRE MEDVED: I don't recall.

10 LCDR GRACIE: Where does AATES, as a Licensed Testing Organisation, fit in with the structure that you, on behalf of DASA, rely upon to assure that the aircraft system is airworthy?

15 AIRCDRE MEDVED: What I would say is we don't – when we provide an organisational approval, it is an enterprise organisational approval that covers all operations. For example, with Aviation Command, it covers all organisational aspects within that Command for flight operations. So AATES operating under that Military Air Operator would still need to
20 comply with currency, proficiency and skilling requirements that are applicable to the Military Air Operator for the aircraft that they are operating.

LCDR GRACIE: Do I understand that where you said that DASA has
25 been assured of these various things by these approved organisations, that DASA relies upon those organisations for its information?

AIRCDRE MEDVED: It's through the conduct of our – the initial
30 establishment of those organisations, and our ongoing oversight and enforcement, which is detailed in – the references in the DASA submissions to Airworthiness Boards details the flight operations oversight activities that were conducted.

LCDR GRACIE: And that's really what I just want to get to. I had
35 understood that DASA had that oversight role, but in response to a question from Counsel Assisting where you said DASA approved the V5.10 upgrade of the symbology, you said that there was an internal justification for it.

AIRCDRE MEDVED: So to clarify, what I said earlier is DASA provides
40 authorisations in the form of permits, approvals and licences for organisations, products and people. So there are organisational approvals, which I've discussed. Where I said "approval of that modification", that is a product approval associated with the aircraft-type design, and in reference to internal – so we will have a document that articulates our formal approval of that modification. Underpinning that, internally we have our own

authorisation processes for staff within DASA to document our rationale, and what is being done to support the DASA approval.

5 LCDR GRACIE: Thank you. So there is an internal DASA report approving the symbology upgrade?

AIRCDRE MEDVED: There is.

10 LCDR GRACIE: There was one other question. Do you know if that went to an internal – sorry, I withdraw that. Do you know if that went through, or was reviewed by, an Airworthiness Board, or a Remote Safety Review Board?

15 AIRCDRE MEDVED: No, it was not, because this is a regulatory function, and within the remit of DASA. Airworthiness Boards do not have a role within the regulatory system.

LCDR GRACIE: But it was a major airworthiness change.

20 AIRCDRE MEDVED: It was a major change to type design, correct.

LCDR GRACIE: But do you say that comes outside of the airworthiness oversight of the Airworthiness Boards?

25 AIRCDRE MEDVED: An Airworthiness Board, despite the name, looks at all aspects that impact Aviation safety beyond the strict definition of “airworthiness”, which is a reflection of an aircraft being safe to fly. They meet periodically and look at all facets. As part of their review, they also look at what DASA does from an assurance perspective.

30 LCDR GRACIE: As far as you’re aware, just to confirm, there was no Airworthiness Review Board, remote or otherwise, that reviewed this major change to the aircraft type with the upgrade of the symbology to (indistinct) - - -

35 AIRCDRE MEDVED: No, because we conduct multiple major changes to type design. It’s not uncommon for multiple changes – major changes to type design occurring on individual aircraft every year.

40 LCDR GRACIE: Thank you. Thank you, sir.

LCDR TYSON: Ma’am, I’ll just be very brief.

45 MS McMURDO: Yes.

<CROSS-EXAMINATION BY LCDR TYSON

5 LCDR TYSON: My name's LCDR Matthew Tyson. I appear for
CPL Naggs, one of the aircrew, sir. So I just want to ask you about
paragraph 70(f) in your statement. You say this:

10 *The MRH-90 Airworthiness Board summary details a long history
of an Aviation system under stress.*

And then you go down to (f), and it says:

15 *There was an aggregated risk to Aviation safety, inclusive of
airworthiness, that was challenging to characterise and quantify.*

Can you please explain what you mean by that, sir?

20 AIRCDRE MEDVED: Sure. If I talk about aggregated risk to Aviation
safety, what we're talking about is the risk of a – you know, a significant or
tragic event during operations. What contributes to that? It can be through
multiple causes. It could be something to do with the maintenance. It could
be a latent defect in design. It could be something from production. It could
be from the way it was operated. There are thousands of – I won't even say
25 "thousands".

The reason Aviation is so heavily regulated is because of the complexity of
the systems, and the number of individual contributions that can lead to a
catastrophic loss of aircraft. Given that there were some risks that were
30 being managed across multiple areas that can impact Aviation safety, it is
difficult to quantify individual contributions of those risks, and aggregate it
into – aggregate it in a manner, let alone quantify it, in a measurable way.

35 LCDR TYSON: And that view that you have in paragraph 70, that opinion
was applicable as at early 2023?

40 AIRCDRE MEDVED: What I'd like to flag is that is not my opinion. That
is the opinion of a succession of Airworthiness Board panel members who
signed the reports.

LCDR TYSON: So that takes into account the number and accumulation
of those Airworthiness reports in relation to the MRH-90 as at early 2023?
That's the summary - - -

45 AIRCDRE MEDVED: It's a common theme across – yes.

LCDR TYSON: And you're certainly aware, sir, aren't you, that, I think on 22 March 2023, an MRH-90 ditched in Jervis Bay in quite benign flying conditions? You're aware of that, aren't you, sir?

5

AIRCDRE MEDVED: I'm fully aware of that.

LCDR TYSON: And that's a circumstance that you would've taken into account in reaching the summary that you set out at paragraph 70?

10

AIRCDRE MEDVED: Paragraph 70, again, is not a reflection of – it's not my view; it's from the Board reports. And the last Board report predates the March ditching in Jervis Bay.

15 Lcdr TYSON: Yes. It predates that; is that right?

AIRCDRE MEDVED: Correct.

20 Lcdr TYSON: But part of the aspect was that some of the risks to Aviation safety that was involved in the MRH-90 platform, they actually couldn't be characterised and quantified as at early 2023? Or the scope of them, the full scope of them, couldn't be quantified?

25 AIRCDRE MEDVED: It is very difficult to quantify individual – to numerically quantify individual contributions. That is no different to civil aviation, which is why there are decades of best practice and establishment of controls that are proven to be effective in managing – or operating aircraft safely and managing risk, and inclusive of that is elevated levels of risk.

30 Lcdr TYSON: Thank you, sir. Thank you, ma'am.

MS McMURDO: Thank you. Any other applications to cross-examine?

35 AVM HARLAND: A follow-on question, actually, ma'am.

With that, you're saying that paragraph 70(f) was effectively a summary of the Board reports and the outcomes. Wouldn't that seem contrary to the idea of deferring or cancelling the 2022 Airworthiness Board?

40 AIRCDRE MEDVED: Contrary, if there was not confidence that the risks were being managed and there were controls in place.

AVM HARLAND: So?

5 AIRCDRE MEDVED: So you might not – it might be challenging to characterise and quantify the risk level. And the way risk is characterised is quite broad under Aviation Risk Management or Defence Health Risk Management approaches. But there was confidence in the controls that have been put in place to manage the risks.

AVM HARLAND: Great. Okay, thank you.

10 MS McMURDO: Any re-examination?

COL STREIT: No, Ms McMurdo. The witness can be excused.

15 MS McMURDO: Yes. Thank you very much, Air Commodore. You're excused.

<WITNESS WITHDREW

20 MS McMURDO: And we'll adjourn the Inquiry until Monday morning at 10 o'clock. Thank you.

25 **PUBLIC INQUIRY ADJOURNED UNTIL
MONDAY, 12 AUGUST 2024 AT 1000**