



ABN 85 120 213 381

Level 4, 190 Queen Street, Melbourne 3000 Telephone: 03 8628.5561 Fax: 03 9642.5185
Offices in: Melbourne, Brisbane, Darwin, Canberra, Perth, Sydney, Adelaide

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

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

PUBLIC INQUIRY

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

COL J STREIT, with MAJ L CHAPMAN, Counsel Assisting

**LCDR M GRACIE, representing CAPT D Lyon
SQNLDR J GILES, representing LT M Nugent
LCDR M TYSON, representing CPL A Naggs
SQNLDR C THOMPSON, representing WO2 J P Laycock
COL N GABBEDY, representing MAJGEN Jobson
COL S THOMPSON, representing BRIG D Thompson
MAJ M BARNES, representing LTCOL A Norton
MR T SCHMITT, representing COL D Lynch
FLTLT S SEEFELD, representing D10
LCDR M HAY, representing D19
MR A MASON, representing Assistant Commissioner K Guteridge
MS K MUSGROVE, representing the Commonwealth**

0930, TUESDAY, 19 NOVEMBER 2024

DAY 28

TRANSCRIPT VERIFICATION

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

Signed	Date	(Chair)
Signed	Date	(Recorder)
Signed	Epiq Australia Pty Ltd	Date	27/11/24	(Transcription)

.MRH-90 Inquiry 19/11/24

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MS McMURDO: Yes, the witness can come in now, thank you.

<LTCOL VANESSA JORDAN, on former oath

5

MS McMURDO: Thank you, Lieutenant Colonel. As I said yesterday, let me know if you need a break at any time. Thank you.

10 LTCOL JORDAN: Thank you, ma'am.

MS McMURDO: Now, there were applications to cross-examine. Who's going first? COL Gabbedy.

15

<CROSS-EXAMINATION BY COL GABBEDY

20 COL GABBEDY: LTCOL Jordan, I am COL Nigel Gabbedy. I appear for MAJGEN Jobson. Do you have your statement with you?

LTCOL JORDAN: No, I don't, sir.

25 COL GABBEDY: It might help to have that, perhaps. Annex C of your statement is the PowerPoint presentation you gave to the 2023 ROIC, I believe.

LTCOL JORDAN: Correct.

30 COL GABBEDY: Could you turn to that?

LTCOL JORDAN: Yes.

35 COL GABBEDY: Have you only presented that to the 2023 ROIC or have you presented that to the unit on other occasions?

LTCOL JORDAN: I've presented it to the other ROICs that I've attended, sir.

40 COL GABBEDY: So you would've presented this at the 2022 ROIC.

LTCOL JORDAN: Correct.

45 COL GABBEDY: From your answer, I take it that's an annual presentation and you update it from time to time?

5 LTCOL JORDAN: It is I believe – sometimes it is held more than once a year. I am trying to recall if I presented it at the start of this year, but I know that there was intended to be an ROIC conducted in November this year that was cancelled due to factors relating to instructor availability.

10 COL GABBEDY: It contains within it quite a lengthy series of presentations in relation to fatigue. Do you give similar presentations on unit safety days?

15 LTCOL JORDAN: I deliver presentations on safety days on the request of Commanding Officers who ask for my team or I to present. Some of the information may have some overlap with that, but this one is more – it is intended to align with the learning management package for the Regimental Officer Intermediate Course for Aviation.

COL GABBEDY: When you're giving those other presentations, is there a focus by you on fatigue?

20 LTCOL JORDAN: Often, yes.

25 COL GABBEDY: The presentation includes a reference to Commander of Aviation Command's philosophy. Is that something that you have developed with him, or have you had regard to that philosophy in providing your presentation?

30 LTCOL JORDAN: It is certainly something that informs the information that is contained. That command philosophy was developed prior to my posting in, in 2022.

35 COL GABBEDY: When you incorporate that philosophy which appears on one of your slides, is that something that you cross-checked with the Commander of the Aviation Brigade, or is it something you drew from his printed philosophy?

LTCOL JORDAN: This presentation was developed by a predecessor of mine, so I checked it for the current Aviation Command website to ensure that there were not updates that were not aligned.

40 COL GABBEDY: Thank you. Now, in relation to fatigue – unfortunately, the slides aren't numbered, so I will show you the slide that I'm looking at.

45 LTCOL JORDAN: Okay, yes.

5 COL GABBEDY: “Crew duty limits in FRMS”. I don’t want you to give your entire presentation today, but I would like it if you could expand upon some of the points made in that presentation if you could? When you’re talking about crew duty limits and FRMS, could you explain the presentation you were delivering to members?

10 LTCOL JORDAN: So as the previous slide would indicate, the discussion was turning from the error and violation producing conditions to talk about work hours and fatigue. And that slide you referred to, sir, was intended to set the scene that crew duty limits is one of the elements in Fatigue Risk Management.

15 COL GABBEDY: And do you understand that in 2024 there was an adjustment to crew duty limits post the TALISMAN SABRE exercise?

LTCOL JORDAN: I believe there has been, sir.

20 COL GABBEDY: There’s another slide that refers to the SAFTE-FAST tool.

LTCOL JORDAN: Yes.

25 COL GABBEDY: What were you conveying when you spoke in relation to that tool?

30 LTCOL JORDAN: The SAFTE-FAST tool, there were several licences that had been obtained by DFSB, I believe, for several different Aviation elements within Defence, and Aviation Command had access to several of those licences. So it was demonstrating visually the biomathematical model and the sort of outputs that the SAFTE-FAST tool demonstrated.

COL GABBEDY: And this is Annex C, I believe.

35 LTCOL JORDAN: It’s Annex B, sir.

COL GABBEDY: Is it Annex B? Sorry, my bad.

40 MS McMURDO: Yes, thank you for that; I was having great trouble following.

COL GABBEDY: That makes it easier. You then have a slide that’s headed up “VPCs”. What does that acronym mean?

45 LTCOL JORDAN: Are you going – sorry, that is after. So - - -

COL GABBEDY: Yes, I'm following in order from the SAFTE-FAST slide.

5 LTCOL JORDAN: Okay, yes. VPCs, that refers to Violation Producing Conditions.

COL GABBEDY: And what does that mean?

10 LTCOL JORDAN: So conditions that can contribute to the – and I'm trying to word this – so conditions that might set the scene, whether environmentally or personally, around violating safety rules in this context.

15 COL GABBEDY: And your first dot point refers to mission expectation, and rules have to be bent to get the job done.

LTCOL JORDAN: Yes.

20 COL GABBEDY: What are you talking to in relation to that point?

LTCOL JORDAN: So that would refer to, whether an internally or group level expectation, that a task must be done and, in order to complete the task, rules would have to be bent.

25 COL GABBEDY: You heard some of the earlier evidence in this Inquiry, and I believe you heard some of the evidence from the crew; is that right?

LTCOL JORDAN: Correct.

30 COL GABBEDY: Did you hear people give evidence about this can-do culture and the requirement to get the job done?

LTCOL JORDAN: I did, sir, yes.

35 COL GABBEDY: Is this presentation addressed as the need to understand your limits, effectively, and ensure that the job is done safely, if it's done at all?

LTCOL JORDAN: Yes.

40 COL GABBEDY: Your next slide goes to managing violations. What does that talk to?

45 LTCOL JORDAN: So it's intended – and I guess I would preface this by, there's often a tendency to identify problems without identifying treatments

5 or things that are within the control of the group you are briefing. So in delivering this presentation – so talking about conditions that can contribute to violations, it was important to ensure that there is then discussion or points around what will help to reduce or, in this term, manage violation producing conditions.

10 COL GABBEDY: Does that then build into things like FACE checks and the need to have an honest discussion about fatigue levels and other aspects that might impact on a mission?

15 LTCOL JORDAN: Yes, absolutely. That's one of the points: structured discussions, which may include relating to FACE checks, or issues that are relating to that can-do mindset of wanting to get the mission done.

20 COL GABBEDY: When you speak to the different ROIC courses, do you get good buy-in from the contributors? Is there generally good discussion about these factors?

25 LTCOL JORDAN: Yes. There has been significant engagement from each course I've delivered at various points throughout the presentations. I recall the courses mainly because I like to keep presentations short, and I believe the 2022 ROIC made me break my promise of having them leave early, because they had a lot of conversation with me about different parts of the information that was presented, as well as things that they wanted to discuss in that forum.

30 COL GABBEDY: From the conversation that was generated, were you able to form a view as to the effectiveness of things like FACE checks in terms of a tool to identify and perhaps moderate or manage fatigue in aircrew?

35 LTCOL JORDAN: That was one of the specific questions asked of the course: "How effective are FACE checks?" I don't recall the specific outcomes from that discussion, but it certainly did generate discussion amongst the trainees.

40 COL GABBEDY: Were you able to get a feel from the trainees as to whether they thought that that was an effective mechanism?

45 LTCOL JORDAN: I can't recall specifically, sir. I think there were possibly mixed opinions in the groups.

COL GABBEDY: Were you able to get a feel from the trainees as to whether they felt empowered to speak up about these views in a crew environment?

LTCOL JORDAN: I believe that, from the discussion, they were empowered to speak – or felt empowered to speak up in their environments.

5 COL GABBEDY: Thank you. Now, I've flicked forward a few pages to a slide that's headed – it's after Steve Irwin – "IMSAFE in FACE - How Effective is Controls?"

10 LTCOL JORDAN: Yes, that was what I was referring to earlier, around how effective is FACE.

COL GABBEDY: So the dot points you've listed here, how do they play into your topic of "IMSAFE in FACE"?

15 LTCOL JORDAN: So that's the acronym for IMSAFE: Illness Medication, Stress, Alcohol, Fatigue, Eating. So I believe that was another tool that was used at some point.

20 COL GABBEDY: So these are factors that play into a member's fitness for duty, effectively.

LTCOL JORDAN: Correct.

25 COL GABBEDY: Sorry, I think I've got one more question about this. At the very end of your presentation, you have a slide that's got a couple of goldfish bowls on it headed, "What does it all mean?" How do you wrap up this presentation to young aviators?

30 LTCOL JORDAN: So this slide is essentially putting all the concepts that have been presented into a coherent final point because, as you've pointed out, sir, it is a lengthy presentation. And, as I said in my statement, it covers some elements around cognitive neuroscience and human behaviour, and then talks about safety and fatigue and error and violation producing conditions. So emphasising that there are human tendencies, as people, to look for how the group reacts and responds to them – how the group reacts and responds, recognising that that can have a contribution to how individuals respond, particularly in terms of what behaviours are rewarded and what behaviours are punished, and how that then relates to the conduct of Aviation operations in the safe, insofar as reasonably practical, environment.

40 COL GABBEDY: So is part of the message you are seeking to deliver here that there is an individual responsibility to manage fatigue and other issues that might affect performance?

45

LTCOL JORDAN: Yes, sir, there is an individual responsibility, and recognising their role in contributing to organisational behaviours that are around them, particularly when they are moving into a more senior role within their work area.

5

COL GABBEDY: And I assume there's also a group responsibility when you're dealing with small teams?

LTCOL JORDAN: Yes.

10

COL GABBEDY: And there's a command responsibility, obviously.

LTCOL JORDAN: Correct.

15

COL GABBEDY: In relation to your statement itself, at paragraph 17 you're talking about the 2023 ROIC and concerns raised in relation to DACC tasks.

LTCOL JORDAN: Yes.

20

COL GABBEDY: Do you have any understanding of what DACC tasks 6 Aviation were required to conduct in 2022/23?

LTCOL JORDAN: In 22/23, I'm not familiar specifically with what tasks they may have been involved in. From my knowledge and memory, most of the DACC tasking was allocated to 5th Aviation Regiment, but I do know that in 2021 or 2022 there had been some FLOOD ASSIST activities conducted by 6 Aviation Regiment.

25

30

COL GABBEDY: Are you aware – and if this is outside your area of responsibility, please let me know – whether there is a preference to allocate DACC tasks to 5 Avn as opposed to 6 Avn?

LTCOL JORDAN: I believe there is a preference, because of the nature and organisational structure of 5th Aviation Regiment, having multiple types of aircraft, as well as 6 Aviation Regiment's mission, which is more focused on the support to Special Operations.

35

40

COL GABBEDY: Thank you. At paragraph 24 of your statement you confirm your awareness of the number of tasks that MAJGEN Jobson turned off, or attempted to turn off. Do you have any recollection of any specific taskings that he referred to there?

45

LTCOL JORDAN: There was a very long list, sir, and some of them related to the Headquarters, and some of them related to the flying

regiments. I believe one of the tasks that was turned off related to Exercise HELICON LUK, but I can't recall exactly what year that was. But I know there was a fairly extensive list, and I heard that list delivered at, at least half a dozen presentations, but I wouldn't be able to specifically talk about when each of them were or what the specific task was.

COL GABBEDY: All right, thank you. At paragraph 45 of your statement, you talk about the 2023 snapshot survey.

LTCOL JORDAN: Yes.

COL GABBEDY: Can you recall when those results were available?

LTCOL JORDAN: The results for the snapshot typically were released in about July. The whole of Army Aviation snapshot was usually a longer report to generate and often would come out in approximately August of the year.

COL GABBEDY: Do you know what period of time the 2023 snapshot survey covered? Did it cover June '22 to July '23, or was it a different period?

LTCOL JORDAN: It would've been administered after the Jervis Bay ditching. So somewhere between March and April, I believe.

COL GABBEDY: And that covered all of Aviation Command, and not just 6 Avn?

LTCOL JORDAN: Correct.

COL GABBEDY: In paragraph 46 you say that the subject of fatigue was frequently under discussion. Are you aware of the strategies employed by Aviation Command to mitigate or reduce things that could lead to fatigue?

LTCOL JORDAN: Yes, sir. So I mention in that paragraph attempts to manage ROE, or rate of effort, and the reason that I mention that is, in higher level discussions as well as at some of the Regiment safety days, some of the discussion talked about how – well, indicated that some individuals were struggling to understand how fatigue was showing up as a problem in a context of relatively low rate of effort compared to previous years or previous periods.

COL GABBEDY: And just finally, in your statement you said that early in the posting MAJGEN Jobson said to you that you could come to him

direct with issues; did you find that he honoured that pledge and was receptive to concerns that you raised with him?

5 LTCOL JORDAN: He was, sir, yes.

COL GABBEDY: All right, thank you. I have nothing further.

MS McMURDO: Yes, who's next? Yes.

10

<CROSS-EXAMINATION BY FLTLT SEEFELD

15 FLTLT SEEFELD: Morning, ma'am. My name is FLTLT Seefeld. I act for D10.

LTCOL JORDAN: Okay.

20 FLTLT SEEFELD: Perhaps if you could have a look at the list just over there, you can see who that is?

LTCOL JORDAN: Yes, okay.

25 FLTLT SEEFELD: Thank you. Ma'am, could you take up your statement there and go to paragraph 29 for me, please? So you see at the start of the paragraph 29 you mention there twice in the first couple of sentences "aircrew assessment". Do you see that there?

30 LTCOL JORDAN: Yes.

35 FLTLT SEEFELD: I was wondering if you could explain to the Inquiry a bit more about what these aircrew assessments are? And I'll pose a couple of questions. What's the purpose? What's in them? What's the content? Who do they go to? Those sorts of things. Are you able to provide the Inquiry a bit more information about that.

40 LTCOL JORDAN: Okay. So psychologists employed within the Army may receive a request to conduct an assessment on an individual from a Commander or an Instructor. In the Aviation context, there is a need for, firstly, understanding the context in which the individual works, particularly the safety critical nature of those who operate in an Aviation environment.

45 There is also a time imperative, particularly for individuals under training. Courses are scheduled well in advance and individuals are generally not

able to attempt elements of, particularly, flying courses out of sequence with their classmates. So that means that there is a period of less than a week where such an assessment would need to be undertaken for an individual, particularly if they are on a career course.

5

As well as there are implications, potentially, for a flying Regiment if one of their personnel are not cleared to return to flying duties within a timely manner.

10

So the Aviation psychology team maintains the ability to respond within a shorter timeframe than our colleagues who are posted within Joint Health Command as well as the Health Battalions, who are providing services across the breadth of the Army and, in some cases, the Defence Force. So their wait times would be prohibitive, to ensure that an individual is assessed and, where appropriate, cleared to return to safety critical duties.

15

So the assessment, and I'll go the second part of the question that you asked – and forgive me, I am passionate about my job, as I mentioned yesterday – assessment by a psychologist would look at, firstly, the reason that the Commander or Instructor had requested that assessment. In this instance, when I talk about a training failure where there has been a rating of “Unsatisfactory” on a sortie, or if there are concerns within the workplace identified in the referral, so those aspects will be discussed with the psychologist.

20

25

But there's also looking at that person's interpersonal/intrapersonal environmental influences and factors as well, so asking about general health and wellbeing, relationships, distractions, other stresses or strains, as well as exploring coping and self-management strategies that are currently present in order to inform a comprehensive assessment; to not just look at the training or the flying environment in isolation, but look at those factors that may have been contributing to that person's performance.

30

35

FLTLT SEEFELD: Thank you for that. Now, you focused there on the individual. Are these aircrew assessments also done, I guess, collectively, on, say, a Squadron or a Regiment?

LTCOL JORDAN: Not – no, no.

40

FLTLT SEEFELD: I understand. Now, in paragraph 29 there, you mention, on the second line you have a team – well, you don't say the word “team” – but you say you have some SO2 and SO3 Aviation psychologists.

LTCOL JORDAN: Yes.

45

FLTLT SEEFELD: And then if you go over to paragraph 37, and you'll see on the second line and then just onto the third line is the name of a person.

5 LTCOL JORDAN: Yes.

FLTLT SEEFELD: And rather than saying his name, I'll just call him "the officer in paragraph 37". Is that person there one of your – or, sorry, in 2022/2023, was he one of your SO2s?

10 LTCOL JORDAN: Correct.

FLTLT SEEFELD: Now, while we're on paragraph 36 and 37, they refer to sleep studies. Perhaps if you just take a moment just to scan across those to refresh your memory of what they say.

15 LTCOL JORDAN: Yes.

FLTLT SEEFELD: And just to, I guess, recount your evidence, I think, from yesterday it's the case, isn't it, that as far as sleep studies go in those years, you weren't involved in those. That's right?

LTCOL JORDAN: That's correct.

25 FLTLT SEEFELD: But as far as people who were involved, that would include the officer there listed in paragraph 37?

LTCOL JORDAN: That's right.

30 FLTLT SEEFELD: In paragraph 39 you refer to the snapshot surveys.

LTCOL JORDAN: Yes.

FLTLT SEEFELD: We've spoken a lot about the snapshot surveys.

35 LTCOL JORDAN: Yes.

FLTLT SEEFELD: And then up at the top of page 7 you talk about the – the very first line at the top of page 7 says, "The whole of Army snapshot, Aviation snapshot".

40 LTCOL JORDAN: Yes.

FLTLT SEEFELD: Am I correct in understanding that the snapshots are also devolved down at the Regiment and the Squadron level?

45

LTCOL JORDAN: That's correct.

5 FLTLT SEEFELD: And then back at the bottom line on paragraph 39 on page 6 you say, "My team offers to assist Commanders in receipt of snapshot reports with the analysis".

LTCOL JORDAN: Yes.

10 FLTLT SEEFELD: Do you recall that the officer mentioned in paragraph 37 provided support to 173 Squadron in September 2022 in respect to that analysis?

LTCOL JORDAN: Yes.

15 FLTLT SEEFELD: Now, going back to paragraph 26, the essence of what you say there is that prior to the incident on 28 July 2023, so in 2022 up to the incident in 2023, you had only visited 6 Aviation on the one occasion.

20 LTCOL JORDAN: Correct.

FLTLT SEEFELD: Is it correct to say that the officer mentioned in paragraph 37 had visited 6 Aviation during that same period – 2022, first half of 2023 – on multiple occasions?

25 LTCOL JORDAN: That's correct.

30 FLTLT SEEFELD: And I'll just run through these dates and just see if this accords with your recollection. "He had visited 173 Squadron in Melbourne during the SO – sorry, the Special Operations Qualifications Course in September 2022. Does that sound right?"

LTCOL JORDAN: I'm aware he visited them in Melbourne. I will take your word that that is the date.

35 FLTLT SEEFELD: And he also visited them again in Sydney in October 2022, so a little bit later?

LTCOL JORDAN: Yes.

40 FLTLT SEEFELD: And subsequently, in March 2023, he went back and visited again?

LTCOL JORDAN: Yes.

45

FLTLT SEEFELD: So I think that last visit may have involved some planning for the sleep study. Does that sound right?

5 LTCOL JORDAN: That sounds right.

FLTLT SEEFELD: Just a final topic, going back a little bit in time, May 2022, do you recall that 173 Squadron – and I’m conscious that you’re at a higher level – but 173 Squadron had an event or a training day, if you like, called a Mental Health Education Day.

10 LTCOL JORDAN: I am aware that they had a mental health education training day, yes.

15 FLTLT SEEFELD: And the officer in paragraph 37, do you recall that he assisted with the planning for that activity?

LTCOL JORDAN: Yes.

20 FLTLT SEEFELD: Thank you for that. Those are all the matters I wanted to raise, thank you.

MS McMURDO: Thank you. Yes, who’s next? COL Thompson.

25 **<CROSS-EXAMINATION BY COL THOMPSON**

COL THOMPSON: Good morning.

30 LTCOL JORDAN: Morning, sir.

COL THOMPSON: COL Thompson for BRIG Dean Thompson. Can you cast your mind back to the 2022 Regimental Officers Intermediate Course. Do you remember seeing BRIG Thompson on that course, Dean Thompson?

35 LTCOL JORDAN: No, sir, I don’t believe I saw him there.

COL THOMPSON: Thank you. Nothing more, ma’am.

40 MS McMURDO: Thank you. Yes, LCDR Gracie.

<CROSS-EXAMINATION BY LCDR GRACIE

5 LCDR GRACIE: Thank you. Ma'am, my name's LCDR Malcolm
Gracie. I represent the interests of CAPT Danniell Lyon. Could I ask you
to go to your bio, or your CV, please, that's annexed to your statement? It's
got a number 2 at the top of it.

10 LTCOL JORDAN: I'm sorry, the annex or the statement?

LCDR GRACIE: It looks like it's just your CV. I don't know how
it's presented.

15 MS McMURDO: I think it's Annexure A.

LCDR GRACIE: Annexure A, is it?

MS McMURDO: And you're wanting her to look at paragraph 2; is that
20 right?

LCDR GRACIE: Sorry, the page with the number 2 at the top.

MS McMURDO: Page 2.

25 LTCOL JORDAN: Okay, thank you.

LCDR GRACIE: Do you see at paragraph 11 there you've identified "key
stakeholders"?

30 LTCOL JORDAN: Yes.

LCDR GRACIE: When you say "stakeholders", you're there referring,
in effect, to your Chain of Command, are you?

35 LTCOL JORDAN: More referring to individuals that I would liaise or
communicate with within Army Aviation Command.

LCDR GRACIE: So we've got Commander Aviation Command, Deputy
Commander - - -

40 LTCOL JORDAN: Yes.

LCDR GRACIE: - - - Commander 16 Brigade, Commandant Aviation
45 Training Centre, and relevant COs. It's very much part of the regulatory
safety framework within which you work?

LTCOL JORDAN: I probably wouldn't characterise it as within the regulatory safety framework.

5 LCDR GRACIE: Just if you go up to the top of that number 2, with subparagraph (h) you say you provide subject-matter expert psychology and human factor support to Director Continuing Airworthiness-Army. This includes advice relating to engineering and maintenance system performance and safety. Is that correct?

10 LTCOL JORDAN: Yes.

LCDR GRACIE: So do you have some input in your professional services in advice to Command in relation to Aviation safety in terms of airworthiness or engineering matters?

LTCOL JORDAN: Correct.

LCDR GRACIE: And that is part of the concept of managing risk to which you've referred.

LTCOL JORDAN: Yes.

LCDR GRACIE: And so were you involved at all – you mentioned the Jervis Bay incident. Were you involved in any of the advice or steps taken to do with the risk that was identified by that incident?

LTCOL JORDAN: No.

30 LCDR GRACIE: You say that you do have an involvement, though, in dealing with aircrew in managing trauma and post-incident events?

LTCOL JORDAN: Only since July 2023. Typically, that's not been the primary – or not been a role of the SO1 Aviation Psychologist.

35 LCDR GRACIE: What I want to explore – and sorry if I'm being a bit obtuse about this – but on the one hand we've got the focus on the more human factors - - -

40 LTCOL JORDAN: Yes.

LCDR GRACIE: - - - with aircrew, fatigue and other things, and then at a higher level you're providing advice to Command in terms of a much broader cultural and systemic issue in terms of safety.

45

LTCOL JORDAN: Yes.

LCDR GRACIE: Airworthiness, engineering and other things.

5 LTCOL JORDAN: Yes.

LCDR GRACIE: So if there are perhaps three courses of action open to Command in terms of its decision-making in managing or reducing risk, are you involved in providing any assistance to Command then?

10 LTCOL JORDAN: Yes.

LCDR GRACIE: I think you were present yesterday when D11 gave some evidence?

15 LTCOL JORDAN: I was in the witness room when D11 gave evidence.

LCDR GRACIE: Was the link up?

20 LTCOL JORDAN: No.

LCDR GRACIE: Are you aware that there were three courses of action available to Aviation Command in dealing with the Jervis Bay – or the issues that came out of the Jervis Bay incident?

25 LTCOL JORDAN: Yes.

LCDR GRACIE: Do you recall what those three courses of action were?

30 LTCOL JORDAN: No.

LCDR GRACIE: Do you recall which one was adopted in terms of managing the risk that was identified back in 2018?

35 LTCOL JORDAN: No.

LCDR GRACIE: Are you aware whether or not there was – are you aware of the issue that surrounded the cause of the Jervis Bay incident, the high-pressure turbine failure?

40 LTCOL JORDAN: Yes, I'm aware that there was a failure of one of the engine components which led to an unexpected drop or – an unexpected drop in altitude.

45 LCDR GRACIE: Yes. And that was in March '23.

LTCOL JORDAN: Yes.

5 LCDR GRACIE: Are you aware that there was a known issue in relation to the high-pressure turbine engine failure, since about 2018, by the manufacturer?

LTCOL JORDAN: Yes, I am aware of that.

10 LCDR GRACIE: And did you then provide any advice in terms of the – I just want to recap on what you said before – about the course of action that was taken in terms of which of the three options were available to Army to reduce or mitigate risk of uncontrolled engine failure?

15 LTCOL JORDAN: No.

LCDR GRACIE: So who does, from your point of view – or your role as a psychologist, how do you provide that advice to Command in terms of its decision-making if your key stakeholders are those decision-makers?

20 LTCOL JORDAN: So I have conversations with not just the COs and the Command appointments mentioned in paragraph 11, but also the Director of Operational Airworthiness, the Director of Continuing Airworthiness, particularly around safety and other considerations. I believe that the decision that you're referring to was taken quite rapidly after the ditching at Jervis Bay.

25 And I'm aware that DOPAW and DCAA were involved in that discussion. In 2018, I was not part of Aviation Command so was not involved in any discussion around that issue identified.

30 LCDR GRACIE: Because one of the things you talk about in paragraph 55 of your statement – feel free to have a look at it – is that – although more specifically in relation to this incident of July 23 – you talk about evidence behind personnel – providing specialist advice in relation to personnel returning to duties after traumatic incidents.

LTCOL JORDAN: Yes.

40 LCDR GRACIE: Does that include, perhaps, the Jervis Bay incident as well? Do you provide that sort of advice to aircrew in returning to duties after an incident such as that?

45 LTCOL JORDAN: Not at that level because I was not involved in the critical incident response relating to that incident.

LCDR GRACIE: And, finally, what I just want to explore too with you is that I take it that MAJGEN Jobson is your Chain of Command?

5 LTCOL JORDAN: He is.

LCDR GRACIE: And you provide advice to him in relation to management of risk, and other things?

10 LTCOL JORDAN: Yes.

LCDR GRACIE: Did you think it perhaps inappropriate that you spent time in the Family Private Room during these sessions without introducing yourself as being the Aviation Command psychologist?

15 LTCOL JORDAN: I'm sorry, could you repeat your question?

LCDR GRACIE: You've been present in the Family Room during the break-out sessions.

20 LTCOL JORDAN: I've not been in the Family Room.

LCDR GRACIE: Have you been liaising with the families, though?

25 LTCOL JORDAN: I have spoken with the family members when I have been here, yes.

LCDR GRACIE: Did you disclose to them that you reported to MAJGEN Jobson?

30 LTCOL JORDAN: No. I had met several of the family members when GEN Jobson met with them in December 2023.

LCDR GRACIE: And were introduced as the psychologist?

35 LTCOL JORDAN: Yes.

LCDR GRACIE: Not as the psychologist for Aviation Command?

40 LTCOL JORDAN: I believe I may have been introduced as the Command psychologist.

LCDR GRACIE: And during the course of these hearings at which you've been present, you've liaised with the families?

45

LTCOL JORDAN: Yes, I've spoken to them.

LCDR GRACIE: And when you spoke to them in that capacity, did you disclose to them in what role you were here performing?

5

LTCOL JORDAN: I believe I may have mentioned that I was here in support of the people attending.

LCDR GRACIE: But not the families?

10

LTCOL JORDAN: No, my role was not to provide support to families.

LCDR GRACIE: And why did you take it upon yourself to speak to them, then?

15

LTCOL JORDAN: I talk to people.

LCDR GRACIE: And I take it as part of your Chain of Command and reporting roles, you report back to MAJGEN Jobson as to what's happening during the course of the Inquiry, along with his Counsel representing.

20

LTCOL JORDAN: No.

LCDR GRACIE: You haven't spoken to MAJGEN Jobson at all since the Inquiry has been running?

25

LTCOL JORDAN: I've spoken to him. I've spoken more about the people within Army Aviation Command because that is the role that I am here undertaking, and an important consideration for him is that his people are receiving support and he wants to understand what else he can do to support his people.

30

LCDR GRACIE: And I'm stretching my memory a little bit here, but I think GPCAPT Smith gave some evidence to this Inquiry in support of an application by the Commonwealth to adjourn these proceedings because of the possible trauma of witnesses from Army having to be called or recalled, and so forth. Were you part of that assessment that was made in relation to the impact of the Inquiry continuing and having to perhaps revisit evidence for those in Army Aviation?

35

40

LTCOL JORDAN: Not directly from GPCAPT Smith.

LCDR GRACIE: Or Chief of Army.

LTCOL JORDAN: It's possible that I may have been asked to provide information to people within Army Aviation Command who then use that information to contribute to that submission, but I'm not aware whether or not that occurred.

5

LCDR GRACIE: Was it your professional opinion – sorry, ma'am. Was it your professional opinion that you conveyed to Army Command that these proceedings, without being adjourned, would increase the trauma on Army members affected by the Inquiry?

10

LTCOL JORDAN: I don't believe I offered any opinion about the adjournment. I don't recall being asked questions specific to an adjournment.

15

LCDR GRACIE: Just one further thing. Were you present when the application was made by the Commonwealth?

LTCOL JORDAN: I was.

20

LCDR GRACIE: And were you surprised then that you weren't consulted about that?

LTCOL JORDAN: No. There are a lot of other psychologists within Army as well, and other stakeholders and other personnel who are able to contribute to such submissions.

25

LCDR GRACIE: Do you know if any of your professional colleagues did provide that advice?

30

LTCOL JORDAN: No.

LCDR GRACIE: Thank you. No further questions, ma'am. Thank you, sir.

35

MS McMURDO: Any other applications to cross-examine? No. Any re-examination? No.

Thank you very much, Lieutenant Colonel. You've been very helpful and I understand of course, through your research that you've done on the impact of investigations on all those involved, that you understand the need for self-care at this time, and also understand that you'll be assisting in providing that to other Army people who give evidence during this Inquiry. Yes, thank you for that. Yes, you're free to go. Thank you.

45

<WITNESS WITHDREW

5 MS McMURDO: Yes, COL Streit.

COL STREIT: Good morning Ms McMurdo and AVM Harland. I seek the indulgence of the Inquiry. I need to deal with a security matter and engage with Counsel representing in respect of that before the next witness is called, which will, hopefully, avoid potential delays that might arise with that witness.

10 MS McMURDO: All right then. Well, we'll adjourn. Do we have a specific time or - - -

15 COL STREIT: About 15 minutes, if I may?

MS McMURDO: Yes, all right.

20 COL STREIT: Thank you.

MS McMURDO: 15 minutes, thank you.

25 **HEARING ADJOURNED**

HEARING RESUMED

30 MS McMURDO: Yes, COL Streit. I understand the Inquiry has received some material which means that LTCOL Jordan will have to be recalled at some later date.

35 COL STREIT: That's right. And thank you for the time, Ms McMurdo. I'm sorry for the delay. The Inquiry did receive some information which will be explored further by Counsel Assisting, and LTCOL Jordan will be recalled at a future hearing.

40 MS McMURDO: Thank you.

COL STREIT: I now call BRIG Dean Thompson who is represented by COL Steve Thompson who will take the brigadier through his evidence.

45 MS McMURDO: Thank you. Yes, COL Thompson.

COL THOMPSON: Thank you, ma'am. I call BRIG Thompson.

<BRIG DEAN RICHARD THOMPSON, Sworn

5

<EXAMINATION-IN-CHIEF BY COL THOMPSON

10 MS McMURDO: Brigadier, let me know if you need a break at any time please.

BRIG THOMPSON: Yes, ma'am.

15 MS McMURDO: Thank you. Yes, COL Thompson.

COL THOMPSON: Your full name, please, sir, your rank and appointment?

20 BRIG THOMPSON: Dean Richard Thompson, Brigadier and I am the G3 for Army.

COL THOMPSON: If I can show you your statement of 4 November 2024?

25

COL STREIT: If I could just have a moment, Ms McMurdo – I'll just show my friend - - -

COL THOMPSON: Thank you, sergeant.

30

BRIG THOMPSON: Thank you.

COL THOMPSON: Now, your statement of 4 November 2024 is on the right-hand side of the folder, and you have some corrections to make. If I can take you to page 2, paragraph 3(k), you'll see a redaction there. Did you make that redaction, or did - - -

35

BRIG THOMPSON: I did not.

40 COL THOMPSON: Counsel Assisting made that redaction. Page 3, answer to question 6, the line beginning, "I posted as", you refer to January '21 there. Was that correct?

BRIG THOMPSON: No, it's January '22.

45

COL THOMPSON: January '22. Page 6, answer to paragraph 18(a), the line beginning, "My responsibilities with" - - -

BRIG THOMPSON: Yes.

5

COL THOMPSON: - - - do you see the word "other" there? That should be "others", plural.

BRIG THOMPSON: Correct.

10

COL THOMPSON: Page 9, answer 18(1), halfway down the page Beginning, "During the exercise", the words "flying hours" are repeated twice. So delete - - -

15

BRIG THOMPSON: Delete one, yes.

COL THOMPSON: - - - one set of "flying hours".

20

MS McMURDO: Do you want these corrections made to the exhibit as we go?

COL STREIT: Yes.

25

MS McMURDO: Yes. The pen's there.

COL THOMPSON: I beg your pardon. All right, well - - -

30

MS McMURDO: So could we just start again and get you to make those amendments to the statement as you go?

35

COL THOMPSON: Have you got a pen there, sir? If you could just initial the amendments. So starting at page 3, answer 6(a) you changed that to "January '22". If you could just mark in there "'22", and initial it. And in page 6, 18(a) answer, just put an "s" after "other", and initial that. Page 9, 18(1), just strike out one of those "flying hours", and initial that, please.

Page 12, answer 23(a), you'll see number 3 and number 7 are the same. Is that the same document just mentioned twice?

40

BRIG THOMPSON: So it's the same activity mentioned twice, yes.

COL THOMPSON: So perhaps if you could strike out number seven – Weekly Commander's Update Briefs and initial that please. Page 16, the answer to question 30, do you see the date there, "24 July '24"? What date should that - - -

45

BRIG THOMPSON: That should be the 29th.

5 COL THOMPSON: 29 July 2023. If you could make that change, please, sir.

BRIG THOMPSON: '23.

10 COL THOMPSON: Page 17, the answer to question 33(f), beginning, "I remained at". Do you see in the second line, "24 July '24"? Should that be "29 July '23"?

BRIG THOMPSON: Correct.

15 COL THOMPSON: If you could do that, sir. Similarly, still on page 17, answer to question 34(a), beginning, "Two members". See in the second line?

BRIG THOMPSON: Same.

20 COL THOMPSON: Same. Change "24 July '24" to "29 July '23", please. Page 18, answer to 36(b), beginning, "From recollection". Now you say there, "At 1000 hours in the morning". What should that be?

25 BRIG THOMPSON: That should be "1300 hours in the afternoon".

COL THOMPSON: So if you can change "1000 hours" to "1300 hours the afternoon".

30 BRIG THOMPSON: Sorry, which page is that again?

COL THOMPSON: This is page 18, answer 36(b). And I take it in that line also, "24 July '23" should be "29 July '23"?

35 BRIG THOMPSON: Correct.

COL THOMPSON: All good, sir.

BRIG THOMPSON: Yes.

40 COL THOMPSON: Page 19, answer - - -

MS McMURDO: So there are two 29 Julys in that paragraph?

45 BRIG THOMPSON: Two, yes. And I amended both.

MS McMURDO: Indeed.

5 COL THOMPSON: I beg your pardon, there is two. The fifth line should be “29 July ‘23”. Page 19, answer to question 38, beginning, “I was not involved”. Right at the end of that paragraph.

BRIG THOMPSON: Same.

10 COL THOMPSON: I take it “24 July ‘23” should be “29 July ‘23”. And, lastly, page 21, answer to question 47(a) in the first line, “DFSF” should be “DFSB” – Delta, Foxtrot, Sierra, Bravo.

BRIG THOMPSON: Correct.

15 COL THOMPSON: Do you agree with that, sir? As an aside, ma’am, I take responsibility for those typographical errors; entirely due to my poor quality assurance checking. And next - - -

20 MS McMURDO: Well, you made up for it, anyway. You found them all, so your quality assurance wasn’t too bad after all, COL Thompson.

COL THOMPSON: I make mistakes – thank you, ma’am.

25 Now, I just want to turn to some “Official: Sensitive” and “Protected” documents and you’re adding these to your statement. Paragraph 20(a), if you could turn to that?

BRIG THOMPSON: 20(a) on?

30 COL THOMPSON: 20(a) on - - -

MS McMURDO: Page 11.

35 COL THOMPSON: Thank you, ma’am.

40 Page 11 and you wish to insert a new document 12 after 11, being the 16 Aviation Brigade Operations Order, OPORD, dated 15 September 2022. Perhaps if you can just write “16 Avn Bde OPORD, 15 September ‘22 with Annexures A, B and C”, in there as the 12th document, sir, and initial that.

45 If you go to paragraph 28(a), similarly, insert 28(a), number 18, the same document, 16 Aviation Brigade OPORD, 15 September 22, please, with Annexures A, B and C. My friends on the left, I see them scribbling. This

was the subject of an email from Counsel Assisting, 15 November 2024 at 1805 hours.

5 Similarly, sir, for the record, paragraph 23(a), back on page 12, add in there, “Commander, 16 Brigade”. I’ll call it the BWB, Battle Worthiness Board, presentation dated 21 July 2023.

MS McMURDO: Sorry, are we adding in, what, a number 17 or - - -

10 COL THOMPSON: Yes. At 23(a), I think you’ll find there’s 16 documents there.

MS McMURDO: Yes.

15 COL THOMPSON: So the new 17 - - -

MS McMURDO: Yes.

20 COL THOMPSON: Is the Commander, 16 Brigade, 16X – it’s a long list. I’ll just put, “BWB” – Battle Worthiness Board – “presentation of 21 July 2023”. And in Counsel Assisting’s email of 15 November 2024, the relevance of that document is in 18(k) on page 9 of your statement, sir. This is almost at the end.

25 If you turn to paragraph 46(b), sir, towards the end of your statement on page 20, you said at 46(b) that you’d not been given that interim findings report. So that’s no longer the case?

30 BRIG THOMPSON: No. Recently, I was provided the draft inquiry document, sorry, the draft AIT document.

COL THOMPSON: So that’s the DFSB - - -

35 BRIG THOMPSON: DFSB investigation.

COL THOMPSON: - - - report. You’ve been given the written document. And I believe you’ve been given that document in the course of the DFSB Inquiry.

40 BRIG THOMPSON: Investigation, that’s correct.

COL THOMPSON: Yes.

45 MS McMURDO: So perhaps if you just remove “not”?

COL THOMPSON: So perhaps just strike out “not” in 46(b), and initial that, sir. Now, subject to those changes and comments, do you adopt your statement of 4 November 2024, or affirm it as true and correct?

5 BRIG THOMPSON: I do.

COL THOMPSON: Thank you, ma’am.

MS McMURDO: So we’ll tender that?

10

COL THOMPSON: Tender that, please.

MS McMURDO: The statement and annexures – how many annexures are there altogether, do we know? Maybe too many. Well, we’ll just say a statement and annexures will be Exhibit 100.

15

**#EXHIBIT 100 - STATEMENT OF BRIG THOMPSON
AND ANNEXURES**

20

COL THOMPSON: Thank you, ma’am.

COL STREIT: Sorry, Ms McMurdo - - -

25

COL THOMPSON: Just go back, sir, if you wouldn’t mind? At 46(b), with your correction, “I have been given access by the DFSB”, it’s not by the IGADF Inquiry?

30

BRIG THOMPSON: No, the DFSB.

COL THOMPSON: So if you can just make that change as well. I’m sorry, ma’am, that was Exhibit 100 for the whole bundle?

35

MS McMURDO: Exhibit 100, yes. The statement and annexures, Exhibit 100.

COL THOMPSON: If the Inquiry pleases.

40

MS McMURDO: Yes, COL Streit.

<CROSS-EXAMINATION BY COL STREIT

COL STREIT: Thank you, Ms McMurdo.

5

Sir, if it is easier, I note there's quite a large volume of material you have before you with a lot of annexures, the vast majority of which are at the classification level that can't be heard in a public hearing: "Official: Sensitive" information, and any "Protected" information. So if it assists, as we move through your evidence, if you wanted to take out what is actually your statement and then put the folder to one side, it might be easier for you as we refer to parts of your statement.

10

BRIG THOMPSON: Might be easier said than done.

15

COL STREIT: Thank you, sir. Sir, what I propose to do is, whilst you have your statement in front of you, is to move through your statement chronologically. I'll identify parts of your statement, I may even read out parts of your statement, and I'll then ask you some questions when I do that.

20

Can I first begin, however, by just confirming you've received some documents from the Inquiry? So, first, did you receive a section 23 Notice requiring you to answer questions in the form of a statement, and appear here today to give evidence?

25

BRIG THOMPSON: Yes, I did.

COL STREIT: And, sir, did you also receive with that 23 Notice, a copy of a document which was a Frequently Asked Questions Guide for Witnesses in IGADF Inquiries?

30

BRIG THOMPSON: Yes, I did.

COL STREIT: And a Privacy Notice?

35

BRIG THOMPSON: Yes.

COL STREIT: Did you also receive a copy of my Instrument of Appointment?

40

BRIG THOMPSON: That's correct, yes.

COL STREIT: And, sir, did you also receive a copy of the Inquiry's – an extract of the Inquiry's Directions?

45

BRIG THOMPSON: Yes, I did.

5 COL STREIT: Thank you. Sir, no doubt you will remain cognisant of it, but for the sake of completeness, can I just ask you to be cognisant of your security obligations? If, in response to a question that I may ask, or anyone else may ask of you, if that response would require you to move to a classification above “Official”, could you indicate that to me or the person asking the question, and a decision will be made whether there is a requirement to go into a private hearing at that stage? I don’t anticipate, 10 from my questioning, in any event, that we’ll need to do that. So, sir, are you comfortable where we’re going?

BRIG THOMPSON: I understand that.

15 COL STREIT: Thank you. Sir, can I just begin with some background information concerning your military service? You’ve served – and I’m looking at paragraph 3(a) of your statement – you’ve served in the Australian Army for 37 years; is that right?

20 BRIG THOMPSON: That’s correct.

COL STREIT: And that initially started in January 1987. You were posted to the Army Apprentice School at Latchford Barracks in Victoria?

25 BRIG THOMPSON: That’s correct.

COL STREIT: So you have had a career spanning where you joined and were trained as an apprentice fitter and turner?

30 BRIG THOMPSON: Correct.

COL STREIT: And you subsequently served as a craftsman in the Royal Australian Electrical and Mechanical Engineers?

35 BRIG THOMPSON: Correct.

COL STREIT: You later, in 1993, were selected to attend officer training at the Royal Military College Duntroon?

40 BRIG THOMPSON: Correct.

COL STREIT: As a consequence, you subsequently transitioned and commissioned from being a soldier to a commissioned officer in the Australian Regular Army?

45

BRIG THOMPSON: That is correct.

5 COL STREIT: Shortly following your completion of your officer training, you were selected to undertake pilot training in Tamworth, Canberra and Oakey?

BRIG THOMPSON: Correct.

10 COL STREIT: And in 1996, you were posted to the 5th Aviation Regiment as a Black Hawk pilot?

BRIG THOMPSON: Correct.

15 COL STREIT: You served in the 5th Aviation Regiment as a line pilot, Troop Commander, Squadron Operations Officer, and Squadron Second in Command; is that correct?

BRIG THOMPSON: That's correct.

20 COL STREIT: Sir, you've also served on operations in Papua New Guinea and East Timor?

BRIG THOMPSON: And Afghanistan.

25 COL STREIT: Sorry?

BRIG THOMPSON: And Afghanistan.

30 COL STREIT: Yes, I was coming to that. But you've also – so you've served on operations in Papua New Guinea, East Timor and in Afghanistan?

BRIG THOMPSON: Correct.

35 COL STREIT: Now, in 2001 you were posted to the School of Army Aviation as a Corps Tactics Instructor, facilitating and instructing on the Regimental Officers' Intermediate Course?

BRIG THOMPSON: Correct.

40 COL STREIT: Sir, just pausing there. What, in broad compass, is the purpose of the Regimental Officer Intermediate Course?

45 BRIG THOMPSON: The Regimental Officer Intermediate Course – and I don't know the exact details of what the Training Management Plan is now – but in broad details, it is to take young officers from their line pilot

to becoming Troop Commanders, and their responsibilities as Authorising Officers, and their responsibilities as Troop Commanders.

5 COL STREIT: In your experience, on occasion do persons attending that course, are they already fulfilling some of those functions as a Troop Commander?

BRIG THOMPSON: On occasion, yes.

10 COL STREIT: When you were instructing on the course, how long was that course, if you can recall?

BRIG THOMPSON: I can't recall.

15 COL STREIT: Now, in 2012, you transitioned to the Australian Army Reserve and commenced employment with a civilian organisation as an offshore pilot; is that correct?

BRIG THOMPSON: That's correct.

20 COL STREIT: And in 2005 you transferred back to full-time service in the Regular Army, and completed the Qualified Flying Instructors' Course; is that right?

25 BRIG THOMPSON: Correct.

COL STREIT: Was that QFI Instructors' Course on the old Black Hawk?

BRIG THOMPSON: No, it was on the Kiowa.

30 COL STREIT: On the Kiowa, thank you. Sorry, and following your Instructors' Course, you were posted to the Helicopter School Oakey, as the Second in Command, and an ab initio instructor?

35 BRIG THOMPSON: Correct.

COL STREIT: So an ab initio Instructor is an instructor that is instructing new pilots on how to fly a particular aircraft?

40 BRIG THOMPSON: How to fly a helicopter.

COL STREIT: A helicopter. Those pilots arrive, do they, at the Helicopter School in Oakey having already stepped through fixed-wing training as a pilot?

45

BRIG THOMPSON: That is correct, yes.

COL STREIT: In 2008, you were posted to 162 Reconnaissance Squadron in Darwin as the Officer Commanding; correct?

5

BRIG THOMPSON: Correct.

COL STREIT: The 162 Squadron, at the time, operated the Kiowa helicopter?

10

BRIG THOMPSON: Correct.

COL STREIT: And the function of 162 at that time was the operational Kiowa reconnaissance helicopter capability?

15

BRIG THOMPSON: Correct.

COL STREIT: You managed, during that time, or in and around that time, to qualify on the EC135?

20

BRIG THOMPSON: Yes.

COL STREIT: What is an EC135?

25

BRIG THOMPSON: EC135 is a Eurocopter helicopter. It's a twin-engine helicopter, currently used at Nowra as our training helicopter. It was provided into 1 Avn, or 1st Aviation Regiment, at the time for additional rate of vector or additional hours for the pilots in 1st Aviation Regiment.

30

COL STREIT: In terms of tertiary qualifications, looking at 3(i), in 2010 you studied a Masters of Strategic Studies at the Australian Command and Staff College; is that right?

35

BRIG THOMPSON: Correct.

COL STREIT: And in 2011 you deployed to Afghanistan as the Chief of Operations and Plans for an American brigade that you identify in your statement?

40

BRIG THOMPSON: Correct.

COL STREIT: Following the deployment, you accompanied your spouse on a posting to Canada?

45

BRIG THOMPSON: Correct.

COL STREIT: In July of 2012, you were posted as the Aviation Staff Officer to Head Military Strategic Commitments in Canberra.

5

BRIG THOMPSON: Correct.

COL STREIT: You returned to flying in 2013, and you qualified on the reconnaissance helicopter, the Tiger?

10

BRIG THOMPSON: Correct.

COL STREIT: In 2014, you took command of the 1st Aviation Regiment, which is in Darwin?

15

BRIG THOMPSON: Correct.

COL STREIT: The Regiment operates Tiger helicopters?

20

BRIG THOMPSON: Correct.

COL STREIT: At that time, did it operate any other helicopters, sir?

25

BRIG THOMPSON: No.

COL STREIT: During your tenure as the Commander, the second ARH Tiger Squadron was raised, and you commanded the Aviation Battlegroup on Exercise HAMEL in 2015?

30

BRIG THOMPSON: Correct.

COL STREIT: Exercise HAMEL was conducted where?

35

BRIG THOMPSON: Shoalwater Bay Training Area.

COL STREIT: In 2016, you were posted as a Career Adviser for Lieutenant Colonels. Is that Lieutenant Colonels across all corps in the Army?

40

BRIG THOMPSON: All general service Lieutenant Colonels across Army.

COL STREIT: Thank you. In 2021, you were posted as the Defence Attaché in Iraq; is that right?

45

BRIG THOMPSON: Correct.

COL STREIT: And in that role, you provided Defence policy advice to the Ambassador and Embassy staff?

5

BRIG THOMPSON: That's correct.

COL STREIT: You are currently, sir, serving as the G3 Operations Officer for Army, and the Joint Force Land Component Commander for Joint Operations Command?

10

BRIG THOMPSON: That is correct.

COL STREIT: And in these roles, you are responsible both to the Chief of Army and the Commander of Joint Operations Command?

15

BRIG THOMPSON: That's correct.

COL STREIT: And you set out, at paragraph 5(a) and (b), what those roles are. Just turning to your time as the Commander of 16 Aviation Brigade, which is addressed on page 3 of your statement. You posted as the Commander of 16 Aviation Brigade in January 2022, in Brisbane?

20

BRIG THOMPSON: Correct.

25

COL STREIT: So you were the Commander of the Brigade throughout 2022, and to the end of 2023; is that right?

BRIG THOMPSON: That is correct.

30

COL STREIT: And you handed over, did you, at the end of 2023, to BRIG Fern Thompson?

BRIG THOMPSON: That is correct.

35

COL STREIT: You have set out at paragraph 6(a) through to (d) your responsibilities to Commander Aviation Command in relation to your command of 16 Aviation Brigade; is that correct?

BRIG THOMPSON: That is correct.

40

COL STREIT: And in short compass, as the Commander of 16 Aviation Brigade, your direct Chain of Command, was it to Commander of the Aviation - - -

45

BRIG THOMPSON: That is correct.

COL STREIT: To MAJGEN Jobson, at the time?

5 BRIG THOMPSON: Correct.

COL STREIT: Now, in terms of whether you've flown with CAPT Lyon, LT Nugent, WO2 Laycock or CPL Naggs, you have not flown with CAPT Lyon, LT Nugent, WO2 Laycock or CPL Naggs. Is that correct?

10

BRIG THOMPSON: That is correct.

COL STREIT: Can I turn, sir, to matters that you set out in relation to the Regimental Officers' Intermediate Course in 2022? You've given some evidence earlier about, in broad compass, the purpose of the Regimental Officers' Intermediate Course, at the time when you were an instructor. In terms of casting your mind back to the course in 2022, at a time when you were the Commander of the Brigade, had the purposes of the course changed in any way, to your knowledge?

15

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BRIG THOMPSON: Not to my knowledge.

COL STREIT: Can you just explain, in broad compass, what the purpose was for you appearing to give an address to course attendees in the course in 2022?

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BRIG THOMPSON: My role was to open the course, set the strategic environment for context for the members on the course, and their importance in preparing our soldiers and our officers for war; and the importance they would hold as Authorising Officers for the safety of our – within our safety management system.

30

COL STREIT: Now, the course purposes that you mentioned earlier incorporated – a purpose was to train or provide training for pilots to take on the responsibility of being Troop Commanders is one role; correct?

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BRIG THOMPSON: Correct.

COL STREIT: And also to provide training for pilots to take on the responsibilities of being an Authorising Officer?

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BRIG THOMPSON: Correct.

COL STREIT: CAPT Lyon, to your knowledge, was on that course?

45

BRIG THOMPSON: From recollection, yes.

COL STREIT: Were you aware at the time as to whether or not he was already performing a function as a Troop Commander?

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BRIG THOMPSON: No, I was not aware.

COL STREIT: Did you become aware during the course, at any time, that in fact he was a Troop Commander?

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BRIG THOMPSON: No, he was not.

COL STREIT: Now, you were asked to – and in your statement you have addressed it – you were asked to list the names of any pilots you recall on the Regimental Officers' Intermediate Course 2022. You say you recall CAPT Lyon, but you don't recall the names of the other members on the course.

15

BRIG THOMPSON: No, and I only recalled CAPT Lyon subsequently, when I've associated the question with CAPT Lyon.

20

COL STREIT: Now, when you've associated the question, that is dealt with later in your statement; we'll come to it. But in short compass, that concerns a matter that CAPT Ryan raised with you during your course presentation, and which you responded to. Is that right?

25

BRIG THOMPSON: Sorry, CAPT Lyon.

COL STREIT: CAPT Lyon.

30

BRIG THOMPSON: That is correct.

COL STREIT: Yes, but at - - -

35

BRIG THOMPSON: Sorry, you said CAPT Ryan. I just wanted - - -

COL STREIT: That's my getting tongue-tied. Thank you, sir. So is it your recollection – well, you recall CAPT Lyon raising something to you, because your memory was prompted by the Inquiry in relation to that matter?

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BRIG THOMPSON: That is correct.

COL STREIT: Is it fair to say, therefore, that your memory in relation to what CAPT Lyon said to you may be affected by the passage of time in terms of any detail?

5 BRIG THOMPSON: That's a fair assumption, yes.

COL STREIT: And let me know if I have this wrong, sir, but is what you're recalling or remembering of what CAPT Lyon said to you, is more about the effect of what he was saying, as opposed to the specifics of what
10 he was saying?

BRIG THOMPSON: Certainly, it was around the topics of what he was discussing.

15 COL STREIT: Sure.

BRIG THOMPSON: And I recall a separate occasion where I spoke to CAPT Lyon on the same topics, and they were reinforced by the two engagements I had with him.

20 COL STREIT: Now, just in terms of some background information concerning the Regimental Officers' Intermediate Course of 2022, at paragraph 10 you were asked whether you presented on any other sessions on the course, and you did not?

25 BRIG THOMPSON: I did not.

COL STREIT: So your involvement in the course, was it, to your recollection, opening the course? That's correct?

30 BRIG THOMPSON: That's correct.

COL STREIT: And is that your recollection during the opening, is that your recollection as to when CAPT Lyon raised the matters that you've
35 dealt with later in your statement?

BRIG THOMPSON: It was during the questions after my presentation.

40 COL STREIT: Sure. I take it the course in 2022 was that the first course you have opened as the Brigade Commander?

BRIG THOMPSON: That's correct.

COL STREIT: In those circumstances, and based on your experience, was it standard practice that once the Commander had opened that course, it would be, what, a short question and answer forum?

5 BRIG THOMPSON: That's how I ran the opening address, yes.

COL STREIT: So you gave your opening address. Did you then invite questions from the assembled trainees?

10 BRIG THOMPSON: That's correct. That is correct.

COL STREIT: And then, as a result of that invitation, CAPT Lyon raised something that you recall?

15 BRIG THOMPSON: That's correct.

COL STREIT: Do you recall anyone else raising something, if you cast your mind back?

20 BRIG THOMPSON: There was a question about Ukraine, and the tactics being used in Ukraine, but I won't go into those here.

COL STREIT: Sure.

25 BRIG THOMPSON: They're the two questions I remember being raised.

COL STREIT: You don't recall any of the other pilots that were present. Can you recall any other staff that were present at that time, when you were giving your presentation?

30

BRIG THOMPSON: I recall other staff there, but I don't recall who they were at the time.

35 COL STREIT: So you recall other staff, but you're not sure who they were. You can't remember their – put a face to a name?

BRIG THOMPSON: Correct.

40 MS McMURDO: Do you recall if other people present, staff or Captains, generally supported Danniell Lyon's comments?

BRIG THOMPSON: I have no recollection of anyone else supporting, no, ma'am.

MS McMURDO: You didn't have the apprehension, the feeling that there was general support for his comments, amongst the group?

5 BRIG THOMPSON: I didn't get that from the response, ma'am, not that I can remember.

MS McMURDO: Okay, thank you.

10 COL STREIT: At paragraph 11(a), sir, I'll take you to that in your statement. You say this:

15 *After my presentation, CAPT Lyon made a statement, the essence of which pertained to the amount of administration required to look after his soldiers and officers. Specifically, he raised the issue regarding the requirement on those in leadership positions.*

At (b) you say:

20 *I also recall he was concerned about the governance requirements around flying. His message was that Troop Commanders were required to undertake too much governance and administration, at the expense of flying.*

25 Is that the extent of your recollection of the themes that CAPT Lyon - - -

BRIG THOMPSON: Yes, on both occasions when I spoke to him, they were the – my recollections are the two themes: not enough flying; too much administration.

30 COL STREIT: Sure. And at 12(c) you say you remember this topic:

35 *Because this was the second time CAPT Lyon had raised it with me. He first raised the issue with me when I visited 173 Squadron on an exercise in Newcastle in May 2022.*

BRIG THOMPSON: That's correct.

COL STREIT:

40 *Both times the point of CAPT Lyon's complaint was that he was required to do too much administration and was not getting enough flying hours that he wanted. I did not take away from these interactions that fatigue was an issue.*

45 BRIG THOMPSON: That's correct.

COL STREIT: That's the extent of your recollection of the themes of the matters he raised.

5 BRIG THOMPSON: Correct.

COL STREIT: Now, there's been some evidence before the Inquiry that during the exchange that you had with CAPT Lyon, that CAPT Lyon shared concerns about the ability of Army Aviation pilots to appropriately develop and maintain safe and adequate levels of airborne confidence, proficiency and competency in their core primary and safety-critical roles as Aircraft Captains, and then aircrew in general, against what we could collectively agree as a course were the significant imposition of highly demanding secondary positions and appointments, appointments that were increasingly being fulfilled by Squadron Troop pilots. Do you recall CAPT Lyon sharing his concerns about the ability of Army Aviation pilots to appropriately develop and maintain safe and adequate levels of airborne confidence, proficiency and competency?

20 BRIG THOMPSON: I wouldn't characterise it as those were the words that were used, but in my recollection, doing too much administration and governance and not getting enough flying hours could be characterised that way.

25 COL STREIT: Some evidence before the Inquiry is that CAPT Lyon specifically said to you and other officers that were present words to the effect, "I no longer have time to remain proficient or confident within the cockpit because of the imposts of my secondary appointment". Do you recall him raising anything like that?

30 BRIG THOMPSON: Only in how I've characterised it.

COL STREIT: Sure. And further evidence before the Inquiry is that CAPT Lyon also said to the effect to you that he did not feel empowered to prioritise his primary role, a role that ultimately can kill him. Do you recall anything like that?

BRIG THOMPSON: No, I do not.

40 MS McMURDO: The way you've given it in your statement, it sounds very much that it was CAPT Lyon complaining about his own personal position. Did you understand that he was really making a complaint beyond his own personal position, that this applied to others as well?

45 BRIG THOMPSON: I did get the sense he was making it beyond himself.

MS McMURDO: Thank you.

5 COL STREIT: Sir, can I just explore with you, to the extent your memory recalls, the first time CAPT Lyon spoke to you about what you set out in your statement was in May 2022; is that right?

BRIG THOMPSON: That's correct.

10 COL STREIT: And you say that that was when you visited 173 Squadron on Exercise NEWCASTLE in May 2022.

BRIG THOMPSON: In Newcastle, that's correct.

15 COL STREIT: Yes. So when CAPT Lyon is raising these things to you, can you recall the context? For example, was it in the course of a briefing; did he approach you - - -

BRIG THOMPSON: Absolutely, yes, sir, it was at a barbecue.

20 COL STREIT: Yes.

BRIG THOMPSON: And it was, you know, a social engagement, you know, before they went flying that night.

25 COL STREIT: And so were other persons present when he spoke to you, that you can recall?

BRIG THOMPSON: I can't recall anyone else being present at the time.

30 COL STREIT: So to be clear, is your recollection that other persons were present and you just don't recall who?

BRIG THOMPSON: Correct.

35 COL STREIT: As opposed to your recollection being it was just a one-on-one with - - -

40 BRIG THOMPSON: It wasn't just a one-on-one. There were other people.

COL STREIT: There were other people there. And is it your recollection, although you can't recall who was there, that those other people were present and hearing the exchange between you and CAPT Lyon?

45

BRIG THOMPSON: Yes.

COL STREIT: So do you recall what you said, if you can, to CAPT Lyon in May 2022, when he raised these things to you?

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BRIG THOMPSON: I cannot recall what I said to him at that stage, but it was amongst other discussions also around – at the time. The other pilots involved were also talking, and CAPT Lyon as well. They were saying they wanted to get more opportunity to do trips away, like the one they had in Newcastle.

10

COL STREIT: Did you take any actions in your command function in relation to that conversation with CAPT Lyon about speaking with his Chain of Command about what CAP Lyon had raised with you?

15

BRIG THOMPSON: Sir, which occasion?

COL STREIT: So in May 2022, at the barbecue, CAPT Lyon raises with you for the first time matters concerning the amount of administration required to look after his soldiers and officers and the requirement in those leadership positions, and that he was concerned about the government requirements around flying, and that Troop Commanders were required to undertake too much governance and administration at the expense of flying.

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BRIG THOMPSON: Mm-hm.

25

COL STREIT: Is that your recollection of the effect of what he raised in May 2022?

BRIG THOMPSON: Words to that effect, correct.

30

COL STREIT: So just having received that information from CAPT Lyon, I'm just wanting to explore what you did with that information, if anything.

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BRIG THOMPSON: So that was a known issue. That was consistently spoken by myself and the Commander, and also with the COs and myself. The two issues; one was around governance, governance overheads. I was asking the COs to find opportunities, as I said in my statement, opportunities to minimise governance, where possible, within non-safety roles to make sure that we were providing our staff time. And then the other area, around flying administration and governance, there was already a program in place, which was the SI mod, which was taking place at the time, which hence was going to go some way to assisting.

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The other point around flying, not enough flying hours, it was well known and recognised that the MRH-90 system was underperforming, and that was being rectified through the Government's decision to buy the Black Hawk.

5 COL STREIT: Now, sir, fast-forward now, from May '22 to August 2022, when CAPT Lyon, to your recollection, raises in effect the same matters a second time. But this time in, can I suggest, a formal setting of a course, where you were giving a presentation. Correct?

10 BRIG THOMPSON: Correct.

COL STREIT: Now, in relation to your responses to CAPT Lyon that you've set out in your statement, you say at paragraph 14 that – your answer is – you were asked to describe how you reacted to any concerns that
15 CAPT Lyon raised. You say:

I can't recall my exact response. From the best of my recollection, the underlying themes were I had consulted with Commanding Officers to find ways within policy to reduce governance overheads of non-safety-related areas. I recall asking the course members to help their Commanding Officers to identify areas that we could reduce governance overheads.

20

You say you –

25

noted the need for Commanders to be very deliberate in how they constructed their orders and "Official" correspondence, specifically the requirement to be efficient with their time, and that brevity is important.

30

You recall using an anecdote from when you were the OC of 162 Squadron that –

as Commanders and staff officers, they have a responsibility to the officers and soldiers in units to train them and assist them in the management of their careers.

35

So just in relation to those matters – sorry, sir, is that correct, what I've read out?

40

BRIG THOMPSON: That's correct, yes.

COL STREIT: Just in relation to those matters, is the Inquiry to understand that your recollection of your response to CAPT Lyon raising matters you've given evidence about for the second time was asking
45

CAPT Lyon and other course members to help the COs identify areas where they could produce governance overheads?

5 BRIG THOMPSON: Correct.

COL STREIT: Correct. And reminding them, in effect, that Commanders need to be deliberate in how they construct their orders and “Official” correspondence, and that they have a responsibility to the officers and soldiers in the units to train them – sorry, that they have a responsibility to the officers and soldiers in units to train them and assist them in the management of their careers. Is that correct?

BRIG THOMPSON: Correct.

15 COL STREIT: So is the Inquiry to understand that what you’re telling CAPT Lyon is in effect, “You need to speak with your Commanding Officer to identify areas to reduce the governance overheads on you”, is point one.

20 BRIG THOMPSON: What I would say is that all that I had set in train with the Commanding Officers was a program to, where possible, reduce governance overheads in non-safety areas. And if any assistance they could provide their COs in identifying areas where I, as the Commander, could take a risk around those governance areas to reduce their workload. I was empowering them to assist their COs.

COL STREIT: And were you also reminding them that, and CAPT Lyon, that he had a responsibility to the officers and soldiers in his unit at 6 Avn to train them and assist in the management of their careers?

30 BRIG THOMPSON: So, yes, reinforcing what I saw as the responsibility of the course, is that as Troop Commanders they have responsibilities, now that they are Troop Commanders, for the career development and training of their soldiers and officers. But where possible, as I stated, that they should be deliberate and economical in how they manage the orders that they are writing and also the way they go about their business. Not repeating things that are already inside of OIP – so operations, instructions, and publications – which is the anecdote I gave them about when I was OC 162.

40 COL STREIT: So, to the extent you can recall, did you do anything else in relation to the matters that CAPT Lyon had raised to you? So, in other words, did you speak to his Commanding Officer?

45 BRIG THOMPSON: Continually spoke to all the Commanding Officers

within the Brigade about ways that we could – and through the SI mod – to continue to be more efficient in the way we did business.

5 AVM HARLAND: Just a question, if I may?

COL STREIT: Sure, yes.

10 AVM HARLAND: Where do these governance requirements come from and what influence does an individual like a Troop Commander or the Command level have to change those requirements?

15 BRIG THOMPSON: So where we look at governance across Defence, there's governance for everything from how we account for our stores to financial delegations, to training delegations, through to flying delegations. I wasn't speaking about flying delegations; really about within all governance there is a decision-maker that you can go to the decision-maker to ask for a reduction in some of the overheads for governance. And that's what I was speaking about.

20 If they can identify areas where they saw efficiencies, that I, as the Commander, could go back to the delegate and ask for the delegate to make approvals for us to reduce the governance overhead. And the example I would use would be stocktaking of weapons. If they weren't using all the weapons in the Brigade – sorry, in the Regiment, they can quarantine weapons inside the Regiment, so we could reduce the stocktaking overheads.

25 They're some of the things that we could do to reduce the governance overhead.

30 AVM HARLAND: And was there a conversation about using non-aviation personnel to manage some of those governance overheads?

35 BRIG THOMPSON: There wasn't a conversation at the time about that, no.

AVM HARLAND: Okay. Thank you.

40 MS McMURDO: And you mentioned an anecdote you told them. What was the anecdote?

45 BRIG THOMPSON: Yes, ma'am. When I was the Squadron OC, I deployed my Squadron around on an exercise using a very brief operations order. It was on two pages, with the appropriate annexes behind it, but giving the anecdote to them that they can do activities with making sure

they had the bare minimum of requirements that the CO at the time needed to know for the approval.

5 What I was seeing coming out of Troop Commanders was 30-page operations orders for which was very simple tasks.

MS McMURDO: Yes, but that's the old story, isn't it: if I had more time, I could have done something shorter? Yes.

10 BRIG THOMPSON: Yes, ma'am.

MS McMURDO: Thank you.

15 COL STREIT: Sir, do you – I'm not suggesting this happened, I'm just exploring your memory – do you recall having any subsequent discussions with CAPT Lyon post the Regimental Officers' Intermediate Course in 2022 about the matters that he had raised to you on two occasions?

20 BRIG THOMPSON: No, I do not.

COL STREIT: Do you have a recollection as to whether or not you specifically – have a recollection as to whether or not you raised CAPT Lyon's matters to his then Commanding Officer by saying that, "CAPT Lyon has reported these things to me", or anything along those lines?

25 BRIG THOMPSON: Not specifically to the CO. But I did raise the issue with all the COs at the, I think the Commanders' Update Brief the following week, about some of the comments that were raised at the Regimental Officers' Intermediate Course.

30 COL STREIT: Sir, just finishing off this particular area of your statement. You say at paragraph 16 you were asked to describe any follow-up actions that you were aware of that yourself or any other senior Aviation Command staff that were present during the session took in response to any of the concerns CAPT Lyon had raised. You say that:

35
40 *Administration and governance was a regular topic of discussion with Commanding Officers. I'm not aware of any action taken by the staff from the course.*

BRIG THOMPSON: That's correct.

COL STREIT: And at the time CAPT Lyon raised these matters to you on the Regimental Officers' Intermediate Course 2022, you don't recall whether other trainees raised similar matters with you?

5 BRIG THOMPSON: No.

COL STREIT: At paragraph 17, on page 6, sir, if I could take you to that, you were asked:

10 *If you did not take up any follow-up actions in response to CAPT Lyon's concerns, explain why not.*

You say:

15 *From numerous direct engagement with 6 Aviation Regiment through visits and Chain of Command engagements, the general narrative from the Regiment members was they sought every opportunity to deploy and train.*

20 *For context, following the travel restrictions from COVID '19, the Regiment had not deployed away from Sydney through the 20-21. The members, in general, wished to get back into training away from their base in Sydney.*

25 Is that correct?

BRIG THOMPSON: That is correct.

30 MS McMURDO: So, sorry, I don't really understand that as a responsive answer to the question. Could you explain that? "If you didn't take any follow-up actions in response to – explain why not." So you agree you didn't take any follow-up actions?

35 BRIG THOMPSON: Only the follow-up actions that were already in train through SI mod to continue to improve the Aviation system, (indistinct) safety culture and continuing - - -

MS McMURDO: The system that was already in place, yes.

40 BRIG THOMPSON: But from my general recollection from the Regiment in the main, from numerous engagements with them, they were very keen to get back into flying operations and CAPT Lyon's comments were not the general narrative I was getting from the Regiment.

5 MS McMURDO: So you thought – I don't mean to put words into your mouth, but is your answer then that you thought that the dissatisfaction from not being able to get out and about because of COVID – get back to things, would settle down as everyone got back to a more normal post-COVID regime? Is that what you're saying?

10 BRIG THOMPSON: No, ma'am. What I'm saying is the comments that CAPT Lyon made about administration and governance were not the overall feeling of the Regiment I got at the time. They were a narrative that he had, but the general feeling I had from the Regiment was they wanted to get back into flying operations away from the barracks, and training for their principal role.

15 MS McMURDO: Yes, all right.

AVM HARLAND: Could it be possible the two things could exist at the same time - - -

20 BRIG THOMPSON: Absolutely.

AVM HARLAND: - - - where the team want to get back to their operational training and deployment, but they can also be still suffering from the governance and administrative overheads creating additional workload?

25 BRIG THOMPSON: That's exactly how I saw it.

30 AVM HARLAND: So did you consider the issue of the administrative and governance overhead to continue to be a live issue after you'd spoken to Danniell Lyon on the ROIC?

BRIG THOMPSON: Yes, it was. And it's probably still a live issue today.

35 AVM HARLAND: And the primary response that you had was the SI mod, which was more in the operational domain?

40 BRIG THOMPSON: That was part of it, but it was also reducing governance overheads with the COs and minimising workload, and we'd probably go into more about producing the demand on the Regiment as well.

45 AVM HARLAND: Can you describe some specific actions that had taken place and perhaps the impact of those actions in reducing governance, and whether they were effective or not?

BRIG THOMPSON: To that date, I had not had any responses from the COs about how to reduce governance.

5 AVM HARLAND: Okay, thank you.

COL STREIT: Just in relation, sir, to what the Inquiry Chair and Deputy Chair have just asked you, I understood your evidence earlier – and if I have this wrong, please correct me, but I understood your evidence earlier was you had the sense that when CAPT Lyon was raising the matters you’ve given evidence about in the 2022 Regimental Officers’ Course, that he was speaking for other people on the course?

BRIG THOMPSON: So you have that sense?

15 COL STREIT: No. Did you have that sense?

BRIG THOMPSON: Yes. More broadly, he was speaking on behalf of not just the people on the course; I think he was speaking for everyone.

20 COL STREIT: The concern he was raising, your sense was, when he raised it, it wasn’t just specific to him; he was raising it more broadly in relation to his peers, for example?

25 BRIG THOMPSON: Yes, but my conversation with his peers, through subsequent visits, I wasn’t getting that sense though.

COL STREIT: So you weren’t getting that sense from your conversation with his peers during your visits to the unit?

30 BRIG THOMPSON: Yes.

COL STREIT: But on the course, your sense was he was speaking – was your sense that he was speaking on behalf of the people who were in the course?

BRIG THOMPSON: Yes, you could say he was speaking on behalf – he felt he was speaking on behalf of the members on the course, yes.

40 COL STREIT: Sure. You don’t recall anyone saying anything to the contrary of what CAPT Lyon was submitting to you?

BRIG THOMPSON: No.

45 COL STREIT: Now, can I turn to page 6, and commencing at

paragraph 18, if I may?

5 AVM HARLAND: Actually, just before we do that, could I just ask one question? At the Brigade level, did you feel empowered to effectively just say “No” to governance and administrative overheads? So clean it out of the way on behalf of the Regiment and the Squadrons?

10 BRIG THOMPSON: I would have to go back through the Delegate for that governance to get approval.

AVM HARLAND: Okay, yes.

15 BRIG THOMPSON: But I did feel empowered that I could ask those questions.

AVM HARLAND: And did you?

20 BRIG THOMPSON: I had no responses at that stage from the COs about areas that they saw that they wanted to get after to produce reduction of governance.

AVM HARLAND: So you were waiting for their feedback, so you could target your conversations with the Delegate.

25 BRIG THOMPSON: Correct.

AVM HARLAND: Okay, thank you.

30 COL STREIT: Paragraph 18, sir, you deal with – you were asked to describe your responsibilities when you were the Commander of 16 Aviation Brigade in respect of – and there’s a number of subparagraphs, (a) through to (d). Do you see that?

35 BRIG THOMPSON: Yes.

40 COL STREIT: You set out your answers over the next few pages by reference to shared responsibilities falling into three categories: the Department of Defence; Commanders; and Operational staff at all levels, the aircrew members and the Brigade members who are the subject of Defence orders, instructions and publications. Is that right?

BRIG THOMPSON: That’s correct.

45 COL STREIT: I just wanted to ask you, the question had asked you just to describe your responsibilities as the Commander of 16 Aviation Brigade

in respect of the matters you were asked at (a) through to (d). Why did you think it was necessary, therefore, to set out what the CO 6 Aviation Regiment and aircrew responsibilities were in the unit as part of your response?

5

BRIG THOMPSON: Because I was the Brigade Commander. I was responsible for their compliance and governance, with the governance and the IIP.

10

COL STREIT: So you were seeking to explain to the Inquiry that your responsibilities were these things; that the unit CO's responsibilities, as a subset, were these things; and the aircrew's responsibilities, as an individual, were these things.

15

BRIG THOMPSON: Correct, but they were all under my command, and I was working to the Defence policy at the time.

COL STREIT: In relation to page 9, which is paragraph (n) you were asked – you say:

20

I had no official/unofficial reports of fatigue-related concerns during Exercise TALISMAN SABRE. If, hypothetically, I had notice of formal or informal reports of concern with respect to fatigue on TALISMAN SABRE –

25

and then you set out what you would do. My question is this: as the Commander of 16 Aviation Brigade at that time, when you talk about “notice of formal and informal reports”, what do you mean, firstly, by “formal” reporting?

30

BRIG THOMPSON: So formal reporting. And I can't speak to it because it's inside “Protected” documents.

COL STREIT: Sure.

35

BRIG THOMPSON: I had given Direction that there were certain areas that needed to be reported to me around fatigue. I just sort of can't go into those in more detail.

40

COL STREIT: Sure.

BRIG THOMPSON: So if those Commanders' critical information requirements reported back to me, then that would've triggered me to do the hypotheticals that I've set out.

45

COL STREIT: As the Commander of 16 Aviation Brigade, would you first of all have access to Sentinel reports?

BRIG THOMPSON: Yes.

5

COL STREIT: And is that something a staff member would bring to your attention, or is that an alert that would pop up on your system to look at a matter?

10 BRIG THOMPSON: That would either be the Commanding Officer who had raised it to me or a staff member.

COL STREIT: I see. Now, in relation to the orders, instructions and publications that you've set out in detail in answer to question 20:

15

List any Brigade-level orders, instructions or policies that are in place at 28 July 2023 that governed aircrew fatigue management –

and you do that – there is also a layer of governance that sits above the Brigade, isn't there, in relation to Aviation Command instructions?

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BRIG THOMPSON: SI Aviation Ops. Correct.

COL STREIT: Yes. And so your Brigade instructions are things that can't be inconsistent with a higher command's instruction on the same matter.

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BRIG THOMPSON: It can't be inconsistent, and I can't relax them.

COL STREIT: Sure. You can make them more restrictive though, can't you?

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BRIG THOMPSON: Correct.

COL STREIT: And the ability to – well, I withdraw that. In paragraph 21 you say –

35

Outline any orders and instructions or policy at 16 Brigade issued subsequent to 28 July 2023 with respect to fatigue management.

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You say:

There were no orders, instructions or policies at 16 Aviation Brigade issued subsequent to 28 July 2023 with respect to fatigue management.

45

Is that right?

5 BRIG THOMPSON: That's correct.

COL STREIT: There was, though, an Aviation Command instruction issued, wasn't there?

10 BRIG THOMPSON: That is correct.

COL STREIT: And that was at the end of December 2023. Do you recall?

15 BRIG THOMPSON: There were several directives released by Command at Avn Command. The one you're referring to was after my tenure.

COL STREIT: I see. Now, sir, can I take you to paragraph 25 of your statement where you were asked:

20 *Provide reasons, if any, why 16 Aviation Brigade did not fund any further sleep studies in 6 Aviation Regiment following a pilot sleep study conducted by members of 6 Aviation Regiment in 2022.*

25 So just in terms of some background questions, there was an approach, was there, by the Commanding Officer of 6 Aviation Regiment, for funding in relation to a sleep study that the Regiment wanted to conduct? Is that correct?

30 BRIG THOMPSON: There was a request to do a sleep study in the Regiment, which was going to be conducted in two phases. The first phase was to do a survey on an exercise; and the second, subsequent, was to fund some biometric tracking capability for the continuation of that sleep study.

35 COL STREIT: In terms of the first phase, was that something that the Commanding Officer had brought to your attention and requested your support to do; that is, phase 1?

BRIG THOMPSON: Correct.

40 COL STREIT: And you provided that support?

BRIG THOMPSON: Correct.

COL STREIT: Then phase 2, what was phase 2?

45 BRIG THOMPSON: So phase 2 was to purchase what they call our

biometric tracking rings, and engage a civilian contractor to conduct the second phase of that study.

5 COL STREIT: In relation to phase 1, and to the extent that you can discuss that matter in this forum, do you recall anything in particular that the Commanding Officer had raised with you as to the reason why he wanted to do such a sleep study?

10 BRIG THOMPSON: So the Commanding Officer raised it as his due diligence as a Commanding Officer around fatigue management. It showed me he had a very good understanding of the fatigue management, and also a good understanding of the DFSB sleep – sorry, the Fatigue Management Guidebook, and that he was using it as a way of better understanding the conditions that Special Operations would potentially be under.

15 COL STREIT: Just excuse me for a moment, sir. If the witness could be shown Exhibit 39, please?

20 Sir, I'm just going to show you a document and I'll just ask some brief questions in relation to it. Sir, what you have been provided by the Inquiry Assistant is the Aviation Fatigue Management Guidebook Version 1, as at April 2021. If you turn the first page, the Version 1 of April 2021 is on the left-hand side of the document.

25 When you said that – you gave evidence that the CO had a very good – if I have heard you wrong, please say so – but I understood you to say that the CO had a very good understanding about the Fatigue Management Guidebook. First of all, what I've said is correct, that is your evidence?

30 BRIG THOMPSON: Yes.

COL STREIT: And Exhibit 39, is that the Fatigue Management Guidebook you're referring to?

35 BRIG THOMPSON: Correct.

COL STREIT: We'll just put that to one side for a moment, sir. So the Commanding Officer – do you recall, was there a phone call, was there a discussion in person with the CO?

40 BRIG THOMPSON: It was a discussion in person, and a decision brief.

COL STREIT: How did you form the view that the CO had a very good understanding of the contents of Exhibit 39?

45

BRIG THOMPSON: Through the decision brief that was provided to me, which references the book, or the guidebook. Also, in the update brief after the first phase of the study, which uses the guidebook as a reference material as well.

5

COL STREIT: Now, if you turn to page 9, the guidebook on page 9 deals with, doesn't it, what is there, is the outcomes of the 2020 DFSB snapshot survey?

10

BRIG THOMPSON: Mm-hm.

COL STREIT: Do you accept that?

BRIG THOMPSON: Yes.

15

COL STREIT: And that snapshot survey in 2022 reflects, insofar as aircrew are concerned, that 65.03 per cent considered fatigue management was effective; correct?

20

BRIG THOMPSON: That's right, yes.

COL STREIT: And that 19.13 per cent considered fatigue management was ineffective; is that right?

25

BRIG THOMPSON: Correct.

COL STREIT: And the snapshot surveys, just very quickly, they provide some assistance to Command, don't they, in sort of understanding a quick health check of the Aviation system as to where aircrew/maintenance personnel sit in relation to how they might view the world?

30

BRIG THOMPSON: It's one data point the Army uses to understand the safety culture in a unit.

35

COL STREIT: But it indicates to Command, insofar as the 2022 DFSB snapshot survey is concerned, that just under 20 per cent of the workforce of aircrew that were surveyed, which was 1544 personnel, considered that fatigue management was ineffective. That's what the survey is revealing to you?

40

BRIG THOMPSON: Look, I'd have to go back into those snapshots and understand the context of when they were taken.

COL STREIT: Sure.

45

BRIG THOMPSON: And I don't want to make an assumption about that data. It is what is presented in the book, but there is more – you'd need to look into it in more detail than just face value.

5 COL STREIT: Sure. But the underlying reasons are not what I'm asking you about here. Just simply accept the percentages I've identified - - -

BRIG THOMPSON: Are what was written in the book, yes.

10 COL STREIT: Now, also in this book, at page 35, is a – sorry, sir, I'll wait until you get there – is a Fatigue Risk Awareness Tool.

BRIG THOMPSON: Yes.

15 COL STREIT: Now, sir, at the time during your tenure as Commander 16 Aviation Brigade, and although the tool existed in the Aviation Fatigue Management Guidebook, it was not a requirement to be utilised by aircrew in Aviation Command?

20 BRIG THOMPSON: So it was a tool which was inside SI Aviation Ops, in, I think it was SI 6102, within the crew endurance. It was a tool provided that could assist Commanders to utilise.

COL STREIT: Sure.

25

BRIG THOMPSON: It wasn't mandated to be used, though.

COL STREIT: It wasn't mandated. The reason for asking you that is leading to the question that, in 2024, do you understand it became mandated to be utilised by aircrew in Aviation Command?

30

BRIG THOMPSON: I'm not aware of that.

COL STREIT: You're not aware of that?

35

BRIG THOMPSON: That was after my time as Commander.

COL STREIT: In any event, the Aviation Fatigue Management Guidebook that you've given some evidence about, that was something that was utilised, was it, by the Commanding Officer, to your observation, as part of recommending to you that there be a sleep survey conducted?

40

BRIG THOMPSON: That is correct.

45 COL STREIT: And phase 2 ultimately resulted in the sleep study not

occurring. That's correct?

5 BRIG THOMPSON: We paused it while we were waiting for – I was waiting for more information to come back, around some critical areas for that next step of the study.

10 COL STREIT: So just in terms of the sequencing, phase 1 is a request from the Commanding Officer to conduct a sleep survey. That's supported by you?

BRIG THOMPSON: And it was conducted.

15 COL STREIT: And it was conducted. Phase 2, the Commanding Officer reports to you the outcomes of that sleep survey, requests of you to move to the next step of engaging the civilian organisation conducting the activity. But you do not direct that the activity proceed; is that right?

20 BRIG THOMPSON: I paused it while I was waiting for more information.

COL STREIT: Sure.

25 BRIG THOMPSON: And it got pushed into the next financial year to get the money, if required.

COL STREIT: So the request to activate the activity or conduct the activity was a request made in early 2023; is that right? Is that right, to your memory?

30 BRIG THOMPSON: I'd have to go back through my time.

COL STREIT: Sure. But ultimately - - -

35 BRIG THOMPSON: So the second phase, or are you talking about the first?

COL STREIT: The second phase.

40 BRIG THOMPSON: It was sometime early in 2023.

COL STREIT: Sometime in early 2023.

BRIG THOMPSON: May, I think.

COL STREIT: So you did not permit or authorise it to proceed for reasons you've said: you were waiting for further information. Correct?

BRIG THOMPSON: Correct.

5

COL STREIT: And was there a lack of funds to do it in that second half of that financial year?

BRIG THOMPSON: So we hadn't budgeted for it in that financial year. More importantly, though, there was, through DFSB – there was a capability through very similar opportunity for study to be done through DFSB; that I wanted to make sure that we weren't doubling-up and something was already available in the system.

10

COL STREIT: Just in terms of your evidence in response to a question, at paragraph 25 you say this:

15

20

My decision to not complete the sleep study was based on a number of factors. The principal reason was being made aware that a fatigue monitoring program was already being conducted at an organisational level by DFSB, supported by the Institute of Aviation Medicine.

Is that correct?

25

BRIG THOMPSON: Correct.

COL STREIT: Now, what was that fatigue monitoring program, if you can recall?

30

BRIG THOMPSON: As far as I understood, I was asked to provide – to get more information back, is that DFSB had a number of watches which were data collection watches which were available, which would have done the same thing, as I was aware, of the rings that 6 Avn wished to purchase.

35

COL STREIT: When you say “was already being conducted at an organisational level by DFSB”, what does that mean, “organisational level”?

40

BRIG THOMPSON: Well, DFSB is a Defence organisation and they were looking at fatigue management across the whole organisation, not just inside one unit.

COL STREIT: So the sleep study that the CO wanted conducted was a sleep study specific to 6 Avn Regiment though, wasn't it?

45

5 BRIG THOMPSON: Correct. And the process, as I understood it, and was seeking information, was how do we get DFSB to support 6 Avn Regiment to conduct their study.

COL STREIT: Because 6 Avn Regiment conducts different types of Aviation operations than other parts of Defence?

10 BRIG THOMPSON: Correct.

COL STREIT: And so, in conducting a specific 6 Aviation Regiment sleep survey, that was an attempt, was it, by the Commanding Officer to tailor a sleep study to matters concerning his specific unit.

15 BRIG THOMPSON: Absolutely.

20 COL STREIT: Isn't there a risk in delaying that to await the conduct of an organisational level fatigue monitoring program by the DFSB because the organisational level fatigue monitoring program concerns the whole of Defence Aviation?

25 BRIG THOMPSON: No. So the equipment and support mechanism out at DFSB would have been used to support 6 Aviation Regiment's study. Instead of me going outside of Defence and contracting a third party, that capability with the experts was already inside DFSB and the Aviation Institute of Medicine.

30 COL STREIT: Sir, I appreciate I'm asking questions that are sort of stretching the memory back a little bit, but can you recall how you became aware of the fatigue monitoring program being conducted by DFSB?

BRIG THOMPSON: My staff had briefed me on it.

35 COL STREIT: What, so were you awaiting, therefore, further information from your Headquarters staff about this fatigue monitoring program?

BRIG THOMPSON: Correct.

40 COL STREIT: And did you subsequently receive that information?

BRIG THOMPSON: No.

45 COL STREIT: Did you ever later learn what this fatigue monitoring program the DFSB was doing was actually all about?

BRIG THOMPSON: No.

5 COL STREIT: And so, as things stood, the sleep study survey phase 2 that the CO had requested be conducted, my understanding of your evidence is – correct me if I’m wrong – that that was paused by you. So not terminated, but paused by you.

10 BRIG THOMPSON: Just paused while I was seeking additional information.

COL STREIT: Seeking additional information about a fatigue monitoring program from your staff; correct?

15 BRIG THOMPSON: Correct. And also some other information around security of the biometrics and – for individual security of biometrics, and legal aspects of collecting people’s biometric data, and also the security around tracking for a Special Operations capability.

20 COL STREIT: But then it seems that your staff did not come back to you, during your tenure as the Commander, with the information you had asked about, the fatigue monitoring program. Correct?

BRIG THOMPSON: Events were overtaken by the accident.

25 COL STREIT: Sure. Well, the accident occurred – there’d still be a requirement though, would there not, to deal with issues of fatigue which the CO had raised by way of wanting to do a sleep study? Those issues were still in existence, weren’t they?

30 BRIG THOMPSON: Yes.

COL STREIT: Because Aviation operations would continue, and have continued, post the accident. Is that right?

35 BRIG THOMPSON: Correct.

COL STREIT: But your staff didn’t come back to you prior to the finishing-up of your tenure in December 2023 with the outcomes of your requests for information concerning this fatigue monitoring program.

40 BRIG THOMPSON: Correct.

COL STREIT: At paragraph (b) of 25, can I just clarify something? You said:

45

Cost implications were only a factor in that I had a responsibility to ensure appropriate expenditure of Commonwealth funding.

Can you just explain what you mean by that?

5

BRIG THOMPSON: Yes. That I didn't want to expend funds on a third party contractor if we could have got the same effect from a program that was already inside of Defence.

10

COL STREIT: Again, stretching your memory, sir – and I'm not suggesting this occurred; I'm just exploring – do you recall whether this outstanding issue concerning requests for information from your staff about this fatigue monitoring program by the DFSB, whether that was something you alerted BRIG Fern Thompson to when you handed over command as sort of an outstanding line item?

15

BRIG THOMPSON: I cannot recall.

20

COL STREIT: Yes. Ms McMurdo, I note the time; it's a quarter to 1. If it's convenient to have a luncheon break?

MS McMURDO: All right then. We'll have the lunch break now until 1.30.

25

HEARING ADJOURNED

HEARING RESUMED

5 MS McMURDO: Were you just standing as a courtesy? There's no need to do that. I don't know what happened. Things have gone wrong again.

COL STREIT: Apologies, Ms McMurdo.

10 MS McMURDO: Yes.

COL STREIT: I can indicate that I've just addressed, for the assistance of Counsel representing, and the Inquiry, just a matter in relation to the order of witnesses. Following the Brigadier's evidence will be the Assistant Commissioner Guteridge will be called, and subsequent to that will be D137. So just an order - - -

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

20 COL STREIT: Thank you. Sir, just before the luncheon break we were dealing with your evidence in relation to the sleep study survey phase 2 which had been proposed by the Commanding Officer of 6 Aviation Regiment in 2023. What I'd like to do now, sir, is to turn to another area. If I could take you to page 14 of your statement? At paragraph 27 you were asked about:

25 *Outline what awareness you had, if any, of the results of the Defence Flight Safety Bureau's annual snapshot surveys and whether 16 Aviation Brigade were taking any steps to address concerns raised in those results about ongoing aircrew fatigue.*

30 You said, sir, that:

35 *The Defence Flight Safety Bureau annual snapshot survey is a valuable tool across the Brigade.*

You utilised the snapshot tool, amongst other methods, to assess the safety climate. The snapshot tool, and other data points, influence your decision-making to reduce tasking pressures on 6 Aviation Regiment and prioritise workforce to the Regiment. That's right?

40 BRIG THOMPSON: Correct.

45 COL STREIT: And in terms of those sort of tasking pressures, is there a limit – I'll start again. 6 Aviation Regiment would receive its tasks in relation to other organisations in Defence. Is that right?

BRIG THOMPSON: So 6 Aviation Regiment was under OPCON, so operational control, of Special Operations Command.

5 COL STREIT: Yes.

BRIG THOMPSON: So primarily their tasking would come from Special Operations Command. However, they could be tasked directly from the Brigade if we were tasked from Headquarters Joint Operations Command or if we were tasked from the G3 Army.

10 COL STREIT: And so, in 2022, for example, were there tasks that the unit was asked to do which were beyond your capacity to – they were not tasks that you were allocated?

15 BRIG THOMPSON: There was two instances in 2022 where they were tasked to provide flood relief.

20 COL STREIT: Yes.

BRIG THOMPSON: That's correct.

25 COL STREIT: So just in relation to the DFSB annual snapshot surveys – and you had previously seen the 2020 aspects of the snapshot survey in Exhibit 39 – is it correct to say that over the last few years, from, say, 2020 through to 2023, issues of fatigue and the management of fatigue being ineffective had been raised by aircrew in those surveys?

30 BRIG THOMPSON: That's correct.

COL STREIT: So from that, did you take away, insofar as a percentage of the aircrew were concerned, was that fatigue management was an ongoing challenge?

35 BRIG THOMPSON: From my perspective at Brigade level, it was more about the tasking to assure that the operational tempo of the Regiment was sustainable. I didn't get the sense from the snapshots and the small number of people who responded to the snapshots, that it was a systemic error – a systemic problem.

40 COL STREIT: Well, was it systemic in the sense that it was being repeated over a few years in snapshot surveys as being fatigue management was ineffective?

45 BRIG THOMPSON: By a percentage of the workforce, yes. Sure.

COL STREIT: And that has never – to your knowledge, it was not a majority of the workforce; is that correct?

5 BRIG THOMPSON: As I understood it.

COL STREIT: But insofar as 2020 is concerned, just looking at the raw numbers, in that context, it was just over 90 per cent of the aircrew workforce had reported in the snapshot survey that fatigue management was ineffective, as a raw score.

BRIG THOMPSON: As a raw score for all of Defence, yes.

COL STREIT: At paragraph 28 you were asked to:

15 *Outline any other processes by which 16 Aviation Brigade collated data in 2022 and 2023 from personnel in Army Aviation about the levels of fatigue or psychological distress, and what those processes indicated, and the steps that 16 Aviation Brigade had taken to address those concerns.*

That's the question you were asked. And you've set out your evidence at paragraphs (a), (b) and (c). That's of your statement; is that correct?

25 BRIG THOMPSON: That's correct.

COL STREIT: At paragraph (c) you say this:

30 *I also supported the initiatives of the Commanding Officer 6 Aviation Command, such as the implementation of a four-day week flying windows, programmed no flying period and reduced tempo periods to coincide where possible with school holidays, and releasing members to participate in Army adventure training and sporting activities like Army Rugby and the Army surfing teams.*

Correct?

40 BRIG THOMPSON: That's correct.

COL STREIT: When do you say you supported those initiatives in terms of? Was that in 2022, or was that in 2023?

45 BRIG THOMPSON: Both 2022 and 2023. And I'll have to make a correction there, sorry. On (c), it's "6 Aviation Regiment". Sorry,

“6 Aviation Regiment”.

COL STREIT: I see.

5 BRIG THOMPSON: In (c).

COL STREIT: So (c) would read:

10 *I also supported the initiatives of the Commanding Officer,
6 Aviation Regiment.*

BRIG THOMPSON: Aviation Regiment.

15 COL STREIT: And your evidence is you supported those initiatives
during 2022 and 2023?

BRIG THOMPSON: Correct.

20 COL STREIT: To your recollection, in relation to the implementation of
a four-day flying week, where you supported the initiative in 2022, was
there a different regime that had existed in 2021?

BRIG THOMPSON: I’m not certain.

25 COL STREIT: What, to your understanding, was the reasoning process
for the initiative to move to a four-day week flying window?

30 BRIG THOMPSON: To provide the opportunity for the staff to do
operational administration/governance; in the Regiment, to do operational
governance.

COL STREIT: Would that mean staff would do their governance on a
Friday?

35 BRIG THOMPSON: As I understood it, yes.

40 COL STREIT: Can I turn now, sir, to Exercise TALISMAN SABRE,
which you address at page 16 of your statement. So on Exercise
TALISMAN SABRE in 2023 you formed an Aviation Brigade command
and control element to coordinate Aviation effects at the operational level
with a corps that you identify there from the United States.

BRIG THOMPSON: I call it – from the United States, yes.

45 COL STREIT: Now, what role then, if any, did you have concerning any

command and control of 6 Aviation Regiment when it was deployed on Exercise TALISMAN SABRE?

5 BRIG THOMPSON: I had technical control; I didn't have operational command.

COL STREIT: And ADF personnel deployed on Exercise TALISMAN SABRE, do they, as a formed body, those personnel come under the command of Joint Operations Command?

10 BRIG THOMPSON: From 6 Aviation Regiment?

COL STREIT: Yes.

15 BRIG THOMPSON: They come under command of Special Operations Command and, for the exercise purposes, they are Force assigned to Joint Operations Command.

20 COL STREIT: So, they're Force assigned to Joint Operations Command and the – well, CJOPS's representative as the Exercise Commander was BRIG Hill, was it?

BRIG THOMPSON: Correct.

25 COL STREIT: So, therefore, did BRIG Hill, from your understanding, did he have a responsibility for the management and welfare of all ADF personnel deployed on Exercise TALISMAN SABRE?

30 BRIG THOMPSON: He had a role in that, yes.

COL STREIT: And he had staff supporting him in Headquarters, did he?

BRIG THOMPSON: That's correct.

35 COL STREIT: And the permission to be on the exercise and permission to lead the exercise, was that something that an ADF member had to – that had to be staffed through BRIG Hill's organisation?

40 BRIG THOMPSON: I'm not certain of that process, no.

COL STREIT: You deployed to Townsville for the duration of Exercise TALISMAN SABRE; is that right?

45 BRIG THOMPSON: That's correct.

COL STREIT: Now, sir, can I just turn to matters concerning the accident involving Bushman 83. So you say that you arrived in Proserpine at approximately 0300 hours on 29 July 2023, after the accident. Is that right?

5 BRIG THOMPSON: Correct.

COL STREIT: And so did you travel from Townsville at that time?

BRIG THOMPSON: Correct.

10

COL STREIT: And was that by Military Air?

BRIG THOMPSON: No, it was by vehicle.

15 COL STREIT: So you had been contacted a little while earlier, had you?

BRIG THOMPSON: I was contacted by the CO very shortly after the accident.

20 COL STREIT: Do you recall approximately a time?

BRIG THOMPSON: It was somewhere around 2300.

COL STREIT: Sure. And do you recall what the CO said to you?

25

BRIG THOMPSON: His words were, "I think we have a fallen angel". He needs to make sure, and he'll get back to me. And he went away and got confirmation, then called me again to say there's been a fallen angel.

30 COL STREIT: And you then took steps to move from Townsville to Proserpine.

BRIG THOMPSON: Correct.

35 COL STREIT: And you arrived at approximately 0300 hours on the morning of 29 July 2023.

BRIG THOMPSON: That is correct.

40 COL STREIT: You then describe your involvement from then on whilst at Proserpine. You say that you had no role in the physical search and rescue operation for Bushman 83.

BRIG THOMPSON: No.

45

COL STREIT: You were not involved in any decision for the search and rescue mission to become a search and recovery mission.

BRIG THOMPSON: That's correct.

5

COL STREIT: You describe your role at Proserpine as the welfare of the members of those under your command, and their families was your principal concern.

10 BRIG THOMPSON: Correct.

COL STREIT: And that when you arrived on the site of Proserpine Airport you were briefed on what actions had been taken and were underway by the operations staff. And this brief involved the actions being conducted in the search and rescue effort, and the actions which had been carried out to quarantine all relevant briefing material, equipment, documentation, in accordance with SI Avn Ops.

15

BRIG THOMPSON: Correct.

20

COL STREIT: At paragraph 33(c) you say:

25

During the briefing, I asked if all phones had been quarantined. Which they had. At this stage Army Headquarters had been informed, and Notification Teams were being informed.

You were surprised that – that's correct?

30

BRIG THOMPSON: Correct.

COL STREIT: You say that you were surprised how many personal mobile phones were on the exercise. For operational security reasons, your view was there should not have been any personal phones; is that right?

35 BRIG THOMPSON: That would have been my expectation, yes.

COL STREIT:

40

I told the briefing I was concerned our families would find out about the accident through the media, incidentally.

Is that correct?

45

BRIG THOMPSON: That's correct.

COL STREIT: You that at approximately 0500 hours the CO of 6 Avn Regiment arrived at Proserpine Airport. After he was briefed by Ops staff, you and he had a discussion in which you told him to look after his people, “and I would deal with the up and out”.

5

BRIG THOMPSON: Correct.

COL STREIT: What does that mean, “up and out”?

10 BRIG THOMPSON: So deal with the Headquarters, deal with any media requirements, deal with any of the engagements with Queensland Police, et cetera.

15 COL STREIT: Were you aware at the time when you arrived, or shortly after you arrived, that there was a Queensland Police presence?

BRIG THOMPSON: Absolutely, yes.

20 COL STREIT: You then say at (e) that at approximately 0730 hours you were informed by Army Headquarters that notifications of the families had occurred. You then directed everyone to call their families to reassure them that they were okay. You called the Exercise TALISMAN SABRE Exercise Director. That’s BRIG Hill?

25 BRIG THOMPSON: Correct.

COL STREIT: And advised him that all personnel on exercise should also be given the opportunity to contact their families.

30 BRIG THOMPSON: Correct.

COL STREIT: At (f) you say that:

35 *Throughout the day, I was in constant contact with my Commander, the Commanding Officer.*

Your Commander is the Aviation Commander?

40 BRIG THOMPSON: Correct.

COL STREIT: The CO of 6 Avn Regiment, the Exercise TALISMAN SABRE Director, the Incident Manager at Army Headquarters, and the QPS, and Commander Joint Operations Command. Is that correct?

45 BRIG THOMPSON: That is correct.

5 COL STREIT: And that you remained at Proserpine Airport Forward Operating Base until the Defence Flight Safety Bureau Team arrived at approximately 2130 hours on 29 July 2023. And at that point, you've handed control of the site to the lead investigator.

BRIG THOMPSON: That is correct.

10 COL STREIT: And who was the lead investigator?

BRIG THOMPSON: Dominic Cooper.

COL STREIT: From the Defence Flight Safety Bureau?

15 BRIG THOMPSON: That is correct.

20 COL STREIT: At paragraph 34 you were asked to describe any interactions with members of the Joint Military Police Unit at Prosperine. You've identified that two members of Joint Military Police Unit introduced themselves to you during the morning of 29 July '23. You don't recall their names or the exact time. You directed them to support the Commanding Ops in whatever capacity they could.

25 BRIG THOMPSON: That's correct.

COL STREIT: Do you recall whether one of the Joint Military Police members was PO Thiessen – or Thiessen, sorry?

30 BRIG THOMPSON: I recall he was Navy; I don't recall his name.

COL STREIT: Now, you spoke with those two Military Police members again. You did not speak with them again until the next morning, at the Proserpine Police Station.

35 BRIG THOMPSON: That is correct.

COL STREIT: And that was where you were meeting for the police morning update; is that correct?

40 BRIG THOMPSON: That's correct.

COL STREIT: And that process of a morning update, that continued, did it, for a period of time?

45 BRIG THOMPSON: I'm not sure; I left Proserpine shortly after that

meeting.

COL STREIT: So you participated in one update?

5 BRIG THOMPSON: One update, yes.

COL STREIT: On page 18 of your statement, you say you initially engaged with QPS – sorry, Queensland Water Police, who were coordinating the water-based search and rescue, the Police Aviation Accident Investigator and the detectives who arrived at Proserpine Airport later in the morning on the – should that read “on 29th of July”?

BRIG THOMPSON: 29 July, which I’ve signed.

15 MS McMURDO: Can you just change that in your statement, please?

BRIG THOMPSON: I have, sorry, ma’am.

MS McMURDO: You have already?

20 BRIG THOMPSON: I have already.

MS McMURDO: Thank you.

25 COL STREIT: At paragraph 35(b), which is on page 18, you say:

30 *I would characterise the relationship with the Queensland Police Service as very professional, courteous and friendly. I have the most profound respect for the Queensland Police and thank them for the support they provided in the aftermath of the accident.*

That’s correct?

35 BRIG THOMPSON: Absolutely.

COL STREIT: Now, can I turn to the decision for 6 Aviation Regiment personnel to return to Sydney on 29 July 2023. The evidence of which you address in your statement at paragraph 36(a) through to (e). You say that:

40 *Regarding the release of 6 Aviation Regiment to return to Sydney this decision was motivated solely on the welfare of the regiment members and their families.*

Is that correct?

45

BRIG THOMPSON: Correct.

5 COL STREIT: And that, from your recollection, about 1300 hours the morning of 29 July 2023 the Commanding Officer of 6 Aviation Regiment approached you with a plan to get the 173 Squadron members back to Holsworthy by a RAAF C-130 Hercules.

BRIG THOMPSON: Correct.

10 COL STREIT: You supported the plan?

BRIG THOMPSON: Yes, absolutely.

15 COL STREIT: As it would get the Squadron members back to their families as soon as possible, and the use of a RAAF aircraft was the only option to get them back on 29 July 2023.

BRIG THOMPSON: Correct.

20 COL STREIT: You also considered that the Squadron was no longer effective, having taken part in the exercise, and, from a welfare and management perspective, was better placed being in Holsworthy.

BRIG THOMPSON: Correct.

25 COL STREIT: You say that you approached the Queensland Police detachment with a plan to send the Squadron home. Do you remember who that was?

30 BRIG THOMPSON: I don't recall the name of the police officers.

COL STREIT: Do you recall whether one of the members that you spoke with from QPS, Acting Senior Sergeant Dyer, does that name assist you?

35 BRIG THOMPSON: No.

COL STREIT: You say at paragraph 36(c):

40 *I approached the QPS, or Queensland Police detachment, with a plan to send the Squadron home. Initially, there was a discussion that they wished to interview every member of the Squadron. I reiterated my position and concern was for the welfare of the Squadron.*

Noting the interview preferences, I offered to pay for members of QPS –

Queensland Police –

5

to accompany the Squadron either on the RAAF aircraft, or fly them to Sydney on a commercial aircraft, accommodate them in Sydney, and then fly them home. I also suggested the New South Wales Police could take statements.

10

Is that correct?

BRIG THOMPSON: That's correct.

15

COL STREIT: But you're not now sure who in the Queensland Police detachment you spoke to and conveyed this information?

BRIG THOMPSON: As I understand, there was four police at the time: two detectives and two uniform members.

20

COL STREIT: You say at (d):

After a brief discussion, a solution was agreed and the detectives interviewed the eyewitnesses from the fourth aircraft in the formation. The Squadron was then released back to Holsworthy, via Richmond.

25

BRIG THOMPSON: Correct.

30

COL STREIT: Do you understand that at least one of those interviews occurred in a corridor at the Proserpine Airport, just before the member was due to depart?

35

BRIG THOMPSON: I'm not sure. I do know that the police went down to the terminal to interview the members; I'm not sure where that was conducted.

40

COL STREIT: Were you aware that one member who was interviewed by police was preparing to depart Proserpine on the C-117, but received a tap on the shoulder to speak to the QPS, and then subsequently did so in a corridor at the Proserpine Airport?

BRIG THOMPSON: No.

COL STREIT: Do you recall whether anyone in the ADF reported back to you that QPS had spoken with the aircrew of Bushman 84 before they departed Proserpine Airport?

5 BRIG THOMPSON: Only from the police, that they said they had got their interviews.

COL STREIT: Sorry, can I just clarify something? In relation to your engagements with BRIG Hill as the Exercise TALISMAN SABRE Director, was there any requirement for 6 Aviation Regiment to engage with the Exercise TALISMAN SABRE Director or his staff, to seek the permission to depart the exercise?
10

BRIG THOMPSON: I didn't see them departing the exercise. The exercise area for 6 Aviation Regiment was from Sydney to Proserpine. In my mind, they were still part of the exercise; I was just making a decision to get them back to their families.
15

COL STREIT: But you'd already made the decision that they were no longer effective as a Squadron, and to return - - -
20

BRIG THOMPSON: And who were in Proserpine, so to then - - -

COL STREIT: Yes. Then return them - - -
25

BRIG THOMPSON: To Sydney.

COL STREIT: - - - to Sydney, for welfare reasons?

30 BRIG THOMPSON: Yes.

COL STREIT: So they were no longer going to participate in TALISMAN SABRE, were they?

35 BRIG THOMPSON: Correct.

COL STREIT: So my question, sir, is this: whether there was a requirement for 6 Aviation Regiment to seek permission from BRIG Hill or his organisation to depart Exercise TALISMAN SABRE?
40

BRIG THOMPSON: Not in my view, no.

COL STREIT: At paragraph 36(e) you say:

In my next phone call with Commander Joint Operations Command, I informed him of my decision to send the Squadron back to Holsworthy.

- 5 BRIG THOMPSON: Correct.
- COL STREIT: Did that conversation occur before the Squadron departed Proserpine, or after?
- 10 BRIG THOMPSON: After.
- COL STREIT: How long after?
- BRIG THOMPSON: I don't know.
- 15 COL STREIT: Was it the next day?
- BRIG THOMPSON: No, it was that day.
- 20 COL STREIT: You remained in Proserpine, did you?
- BRIG THOMPSON: Until the next day.
- COL STREIT: Until 30 July?
- 25 BRIG THOMPSON: Correct.
- COL STREIT: Well, where did you go after Proserpine?
- 30 BRIG THOMPSON: I went back to Townsville. I still had members from the Brigade on Exercise TALISMAN SABRE.
- COL STREIT: At paragraph 37(a), sir – and this is just dealing with the tail-end of your engagement with QPS – you say that you maintained contact with Assistant Commissioner Kev Guteridge over the following days, and reiterated the offer to pay for Queensland Police to fly to Sydney to collect statements. Is that right?
- 35 BRIG THOMPSON: Correct.
- 40 COL STREIT: Do you recall whether or not Assistant Commissioner Guteridge had expressed to you any concern about needing to get the statements done in a timely fashion?
- 45 BRIG THOMPSON: Yes, I do.

COL STREIT: And what do you remember about that?

5 BRIG THOMPSON: I remember the conversation was probably about a week after. He said he was having difficulty accessing the witness statements from DFSB, so I passed that concern on to my Chain of Command.

10 COL STREIT: Paragraph 37(b), you say:

15 *Assistant Commissioner Guteridge called me a week after the accident to inform me that he was having difficulty in accessing the interview reports from the DFSB. I contacted my Headquarters and passed on Assistant Commissioner Guteridge's concerns and contact details.*

Is that correct?

20 BRIG THOMPSON: That's correct.

COL STREIT: Do you recall whether or not Assistant Commissioner Guteridge conveyed to you the importance of getting statements done quickly in relation to an accident?

25 BRIG THOMPSON: Not a week later, no.

COL STREIT: What about your contact with him when you were at Proserpine?

30 BRIG THOMPSON: At Proserpine, he did mention that he required the statements on the next morning.

COL STREIT: So when you say "the next morning", you were speaking to him on 29 July?

35 BRIG THOMPSON: No, this was on the 30th, the next morning.

COL STREIT: The 30th, yes.

40 BRIG THOMPSON: At the morning briefing from the police.

COL STREIT: And what do you recall – I appreciate it's a little while ago – but what do you recall Assistant Commissioner Guteridge saying to you about statements?

45

BRIG THOMPSON: Only that he needed access to those statements.

5 COL STREIT: You understood at the time, did you, that based on your conversations earlier with QPS on the 29th, that there would be a need for Queensland Police, or New South Wales Police, or the Military Police, to take a statement from relevant members of 6 Aviation Regiment, concerning the accident?

10 BRIG THOMPSON: Yes, absolutely.

COL STREIT: At paragraph 37(b) you're giving evidence that a week after the accident, Assistant Commissioner Guteridge called you. He was having difficulties accessing the interview reports from the DFSB. That's right?

15 BRIG THOMPSON: That's right.

COL STREIT: Did he also say anything about issues in relation to getting statements from 6 Avn Regiment personnel?

20 BRIG THOMPSON: No.

MS McMURDO: Did you understand the interview reports were the statements, or did you understand they were something different?

25 BRIG THOMPSON: I understood they were the same thing, ma'am.

MS McMURDO: The statements, they were one and the same. Okay, thank you.

30 AVM HARLAND: When you say you contacted your Headquarters, was that Headquarters Aviation Command?

35 BRIG THOMPSON: Aviation Command, yes.

AVM HARLAND: Did you follow up afterwards, to see if that had been progressed?

40 BRIG THOMPSON: No.

COL STREIT: Do you recall having any subsequent discussions with Assistant Commissioner Guteridge, beyond what you've said at paragraph 37(b) in your statement?

45 BRIG THOMPSON: No.

5 COL STREIT: Do you recall having any discussions with any other representative of QPS, post your conversation with Commissioner Guteridge, a week after the accident? Any discussions with any other QPS personnel chasing witness statements?

BRIG THOMPSON: No.

10 COL STREIT: What's your understanding, if you have any awareness, of what then happened in terms of witness statements being obtained from 6 Aviation Regiment personnel?

BRIG THOMPSON: I have no involvement in that.

15 COL STREIT: You have no involvement, but what's your understanding? If you don't have any, just indicate that.

BRIG THOMPSON: I don't have any understanding of what happened there.

20 COL STREIT: You have not been interviewed by Queensland Police regarding the Bushman 83 accident, have you?

BRIG THOMPSON: That's correct.

25 COL STREIT: And you have not been interviewed by DFSB regarding the Bushman 83 accident?

BRIG THOMPSON: That's correct.

30 COL STREIT: And you've not been interviewed by Comcare regarding the Bushman 83 accident?

BRIG THOMPSON: That's correct.

35 COL STREIT: Sir, just turning to the post-accident matters. You attended the funerals of WO2 Laycock and CAPT Lyon. Is that correct?

BRIG THOMPSON: That is correct.

40 COL STREIT: And you say on page 20, in response to a question at paragraph 42, that at the request of the families to keep the funeral service restricted to 6 Aviation Regiment and military friends only, you did not attend the funerals of LT Max Nugent or CPL Alexander Naggs?

45

BRIG THOMPSON: That's correct.

COL STREIT: If you had been asked, I take it you would've attended?

5 BRIG THOMPSON: Absolutely.

COL STREIT: You attended the 6 Aviation Regiment memorial on 27 September 2023?

10 BRIG THOMPSON: That's correct.

COL STREIT: You were not present at the Anzac Day service at Holsworthy on 25 April 2024; is that correct?

15 BRIG THOMPSON: No.

COL STREIT: Paragraph 45 asks you to state whether you had any involvement in the appointment of the Aviation Safety Investigation Team for the DFSB to investigate the causes of the crash of Bushman 83. You say:

20

I had no involvement in the appointment of the Aviation Safety Investigation Team from the DFSB.

25 Is that correct?

BRIG THOMPSON: That is correct.

COL STREIT: At paragraph 46, sir, you're asked to provide details of any briefings you have received from the DFSB about the investigation into the cause of the crash of Bushman 83, including who gave the briefings and what you were told of the outcomes. You say:

30

I was present at the A40-040 prelim report briefing to Airworthiness Authority provided by the Director-General DASA, as the lead investigator, on 14 September 2024.

35

BRIG THOMPSON: Just correction there: "and the lead investigator". So both DG DASA, and the lead investigator.

40

COL STREIT: DG DASA and the lead investigator. And DG DASA, who was that, do you recall?

BRIG THOMPSON: I can't remember his name, sorry.

45

COL STREIT: There were no findings or hypotheses as to the cause of the accident raised in the presentation that you were given on 14 September '24; is that correct?

5 BRIG THOMPSON: Correct.

COL STREIT: Subsequently, at paragraph 46(b), you have been given access to the DFSB interim findings of the Bushman 83 Accident Investigation Report, is that correct?

10

BRIG THOMPSON: That's correct.

COL STREIT: When did that occur, sir?

15 BRIG THOMPSON: Last week.

COL STREIT: At paragraph 47 you were asked:

20

Noting the extract of the Inquiry's Directions, please detail any other matter that you wish to bring to the Inquiry's attention that you consider would be of assistance.

And you've set out some matters where you've expressed opinions at paragraphs 47(a) through to (g); is that correct?

25

BRIG THOMPSON: That's correct.

COL STREIT: Can I just ask you some questions in relation to your understanding of the framework that applies to an Aviation safety investigation conducted by the DFSB, first? Sir, did you know, or are you aware that the Chief of Air Force is the Defence Aviation Safety Authority?

30

BRIG THOMPSON: I am.

COL STREIT: Are you aware that under the Defence Aviation Safety Manual, the DFSB is the independent Defence Aviation investigation organisation?

35

BRIG THOMPSON: I am.

40

COL STREIT: Are you aware that DFSB investigations are conducted in accordance with the guidelines provided by Annexure 13 Aviation Accident and Incident Investigation to the Convention on International Civil Aviation and the *Australian Transport Safety Investigation Act*?

45

BRIG THOMPSON: I'm not aware of the exact Act, but I am aware of the intent behind there.

5 COL STREIT: So what's your understanding of the intent of a DFSB – that DFSB investigations are conducted in accordance with the guidelines provided in what's understood to be the Chicago Convention? What's your understanding of those guidelines?

10 BRIG THOMPSON: I'd have to read the *Chicago Act*.

COL STREIT: Prior to me informing you that the DFSB does conduct its investigations in accordance with the guidelines of Annexure 13 of the Chicago Convention, had you an awareness of that before?

15 BRIG THOMPSON: I had an awareness of their roles and responsibilities. And during the initial briefing back on 14 September, that was discussed, about their roles and responsibilities, but not the exact Act.

20 COL STREIT: So I'm just trying to understand what your understanding is of the boundaries that apply to the DFSB in the conduct of its Aviation safety investigation. So can you just indicate to the Inquiry what your understanding is of those matters? And if you don't have an understanding, that's okay, just indicate that.

25 BRIG THOMPSON: I'm not – only aware of what the Terms of Reference are for the DFSB investigation.

30 COL STREIT: Do you have an understanding that the guidelines provided by Annexure 13 of the Chicago Convention concerning accident investigation, the guidelines which the DFSB apply, require the protection of Aviation safety investigation evidence from being disclosed?

BRIG THOMPSON: No, I was not aware of that.

35 COL STREIT: Are you aware that the DFSB has an obligation, in accordance with those guidelines, to protect and not disclose the records of evidence obtained during a DFSB Aviation safety investigation, including statements taken from witnesses?

40 BRIG THOMPSON: I am aware of that.

COL STREIT: Are you aware of the reasons the protection for Aviation safety investigation evidence exists?

45 BRIG THOMPSON: Yes.

COL STREIT: What are they?

5 BRIG THOMPSON: As in, am I aware of the Act and what the Act says?

COL STREIT: No. Are you aware of the reasons for the protection of Aviation safety investigation evidence?

10 COL THOMPSON: Objection, Chair. This goes beyond BRIG Thompson's expertise.

MS McMURDO: Well, we're not in a Court. He can speak for himself, COL Thompson. I will allow the question to be asked.

15 BRIG THOMPSON: I'm not an expert in that, so I don't have that information.

20 COL STREIT: Can I suggest to you, one of the reasons for the protection of Aviation safety investigation evidence is that information given voluntarily by persons interviewed during the investigation of an Aviation accident could be utilised inappropriately for subsequent disciplinary, civil, administrative, or criminal proceedings? And that if such information is distributed, it may, in the future, no longer be openly disclosed to investigators, and that lack of access to such information would impede the investigation process and hugely affect flight safety?

25 Were you aware of that as one of the reasons why the DFSB is required to protect Aviation safety investigation from disclosure?

30 BRIG THOMPSON: In words to that effect, yes.

35 COL STREIT: So, basically, I want to suggest to you, the DFSB, in giving effect to the guidelines of the Chicago Convention in the conduct of Aviation safety investigations, is required to protect evidence it obtains in an investigation, including statements from witnesses for the purposes of seeking to ensure that if such information was disclosed, knowing that if it was disclosed it might be inappropriately used for subsequent disciplinary, civil, administrative, or criminal proceedings, that they may, in the future, no longer be openly disclosed by aircrew.

40 And that the lack of access to such information would impede the investigation process, and hugely affect flight safety. Did you - - -

45 BRIG THOMPSON: I understand that, yes.

COL STREIT: You understand that now; is that correct?

BRIG THOMPSON: Yes.

5 COL STREIT: So it means, can I suggest to you, that the DFSB cannot voluntarily share its information obtained in an Aviation safety investigation with another investigative body. Do you understand, and do you accept that?

10 BRIG THOMPSON: I understand; I accept that.

COL STREIT: So that means the DFSB can't voluntarily share that information and work collaboratively with another investigative body by disclosing Aviation safety investigations made to that body.

15 BRIG THOMPSON: I accept that.

COL STREIT: Not being critical of you, sir, because I've just stepped you through that process and you've indicated you weren't aware of some aspects. But having regard to what I've just outlined to you is the framework that applies to the DFSB, the opinions that you express at paragraphs 47(a) through to (g) of your statement, are those opinions made – or at the time you didn't have an understanding about the DFSB framework that I've just outlined to you?

20 BRIG THOMPSON: No. As in they – having that information there doesn't change my concerns with what I've outlined.

COL STREIT: What I was going to suggest to you, given the information I've just given to you in the course of these questions, of which I understood you to say you weren't aware of some things - - -

BRIG THOMPSON: Yes, some aspects of it.

35 COL STREIT: And noting some of the opinions you've expressed at 47(a) through to (g) talk about the DFSB engaging in a collaborative approach with this Inquiry, and sharing of evidence, do you accept that the DFSB couldn't actually do that?

40 BRIG THOMPSON: I accept that, yes.

COL STREIT: And so in those circumstances, should the Inquiry therefore operate on the basis or work on the basis that you no longer wish to rely upon the opinions you've expressed at paragraph 47(a) to 47(g)?

45

BRIG THOMPSON: No, I'm still concerned about the timing. I'm still concerned about running them parallel with a Coronial Inquiry, with a Comcare Inquiry, and running four Inquiries simultaneously, and the effect that has on the workforce.

5

COL STREIT: Yes. So the concern you have, sir, is a concern that there are four different Inquiries, to some extent, looking and overlapping, and looking at the same matter. Is that correct?

10 BRIG THOMPSON: And two of those are by Defence.

COL STREIT: Sure.

15 BRIG THOMPSON: And those two by Defence, we could coordinate better in a temporal manner to ensure that we are not covering the same ground over and over.

20 COL STREIT: When you say "two Inquiries by Defence" – and again, I'm not being critical of you – the DFSB investigation, I'd suggest to you, is an Inquiry by Defence. Do you accept that?

BRIG THOMPSON: (No audible reply).

25 COL STREIT: Can I suggest to you the Inquiry appointed by the Inspector-General is not a Defence Inquiry; it is in fact, by regulation, independent of Defence? Do you accept that?

BRIG THOMPSON: I accept that.

30 COL STREIT: So, in those circumstances, there are not, can I suggest, two Defence Inquiries; there's only one, and that's the DFSB? Do you agree?

BRIG THOMPSON: Agree.

35

COL STREIT: I've nothing further, thank you. Thank you, sir.

40 MS McMURDO: Well, I think I have to really raise what you say in (e). You say in (e) – you refer to the IGADF's Inquiry as being conducted in conditions that resemble a court martial.

BRIG THOMPSON: Yes.

45 MS McMURDO: Do you still maintain that?

BRIG THOMPSON: I do.

MS McMURDO: Why do you maintain that?

5 BRIG THOMPSON: Perception is a reality, ma'am. And our members feel that they are being subjected to a court martial.

MS McMURDO: Well, we haven't heard that from anybody else. I have to - - -

10

BRIG THOMPSON: Sorry, when I say "court martial", conditions like a court martial.

15 MS McMURDO: Well, the Inquiry is being conducted in a very transparent and open way; you'd agree with that?

BRIG THOMPSON: Absolutely, ma'am.

20 MS McMURDO: And would you agree that all the witnesses who have given evidence before the Inquiry, including all the Defence witnesses, have been treated with courtesy and respect?

BRIG THOMPSON: Absolutely, ma'am.

25 MS McMURDO: And with great care to ensure that their psychosocial needs are met?

BRIG THOMPSON: (No audible reply).

30 MS McMURDO: You're nodding?

BRIG THOMPSON: I agree, ma'am.

MS McMURDO: All right. Thank you.

35

COL STREIT: Sir, to be clear, because people in the audience might not appreciate what a court martial is, can you just explain your understanding of what a court martial is?

40 BRIG THOMPSON: Presenting to a formal body to give evidence about a matter which is before Inquiry by Defence.

45 COL STREIT: Can I assist you in this way. So a court martial, would you agree with me, is a Military Tribunal where a charge is brought against an accused person? Agree?

BRIG THOMPSON: Agree.

5 COL STREIT: And in Australia, court martials are conducted by the Australian Defence Force; is that right?

BRIG THOMPSON: Correct.

10 COL STREIT: And in Australia, court martials are whereby the Court Martial Panel – which might comprise three or five general Service officers, do you accept that?

BRIG THOMPSON: Yes.

15 COL STREIT: Sit in judgement of a Defence member charged with a serious offence; correct?

BRIG THOMPSON: Correct.

20 COL STREIT: That offence is an offence that might originate from the *Defence Force Discipline Act*. Do you agree?

BRIG THOMPSON: Agree.

25 COL STREIT: It also might originate from through the *Defence Force Discipline Act* through an offence out of the *ACT Crimes Act* dealing with - - -

30 COL THOMPSON: Ma'am, I object. This is going in the field of being argumentative. It's going beyond cross-examination. I really don't see there's any useful purpose.

MS McMURDO: Well, it's your client has said that this Inquiry is being conducted in conditions that resemble a court martial.

35

COL THOMPSON: A genuinely held - - -

40 MS McMURDO: Well, that's all right if it's a genuinely held opinion. This Inquiry can receive evidence in any way it wishes. And the questioning by COL Streit is entirely proper. Your objection is overruled, thank you.

COL THOMPSON: As the Inquiry pleases.

COL STREIT: Sir, in a nutshell, a court martial determines whether a Defence member is guilty of an offence charged; is that right?

BRIG THOMPSON: That is correct.

5

COL STREIT: And the Rules of Evidence apply in the conduct of those proceedings; correct?

BRIG THOMPSON: Correct.

10

COL STREIT: And if the Defence member is convicted of a charge beyond reasonable doubt, the Defence member is then exposed to being sentenced by the court martial?

15

BRIG THOMPSON: Correct.

COL STREIT: And that sentence, subject to the seriousness of the charge and the matter peculiar to the Defence member, might put the Defence member at risk of a sentence of civilian imprisonment. Do you accept that?

20

BRIG THOMPSON: I accept that.

COL STREIT: I suggest to you that your experience in this Inquiry is remotely nothing akin to a court martial. Do you accept that?

25

BRIG THOMPSON: I accept that. Could I put it to you, though, that a Corporal or a Sergeant, or a young officer in a Regiment who has not been privy to a court martial before, or been in an Inquiry, could have the perception that they are presenting to a court martial.

30

MS McMURDO: Well, now, isn't that the responsibility of the Commanding Officer to whom all section 23 Notices from the IGADF Inquiry are given to ensure that that is not the perception of the witness who gives evidence before the Inquiry?

35

BRIG THOMPSON: Yes, ma'am. But the perception is still there.

COL STREIT: Nothing further, thank you.

40

MS McMURDO: Yes, thank you. Yes, applications to cross-examine?

<CROSS-EXAMINATION BY LCDR TYSON

LCDR TYSON: Yes, ma'am.

5

My name's LCDR Tyson, sir. I represent the interests of CPL Alex Naggs. I want to ask you about paragraph 47 in your witness statement as well, following on some of the topics that COL Streit has asked you about. Sir, you give evidence there about psychosocial risk profiles of 6 Aviation Regiment members and the psychosocial hazard of giving evidence.

10

I missed it, sir, when you explained your background, but what's your expertise and academic skills and training in the area of psychosocial hazards and the impact of giving evidence? Can you just tell the Inquiry, please, what's your expertise in those fields?

15

BRIG THOMPSON: I have no expertise in or post graduate in psychology. I do have experience, though, over many years involved with Aviation, and many years of people giving evidence to Inquiries, from the '96 crash to the incidents involving the crash in Fiji, and the one in Afghanistan, and the effects that those Inquiries had on Air members.

20

LCDR TYSON: So you were involved in, was that two Inquiries into Aviation accidents; is that right?

25

BRIG THOMPSON: Three. Three. This is the fourth.

LCDR TYSON: All right. But you've got no academics - - -

30

BRIG THOMPSON: Correct, no academics.

LCDR TYSON: - - - training or skill in the area of psychosocial risk profiles of witnesses or the psychosocial hazard of giving evidence. Correct?

35

BRIG THOMPSON: My opinion only.

LCDR TYSON: Thank you, sir. Now, you make some statements about IGADF could have agreed to cooperate and share evidence. Can you just tell the Inquiry, please, how many IGADF Inquiries have you been involved in conducting?

40

BRIG THOMPSON: None.

45

LCDR TYSON: None, sir?

BRIG THOMPSON: None.

5 LCDR TYSON: What about DFSB investigations? You talk about DFSB could have agreed to cooperate and share evidence. How many DFSB investigations have you been involved in, sir?

BRIG THOMPSON: None.

10 LCDR TYSON: You talk about evidence in this Inquiry resembling the conditions of a court martial. How many court martials have you been involved in, sir?

BRIG THOMPSON: None.

15 LCDR TYSON: And you agree, don't you, that this is an Inquiry, and it's not a trial?

BRIG THOMPSON: Correct.

20 LCDR TYSON: You agree that the Rules of Evidence do not apply here?

BRIG THOMPSON: I am aware that the Rules of Evidence do not apply.

25 LCDR TYSON: And you agree that there's no Judge Advocate General presiding over this Inquiry?

BRIG THOMPSON: I agree.

30 LCDR TYSON: You agree that there's no Court Martial Panel in this Inquiry, sir? Do you agree with that?

BRIG THOMPSON: I agree.

35 LCDR TYSON: You say this in the final paragraph of your statement:

An opportunity has been missed, to the detriment of all stakeholders, in finding out why the tragic accident happened on 28 July '23, and to ensure that it won't happen again.

40 What do you mean by that, please, sir?

45 BRIG THOMPSON: I find that we could have been better in the timing to get the evidence from the IGADF – from the DFSB investigation before we started the Inquiry.

LCDR TYSON: So as I understand that, your criticism is not of this Inquiry; your criticism is of the DFSB. Is that correct, sir?

5 BRIG THOMPSON: That is not correct. My criticism is of the timing.

LCDR TYSON: In what way? Please explain the answer, sir.

10 BRIG THOMPSON: My criticism is that we are going through simultaneous Inquiries, and we are asking the same questions to the same people, where we could have understood what the causal factor of the accident was first and then run the Inquiry.

15 LCDR TYSON: What do you mean, though? You say:

An opportunity has been missed, to the detriment of all stakeholders, in finding out why the tragic accident happened.

Please explain why - - -

20 BRIG THOMPSON: I just did.

LCDR TYSON: - - - you're saying this Inquiry is deficient in finding out why the tragic accident happened. Please explain that, sir.

25 BRIG THOMPSON: Can you just ask that question again?

LCDR TYSON: All right. This is what you say:

30 *An opportunity has been missed, to the detriment of all stakeholders, in finding out why the tragic accident happened on 28 July '23, and to ensure that it won't happen again.*

They're your words, sir?

35 BRIG THOMPSON: They're my words.

40 LCDR TYSON: Can you please explain to those people who are listening what you know as to why this Inquiry is going to miss an opportunity to find out why the tragic accident happened?

BRIG THOMPSON: Because we don't know what the accident – what the causal factors of the accident are yet.

LCDR TYSON: But isn't that something that this Inquiry is investigating, sir?

BRIG THOMPSON: Correct.

5

LCDR TYSON: Well, what's your justification for what you say in 47(g) of your statement, sir? What opportunity has been missed? Please explain that.

10 BRIG THOMPSON: We don't have the evidence from the DFSB Investigation, don't have the investigation report yet.

LCDR TYSON: "Yet". So it will happen in due course, won't it?

15 BRIG THOMPSON: Correct.

LCDR TYSON: So an opportunity hasn't been missed; it will happen in due course.

20 BRIG THOMPSON: (No audible reply).

LCDR TYSON: Is that right, sir?

25 MS MUSGROVE: I object. I object on the basis that it's not factually correct or fair to this witness because (g) shouldn't be read in the singular. (g) is a summation of all that goes before it. So it's not that an opportunity is missed; it's speaking about the coordination between the DFSB report and Inquiry and - - -

30 MS McMURDO: Well, if you want to ask some questions of the witness later, you can clarify that.

MS MUSGROVE: Well, I'm objecting to the question that was put by this Counsel.

35

MS McMURDO: All right, your objection's overruled.

40 Lcdr TYSON: And, ma'am, to make it clear, (g) does not talk about "opportunities", as was suggested to the witness. It says "opportunity". That's this witness's words. He's made some strong statements. He's been asked to substantiate it, and you've heard his answer, ma'am.

45 Now, sir, you say that you're concerned about the apparent lack of coordination between the two Inquiries. Can you just point to practical steps you have taken to act on that concern? For example, have you given

your Legal Officer any instructions to make applications before this Inquiry about what it should or shouldn't do?

5 BRIG THOMPSON: No, I have not.

LCDR TYSON: All right, thank you. In an answer to a question from ma'am earlier, you talked about – ma'am asked you a question and I think it was about court martials, and you said there are perceptions in what members have been saying. Do you remember giving an answer something
10 along those lines, about perceptions about what members have been saying?

BRIG THOMPSON: No. I said what their perceptions may be.

15 LCDR TYSON: Have you spoken to any members of 6 Aviation Regiment about their perceptions of this Inquiry?

BRIG THOMPSON: No. I'm basing that on my experience from previous investigations and Inquiries.

20 LCDR TYSON: So that's not actually informed by a conversation with any person.

BRIG THOMPSON: Only from what my perception would be, or from what I've seen in the past.
25

LCDR TYSON: Your perception?

BRIG THOMPSON: Correct.

30 LCDR TYSON: Is that right, sir? All right.

BRIG THOMPSON: This is my statement. It's my perception.

LCDR TYSON: All right. No further questions, ma'am.
35

MS McMURDO: Thank you. Any other applications to cross-examine? Yes, LCDR Gracie.

40 **<CROSS-EXAMINATION BY LCDR GRACIE**

LCDR GRACIE: Sir, my name's LCDR Malcolm Gracie. I represent the interests of CAPT Danniell Lyon. You'll be pleased to know that I don't
45 propose to ask you any questions along the more recent line of questioning,

but I am interested to raise a couple of matters in relation to the Standing Instructions, and I appreciate that they're at an "Official: Sensitive" level, but I just want to ask you at a very high level a couple of matters in relation to the attachment that you've provided with your statement.

5

The first area – again, I'll probably invite you to just read this to yourself so that we don't have to have any difficulties with the classification. Could I ask you to look at OPS 2-106, please?

10 BRIG THOMPSON: So SI (Aviation) OPS?

LCDR GRACIE: Yes. OPS 2-106.

BRIG THOMPSON: Which version? Edition 5 or edition 6?

15

MS McMURDO: Can you help us with the annexure number, please?

20

LCDR GRACIE: Yes. It's the first – 31 March '22, which I'm thinking is Annexure B. I lost a little bit of track. I don't think it actually has an annexure number on it, but it will be – if you go to the end of your statement at page 22, we have Annexure A, which is to do with fatigue, and then over the page, two pages, there's 31 March '22, Standing Instructions Brigade Operations.

25 BRIG THOMPSON: SI Brigade?

COL STREIT: It's Annexure B.

30

LCDR GRACIE: It is B, is it? Thank you.

BRIG THOMPSON: Yes, and which one again, sorry?

35

LCDR GRACIE: And then if – from what I – I'm doing my best to follow these annexures through. There's SI (Aviation) OPS 1-100, which is annexure – it looks like it's – mine is in tabs, so it's a bit hard to find, but it looks like – if you were to go to the top right-hand corner, SI (AVN) OPS 2-106, can you follow that through? See it's got "1-101"?

40

BRIG THOMPSON: Sorry, I'm just trying to confirm you are saying "SI (AVN) OPS"?

LCDR GRACIE: Yes.

45

BRIG THOMPSON: Not "SI (Brigade) OPS"?

LCDR GRACIE: (AVN) OPS.

BRIG THOMPSON: (AVN) OPS.

5 LCDR GRACIE: I don't know where that starts.

BRIG THOMPSON: So in our pack, that's either Annex E or F.

10 LCDR GRACIE: E, is it? My apologies.

BRIG THOMPSON: SI (AVN) OPS.

LCDR GRACIE: Yes.

15 BRIG THOMPSON: Dated 14 March 2023.

LCDR GRACIE: What page do you get that on? Sorry, mine's not marked up, so I can't quite work out where it starts and ends.

20 MS McMURDO: 1-100, is it?

BRIG THOMPSON: So SI – so Standing Instructions (Aviation) Operations - - -

25 LCDR GRACIE: Yes.

BRIG THOMPSON: - - - dated 14 May 2023, which is the SIs which were in place during the time of the accident.

30 LCDR GRACIE: Thank you.

BRIG THOMPSON: Which is edition 5 AL-10. Ma'am, in your pack, it's Annex B.

35 LCDR GRACIE: So AL-10 down on the bottom of the page?

BRIG THOMPSON: AL-10 bottom of the page.

40 LCDR GRACIE: That's what we're looking at, AL-10? Okay, thank you. And then if we're using that document, that's Annexure E, is it?

UNIDENTIFIED SPEAKER: (Indistinct).

45 LCDR GRACIE: Thank you.

BRIG THOMPSON: Yes.

LCDR GRACIE: Could I ask you now to just look at the top right-hand page of Annexure E, and you should get to SI (AVN) OPS 2-106.

5

BRIG THOMPSON: 2-106.

LCDR GRACIE: Thank you. It's headed, "Categorisation of Aircrew, Flight Test Aircrew and OT&E practitioner".

10

BRIG THOMPSON: 206, you said?

LCDR GRACIE: 2-106.

15

BRIG THOMPSON: 106. Yes.

LCDR GRACIE: Sorry to have taken - - -

BRIG THOMPSON: I've found it.

20

LCDR GRACIE: - - - a roundabout way to get there. There's a lot of material to get through. If you look at paragraph 2, it talks about T&E activities, and then it identifies aircrew categories to be matched to a T&E task.

25

BRIG THOMPSON: Yes.

LCDR GRACIE: Training and evaluation test, and evaluation task. And then it says it comprises – the flight test aircrew comprises test pilots, qualified test pilots, flight test engineers, and flight test system specialists.

30

BRIG THOMPSON: Yes.

LCDR GRACIE: Then there's a full stop. And then it talks about operational test and evaluation, OT&E. Do I understand that test and evaluation is one set of flight testing, and operational test and evaluation is another sort?

35

BRIG THOMPSON: Correct.

40

LCDR GRACIE: So would it be fair, just in its broader sense, to say that test and evaluation might be conducted by AATES - - -

BRIG THOMPSON: Correct.

45

LCDR GRACIE: - - - as the Army Aviation Technical Evaluation Section, and operational test and evaluation might be conducted by someone outside of AATES?

5 BRIG THOMPSON: It could be conducted by someone from AATES, or someone who has been given an Operational Test and Evaluation Plan by AATES and coordinated by AATES, but could be flown by a pilot within – who’s an operational pilot inside a Regiment.

10 LCDR GRACIE: And it could be overseen by – or conducted by a unit CO, but overseen by SO1 - - -

BRIG THOMPSON: Correct. AATES.

15 LCDR GRACIE: Thank you. And in common parlance, are we talking about, with operational test and evaluation, is that what we would have heard in this Inquiry as an OPEVAL?

BRIG THOMPSON: No.

20

LCDR GRACIE: It’s not. It’s something separate, is it?

BRIG THOMPSON: So the training conducted on TALISMAN SABRE?

25 LCDR GRACIE: Yes.

BRIG THOMPSON: Is that what we’re speaking on?

30 LCDR GRACIE: No, just generally in relation to the way this Standing Instruction works, does it provide a demarcation for two sorts of testing regimes or environments in relation to airworthiness?

BRIG THOMPSON: I would have to get someone who’s from AATES for you to question on that.

35

LCDR GRACIE: Okay. This might then go some way to dealing with this. If you then go up to the top right-hand corner – we’re still in the SI (AVN) OPS. This now is chapter 7-101. It picks up some of these matters in relation to categorisation of testing, and this is the overview document. And to deal with the first scenario that I mentioned, there’s the testing and evaluation. This, from what I understand, only deals with test and evaluation, and not operational test and evaluation. Is that correct?

40

BRIG THOMPSON: Correct.

45

LCDR GRACIE: And if you run down to – or if you look at paragraph 2, it talks about categorised flight test 1 to 4. They’re the four categories of testing that AATES operates or conducts - - -

5 BRIG THOMPSON: Correct.

LCDR GRACIE: - - - under this T&E section. It’s not part of the operational test and evaluation functions, is it?

10 BRIG THOMPSON: No. That’s further described, I think in 7-103.

LCDR GRACIE: Yes, okay. That is right. We’ll come to it. But if you run down then to paragraph 7. So SO1 training and – test and evaluation is responsible for planning, authorisation and conduct of T&E activities. And that’s in relation to the role that AATES performed as the licensed or authorised Flight Test Organisation.

15

BRIG THOMPSON: Correct.

20 Lcdr GRACIE: And “AVN Command G3” – G3 is Ops Officer; is that right?

BRIG THOMPSON: Correct.

25 Lcdr GRACIE: “Is the tasking authority for all AATES flight test activities”. And then that’s through AVN Training Command? What’s “AVN TC”?

BRIG THOMPSON: Aviation Training Centre.

30

LCDR GRACIE: It is Training Centre. So that’s the Commandant.

BRIG THOMPSON: Commandant.

35 Lcdr GRACIE: Okay. That’s - - -

BRIG THOMPSON: At the time of this document.

LCDR GRACIE: Yes, I understand.

40

BRIG THOMPSON: It’s now different as I understand it.

LCDR GRACIE: And then it provides further requirements in relation to qualifications and other things for – and the scope of the test and evaluation. Then if you go to, as you presciently anticipated, SI (AVN)

45

OPS 7-103, we move away from AATES and the T&E limb of testing, to the Operational T&E. Is that right?

BRIG THOMPSON: Correct.

5

LCDR GRACIE: So it's providing that distinction between AATES testing and operational test. And as I understand it, if you look at paragraph 3 it's talking here about T&E policy. So that's, in its broader sense, including AATES T&E testing and this operational testing, I think. It's talking about, in its broader sense, there's two types of Operational Test & Evaluation? And there's the first being the initial OT&E.

10

COL STREIT: Sorry, can I just have a brief moment.

15

BRIG THOMPSON: Sure.

LCDR GRACIE: Again, we'll just keep this at a high level, and if you can read it to yourself. Do you see there's the note at 3(a)?

20

BRIG THOMPSON: Mm-hm.

LCDR GRACIE: And you see that there is what's referred to there as "Pre-service release"?

25

BRIG THOMPSON: So the note on?

LCDR GRACIE: 3(a). The first note at the bottom of - - -

30

BRIG THOMPSON: Yes. Yes.

LCDR GRACIE: Yes. And do you see "the mandatory requirement", "there must be"?

35

BRIG THOMPSON: Sorry, I don't see that.

LCDR GRACIE: Sorry, if - so you see the - at about point five on the page - point six on the page, "Initial and follow-on OT&E". Do you see that?

40

BRIG THOMPSON: (No audible reply).

LCDR GRACIE: At - - -

45

MS McMURDO: So not the footnote, but the actual - - -

BRIG THOMPSON: Yes, in the text.

5 LCDR GRACIE: Yes.

MS McMURDO: Yes, it says “note”.

BRIG THOMPSON: Thanks, ma’am.

10 LCDR GRACIE: So you’ve got paragraph 3(a). You’ve got that paragraph with that initial heading.

BRIG THOMPSON: Yes.

15 LCDR GRACIE: And then that note – there’s two notes under it.

BRIG THOMPSON: Yes.

LCDR GRACIE: And do you see that first note talks about the situation
20 “Pre-service release”?

BRIG THOMPSON: Yes.

LCDR GRACIE: And then the second note, “Post-service release”?
25

BRIG THOMPSON: Yes.

LCDR GRACIE: And is that demarcation between who can do what
30 testing pre-service release and who can do what operational testing post-service release your understanding of the way that this Standing Instruction operates?

BRIG THOMPSON: Correct.

35 LCDR GRACIE: Can I just move to one other topic? Jumping backwards now, it’s SI Avn Ops 4-106. It’s to do with personal electronic equipment – audible, sorry, electronic equipment. This, I take it, applies to all personal electronic equipment across various equipment types? It’s not
40 equipment-specific or aircraft-specific, is it?

BRIG THOMPSON: Within this framework, yes.

LCDR GRACIE: Yes.

45 BRIG THOMPSON: Yes.

LCDR GRACIE: And just so that we're all on the same page, it has an example in 3 of what a PEE is. It includes a mobile phone?

5 BRIG THOMPSON: Yes.

LCDR GRACIE: And now just going back up to para 1, which is the introductory paragraph which sets out the purpose of this SI is the main purpose on restriction of PEE on board to do with what's in that first sentence there?
10

BRIG THOMPSON: For what this SI is addressing?

LCDR GRACIE: Yes.
15

BRIG THOMPSON: That's correct.

LCDR GRACIE: And then you'll see in the second sentence there's some additional reasons provided for that.
20

BRIG THOMPSON: Yes.

LCDR GRACIE: And the only reason I'm asking this is because you expressed some surprise about the number of PEEs that you observed were - - -
25

BRIG THOMPSON: So that wasn't about the aircraft; that was about security.

LCDR GRACIE: And is that because of the status of that sortie, as opposed - - -
30

BRIG THOMPSON: It's due to the nature of 6 Aviation's role and the ability for State and non-State actors to track mobile phones.
35

LCDR GRACIE: So we're not dealing with the situation surrounding by this?

BRIG THOMPSON: Correct. This is about the effect of personal equipment on aircraft.
40

LCDR GRACIE: Yes. So different scenario.

BRIG THOMPSON: Correct.
45

LCDR GRACIE: Thank you, sir. Thanks for clarifying that. Thank you, ma'am.

5 MS McMURDO: Thank you. Next application to cross-examine?
COL Thompson – sorry, COL Gabbedy.

<CROSS-EXAMINATION BY COL GABBEDY

10 COL GABBEDY: Sir, you've been giving evidence for a while now. Did you want a break before I start?

BRIG THOMPSON: No, I'm good, thank you.

15 COL GABBEDY: I'm COL Nigel Gabbedy. I appear for MAJGEN Jobson. I want to ask you some questions about Army Aviation, if that's all right?

20 BRIG THOMPSON: Please.

COL GABBEDY: You seem to have had a career that goes from the bottom to the very top. You talked in your statement about fatigue management. What I would like you to do, if you could, is tell me what
25 strategies you can implement as a line pilot, as a Troop Commander, as a Squadron OC, or as a Regimental Commander to reduce fatigue in your particular area of responsibility.

30 If you start with as a line pilot, what strategies can you implement to reduce fatigue in your immediate team?

BRIG THOMPSON: So that's a very broad question. It's the same strategies you'd apply in your normal life about how you manage your time, how you manage your sleep. And it depends whether you're at home or
35 whether you're at work. So can we narrow down the question a bit?

COL GABBEDY: By your answer, I can see that you're looking at – there's strategies that any person might use to reduce your fatigue. If I direct you more towards your team. So as an Aircraft Captain perhaps, and you're dealing with a team of people, what strategies would you employ to
40 ensure that fatigue amongst the team was appropriate for a flying mission?

BRIG THOMPSON: Well, then that's – you would – in your pre-flight brief and leading up into the planning, you would understand what the fatigue levels are of your people. You would ask them before authorising
45

any sortie and, as an Aircraft Captain, you would ask them about their fatigue, attitude, complacency and external factors that were affecting that sortie.

5 COL GABBEDY: Thank you, sir. Does that change when you become a Troop Commander or is there a broader area of responsibilities or triggers or strategies that you can employ - - -

10 BRIG THOMPSON: Once you become a Troop Commander, you start planning activities and you're looking at fatigue in how you would be planning activities, how you would be crewing the aircraft to make sure that you were taking consideration, the environment and the likelihood of fatigue in the lead-up to a mission.

15 COL GABBEDY: And would that involve removing people from a particular sortie if you felt that they were too fatigued to fly or if they had other things that were occupying their time?

20 BRIG THOMPSON: Everything from removing a person to cancelling sorties.

25 COL GABBEDY: And again, if you step one up to OC of a Regiment. So 171 Squadron or 173, what additional strategies can you implement at that level?

30 BRIG THOMPSON: Once again then, that's getting into the activity design and looking at how you are designing and then engaging with the organisation that you're working with to make sure that you have the appropriate level of coordination in the designing of that activity.

35 COL GABBEDY: And then if we take you to your last appointment as the Commander of 6 Avn Brigade, does that then add another overlay in terms of management?

40 BRIG THOMPSON: So at the Brigade level you are now looking at the overall demand on a Regiment to look at how they are managing the demand of the Regiment and then you are looking at other factors, leave planning. You are looking at more organisational level aspects to how the Regiment is set for its calendar year, for training year.

45 COL GABBEDY: And I'm going to go back to that briefly. Before I get there, in paragraph 18(n), which is on page 9 of your statement, you say that you had no official or unofficial reports of fatigue-related concerns during Exercise TALISMAN SABRE 2023.

BRIG THOMPSON: Correct.

COL GABBEDY: If fatigue had been an issue on that exercise, would you expect to have been informed?

5

BRIG THOMPSON: Yes.

COL GABBEDY: Does the fact that you weren't informed of anything tell you something, or enable you to infer something?

10

BRIG THOMPSON: No.

COL GABBEDY: If I move back to the topic of – well, if I stay on the topic of fatigue perhaps and go to paragraph 28 of your statement. And we're looking at paragraph (b) on page 15. That deals with actions that were taken to reduce fatigue; is that right?

15

BRIG THOMPSON: That's correct.

20

COL GABBEDY: So did those sorts of things include reducing the length of exercise and activities?

BRIG THOMPSON: Yes.

25

COL GABBEDY: Education of the workforce, was that an important consideration?

BRIG THOMPSON: Yes.

30

COL GABBEDY: What was the intent in educating the workforce? What result were you trying to achieve there?

BRIG THOMPSON: So that's organisationally. The workforce are continually conducting professional education. There are requirements for Aviation Medicine updates and reviews every three years. So, specifically about fatigue, that's where that would be taken in because there's always continual professional education requirements.

35

COL GABBEDY: Was there also a need to help the workforce understand how to recognise fatigue within themselves?

40

BRIG THOMPSON: As I understand it, yes.

COL GABBEDY: And within their flying mates, wouldn't there?

45

BRIG THOMPSON: Correct.

5 COL GABBEDY: In your experience, having had a long career in Army Aviation, do you believe there's an open culture of reporting those concerns amongst crew members?

BRIG THOMPSON: Yes, I do.

10 COL GABBEDY: You're familiar with the current project which is produced to Non-flying Operations Officers at 6 Aviation Regiment?

BRIG THOMPSON: I am.

15 COL GABBEDY: Is that another measure that command has taken to try and reduce the load on flying pilots?

BRIG THOMPSON: Correct.

20 COL GABBEDY: And I believe that there's a Non-flying Executive Officer at one of the Squadrons as well?

COL THOMPSON: That's correct.

25 COL GABBEDY: And that's in the same vein, as I understand?

BRIG THOMPSON: Yes.

30 COL GABBEDY: We've heard some concerns raised about DACC taskings. Do you have any knowledge of any success that was experienced by 16 Aviation Brigade in pushing back against those taskings?

35 BRIG THOMPSON: Particularly around 6th Aviation Regiment, yes. In 2023, there was numerous requests for 6th Aviation Regiment to be involved in DACC tasking. That tasking was taken up by C Squadron in 5th Aviation Regiment.

COL GABBEDY: So has there been a preference to move those DACC taskings to 5 Aviation rather than 6 because of their different focus?

40 BRIG THOMPSON: Correct.

45 COL GABBEDY: In relation to things employed by Squadrons to reduce fatigue on their members, I understand that there are reduced tempo periods; is that right?

BRIG THOMPSON: That's correct.

COL GABBEDY: And there's this intent that members have the full school holidays off. Is that generally observed?

5

BRIG THOMPSON: The intent is that they have the opportunity. Whether they take the opportunity or not, it's up to the member.

COL GABBEDY: And that's a six-week period.

10

BRIG THOMPSON: No, sir, this is generally a two-week period of standdown.

COL GABBEDY: I understand there's a shutdown period between December and January that goes for approximately six weeks.

15

BRIG THOMPSON: That's correct.

COL GABBEDY: You're not required to take leave during that time?

20

BRIG THOMPSON: So there's two components there. There's the standdown period during the year which I directed – that should align with school holidays, the mid-year – from all the Regiments. Of course, the Regiments are in different states, so we wanted to align – it was up to the COs when they put that standdown period on. And then there is the Christmas standdown period. And, generally, the intent is that everyone will take leave, less those who are on high-risk weather season duties.

25

COL GABBEDY: How many weeks of paid leave do your aviators or your aircrewman get per year?

30

BRIG THOMPSON: I'd have to look at the book.

COL GABBEDY: If you don't know, that's fine.

35

BRIG THOMPSON: Okay.

COL GABBEDY: Is it more than four? There's six weeks at Christmas, potentially, and there's a couple of weeks in the middle of the year?

40

BRIG THOMPSON: But it depends how much leave they have in their book, which I think is generally 35 days a year.

COL GABBEDY: And I understand that there are no-fly Fridays. That's across the different Regiments.

45

5
BRIG THOMPSON: That was generally with 6th Aviation Regiment and the 5th Aviation Regiment. The 1st Aviation Regiment manage theirs differently.

10
COL GABBEDY: In relation to communication of issues up and down the chain in Aviation Command, do you think that that is effective?

15
BRIG THOMPSON: Yes.

20
COL GABBEDY: You're not aware of any clogs in the chain that prevent information going either up or down?

25
BRIG THOMPSON: No.

30
COL GABBEDY: How would you describe the culture in Aviation Command?

35
BRIG THOMPSON: Generally, safety culture.

40
COL GABBEDY: Now, at paragraph 26 of your statement, you talk about your interaction with Queensland Police in Proserpine. I understand there were four officers present. Was it your understanding that all four crewman of Bushman 84 were interviewed?

45
BRIG THOMPSON: That was my understanding.

COL GABBEDY: Were you aware as to whether or not those interviews were recorded?

BRIG THOMPSON: I'm not aware.

COL GABBEDY: And you made the offer, again, to convey the police officers to Sydney, if necessary?

BRIG THOMPSON: Correct.

COL GABBEDY: That was an offer that was rejected?

BRIG THOMPSON: Correct.

COL GABBEDY: And you reiterated that offer to Assistant Commissioner Guteridge?

BRIG THOMPSON: That's correct.

COL GABBEDY: And again, I take it, that offer was rejected?

BRIG THOMPSON: Correct.

5

COL GABBEDY: At the time you spoke to Assistant Commissioner Guteridge, the second time – or possibly the first time – this is at paragraph 37(a) – did he indicate to you any alternate plan he had for following up with the interviews?

10

BRIG THOMPSON: No.

COL GABBEDY: LTCOL Gracie took you to the issue of phones and you referred to operational reasons why you might not want 6 Aviation Regiment to have their personal phones with them. Are there any other concerns that you would have about crew having phones in an aircraft immediately prior to a flying mission?

15

BRIG THOMPSON: In the aircraft?

20

COL GABBEDY: Yes.

BRIG THOMPSON: From 6 Aviation Regiment?

25

COL GABBEDY: Yes.

BRIG THOMPSON: Should not have happened. It's against Standing Orders.

30

COL GABBEDY: There's been some evidence earlier in this Inquiry about things like the OC's hour or this requirement to effectively get your head in the game, get your head around the mission immediately before executing it, particularly for pilots but also for aircrew.

35

BRIG THOMPSON: Yes, operational bubble.

COL GABBEDY: Would having your phone with you or would using your phone within that period of time, would that be an impediment to concentrating?

40

BRIG THOMPSON: Yes.

COL GABBEDY: Sorry, to bounce around a little bit. But at paragraph 22 of your statement, I think you gave some evidence that there were a number of instruments issued by the Commander of Army

45

Aviation. Is it possible to indicate what they were without breaching the confidentiality of requirements that we've got? If the answer is "No", it's no.

5 BRIG THOMPSON: No.

COL GABBEDY: Thank you. Did you feel, once you'd received those instruments, insofar as they related to you, that they required further modification by you?

10

BRIG THOMPSON: No.

COL GABBEDY: It's been suggested – or it will be suggested by a witness that three two-hour sorties in a five-day week would be sufficient to give a pilot somewhere between 200 to 300 hours of flying time a year. Is that achievable in 6 Aviation at the moment?

15

BRIG THOMPSON: At the moment I can't tell you.

20 COL GABBEDY: Does that, to your mind, free up sufficient time for other duties?

BRIG THOMPSON: Yes.

25 COL GABBEDY: You were asked some questions about the decision for 6 Aviation to leave Proserpine after the incident on 28 July. At that point in time, the airframe was grounded, wasn't it?

BRIG THOMPSON: That's correct.

30

COL GABBEDY: And there was no practical effect that 6 Aviation could apply to the exercise. Was that - - -

BRIG THOMPSON: That is correct.

35

COL GABBEDY: So in terms of the competing priorities of ensuring your Regiment was back with their families and keeping them in the situation, I assume that putting them back with their families was a no brainer in terms of what to do?

40

BRIG THOMPSON: As I said, the welfare of the members and their family was my principal concern.

5 COL GABBEDY: And, look, at the risk of opening a recently healed scab, there was a whole pile of evidence about paragraph 47. Do I understand your concern to be, based on your involvement in previous investigations, that in circumstances where the DFSB report has been received before an alternate investigative process such as this one commences, it constricts the evidence, reduces the psychosocial risk on members.

BRIG THOMPSON: That's correct.

10 COL GABBEDY: Thank you, sir. I have nothing further.

MS McMURDO: Yes. Further applications to cross-examine?

15 MS MUSGROVE: Yes.

MS McMURDO: Ms Musgrove, thank you.

20 <**CROSS-EXAMINATION BY MS MUSGROVE**

20

MS MUSGROVE: My name is Musgrove, and I appear for the Commonwealth. Can you just remind me how long you've served in the Australian Army?

25

BRIG THOMPSON: Thirty-seven years.

MS MUSGROVE: And in that 37 years, how long have you been in command positions?

30

BRIG THOMPSON: About 10.

MS MUSGROVE: About 10? And in those 10 years in the command positions, have you experienced those under your command going through a court martial process?

35

BRIG THOMPSON: Yes, I have.

MS MUSGROVE: And have you seen the impact that it has on the individual who's facing the court martial?

40

BRIG THOMPSON: Yes, I have.

MS MUSGROVE: And have you seen the impact - - -

45

COL STREIT: Objection. Were they the accused or a witness?

MS McMURDO: Were they the accused or a witness? Yes. Well, you might like to clarify those details. But anyway - - -

5

COL STREIT: If a witness, were they the complainant?

MS McMURDO: Well, actually, COL Streit, you can ask that question in re-examination if you want to. So go on Ms Musgrove.

10

MS MUSGROVE: Thank you.

In your experience with those under your command who have gone through the court martial process, is that as the accused and also as witnesses?

15

BRIG THOMPSON: Both.

MS MUSGROVE: And as complainants?

20

BRIG THOMPSON: Both.

MS MUSGROVE: And regardless of the capacity in which they go through the court martial process, have you seen impacts upon them as individuals, emotional impacts?

25

BRIG THOMPSON: Yes, I have.

MS MUSGROVE: Psychosocial impacts?

30

BRIG THOMPSON: Yes, I have.

MS MUSGROVE: Do your observations of those impacts of those who have gone through the court martial process feed into your concerns that you've expressed at paragraph 47?

35

BRIG THOMPSON: Yes, correct.

MS MUSGROVE: And in your 10 years of command, have you had occasion to be in command of people who have given evidence at Inquiries similar to this?

40

BRIG THOMPSON: Yes, I have.

MS MUSGROVE: And have you seen first-hand psychosocial impacts upon those people who have been required as witnesses in those Inquiries?

45

BRIG THOMPSON: I have.

5 MS MUSGROVE: And have those psychosocial impacts been positive or negative for the individuals?

BRIG THOMPSON: They've been negative.

10 MS MUSGROVE: And do the observations that you've made of those negative psychosocial impacts on the individuals under your command going through those Inquiry processes contribute to your concerns that you've expressed at paragraph 47?

15 BRIG THOMPSON: That is correct.

MS MUSGROVE: Is it your opinion that you don't need a Masters degree in Psychology to understand - - -

20 MS McMURDO: That's not worth much, Ms Musgrove.

MS MUSGROVE: Thank you. I withdraw that.

25 MS McMURDO: He's already told us he doesn't have any expertise in the field.

MS MUSGROVE: Thank you.

30 But it's coming from your experience, first-hand, in being in command of people who have been through those processes - - -

BRIG THOMPSON: That's correct.

35 MS MUSGROVE: - - - and had negative experiences. And does that impact on the capability of the units or the Squadrons as well?

BRIG THOMPSON: Yes, correct.

40 MS MUSGROVE: So it's not just an individual impact on the person involved, but more broadly.

BRIG THOMPSON: Correct.

45 MS MUSGROVE: When you wrote paragraph 47, were you intending to insult this Inquiry?

BRIG THOMPSON: Absolutely not.

MS MUSGROVE: What was your intention?

5 BRIG THOMPSON: My intention is to learn so we can do better in the future, and continually learn from these processes.

MS MUSGROVE: And when you say “learn”, is that learning about how to effectively run – well, how Inquiries could effectively coexist to
10 minimise the impact on those involved in the Inquiries?

BRIG THOMPSON: Yes. And, also, how we can better support our people.

15 MS MUSGROVE: So at answer 47(a) you say:

I am concerned about the apparent lack of coordination between DFSB’s Inquiry and IGADF’s Inquiry since 29 July 2023, and the inimical effect this has had, in particular, on the psychosocial risk profiles of 6 Avn Regiment members who have given evidence to DFSB, IGADF, and other Inquiries.

20

BRIG THOMPSON: Yes.

25 MS MUSGROVE: So is it your evidence that your concern was for your people; correct?

BRIG THOMPSON: Correct.

30 MS MUSGROVE: And the impacts that multiple Inquiries were having upon your people?

BRIG THOMPSON: That’s correct.

35 MS MUSGROVE: And do you stand by what you put at (a) in your statement?

BRIG THOMPSON: Yes.

40 MS MUSGROVE: Now, you’ve been taken to some evidence about your understanding about DFSB’s protocols that they use. And is it your understanding that DFSB have a no blame system, no blame protocol?

BRIG THOMPSON: Yes.
45

MS MUSGROVE: And that's what they work towards?

BRIG THOMPSON: Yes.

5 MS MUSGROVE: And that is to ensure Aviation safety, isn't it? That those who come and give evidence to DFSB feel that they can do so freely and openly? That's correct?

BRIG THOMPSON: That's correct.

10 MS MUSGROVE: And that's for the enhancement of Aviation safety; correct?

BRIG THOMPSON: Correct.

15 MS MUSGROVE: So the difference has been pointed out to you today, and it may be that it's not entirely appropriate for DFSB to share their evidence with – such as witness statements. You'd accept that, wouldn't you?

20 BRIG THOMPSON: I accept that.

MS MUSGROVE: But a level of coordination between DFSB and any IGADF Inquiry, for example, moving forward, you still say would be in the best interests of your people? Is that what you were trying to express in 47?

BRIG THOMPSON: That was what I'm trying to express.

30 MS MUSGROVE: And when you said that – and I'll just read it here at (e):

It would have been ideal for DFSB and IGADF to have done this from the beginning –

35 so is that coordination?

BRIG THOMPSON: Coordination.

MS MUSGROVE:

40 *Rather than exposing 6 Aviation Regiment members to the psychosocial hazard of giving evidence publicly in the course of the IGADF's Inquiry, in conditions that resemble a court martial.*

45 BRIG THOMPSON: Yes.

MS MUSGROVE: You weren't saying that this was akin to a criminal process in that, were you?

5 BRIG THOMPSON: Not at all.

MS MUSGROVE: Were you trying to say that because it's public and the nature of this Inquiry, that those going through this process may feel a level of scrutiny and pressure?

10

BRIG THOMPSON: And from their perceptions of what – because – yes.

MS MUSGROVE: And is that about the process generally, not about this Inquiry, not about what particular question is asked of a particular witness?

15

BRIG THOMPSON: Absolutely.

MS MUSGROVE: It's the fact that this Inquiry is public; correct?

20

BRIG THOMPSON: Correct.

MS MUSGROVE: And it's done in the absence of a finalised DFSB report?

25

BRIG THOMPSON: Correct.

MS MUSGROVE: And so is it your concern as well that, in the absence of the finalised DFSB report, questions might be asked that actually turn out to be redundant.

30

BRIG THOMPSON: Correct.

MS MUSGROVE: Was that what you were trying to express?

35

BRIG THOMPSON: That's what I was trying to express.

MS MUSGROVE: Thank you. I have no further questions.

40

MS McMURDO: Would you accept that the public have a great interest in understanding the work of this Inquiry given that four very talented men, who were contributing greatly to their community and to their nation, were killed; and those men have been trained at public expense; and a very expensive helicopter was destroyed; and after that, the whole MRH-90 fleet was grounded and then dismantled? Are these not matters of great public interest that - - -

45

5 BRIG THOMPSON: Sorry, ma'am, from my evidence, I don't think I said that I don't think we should – this should absolutely be public. It's my concern is more that we haven't had the DFSB accident investigation to inform this Inquiry.

MS McMURDO: I understand that now. Perhaps not expressed as well as it could have been.

10 BRIG THOMPSON: My apologies.

15 MS McMURDO: I understand that now. Now, one of the principles of international aviation Inquiries like this is that the report that's been conducted by the DFSB should be done in a timely way. We're now in the position that the deaths occurred in July last year and we still don't have the DFSB report, and we're not going to have it at the end of this year. Do you agree with that?

20 BRIG THOMPSON: I agree. There's been significant - - -

MS McMURDO: It's less than desirable delay.

25 BRIG THOMPSON: - - - significant challenges for DFSB to recover and investigate.

30 MS McMURDO: Significant delay in the provision of the report. At the same time, the Inspector-General has an obligation under the *Defence Act* and the *IGADF Regulation* to investigate deaths that have occurred in the course of conduct in the ADF. And he is expected to do that in a timely way. So, that the public expectation, the expectations of families for the IGADF to do nothing in respect of its obligations under the *Defence Act* for all this time, waiting for the DFSB report would also be not acceptable to the public. Do you accept that?

35 BRIG THOMPSON: I accept that and understand that, ma'am.

40 MS McMURDO: And would you also accept that this Inquiry, I suspect unlike other Inquiries that you were involved in – and you haven't been involved as a Commander in this Inquiry, which you agreed in earlier questioning – this Inquiry has, in fact, been conducted in a trauma-informed way and is being conducted in a trauma-informed way. So there are some differences in the way this Inquiry is being conducted and the past Inquiries that you've been involved in have been conducted. Do you agree with that?

45 BRIG THOMPSON: (No audible reply).

MS McMURDO: You're nodding.

5 BRIG THOMPSON: Ma'am, I am not criticising the Inquiry at all. I'm just concerned about the effect of the number of Inquiries and the timing of the Inquiries on my people.

10 MS McMURDO: Yes. Well, naturally, for anybody to be a witness called before any Inquiry is a stressful thing and if it happens more than once over the same incident, it's going to be more distressing. And the closer the trauma involved for the person giving evidence, the worse the trauma for them in having to relive traumatic events. So the aircrew involved, and so forth, it's worse for them having to relive it. So it's not perfect. But, unfortunately, because of whatever factors, largely because of the delay in
15 the DFSB report, we're in this position where we have obligations that have to be done. We're trying to do them in the best way possible.

20 We're trying to cooperate with Army to ensure that they're doing their bit to ensure and support their people too. So whilst it's less than ideal – and you've pointed out aspects that would be better if things were different – the reality is that we have to work with what we've got to work with, and that is that we don't have a DFSB report.

25 We have a public expectation and expectations from families to get on with this Inquiry, and the Inspector-General, through this Inquiry, is carrying out his statutory obligation. So you're nodding - - -

BRIG THOMPSON: I understand, ma'am. I understand.

30 MS McMURDO: So we might all agree that it's less than optimal, but this Inquiry is doing the best it can with the circumstances that it has. Do you accept that?

35 BRIG THOMPSON: I accept that, ma'am. And I apologise if the perception is I was criticising the Inquiry itself.

40 MS McMURDO: Well, we can be criticised, and no doubt we will be criticised. But if we feel that the criticism is unjustified, we will question you about it.

BRIG THOMPSON: Understand, ma'am.

MS McMURDO: Understood. Yes, thank you. Yes, further - - -

45 LCDR HAY: Ma'am, I'm LCDR Mark Hay.

MS McMURDO: Yes.

LCDR HAY: I appear and represent the interests of D19.

5

MS McMURDO: Yes.

LCDR HAY: I have an application – I wonder if you might consider adjourning briefly for me to have an opportunity to confer with the witness briefly? There was some evidence that came out, it wasn't contained in the Brigadier's statement. It came out in response to questions from Counsel Assisting that does directly – or potentially affects the interests of D19.

10

I can indicate that D19 – without going into details – is presently in a location where he does not have access to personal telecommunications devices, so it's been difficult getting instructions from him about this particular issue. But I think – and I've spoken to his Counsel, COL Thompson – I think that I would be able to secure enough information from the Brigadier, in conferring with him, to allow me to make a decision about whether or not to ask questions in the public hearing.

15

20

MS McMURDO: Well, it's fairly unusual for you to be conferring with a witness in the course of questioning.

LCDR HAY: Well, with respect, it is information that's, as I say, not contained in his statement. As the old adage goes, there's no property in witnesses. He's not, strictly speaking, in the middle of cross-examination.

25

MS McMURDO: No.

30

LCDR HAY: And it will assist, in my submission, the Inquiry to not go through a process of engaging in questioning with him where ultimately those questions may take the matter no further.

MS McMURDO: Do you have any comment, COL Streit?

35

COL STREIT: It is unusual. I understand the challenges my friend faces. It happens in all Inquiries from time to time. A witness' evidence in the statement is not an encyclopaedia of every single scintilla of things that they'll say or might say in response to questions that might arise from all Counsel. It seems to me, in the circumstances, noting the witness presently being the subject of questioning, that if the Inquiry was minded to permit that to happen, the witness should have, or be permitted to have, his legal representative present as an observer.

40

45

MS McMURDO: Yes.

COL STREIT: That would be my submission.

5 MS McMURDO: COL Thompson, you'd be happy with that course, would you?

COL THOMPSON: (Indistinct).

10 MS McMURDO: Were there any other applications to cross-examine before we get to that point? Okay, how long do you think you'll be?

COL THOMPSON: No more than about 10 or 15 minutes. Perhaps 15 minutes at the outside, just to be safe.

15

MS McMURDO: All right then, we'll have a 15-minute break now to allow that to happen.

20 **HEARING ADJOURNED**

HEARING RESUMED

25

MS McMURDO: Yes.

LCDR HAY: Thank you, Ms McMurdo, for that indulgence. Can I just advise the Inquiry that as a consequence of that very short adjournment, that I have no cross-examination for this witness, and I thank you.

30

MS McMURDO: Thank you. Any re-examination, COL Streit? No, there's more - - -

35 COL THOMPSON: I have cross-examination.

MS McMURDO: I'm sorry. Of course, COL Thompson, yes.

COL THOMPSON: I'm happy to be Counsel Assisting for the remainder of the week.

40

MS McMURDO: No, that's all right.

45

<CROSS-EXAMINATION BY COL THOMPSON

5 COL THOMPSON: Sir, can I take you to Annexure A to your statement. It's headed "Supplementary Statement: Structure and history of fatigue management provisions in Army Aviation Standing Instructions". You mean that to be a continuation of your main statement of 4 November, don't you?

10 BRIG THOMPSON: That's correct, yes.

COL THOMPSON: It's not an exhibit to your statement.

15 BRIG THOMPSON: No.

20 COL THOMPSON: Now, you were asked by learned Counsel Assisting about the difference between technical control – or rather your answer to a question by my friend was that you had technical control of Brigade elements, including 6 Aviation Regiment, for TALISMAN SABRE '23, but not operational control. It was Joint Operations Command who had operational control. Was that Force assurance – if I can call it that – for operational control minuted? Was there a document signed by you or someone else?

25 BRIG THOMPSON: That's correct. So specifically for 6 Aviation Regiment, they were under Op Command or Special Operations Command for that activity. They provided – 6 Aviation Regiment provided me a Force assurance through the Battleworthiness Board.

30 COL THOMPSON: Now, was that in writing? If I can pause you there, sir.

BRIG THOMPSON: That's in writing.

35 COL THOMPSON: Thank you. Signed by who? The CO - - -

BRIG THOMPSON: The CO.

40 COL THOMPSON: - - - of the Regiment?

BRIG THOMPSON: And then I provided the Force assurance for the whole Brigade to the Aviation Commander through a Force assurance minute.

COL THOMPSON: Thank you. Now, you mentioned the topic of no personal mobile phones on TALISMAN SABRE '23 at all for security reasons. Can you elaborate on whether it would've been possible for members of a Regiment to have, say, a mobile device for communicating with families, communication with each other, that wouldn't have been able to be traced by these - - -

BRIG THOMPSON: My expectation was that – and I didn't give specific Direction, but my expectation was, “Personal mobile phones, no”, but Defence mobile phones would've been on the exercise.

COL THOMPSON: [REDACTED]

BRIG THOMPSON: [REDACTED]

COL THOMPSON: [REDACTED]

BRIG THOMPSON: [REDACTED]

MS McMURDO: [REDACTED]

COL THOMPSON: [REDACTED]

[REDACTED]: [REDACTED]

COL THOMPSON: [REDACTED]

BRIG THOMPSON: Okay.

COL THOMPSON: Thank you.

BRIG THOMPSON: Thank you.

COL THOMPSON: Now, you mentioned the RAAF aircraft that arrived on 29 July 2023 that took 6 Aviation Regiment members back to Holsworthy. Were you aware that the crew of that RAAF aircraft was subject to their own fatigue management limits?

BRIG THOMPSON: Yes, the aircraft was – when it arrived, had a very short window to remain on the ground, so it remained running because it had to get back to meet the aircrew endurance requirements.

COL THOMPSON: So if the RAAF aircraft didn't leave at the time that it did leave on 29 July, what was your understanding about their requirements, the crew's requirements to stay at Proserpine?

5 BRIG THOMPSON: Well, they would've either stayed at Proserpine or left.

COL THOMPSON: Stay for how long? Have you got any idea about that?

10

BRIG THOMPSON: It would've been within their crew endurance requirements for - - -

15 COL THOMPSON: Could it have been as long as 24 hours, two hours, or - - -

BRIG THOMPSON: I'm not 100 per cent sure of what their crew requirements were.

20 COL THOMPSON: Thank you, sir. Ma'am.

MS McMURDO: Thank you. Any re-examination, COL Streit?

25 <RE-EXAMINATION BY COL STREIT

COL STREIT: Sir, just dealing with Annexure A which my learned friend just took you to, second page, paragraph 12, you say:

30

The Fatigue Management rules for 16 Aviation Brigade as at 28 July were:

35 *(a) the Defence Flight Safety Bureau's Aviation Fatigue Management Guidebook.*

Do you see that there?

40 BRIG THOMPSON: Correct, yes.

COL STREIT: How were they applied as the rules?

45 BRIG THOMPSON: They were included in the SI (AVN) OPS Edition 5 AL-10 as a tool that could be used to support - - -

COL STREIT: So it's a tool that provides guidance.

BRIG THOMPSON: Correct.

5 COL STREIT: As opposed to a mandated rule.

BRIG THOMPSON: As a guidebook, as it was intended.

10 COL STREIT: All right, thank you. And, finally, you were asked some questions by COL Gabbedy in relation to whether or not any matter had been reported to you whilst on Exercise TALISMAN SABRE concerning 6 Aviation Regiment and any issue about fatigue. Do you remember those questions?

15 BRIG THOMPSON: Yes.

COL STREIT: And you indicated, "No, that nothing had". Is that right?

BRIG THOMPSON: That's correct.

20 COL STREIT: And were you briefed that D20 – if you look at D20 on the pseudonym list?

BRIG THOMPSON: Yes.

25 COL STREIT: Did you understand, as at July 2023, that D20 was a Troop Commander in 6 Aviation Regiment?

BRIG THOMPSON: Yes.

30 COL STREIT: Do you understand, whilst you were on TALISMAN SABRE, that D20 was also deployed as part of 6 Aviation Regiment?

BRIG THOMPSON: I wasn't aware that she was there or not.

35 COL STREIT: Were you therefore – I take it, therefore, you were not aware that D20 had been deployed on exercise and had left the exercise before 28 July sortie?

40 BRIG THOMPSON: I was not aware.

COL STREIT: All right. Thank you, sir.

MS McMURDO: Yes, thank you very much, Brigadier, for your

5 assistance to the Inquiry. Now, you did have some heated questioning over that final paragraph of your statement. Of course, I know that you're aware of the support services that are available. And although you're very senior and very experienced at giving evidence before an Inquiry, and especially when there's some heated questioning, don't be afraid – well, I'm sure you won't be afraid – don't hesitate to use those services if they're needed. Thank you.

10 BRIG THOMPSON: Thank you, ma'am.

COL THOMPSON: Ma'am, if BRIG Thompson could have the option of staying in the room for the Assistant Commissioner's evidence?

15 MS McMURDO: I can't see any issue with that now that he's given evidence.

COL STREIT: No. And, indeed, there's leave to appear, so he would be entitled to be in the room.

20 MS McMURDO: Yes, certainly. Yes, no problem at all.

COL THOMPSON: Thank you.

25 MS McMURDO: Thank you. Yes, you're free to go.

BRIG THOMPSON: Thank you.

30 MS McMURDO: Thank you, and you're welcome to sit in the Inquiry room. Thank you.

<WITNESS WITHDREW

35 COL STREIT: Can I just ask that the water refreshments be replenished for the witness. And I call Assistant Commissioner Kevin Guteridge.

<AC KEVIN ANTHONY GUTERIDGE, Sworn

<EXAMINATION-IN-CHIEF BY MR MASON

5

MS McMURDO: And, Assistant Commissioner, if you need a break at any time, just let me know. Thank you.

10 AC GUTERIDGE: Thank you, ma'am.

MS McMURDO: Yes, COL Streit.

15 COL STREIT: Madam Chair, as the Assistant Commissioner is legally represented, you granted leave to Mr Mason of Counsel.

MS McMURDO: Yes. Yes, I have.

20 COL STREIT: He will shortly come to the lectern.

MS McMURDO: Yes, I have. Yes, Mr Mason, thank you.

25 MR MASON: Yes, thank you, ma'am. May it please the Inquiry, my name is Mason, M-a-s-o-n, initial A, Counsel instructed by the Queensland Police Service.

Mr Guteridge, if you could please state your full and correct name for the Inquiry?

30 AC GUTERIDGE: My full name is Kevin Anthony Guteridge.

MR MASON: And you're a member of the Queensland Police Service?

35 AC GUTERIDGE: Yes, I am at the rank of Assistant Commissioner, currently in charge of the People Capability Command.

MR MASON: And to assist the Inquiry, you've prepared a written statement for this matter?

40 AC GUTERIDGE: I have.

MR MASON: And, ma'am, if I may approach this witness?

45 MS McMURDO: We'll get someone so you don't have to do that.

AC GUTERIDGE: Thank you.

MR MASON: Sorry, excuse me. Now, Assistant Commissioner, if you could please take a moment to review that document.

5

AC GUTERIDGE: Yes, that is the statement I prepared.

MR MASON: And that statement is 15 pages long?

10

AC GUTERIDGE: That is correct.

MR MASON: And you signed that statement on 5 November 2024?

AC GUTERIDGE: I did.

15

MR MASON: Now, are there any corrections that you wish to make to that statement?

20

AC GUTERIDGE: There are a couple of minor corrections by way of typographical and format errors, only. If I could draw your attention to paragraph 15?

MR MASON: Yes.

25

AC GUTERIDGE: “Saturday, 29 July 2023”, not “August”.

MR MASON: So just to capture that, Assistant Commissioner, paragraph 15 reads, “On Saturday, 29 August”. Are you wishing to delete the word “August” and insert the word “July”?

30

AC GUTERIDGE: Yes, insert the word “July”, thank you.

MS McMURDO: Yes, if you could make that amendment, please.

35

MR MASON: And I understand you wish to make a correction to paragraph 21?

AC GUTERIDGE: I do. If we could exchange – paragraph 21, it says, “At approximately 6 am on 30 July”. If we could correct that to “29 July”.

40

MR MASON: So at paragraph 21 it reads, “At approximately 6 am on 30 July 2023”?

AC GUTERIDGE: Correct.

45

MR MASON: You wish to delete “30” and replace it with “29”?

5 AC GUTERIDGE: Yes, thank you. And as a result of a formatting error, if paragraph 21 could be placed immediately below paragraph 25 to correct that context, thank you.

MS McMURDO: So perhaps you could just put an arrow around paragraph 21 to the bottom of the page at 25?

10 AC GUTERIDGE: And at paragraph 22, “approximately 1” – sorry, “11 am” – and replace where it says “At approximately 1 pm”.

15 MR MASON: So for the record, that is – it currently reads at paragraph 22, “At approximately 1 pm”. You wish to delete the word “1 pm” and replace it with “11 am”; is that correct?

AC GUTERIDGE: Yes, thank you.

20 MR MASON: Now, were they the only corrections you wish to make?

AC GUTERIDGE: Yes, thank you.

MR MASON: And to confirm, there’s two annexes with your statement?

25 AC GUTERIDGE: There is two annexes.

MR MASON: If you could please just describe what Annex A is?

30 AC GUTERIDGE: So Annex A is an email sent from me, authored by me, on 31 July 2023, forwarded to Military Police Officer Casey Theissen.

MR MASON: And reading the copy of that email, is that email true and correct to your knowledge?

35 AC GUTERIDGE: It is.

MR MASON: Thank you. Annexure B?

40 AC GUTERIDGE: Annexure B is a letter of exchange between the Provost Marshal and the Commissioner of the Queensland Police Service in relation to relationship and capability-building between the organisations.

45 MR MASON: And that is a document that you obtained during your involvement in this matter?

5 AC GUTERIDGE: I was aware of the existence of that document, not the particular details of that document. But I was aware of a relationship existing between QPS and the ADF at the time of this investigation.

MR MASON: Ma'am, I'd seek to tender the statement and the annexes.

10 MS McMURDO: The statement and Annexures A and B are Exhibit 101.

**#EXHIBIT 101 - STATEMENT OF AC GUTERIDGE
AND ANNEXURES**

15 MR MASON: Assistant Commissioner, your statement covers a variety of matters about your involvement in this Inquiry. Is there anything else that you have not put in there that you wish to add to your statement?

20 AC GUTERIDGE: No, there is not. If I could take the opportunity, though, to acknowledge the passing of the crew of Bushman 83 and, on behalf of the Queensland Police Service and myself, extend my deepest sympathy and condolences to the families.

25 MS McMURDO: Yes, thank you.

MR MASON: Ma'am, I have nothing further. If I could hand back to COL Streit.

30 MS McMURDO: Yes, thank you. Thank you, Mr Mason. COL Streit.

<CROSS-EXAMINATION BY COL STREIT

35 COL STREIT: Thank you, Ms McMurdo.

40 Assistant Commissioner, what I propose to do is to take you chronologically through aspects of your statement and identify particular parts and ask you some questions.

AC GUTERIDGE: Yes.

45 COL STREIT: Can I begin first with just dealing with some aspects of your career history? You, at paragraph 4, were inducted as a police officer

in the Queensland Police Service on 20 November 1987?

AC GUTERIDGE: That's correct.

5 COL STREIT: And since 1987, have you been a Queensland Police Officer?

AC GUTERIDGE: Yes, I have.

10 COL STREIT: You started in the usual way, can I suggest, serving in general duties, moving to investigative duties, as set out in paragraph 4?

AC GUTERIDGE: Yes, correct.

15 COL STREIT: And you have served, in your career to date, in various locations, including various areas of Queensland, from Brisbane, Kingaroy, Charters Towers, and up to Townsville and Mount Isa.

AC GUTERIDGE: Yes, correct.

20

COL STREIT: You were appointed a detective in February 1992; is that correct?

AC GUTERIDGE: That's correct.

25

COL STREIT: And in respect of being a detective, do I take it that means you were charged in that role with the investigation of allegations of criminal offences?

30 AC GUTERIDGE: Yes.

COL STREIT: Now, are you able to assist the Inquiry understand your engagement in assisting any Coronial investigation throughout your QPS career?

35

AC GUTERIDGE: Yes. The assistance in Coronial matters is a fundamental responsibility for most police officers. Certainly where there may be the existence of potentially suspicious circumstances, detectives will certainly be involved in those investigations. And in those investigations, their role is to support the role of the Coroner in making a determination as to the cause of death in that instance.

40

COL STREIT: And in relation to the investigation of deaths of persons in Queensland, it's important, is it, to obtain statements from witnesses as soon as reasonably practicable?

45

5 AC GUTERIDGE: It is. In an ideal world, it prevents loss of memory. In some cases it also presents a risk of contamination. And it also helps to inform both the investigative strategies that need to be applied, but it also helps identify further evidence that may be required in order to assist.

10 COL STREIT: Now, the risk of contamination, can I suggest there's two aspects to that. The first risk of contamination is that witnesses will overtly/indirectly collude in relation to statements they might later make to police?

AC GUTERIDGE: Potentially, yes.

15 COL STREIT: And the second aspect to that is that witnesses who have experienced a traumatic event and observed a traumatic event may inadvertently and, unsurprisingly, discuss that matter with another witness. Correct?

20 AC GUTERIDGE: Yes, correct. Or may potentially be influenced by media or other circumstances surrounding it or something.

25 COL STREIT: And in those circumstances, in discussing a matter with another witness, in terms of a shared experience, the inadvertent risk of contamination is that witness's memory, where there are gaps, may be filled with the knowledge of the other witness.

AC GUTERIDGE: Yes, that's correct.

30 COL STREIT: And, therefore, the witness makes a police statement inadvertently having adopted, essentially, a recollection of another witness, where they had a gap.

AC GUTERIDGE: Potentially, yes.

35 COL STREIT: That needs to be balanced, of course, in relation to acknowledging that a witness who has experienced a traumatic event might need a little bit of time before making a formal statement?

40 AC GUTERIDGE: Absolutely. In which case what would normally happen is a version would be obtained at the time and then negotiations would exist around how you would obtain that formal statement later on.

45 COL STREIT: But, ideally – provided all things can be balanced and even in circumstances where support might be provided to the witness while speaking to a police officer – ideally, getting a statement or a version of

events from that witness as quickly as possible is best investigative practice?

5 AC GUTERIDGE: Best outcome, yes.

COL STREIT: And the intent of obtaining statements from witnesses in a Coronial investigation is to assist police in identifying lines of enquiry concerning that investigation?

10 AC GUTERIDGE: Yes, correct.

COL STREIT: And that may lead to the identification of other witnesses that police would speak to?

15 AC GUTERIDGE: Yes, correct. Or, potentially, help the Coroner inform – or inform the Coroner in relation to assistance that may be required.

20 COL STREIT: And in circumstances where police are satisfied that all reasonable and practical steps have been taken to obtain statements from witnesses, they then prepare a brief for the Coroner and submit that brief to the Coroner. Is that correct?

AC GUTERIDGE: Yes, that is correct.

25 COL STREIT: And the brief to the Coroner would contain all of the evidence, including witness statements that police have gathered in the Coronial investigation?

30 AC GUTERIDGE: Yes. As well as any physical evidence as well.

COL STREIT: In your experience, is it always a possibility that upon review of that material by the Coroner, the Coroner may direct Queensland Police to undertake further enquiries in matters?

35 AC GUTERIDGE: Yes, it is. It's definitely not unusual for that to take place, yes.

40 COL STREIT: Because a Coronial investigation is an ongoing inquisitorial process, isn't it?

AC GUTERIDGE: Yes. As opposed to a criminal prosecution, yes.

45 COL STREIT: And at some stage a Coroner will make a decision in Queensland as to whether – once they've received an investigation – of whether they're satisfied the investigation is complete, and make a decision

in relation to the matter. Correct?

AC GUTERIDGE: Yes, that's correct.

5 COL STREIT: And on occasions, sometimes the Coroner's decision may be to, having received the police material, conduct an inquest?

AC GUTERIDGE: That's correct.

10 COL STREIT: Now, at the time – and we're talking about in July 2023 – if I could just take you to paragraph 7 of your statement. As at 28 July 2023, you were the Assistant Commissioner for the Central Police Region here in Queensland?

15 AC GUTERIDGE: Yes.

COL STREIT: You had been appointed to that role in April 2020; correct?

AC GUTERIDGE: Yes.

20

COL STREIT: In that role, you're responsible for the provision of effective and efficient policing and support activities in the police districts you've mentioned earlier in your statement?

25 AC GUTERIDGE: Yes, that was Mackay and Capricorn Air Police districts.

30 COL STREIT: You were responsible for ensuring the development, resourcing, provision of tasking and coordination models, and contribution to the delivery of strategic objectives, financial management, ensuring the management team were aligned activities with QPS goals, and guiding of all operational business strategies and activities to ensure alignment with operational imperatives, including the performance, review and evaluation?

35 AC GUTERIDGE: Yes, correct.

COL STREIT: At para 9 you set out what the areas that the QPS Central region geographically comprise?

40 AC GUTERIDGE: Yes.

COL STREIT: And at para 10 you say:

45 *The central region policing response is delivered by approximately 1000 sworn police officers serving in 69 police divisions.*

AC GUTERIDGE: That's correct.

5 COL STREIT: And the area is also serviced by specialist operational capability providers, including Investigators, Forensic Officers, Water Police and Dog Squads.

AC GUTERIDGE: Yes.

10 COL STREIT: And so you're in charge of – in that region, you're in charge and responsible for approximately 1000 sworn police officers serving in 69 police districts.

AC GUTERIDGE: Yes.

15 COL STREIT: Or divisions?

AC GUTERIDGE: Divisions.

20 COL STREIT: Currently, that was your role as at 28 July 2023. Presently, you are the Assistant Commissioner of Police currently appointed to People Capability Command; is that correct?

AC GUTERIDGE: Yes, that's correct.

25 COL STREIT: Is that here in Brisbane?

AC GUTERIDGE: Yes, based out of Oxley?

30 COL STREIT: Thank you. And you've been in this position since April of this year?

AC GUTERIDGE: That's correct.

35 COL STREIT: Now, just can I focus on the events of 28 July 2023, when you became aware of a matter concerning Bushman 83?

AC GUTERIDGE: Yes.

40 COL STREIT: Can I take you to paragraph 13 of your statement? You say:

45 *On Friday, 28 July 2023 at 11.53 pm I received an SMS message from Superintendent Graeme Paine, the District Officer for Mackay-Whitsunday District. Superintendent Paine advised that*

an ADF helicopter had crashed into the water off Proserpine, near Lindeman Island, at approximately 10.48 pm, and that a search and rescue operation had been commenced.

5 Is that right?

AC GUTERIDGE: Yes, that's right.

10 COL STREIT: You were further advised by Superintendent Paine that:

Water Police were assisting with the search and rescue and that Queensland Police Service were in attendance at an ADF Command Post at Proserpine and that further advice was to be provided on 29 July.

15

AC GUTERIDGE: Yes, that's right.

COL STREIT: On Saturday, 29 July 2023 at 05.43 am you received a further SMS from Superintendent Paine in relation to the crash; correct?

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AC GUTERIDGE: Yes.

COL STREIT: And he advised in that text that:

25

Nil persons had been located. The debris had spread over an extensive area indicating significant impact which may reduce the likelihood of survivors. But the District Duty Officer, Senior Sergeant Tony McDowell, and Police Forward Command, Acting Inspector Adam Dyer, had been deployed and that the Australian Maritime Safety Authority Joint Rescue Coordination Centre and ADF were coordinating the search, which involved QPS, Volunteer Marine Rescue, Military Surface and Air assets.

30

That the four persons on board and missing were ADF members from Sydney.

35

That's correct.

AC GUTERIDGE: Yes, that's right.

40

COL STREIT: You subsequently provided advice to the Commissioner of Police, Commissioner Carroll, and the State Duty Executive; is that right?

AC GUTERIDGE: Yes, I did. Following the further conversation I had with Superintendent Paine, as a result of the amendment made earlier, I briefed the Commissioner.

5 COL STREIT: And at approximately 10 am, via telephone, you spoke with BRIG Damien Hill regarding further activities. Correct?

AC GUTERIDGE: Yes.

10 COL STREIT: Do you recall whether contact details had been provided to you when you rang BRIG Hill, or did he contact you?

15 AC GUTERIDGE: Yes, I'd sourced a phone number for BRIG Hill and I made a call – I think I may have had his contact number in my phone – and, as a result of conversations with the team on the ground, I was advised that he was coordinating TALISMAN SABRE. And I used that opportunity to contact him regarding future Directions for our operations as well as theirs.

20 COL STREIT: BRIG Hill was known to you before this event on 28 July?

AC GUTERIDGE: Yes, I believe BRIG Hill was at 1 RAR in Townsville during my time up there.

25 COL STREIT: 1 RAR is the 1st Royal Australian Regiment?

AC GUTERIDGE: Yes.

COL STREIT: It's an infantry unit at Lavarack Barracks in Townsville?

30 AC GUTERIDGE: Yes. From memory, yes.

COL STREIT: Now, is it your understanding that BRIG Hill was commanding the training operation, TALISMAN SABRE? Correct?

35 AC GUTERIDGE: Yes, that's right.

COL STREIT: And when you spoke with him – I appreciate it's a little while ago, Assistant Commissioner, but can you just assist the Inquiry understand the effect of what BRIG Hill said to you?

40 AC GUTERIDGE: We'd had a conversation around the activities. Very little detail was known at that point in time by us and certainly it didn't appear that BRIG Hill knew a lot of specific information around the circumstances. But no, there was certainly a commitment made that we

would support each other's operations in an effort to locate the missing aircraft and crew.

5 COL STREIT: Based on the information you had received, and having regard to your, can I suggest, extensive experience in policing, did you have an evolving concern that it'd be unlikely for survivors to be found?

AC GUTERIDGE: Unfortunately, yes.

10 COL STREIT: You say at paragraph 19 that:

15 *Whilst the operation very clearly remained a search and rescue operation, I was cognisant of the fact that it would most likely result in a reportable death, or deaths, pursuant to the Coroner's Act 2003 (QLD), with police undertaking investigations on behalf of the Coroner.*

AC GUTERIDGE: That's right.

20 COL STREIT: At paragraph 20 you say:

25 *At approximately mid-morning on 29 July, I contacted Assistant Commissioner Brian Codd by telephone. At this time, he was the Executive Officer for QPS Operations in Support Command. Operations Support Command maintained the QPS capability for Water Police, Forensic Services, Disaster Victim Identification Unit, and the Coronial Support Unit.*

30 *The purpose of this contact was to secure any additional resources required to assist in the policing response, including obtaining advice from the Coroner regarding any possible Directions.*

AC GUTERIDGE: Yes, that's right.

35 COL STREIT: In terms of Directions from the Coroner, can you assist the Inquiry understand what is the Direction and what is its significance from the Coroner?

40 AC GUTERIDGE: Significance of the Direction from the Coroner sits within legislation in Queensland. It's a legal requirement for us to assist the Coroner in an investigation. That Direction will compel us to undertake activities on behalf of the Coroner in the interests of finding the facts surrounding a set of circumstances.

45 COL STREIT: And in the context of a Coronial investigation, the police

are engaged to assist the Coroner?

AC GUTERIDGE: Yes, we're an investigative support for the Coroner, undertake investigations on behalf and at the Direction of the Coroner.

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COL STREIT: At paragraph 20 on the top of page 5 you go on and say at 12.42 pm on the same day –

which is 29 July 2023 you –

10

received an SMS from Brian –

that's Assistant Commissioner Brian Codd –

15

advising that Coronial Support Unit had contacted the State Coroner, who advised that the QPS will lead the investigation on behalf of the Coroner with assistance from relevant entities.

AC GUTERIDGE: Yes, that's right.

20

COL STREIT: Noting the movement of paragraph 21 down to underneath paragraph 25, following chronologically, you were advised during a briefing with Inspector Dyer that Detective Scells had managed to obtain a version from one of the pilots prior to their departure. Is that right?

25

AC GUTERIDGE: Yes, I believe he'd either obtained a version from the pilot directly or had received a version that had been provided to another person. So my understanding was that Luke had received that.

30

COL STREIT: So returning to paragraph 22, at approximately 1 pm on the same day – that's 29 July 2023 – you did travel to Proserpine Airport via road. Is that correct?

AC GUTERIDGE: Yes, that's right.

35

COL STREIT: And, upon arrival, you saw an established military camp and a number of MRH-90 helicopters within proximity of what appeared to be an earthen runway?

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AC GUTERIDGE: Yes, that's right.

COL STREIT: You met with Inspector Dyer and Detective Sergeant Luke Scells.

45

AC GUTERIDGE: Luke Scells, correct.

COL STREIT: And Detective Scells had assumed responsibility for the investigation on behalf of the Coroner?

5 AC GUTERIDGE: Yes, as a senior investigator in the Whitsundays.

COL STREIT: To the extent you can recall, did he give you a bit of a briefing about what was happening?

10 AC GUTERIDGE: Yes. Yes, as did Inspector Dyer. So basically the briefing came initially from Inspector Dyer, and when I arrived Luke was on the phone and then I'd had a very brief conversation with Luke, who was undertaking other investigations at that time.

15 COL STREIT: Returning to paragraph 25, you say you advised, during a briefing with Inspector Dyer, Detective Scells that:

20 *The version that was provided to police was that four MRH-90 aircraft had left Proserpine Airport for a routine extraction operation of soldiers from a beach on Lindeman Island as part of a planned exercise. The aircraft were flying in formation and commenced a scheduled turn in line with the flight plans.*

25 *The two lead aircraft had executed the manoeuvre; however, aircraft 3, the missing aircraft, adopted an unusual attitude and had ascended briefly before descending, moving right and crashing.*

30 AC GUTERIDGE: Yes, that's right.

COL STREIT: At paragraph 26 you say that after receiving the update from Detective Scells and Inspector Dyer, you were introduced to a Royal Australian Navy Officer, Casey Theissen, who was the Military Police Officer present in what you understood to be the Pilot Briefing Room. Is that right?

35 AC GUTERIDGE: Yes, that's right.

40 COL STREIT: You observed QPS Scenes of Crime Officer taking photographs of the contents of a large storage box.

AC GUTERIDGE: Yes.

45 COL STREIT: And that Mr Theissen appeared to be assisting in explaining the context of the box. You believed that the contents were

seized by police. You say that other ADF personnel appeared to be packing up the contents of the Briefing Room.

AC GUTERIDGE: Yes, that's right.

5

COL STREIT: Is that whilst the QPS – whilst you were present?

AC GUTERIDGE: Yes, that's right.

10

COL STREIT: You recall at para 27 asking Mr Theissen, Inspector Dyer and Detective Scells why the crew had been relocated from Proserpine. So I just pause there, Assistant Commissioner. So at the time that you arrived at Proserpine Airport and received a briefing from Detective Scells, was it the case that the crew – that is, 6 Aviation Regiment members – had been

15

relocated from Proserpine?

AC GUTERIDGE: Yes. Certainly, the crew that were immediately involved in the night operation.

20

COL STREIT: And where did you understand they had gone?

AC GUTERIDGE: I believed they'd been relocated to Sydney.

COL STREIT: And that they had flown out of Proserpine Airport?

25

AC GUTERIDGE: Yes, earlier that morning.

COL STREIT: You say at 27 that Mr Theissen, Inspector Dyer and Detective Scells – you recall asking them why the crew had been relocated from Proserpine and you were told that a decision had been made by the ADF prior to engagement with the police, and there was no formal arrangements in place regarding this.

30

AC GUTERIDGE: Yes, that's right.

35

COL STREIT: Do you remember who said that to you?

AC GUTERIDGE: I can't recall. It was during the conversation just around – I would have asked circumstances as to how they were relocated, why it had occurred, and my understanding was it had been done as part of a protocol.

40

COL STREIT: And at that time, if you cast your mind back, were you surprised that that had occurred?

45

5 AC GUTERIDGE: There wasn't anything that stood out in terms of surprise for it. I'd realised there would be protocols in place, certainly, with an organisation such as ADF. However, it was – certainly from our perspective, it would've been ideal to have been able to obtain a version or statements from them prior to their departure.

10 COL STREIT: And, of course, being given this information that the aircrew from the other aircraft involved in the sortie had departed Proserpine, would mean QPS would have to make other arrangements to obtain statements - - -

AC GUTERIDGE: Yes, that's right.

15 COL STREIT: - - - from witnesses. At paragraph 29 you say you then travelled to the Whitsunday Police Station where a Command Centre had been established. And whilst there, you met BRIG Dean Thompson. Is that correct?

20 AC GUTERIDGE: Yes, that's right.

COL STREIT: And you understood – or you learnt at that time that BRIG Thompson was the then Commander of the 16th Aviation Brigade.

25 AC GUTERIDGE: Yes, that's right.

COL STREIT: And you understood that BRIG Thompson was – well, you understood BRIG Thompson was the Commanding Officer of all aircraft and flight crew involved in the exercise?

30 AC GUTERIDGE: That was my understanding, yes.

COL STREIT: And at the time you say you were provided with the details of the missing aircrew and a briefing regarding their roles.

35 AC GUTERIDGE: Yes, that's right.

COL STREIT: Do you know who gave you that briefing?

40 AC GUTERIDGE: I think the information was provided by BRIG Thompson, and that information was then passed on to Detective Scells.

COL STREIT: At paragraph 30 you say:

45 *I informed BRIG Thomson - - -*

AC GUTERIDGE: And that information was then passed on to Detective Scells.

5 COL STREIT: At para 30 you say:

10 *I informed BRIG Thompson that formal statements would be required to complete the investigation and that we'd be seeking the assistance of Military Police, or members of the New South Wales Police Force, to obtain these statements, given the ADF members have returned to New South Wales.*

AC GUTERIDGE: Yes.

15 COL STREIT: Is that in circumstances where there's been a death in Queensland, QPS are investigating on behalf of the Coroner, a relevant witness is located in another state? Is it normal practice for QPS to engage another state's police to assist in obtaining a statement?

20 AC GUTERIDGE: Yes, that is normal practice. I also recall having a conversation at the time with BRIG Thompson, saying I was more than happy to send Queensland Police down to obtain those statements personally if there were issues surrounding privacy or security matters that needed to be addressed, or certainly potentially methodology issues that needed to be canvassed.

25 COL STREIT: When you're having that discussion with BRIG Thompson, what's your recollection of what he is saying to you?

30 AC GUTERIDGE: He was very supportive of assisting us in obtaining those statements in any way we could, and was going to refer that down the chain obviously to arrange that to happen. And he was very, very much supportive of the investigative strategy that we had put in place.

35 COL STREIT: So were you left with the impression BRIG Thompson was supportive of the obtaining of statements; he would have to feed that information into the ADF Chain of Command?

40 AC GUTERIDGE: Yes. Yes.

COL STREIT: And that the ultimate decision would be for somebody else, not BRIG Thompson?

45 AC GUTERIDGE: Yes, that was my understanding.

COL STREIT: At paragraph 31 you say:

5 *Whilst the operation remained strongly directed towards search and rescue activities, it became evident that the crash would have resulted in the death, or deaths, of those on board, such death being a reportable death as prescribed by section 8 of the Coroners Act 2003.*

Correct?

10

AC GUTERIDGE: Yes.

COL STREIT: And was that a view that you formed on 29 July 2023, after having arrived at Proserpine Airport and then travelled to the Whitsundays Police Station?

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AC GUTERIDGE: Yes, and as a result of conversations that I had with people throughout the day.

20 COL STREIT: At paragraph 32 you say:

At 5 pm that day –

that's 29 July 2023 –

25

a multiple agency briefing was held in the Command Centre. A briefing was provided in relation to search and rescue activities by Acting Sergeant Brett Norris, who was managing QPS search and rescue activities. SGT Norris retained this responsibility throughout the operation.

30

Is that right?

AC GUTERIDGE: Yes. At that point in time, Acting Sergeant Norris was in charge of the Water Police in Whitsundays. They undertake SAR activities on behalf of the QPS. At that point in time there was limited ADF assets in the area, so we continued to conduct the SAR, given that we had capacity to do so with immediate resources in the area.

35

COL STREIT: Sunday, 30 July – I'm looking at paragraph 33 – you returned to the Command Centre where a further briefing was held at 7 am. You were advised that Defence Flight Safety Bureau members would be attending to undertake specialist investigation on behalf of the ADF, in accordance with the protocol. When you say "in accordance with the protocol", what do you mean by that?

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45

5 AC GUTERIDGE: My understanding is any air crash involving Defence Force aircraft will be investigated by that authority. In incidents of civilian aircraft in Queensland, it will be undertaken by the ATSB or Recreational Aviation. And my understanding was that that was normal protocol for them.

10 Obviously in support of our investigation, given we have no engineering expertise in terms of avionics, they would be the organisation that we would be relying on to help inform the Coroner of any mechanical elements, et cetera, relating to an aircraft or its operation.

15 COL STREIT: And you were the most senior QPS Officer engaged in this matter; is that correct?

AC GUTERIDGE: Yes, that's right.

20 COL STREIT: So was it your expectation, based on information you had received when you attended Proserpine and then meetings at the Whitsunday Police Command Centre, that ultimately the DFSB investigation report would be provided to QPS?

25 AC GUTERIDGE: Yes, or the Coroner directly, if that was the Coroner's request.

COL STREIT: At paragraph 35 you say – 34, sorry – you say:

30 *Critical to investigations would be that forensic examination of the recovered aircraft parts were to be held as exhibits. A Direction to release these to specialist DFSB investigators would be required from the Coroner.*

Is that right?

35 AC GUTERIDGE: Yes, that's right.

COL STREIT: Why was that Direction required?

40 AC GUTERIDGE: They were being held by police on behalf of the Coroner and we would be not in a position where we would be releasing anything that was being held on behalf of the Coroner until the Coroner issued such a Direction to us.

45 COL STREIT: At paragraph 35 you say:

Later, I spoke to Detective Inspector Emma Novosel and requested direct contact with the Coroner regarding future direction for police investigations.

5 AC GUTERIDGE: Yes, that's right.

COL STREIT: At 36 you say:

10 *The Coroner requested a 28-day interim report from police and advised that a Direction would be made for the ADF to provide a detailed engineering report when examinations had been - - -*

AC GUTERIDGE: Yes, that's right.

15 COL STREIT: At paragraph 38 you say:

20 *During the day, search and rescue operations continued, with additional items being recovered. Discussions were also held with BRIG Hill and BRIG Thompson regarding operational responsibility. I was advised that there were multiple areas responsible for various aspects of the ADF response.*

25 *Some units were responsible for Exercise TALISMAN SABRE. The Joint Operations Centre maintained responsibility for the search and rescue operation and overall response. And individual units had responsibilities for their members.*

30 *At that point in time, I did express a degree of urgency to obtain information on behalf of the Coroner, including statements from witnesses.*

AC GUTERIDGE: Yes, that's right.

35 COL STREIT: You say "expressing a degree of urgency". Was that to BRIG Hill and BRIG Thompson?

AC GUTERIDGE: Yes, it was.

40 COL STREIT: And did you speak to them together, can you recall?

AC GUTERIDGE: No. I spoke on the phone to BRIG Hill, and spoke to BRIG Thompson in person.

45 COL STREIT: Can I take you to paragraph 42, please.

AC GUTERIDGE: Yes.

COL STREIT: You say:

5 *On 31 July 2023, I also spoke with Navy member CMDR Sandy Shaw. The purpose of this conversation was to discuss obtaining statements from ADF members about the incident. I believe CMDR Shaw was the point of contact for the Provost Marshal.*

10 Is that right?

AC GUTERIDGE: Yes. I believe he was the senior Military Police present.

15 COL STREIT: Was that a conversation in person?

AC GUTERIDGE: Yes, it was. So it took place in the Command Room. The purpose of that conversation was to seek probably the process or gain some advice on the process that may be adopted, if the ADF were going to provide those statements or if the MPs were going to take that on behalf of Queensland Police.

20

COL STREIT: And did you understand CMDR Shaw to be a Military Police Officer?

25 AC GUTERIDGE: Yes, I did.

COL STREIT: Were you comfortable, from a QPS's perspective, if the Military Police took the statements that the QPS were seeking to obtain?

30 AC GUTERIDGE: Yes, provided the information that we'd requested had been provided. Certainly, within respect for methodologies, et cetera, that may be protected. But they would certainly be conversations with the Coroner at a later date, or could be followed up.

35 COL STREIT: Sure. But perhaps if I can put it this way. Did you have a sense of comfort that you were dealing with the military version of police?

40 AC GUTERIDGE: Yes.

COL STREIT: And therefore the sense of comfort was, as Military Police, they would have an appreciation about the importance of taking statements, and the level of detail that statements should contain.

5 AC GUTERIDGE: An appreciation of what we're seeking, yes. It was around that time as well that – and the conversation I had with BRIG Hill and BRIG Thompson, there were a lot of moving parts in terms of it, and while it made full sense to the ADF personnel who had carriage of which particular element of the exercise or the program or the search, I was trying to gain an understanding of who was the one point of call for us to rely on to be able to obtain this information on behalf of the Coroner. I understand it was the Provost Marshal that was to be that organiser or that agency within the ADF.

10 COL STREIT: The Provost Marshal did you understand to be the sort of most senior Military Police person in the ADF?

15 AC GUTERIDGE: In the ADF, yes.

COL STREIT: And of course – if you go to Annex B quickly.

AC GUTERIDGE: Yes.

20 COL STREIT: The letter of exchange between the Commonwealth of Australia, represented by the Joint Military Police Unit in the State of Queensland, represented by the Queensland Police Service. That letter of exchange is signed by the Commissioner of Police for Queensland, and the Provost Marshal ADF?

25 AC GUTERIDGE: Yes, that's right.

COL STREIT: For completeness, that was signed by the Commissioner of Police on 21 November 2019; correct?

30 AC GUTERIDGE: Yes, that's right. And 30 October 2019 for the Provost Marshal.

35 COL STREIT: Thank you. Returning to paragraph 44 of your statement, if I may, you say:

40 *The obtaining of statements at the earliest opportunity is critical to an investigation as recollection of events fade with time. As an investigator, the obtaining of statements is vital in terms of securing information from witnesses, as well as informing investigative strategy.*

AC GUTERIDGE: Yes, that's right.

COL STREIT: So there was no attempt, was there, by QPS, to essentially stop ADF members, who they wanted to interview, departing Proserpine?

5 AC GUTERIDGE: No, that had occurred prior to police involvement initially. We'd responded to the search and rescue operation, and at some stage during the morning the people had been relocated to Sydney. By the time we were aware of that, it was around the time that we were going to start to take the statements, or we were seeking the statements later in the afternoon.

10

COL STREIT: So was there a level of balance where QPS were satisfied in respect of potentially that, ideally, you'd like statements as soon as possible?

15

AC GUTERIDGE: Yes, correct, yes.

COL STREIT: But QPS, working with the practical reality of the situation, and members having been returned to Sydney, there was going to be a delay of a few days before QPS, you anticipated, would get statements?

20

AC GUTERIDGE: Yes. Yes, that's right.

COL STREIT: At paragraph 46 you say:

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Detective Scells advised that the Coroner would not issue a Direction to release recovered aircraft parts until the supplied versions or statements had been provided. Given the Direction from the Coroner would inform all future investigations, I recognised the importance of this information.

30

AC GUTERIDGE: Yes, that's right.

COL STREIT: What do you mean, you recognise the importance of the information?

35

AC GUTERIDGE: The information that would be provided to the Coroner would inform the Direction that he would be providing to us. The critical nature of that would have then supported our decision or our release of information, material, or indeed physical evidence, to other agencies, potentially to undertake forensic examination or analysis.

40

I realised that longer term, the longer that delay was going to be, the more telling it was going to be, to get that information to the Coroner in a timely manner.

45

COL STREIT: At paragraph 47 you say:

5 *Following that conversation, I spoke with BRIG Thompson and requested a point of contact with the ADF Legal Officers to support contact with the Coroner.*

AC GUTERIDGE: Yes, correct.

10 COL STREIT: And in terms of the involvement of ADF Legal Officers, how did they come to your attention?

15 AC GUTERIDGE: I had been advised by, I believe it was BRIG Thompson and Nigel Shaw, Sandy Shaw, that Legal Officers had been engaged in support of the ADF members, and also I believe acting in the interests of the ADF; that they had been engaged at some point during our initial investigations.

20 I wasn't aware of anyone in particular down there who had been in contact. The easiest way to resolve a number of these matters would have been to put the Coroner's Office directly in contact with ADF Legal to see what barriers may have presented as a result of what we were trying to achieve.

25 COL STREIT: Can the witness be shown Exhibit 82, please?

Whilst that's being turned up, Assistant Commissioner, can I just ask you this: at paragraph 49, you say – and this is in relation to attending a briefing at the Whitsunday Police Command Centre on 31 July – you say:

30 *During the briefing, Mr Tyson advised that no statements would be provided to the Coroner until the Coroner issued a Direction compelling the statements to be given.*

35 You say:

I subsequently sent a written confirmation by QPS email reinforcing the role of the Coroner and that no criminal investigations were being undertaken.

40 Is that correct?

AC GUTERIDGE: Yes, that's right.

45 COL STREIT: And Annexure A is the email that you sent, was it, to Mr Theissen, as you understood him to be, on 31 July 2023, at 1809 hours?

AC GUTERIDGE: Yes, that's right.

5 COL STREIT: Moving to the document we've been provided, which is Exhibit 82, Exhibit 82 is, you'll see from the front cover, information that was compelled to be provided to the Inquiry under a section 23 Notice that had been issued under the *Inspector-General of the Australian Defence Force Regulation 2016*.

10 AC GUTERIDGE: Yes.

COL STREIT: You're familiar, I take it, with the document underneath the QPS letter?

15 AC GUTERIDGE: Yes, it's a running log for Operation Victor Cloak.

COL STREIT: So what you had is a running log for Operation Victor Cloak. Operation Victor Cloak is the operation name given to the QPS investigation into the crash of Bushman 83?

20 AC GUTERIDGE: Bushman 83, correct.

COL STREIT: The pages are not numbered, but can I take you to about the middle of the document? And at the top of the field you'll see, "Briefing note: 1700 hours, 31 July 2023". It's about halfway through.

25 AC GUTERIDGE: Yes, I have that.

COL STREIT: Now, you did not, I take it, compile the notes that appear under the timing, "Briefing note: 1700 hours, 31 July 2023"?

30 AC GUTERIDGE: No, I did not.

COL STREIT: Was that, to your knowledge, a QPS member that was tasked with that?

35 AC GUTERIDGE: It would have been, yes. It would have been someone tasked to do that as part of the logistics.

40 COL STREIT: You'll see that the field identifies the names of QPS members and ADF members; is that correct? Do you accept that?

AC GUTERIDGE: Yes, that's right.

COL STREIT: So the first page being the “Briefing note: 1700 hours, 31 July 2023”, if you turn the page to the middle, your name appears and then a series of four dot points. Do you see that?

5 AC GUTERIDGE: Yes, that’s right.

COL STREIT: Just take a moment to quickly read those dot points. I’ll ask you some questions.

10 AC GUTERIDGE: Yes.

COL STREIT: The four dot points that are written there, do you consider that they accurately record the effect of things that you said in the meeting, 1700 hours, on 31 July?

15

AC GUTERIDGE: Not necessarily the correct language, but certainly reflect the tone of that conversation.

20 COL STREIT: And the effect of those dot points, was it you communicating that the delay for the Coroner’s Direction was because of delay in receiving statements from witnesses?

AC GUTERIDGE: Yes, that’s right.

25 COL STREIT: And that the statements from witnesses, that they were critical to be provided to the QPS?

AC GUTERIDGE: Yes, that’s right.

30 COL STREIT: The Minister and high-ranking officers had stated that the ADF will provide and be transparent?

35 AC GUTERIDGE: Yes. With reference to that, that followed a media announcement from the Prime Minister, the Minister for Defence, and Chief of the Defence Force at the time, that they had committed to supporting the investigation. I was trying to – and my reason for raising that at that point in time was to reassure all members of the ADF present that they had support for assisting us in the investigation.

40 COL STREIT: You communicated, did you, that there is an urgency from the Coroner to have these released?

AC GUTERIDGE: Yes, I did.

COL STREIT: And you communicated, did you, that there had been engagement with the Family Liaison Officers and that you understood – or QPS understood the sensitivity of the process and issues, and that QPS wanted to cooperate? Is that correct?

5

AC GUTERIDGE: Yes, certainly that was the tone. I can't recall the engagement Family Liaison Officer, and I'm not sure what that relates to. But it was certainly an indication at the time we were not pursuing this as a criminal investigation, that we were acting on behalf of the Coroner.

10

COL STREIT: So the last aspect of that last dot point is, it's not an investigation, not laying blame, just want to assist the Coroner to understand what happened.

15

AC GUTERIDGE: Yes, it was definitely an investigation. We weren't trying to apportion blame to any individual. We were in search of facts to support the Coroner making a determination.

20

COL STREIT: Thank you, Assistant Commissioner. If you could put that document to one side? Now, at paragraph 51 you say:

25

On Tuesday, 1 August 2023, I attended the morning briefing at the Command Centre. During the briefing, ADF personnel advised that statements would be provided by 6 Aviation Group, and that should have resolved concerns that day. I cannot recall who initially raised this, but I did discuss it with the ADF Liaison Officers in the Command Centre.

That's correct?

30

AC GUTERIDGE: Yes.

COL STREIT: At paragraph 52 you say:

35

Later that day, I was advised by Detectives Scells and Novosel that no member from the ADF had contacted the Coroner, despite indications from the ADF this would take place. I then spoke to Detective Scells and Detective Senior Sergeant Tony Lee, the Coronial Support Unit, and as a result of this conversation I contacted BRIG Hill, who advised he would contact Joint Ops Centre and request for contact with the Coroner. Contact details were provided.

40

Is that correct?

45

AC GUTERIDGE: Yes, that's right.

5 COL STREIT: You, later in the day – and I'm looking at paragraph 54 – in person, spoke with Mr Tyson and arranged for required information to support the obtaining of statements by ADF members.

AC GUTERIDGE: Yes. I believe Detective Scells provided a list of questions that we wanted included in any versions that were provided.

10 COL STREIT: You returned, then, to Rockhampton that night, following a briefing with Police Command Team.

AC GUTERIDGE: Yes, that's right.

15 COL STREIT: And you retained contact with the Command Centre via briefings and direct engagement with Superintendent Paine?

AC GUTERIDGE: Yes, I did.

20 COL STREIT: Continued to maintain remote oversight of the investigation till closure of the Command Centre.

AC GUTERIDGE: Yes, that's right.

25 COL STREIT: And your involvement was restricted to receiving briefings; correct?

AC GUTERIDGE: Yes, correct.

30 COL STREIT: You had no further direct involvement with the investigation at that time?

AC GUTERIDGE: No, that's right.

35 COL STREIT: At paragraph 62 you identify the people – that is, ADF members – who you liaised with BRIG Damien Hill, Mr Theissen, BRIG Dean Thompson, CMDR Dominic Cooper and CMDR Shaw. Is that correct?

40 AC GUTERIDGE: Yes, that's right.

COL STREIT: At 63 you say that:

45 *The organisation had held legal jurisdiction to conduct the investigations in relation to the crash of Bushman 83.*

That was QPS, wasn't it?

5 AC GUTERIDGE: Yes. The loss of life definitely is the jurisdiction of the Queensland Coroner, with police undertaking the investigations on behalf of the Coroner.

10 COL STREIT: At paragraph 69 you were responding to a question about ADF aircrew departing Proserpine, and you say that:

15 *At the time, it was disappointing that those persons had left prior to police engagement because it was a missed opportunity to obtain information. It would have been preferable to obtain statements at the time; however, the focus at that time was on search and rescue operations. I believed that statements could be obtained in due course.*

AC GUTERIDGE: Yes, that's right.

20 COL STREIT: You say at paragraph 70 you had a conversation with BRIG Thompson and presented options such as QPS members travelling to New South Wales, New South Wales Police obtaining statements, or Military Police obtaining the statements. Is that right?

25 AC GUTERIDGE: Yes, that's right.

COL STREIT: Do you recall what he said to you in relation to those matters?

30 AC GUTERIDGE: That was when he made contact, or was going to contact the Joint Operations Centre around how to progress that.

COL STREIT: At paragraph 71 you say:

35 *At the time, the Coroner had requested a version of events from witnesses. By this, I mean at minimum, a conversation recorded in a notebook, with the basic version of what a person had witnessed. My understanding was this would support the issuing of Directions by the Coroner; however, to ensure thoroughness of the investigation, detailed statements would be sought by QPS to support the investigation.*

40

AC GUTERIDGE: Yes. As we discussed earlier, sometimes you haven't got the ability to obtain a statement immediately, but you can take a

notebook version or similar, and that will often assist the Coroner in making a determination.

5 COL STREIT: You say at 73:

My experience, in any investigation there's always a disadvantage in not having the most comprehensive information as soon as possible. At the time, however, the focus was on the recovery and search and rescue operations.

10 AC GUTERIDGE: Yes.

COL STREIT: At 74 you say:

15 *It didn't jeopardise the investigation; however, it caused delays in being able to provide advice to the Coroner.*

AC GUTERIDGE: Yes, that's right.

20 COL STREIT: In relation to the collapsing – or collapsing of part of the camp at Proserpine, the ADF camp, did you have any involvement in that decision-making?

AC GUTERIDGE: No, I did not.

25 COL STREIT: At paragraph 72 you say you were asked to respond to whether you provided permission to the ADF to remove witnesses, and you say:

30 *This was never discussed with me, and to my knowledge, never discussed with any other police officer. The departure of ADF personnel had occurred prior to my involvement.*

Is that correct?

35 AC GUTERIDGE: Yes. The departure of the aircrews, yes.

COL STREIT: And that had already occurred by the time you arrived at Proserpine?

40 AC GUTERIDGE: Yes, it had.

COL STREIT: At paragraph 78 you say that you've –

not experienced in this matter anything other than full cooperation from members of the ADF, particularly at the local level.

5 Sorry, I withdraw that. In response to question 16 of the section 23 Notice, which is about other incidents - - -

AC GUTERIDGE: Yes, right.

10 COL STREIT: Your evidence that appears at paragraph 78, is that your evidence in relation to other incidents not involving Bushman 83?

AC GUTERIDGE: Other incidents not in relation to Bushman 83, correct.

15 COL STREIT: So in relation to your other incidents involving the ADF, you say you have –

20 *not experienced anything other than full cooperation from members of the ADF, particularly at a local level. There has never been an issue with the relationship, and I consider the ADF and QPS partnership to be significant and very positive.*

AC GUTERIDGE: Very much so.

25 COL STREIT: So that's in relation to other incidents you've been involved in, not concerning Bushman 83. So what was your impression, ultimately, about QPS engagement with the ADF concerning the investigation of Bushman 83?

30 AC GUTERIDGE: The attitude and approach of all Commanders at the local level, certainly in the Command Centre, were very, very cooperative, very supportive, and they were willing to assist. There were a number, I believe, barriers presented to us achieving what we were trying to achieve by virtue of a structural systems matter, as indicated earlier, with the different varying moving parts within the ADF. And I think it's a systemic challenge, not so much an intent of those locally to assist us in obtaining the information that we required.

40 COL STREIT: As I understand your evidence, on one level QPS, insofar as the Military Police were concerned, were being comforted that statements would be taken by either Military Police or another police force; correct?

AC GUTERIDGE: Yes.

COL STREIT: But on the other hand, the reality was that the statements were not subsequently taken by the Military Police?

5 AC GUTERIDGE: Yes, that's right.

COL STREIT: Do you have any awareness about when statements were provided by the Department of Defence to the Coroner?

10 AC GUTERIDGE: No, I wasn't – when I left to return to Rockhampton on the Tuesday, I believe that momentum had been gained at that point in time, and that the information was starting to flow.

COL STREIT: All right, thank you. Nothing further.

15 MS McMURDO: Thank you. Any applications to cross-examine? Yes, who's going first? Ms Musgrove, you look as though you're ready. Yes, thank you.

20 **<CROSS-EXAMINATION BY MS MUSGROVE**

MS MUSGROVE: Sir, my name is Musgrove, and I appear for the Commonwealth. Do general duties QPS Officers have body-worn cameras as part of their usual accoutrements?

25 AC GUTERIDGE: Yes, they do.

MS MUSGROVE: And do they carry notebooks with them?

30 AC GUTERIDGE: Yes, they do.

MS MUSGROVE: So when you received the information just prior to midnight, when you got the initial information, was it that the QPS Officers were on site at Proserpine Airport at that time?

35 AC GUTERIDGE: I'm not aware of if they were. They were certainly proceeding to that location.

40 MS MUSGROVE: Were you aware as to whether or not they were General Duties Officers?

45 AC GUTERIDGE: Initial response was probably General Duties Officers, and they would've been supported subsequently by the District Duty Officer.

MS MUSGROVE: And Officer Dyer, do you know what his rank was at the time?

5 AC GUTERIDGE: Acting Inspector.

MS MUSGROVE: Are you aware as to what time he arrived at Proserpine Airport?

10 AC GUTERIDGE: No. No, I'm not.

MS MUSGROVE: There has been evidence that he arrived in the early hours of - - -

15 AC GUTERIDGE: Yes, that would be correct.

MS MUSGROVE: That's correct, to your understanding. Do you know what his role was?

20 AC GUTERIDGE: He was a Police Forward Commander. So in the absence of a senior officer, that officer assumes the responsibility for the police component of any activity that's undertaken. In this case, it was a search and rescue operation in partnership with the Defence Force.

25 MS MUSGROVE: And he could issue Directives to General Duties Police Officers?

AC GUTERIDGE: Yes, absolutely.

30 MS MUSGROVE: And so if he wanted something undertaken or done or investigated, he could task them to do that?

AC GUTERIDGE: Yes.

35 MS MUSGROVE: And do you know what time it was that the various aircrew returned to Proserpine Airport?

AC GUTERIDGE: No, I don't.

40 MS MUSGROVE: So is it the case, to your understanding, that as of just before midnight on 28 July that there was a presence at Proserpine Airport of QPS Officers?

AC GUTERIDGE: I'm not sure if they were present there or at Whitsundays Police Station.

45

MS MUSGROVE: Is it your understanding that from the early hours – if we say that Officer Dyer attended Proserpine Airport in the early hours of the morning - - -

5

AC GUTERIDGE: I believe so, yes.

MS MUSGROVE: - - - is it your understanding that there was a consistent QPS presence at Proserpine Airport until you attended?

10

AC GUTERIDGE: I couldn't say that.

MS MUSGROVE: Is it the case that if there were QPS members there with body-worn cameras, that if they had been tasked to, as the aircrew came in, returning from the sortie or their search and rescue duties, they could have been taken aside and questioned as they landed?

15

AC GUTERIDGE: It's possible, yes.

MS MUSGROVE: Just in terms of your understanding, I just wanted to clarify, at paragraph 25 you say that you were advised during a briefing with Inspector Dyer that Detective Scells had managed to obtain a version from one of the pilots prior to the crews' departure.

20

AC GUTERIDGE: Yes, I wasn't sure whether he had obtained it or he had obtained that third-hand from another party.

25

MS MUSGROVE: And then I just wanted to take you over to paragraph 45, just for my understanding. It says:

30

As a result of further conversations with Detectives Novosel and Scells, I believed recorded versions from the relevant aircrews had been obtained by ADF personnel prior to their return to Sydney.

Do you mean by that that ADF personnel had spoken to the aircrew and taken versions from them?

35

AC GUTERIDGE: I believe something may have, to that effect, have taken place, where they had been spoken to potentially by senior ADF personnel when they had landed as part of a debrief. That was the understanding.

40

MS MUSGROVE: Were you told that prior to the aircrew boarding the flight out of Proserpine Airport that, on my understanding, three of the aircrew in Bushman 84 – so that was the helicopter behind Bushman 83 - - -

45

AC GUTERIDGE: Yes.

5 MS MUSGROVE: - - - were actually spoken to by QPS members?

AC GUTERIDGE: I'm not sure. No, I can't recall that.

MS MUSGROVE: So you didn't have any knowledge of that?

10 AC GUTERIDGE: I'm not aware of that, no.

MS MUSGROVE: So there is evidence before this Inquiry that – and I'm sure Counsel Assisting will correct me if I'm wrong – but three of the
15 aircrew in Bushman 84 were spoken to at Proserpine Airport by QPS members. So there was one that had body-worn camera footage of his interaction with the police officer. You weren't aware of that?

AC GUTERIDGE: No.

20 MS MUSGROVE: And there were notebook statements taken from two other aircrew. Were you aware of that?

AC GUTERIDGE: No, I wasn't aware of that.

25 MS MUSGROVE: So was it your understanding that there was an issue in QPS obtaining those initial statements from the ADF? Is that what you're saying there at paragraph 70?

AC GUTERIDGE: Yes. My understanding was - - -

30 MS MUSGROVE: I'm sorry, 45.

AC GUTERIDGE: Yes. My understanding was Detective Scells was seeking versions from those persons involved. I wasn't aware that they had
35 been obtained, if they had been, and that was the information we were seeking.

MS MUSGROVE: Were you - - -

40 MS McMURDO: Was it signed – excuse me, was it signed statements that you were wanting to get from - - -

AC GUTERIDGE: Well, we were wanting – certainly formal signed statements - - -

45

MS McMURDO: Yes.

AC GUTERIDGE: So in the absence of that, was a more detailed version of what had occurred.

5

MS MUSGROVE: And you've said that in your statement, haven't you, that the initial interaction recorded with police, a notebook statement, just a body-worn camera interview, that would have been sufficient in the first instance?

10

AC GUTERIDGE: It would have been of assistance, yes, definitely.

MS MUSGROVE: Now, if police are wanting to speak to witnesses in relation to a Coronial Inquiry, if they're not a suspect, there's no means for police to detain witnesses to - - -

15

AC GUTERIDGE: No.

MS MUSGROVE: - - - obtain statements?

20

AC GUTERIDGE: That's correct.

MS MUSGROVE: And so if, in this case, a decision was made for the welfare of the individual aircrew to remove them back to Sydney, QPS had no means to stop them from doing so?

25

AC GUTERIDGE: No.

MS MUSGROVE: And you're not here to criticise the decision that was made in relation to the welfare of the people?

30

AC GUTERIDGE: No, definitely not. Definitely not.

MS MUSGROVE: You've made some comment here, in relation to paragraph 52, that late in the day you were advised by Detectives Scells and Novosel that no member of the ADF had contacted the Coroner. Do you know when the ADF did first contact the Coroner?

35

AC GUTERIDGE: I believe it was as a result of a second conversation I had with BRIG Thompson, and I believe that it would've been that day or certainly later that day that I was advised that contact had been made as requested.

40

MS MUSGROVE: And are you aware – sorry, I withdraw that. Has the Coroner informed you as to whether or not they have had ongoing direct contact with ADF?

5 AC GUTERIDGE: No, I'm not aware of that. Yes.

MS MUSGROVE: And are you aware whether or not the Coroner has actually indicated that they are satisfied that statements from the ADF members could go directly to the Coroner rather than through QPS?

10 AC GUTERIDGE: Yes, I believe that was the case.

MS MUSGROVE: You're aware of that?

15 AC GUTERIDGE: Yes.

MS MUSGROVE: And in the early days after the incident, were you aware that the Coroner was planning to go on holidays?

20 AC GUTERIDGE: I wasn't. But it's possibly the case, yes.

MS MUSGROVE: Excuse me for a moment. It's the case, isn't it, that when QPS are investigating on behalf of the Coroner, whilst initially it might not be a criminal investigation, that's always a possibility depending on the evidence that you find?

25 AC GUTERIDGE: It is, correct.

MS MUSGROVE: You spoke of your understanding of the DFSB report, and the final report would provide the technical knowledge - - -

30 AC GUTERIDGE: Yes, that's right.

MS MUSGROVE: - - - that the Coroner will be relying upon. Is it the case that the Coroner, to your knowledge, has not commenced an Inquiry or a hearing?

35 AC GUTERIDGE: I'm not sure. I can't answer that, sorry.

MS MUSGROVE: Do you know whether or not the Coroner is actually waiting for the final DFSB report before they take their next step in the process?

40 AC GUTERIDGE: No, I can't answer that, sorry.

45

MS MUSGROVE: Thank you, I have no further questions.

MS McMURDO: Thank you. Yes, COL Gabbedy.

5

<CROSS-EXAMINATION BY COL GABBEDY

10 COL GABBEDY: I just have a couple of questions to follow
up. Assistant Commissioner, I'm COL Nigel Gabbedy, and I appear
MAJGEN Jobson. Just following on from the questions that you were
asked by Ms Musgrove, I understand that until perhaps today you were
15 unaware that there were a number of Queensland Police Officers present
prior to the relocation of ADF personnel from Proserpine Airport. Is
that - - -

AC GUTERIDGE: Yes. I wasn't, no.

20 COL GABBEDY: And that's information that would've been useful for
you to have.

AC GUTERIDGE: I'd certainly suggest that Luke Scells – that's how we
would've been aware, when Luke approached me. I'd say that information
25 had been provided to Luke. Whether or not there was sufficient detail in
that information was probably the point that I'd be seeking information on,
yes.

COL GABBEDY: So do you know if Luke Scells was one of the four
30 officers who was there, or he came along later as well?

AC GUTERIDGE: I believe he may have added later on, I'm not sure.

COL GABBEDY: I assume it would be news to you then that
35 BRIG Thompson spoke to your members of Queensland Police prior to the
exit of ADF members from Proserpine and an agreement – if I put it like
that – was reached that the aircrew of Bushman 84, which was the aircraft
trailing Bushman 83, be spoken to by Queensland Police Officers? Were
you aware of that occurring?

40

AC GUTERIDGE: No, I wasn't aware of that.

COL GABBEDY: Were you aware that BRIG Thompson made an offer
to the Queensland Police to fly members of the Queensland Police Force to
45 Sydney?

AC GUTERIDGE: He had spoken to me around that, as part of our conversation as well.

5 COL GABBEDY: I think he spoke to you at a later date?

AC GUTERIDGE: At a later time, later that day, yes.

10 COL GABBEDY: When he spoke to you at a later date, did he say to you that he'd made that offer on the spot?

AC GUTERIDGE: No, I wasn't aware of that.

15 COL GABBEDY: So would you take it from me that he made that offer to fly the aircrew to Sydney, accommodate them, and fly them back?

AC GUTERIDGE: So I can't refute that, yes.

20 COL GABBEDY: Sorry, not the aircrew, the QPOL members.

AC GUTERIDGE: No, I can't refute that.

25 COL GABBEDY: And when he spoke to you on a later occasion, did he reiterate that offer to fly your people down?

AC GUTERIDGE: Yes. He was certainly fully cooperative at all times with us. He was very willing to assist.

30 COL GABBEDY: Is there a reason why that offer wasn't taken up?

35 AC GUTERIDGE: At that point in time we were trying to identify where the witnesses were and to make those arrangements to have those statements taken. And I'm not sure at that point in time, but it was a passing conversation that BRIG Thompson indicated a willingness to assist when the time was right for us to go, if we were to go, or if we were going to task it with New South Wales Police, whatever assistance could be offered from there.

40 COL GABBEDY: So would it be fair to say – and I don't let me put words into your mouth – but would it be fair to say that at that point in time there were other avenues other than flying QPOL down?

AC GUTERIDGE: Yes, there was. Correct.

45 COL GABBEDY: That would enable you to get those - - -

AC GUTERIDGE: Yes, so quite often we will seek assistance from another jurisdiction to undertake statements from us or in this case, the Provost Marshal.

5

COL GABBEDY: Thank you very much. I have nothing further.

AC GUTERIDGE: Thank you.

10 MS McMURDO: Any applications to cross-examine? Yes.

<CROSS-EXAMINATION BY SQNLDR THOMPSON

15

SQNLDR THOMPSON: SQNLDR Thompson appearing for the interests of WO2 Laycock. Do you have your statement in front of you there?

AC GUTERIDGE: Yes, I do.

20

SQNLDR THOMPSON: If I could ask you to turn to paragraph 26? You state in paragraph 26 you observed a QPS Scenes of Crime Officer taking photographs of the contents of a large storage box.

25 AC GUTERIDGE: Yes.

SQNLDR THOMPSON: Do you know what became of the photographs that were taken?

30 AC GUTERIDGE: They would've been placed into the police record system as part of this overall investigation.

SQNLDR THOMPSON: And is that an electronic copy or a physical copy of those photographs?

35

AC GUTERIDGE: They're digital photographs. They're archived in what's called the Forensic Register, and that would apply to every investigation undertaken. So they'd be in that system.

40 SQNLDR THOMPSON: And at that same time, do you know if any of those Scenes of Crime Officers were making a log of the items that were in that box?

AC GUTERIDGE: I can't answer that, I'm sorry.

45

SQNLDR THOMPSON: You didn't see whether or not anyone was doing that or - - -

5 AC GUTERIDGE: No, I'm not sure. But they would – they have their own very stringent process. Obviously, they're nationally accredited Forensic Officers, and the recording and documentation process is very rigorous.

10 SQNLDR THOMPSON: And are you aware of what that process is?

AC GUTERIDGE: No.

15 SQNLDR THOMPSON: You state in paragraph 26 as well that you believe the contents were seized by police.

AC GUTERIDGE: I believe so, yes.

20 SQNLDR THOMPSON: Do you know what would have become of the contents of the locker?

AC GUTERIDGE: They would have been secured at the Whitsunday Police Station and would have formed part of the overall exhibit range for the Coroner. Whatever items were in there, would have been released to the Coroner upon his request.

25 SQNLDR THOMPSON: Do you know if those items are still with the Coroner?

AC GUTERIDGE: I don't know, sorry.

30 SQNLDR THOMPSON: You don't know where those items are?

AC GUTERIDGE: They would still be held by police, unless they have been handed to the Coroner. I would suspect if the inquest has not taken place, or the Coroner hasn't issued a further Direction, they would be retained in that Exhibit Room at Whitsunday Police Station.

35 SQNLDR THOMPSON: It's your belief that those items would be at the Whitsunday Police Station?

40 AC GUTERIDGE: Unless they are physically within the possession of the Coroner.

45 SQNLDR THOMPSON: And if it's in the possession of the Coroner, where, geographically, would that be?

AC GUTERIDGE: It could be within the Court precinct. The Coroner could also issue an instruction that it remains in a police holding facility somewhere.

5

SQNLDR THOMPSON: Thank you.

MS McMURDO: Thank you. Any other applications to cross-examine? No. Any re-examination?

10

COL STREIT: No, thank you.

MS McMURDO: Thank you very much, Assistant Commissioner, you are free to go. We appreciate your assistance to the Inquiry. Yes, thank you.

15

Thank you, Mr Mason. Sorry, I should have asked you if you had some further questions. Did you have some?

20

MR MASON: No, ma'am, thank you.

MS McMURDO: No, thank you.

25

<WITNESS WITHDREW

MS McMURDO: Thank you. Yes, COL Streit, our witness list is not running according to schedule.

30

COL STREIT: No, it's not. But we can make some adjustments, Ms McMURDO. D137 is ready to give evidence. I was contemplating, perhaps taking him to 5.30 to make a start, and then continuing his evidence in the morning.

35

MS McMURDO: Yes, all right. So will this mean that some of the witnesses for tomorrow will no longer be giving evidence tomorrow or you're still hoping that we're going to catch up?

40

COL STREIT: I will be in a position to advise the Inquiry in the morning. It will necessarily mean that the three witnesses for tomorrow – well, the first of the witnesses will commence after D137. I anticipate his evidence will be, from Counsel Assisting's perspective, about an hour and a half, subject to cross-examination we would then move to BRIG Fenwick and through the list.

45

5 And it may be the witness who is third on the list for tomorrow, we'll get a large way through his evidence at the end of tomorrow but then conclude on the Thursday and then we will be able to pick up some time. And we do have capacity on Friday. Friday, I don't regard as a long day for the three witnesses that are identified.

10 MS McMURDO: All right, then. Let's see how we go then. We'll start with the next witness. Now, again, he has a pseudonym, so, the video livestream will need to cease at this point and just the audio of the witness will be livestreamed.

COL STREIT: Thank you. I'm informed that that has occurred.

15 MS McMURDO: Thank you.

<D137, Affirmed

20

<EXAMINATION-IN-CHIEF BY COL STREIT

25 MS McMURDO: [REDACTED], we won't go beyond 5.30 today.

25

D137: Okay.

30 MS McMURDO: Obviously we're not going to finish your evidence today. But if you did need a break before we adjourn for the day, please just let me know.

30

D137: No worries, ma'am.

35 COL STREIT: Thank you, Ms McMurdo.

35

40 D137, in front of you, just to orientate you, is a pseudonym list. And can I ask that if you're in doubt as to whether or not somebody has a pseudonym, if you just pause and consult the pseudonym list. One part of the document has the pseudonyms in order of 1, 2, 3. The other side of the document, or the other page of the document, has the pseudonyms in alphabetical order of surname of individual, if that's easier to locate.

40

45 Can I just ask you a couple of preliminary questions before I show you a statement? You received a section 23 Notice from the Inquiry to provide a statement in response to questions and appear here today to give evidence?

D137: I did.

5 COL STREIT: And in relation to that notice, did you also receive a
Frequently Asked Questions Guide for Witnesses Appearing in IGADF
Inquiries?

D137: Yes.

10 COL STREIT: Did you also receive an extract of the Inquiry's
Directions?

D137: Yes.

15 COL STREIT: And did you also receive a copy of my Instrument of
Appointment?

D137: Yes.

20 COL STREIT: And a copy of a Privacy Notice?

D137: I did.

25 COL STREIT: I'm just going to now show you some documents and just
ask you to take your time to peruse those documents, and I'll ask you some
questions.

D137: Okay. Thank you.

30 COL STREIT: Thank you. Now, in relation to the documents that you
have received, first, in relation to the "Official" document, is that document
your statement made in response to questions you were asked in the
section 23 Notice?

35 D137: Yes, it is.

COL STREIT: And your statement contains two annexures. If you go to
the back page of your statement, which is page 35, your statement contains
two annexures, Annexure A and Annexure B. Is that correct?

40

D137: That's correct.

COL STREIT: You have also with you, Annexure A and Annexure B; is
that right?

45

D137: That's right.

COL STREIT: In relation to Annexure A and Annexure B, they are both documents at a classification above "Official"; is that correct?

5

D137: That's correct.

COL STREIT: I won't ask you questions in relation to the contents of those documents in a public hearing. If you consider that you need to provide a response to a question that would be above the "Official" classification, can you please let me know, and anyone else who has asked you a question about that matter, so that a decision can be made before we move to a private hearing? Do you understand that?

10

15 D137: Yes, I understand.

COL STREIT: Returning to your statement, is that a document that you digitally signed on 11 November 2024?

20

D137: Yes, it is.

COL STREIT: Are there any amendments or additions you wish to make to your statement at this stage?

25

D137: No, not at this stage.

COL STREIT: Ms McMurdo, I tender the statement of D137 dated 11 November 2024, together with Annexures A and B, acknowledging their security classifications.

30

MS McMURDO: Exhibit 102.

#EXHIBIT 102 - STATEMENT OF D137 AND ANNEXURES

35

COL STREIT: What I'm going to do now, D137, is to move through your statement chronologically and I will read out parts of your statement, and in other aspects I'll ask you some questions arising from things that you have said in your statement.

40

First, in relation to your background, qualifications and posting history which you've set out at paragraph 4 onwards, you were a graduate of the Australian Defence Force Academy; is that correct?

45

D137: That's correct.

COL STREIT: What did you study?

5 D137: I studied a Bachelor of Arts, with a double major in Management and Politics, and a minor in Indonesian.

COL STREIT: And you then attended the Royal Military College Duntroon in 2005; is that right?

10 D137: That's right.

COL STREIT: And upon graduating from Duntroon, you were commissioned as an officer in the Australian Army; is that right?

15 D137: That's correct.

COL STREIT: You subsequently undertook ADF Basic Flight Training in 2006/2007; correct?

20 D137: Before moving to a series of helicopter courses at the Army Aviation Training Centre in 2007/2008.

D137: Correct.

25 COL STREIT: You also, in 2008, attended your Regimental Officers' Basic Course. Is that in relation to Aviation?

30 D137: It is, yes. It's the final component of the Pilots' Course before graduating and posting into a unit.

COL STREIT: You have previously been posted to 171 Special Operations Aviation Squadron, 6 Aviation Regiment in the period 2009-2013?

35 D137: That's correct.

COL STREIT: And during your time at 6 Aviation Regiment, you have been a line pilot, Troop Second in Command and Troop Commander. Correct?

40 D137: Correct.

COL STREIT: And the dates you've specified in subparagraph (e) of your statement on page 2; is that right?

45

D137: That's right.

5 COL STREIT: You then served in 6 Aviation Regiment from – you had a posting somewhere else which you identify at paragraph (f) of your statement, and then returned to the 6 Aviation Regiment 2016-2018. Is that right?

10 D137: That's right.

COL STREIT: And you performed the function of the Regimental Executive Officer in 2016. Can you just explain – is that correct?

15 D137: That's correct.

COL STREIT: Yes, can you just explain what the Regimental Executive Officer did, or what your role was in 2016?

20 D137: So usually the Regimental Executive Officer is Second in Command of the Regiment. The primary functions of that role are primarily around governance-related responsibilities. Things like facilities management, management of the clerical staff, management of the Regiment's Aviation safety commitments; a range of functions to support the Commanding Officer.

25 COL STREIT: And in that function, you, I take it, were at the rank of Major at the time?

30 D137: That's right.

COL STREIT: How long had you been a Major at that time you were performing that role?

35 D137: So I got promoted to Major at the end of the posting that I did prior to that. So I was in my first year as a Major.

COL STREIT: So first year as a Major, and you were the Regimental Executive Officer of 6 Aviation Regiment?

40 D137: That's right.

COL STREIT: The Regimental Executive Officer is the Second in Charge of the Regiment, I think you said?

45 D137: That's right.

COL STREIT: In your experience, is that a little bit unusual, that somebody in their first year as a Major would be given that function?

5 D137: I think historically that role has usually been filled by a more senior officer, but typically not from Army Aviation. And so it's unusual in the sense to have an Aviation Officer – or it's not typical to have an Aviation Officer in that position, but there's a range of benefits that you can generate by having an Aviation Officer in that position. Yes.

10 COL STREIT: And can I suggest it's obviously a reflection of your ability to have been posted into that senior position as a first year Major; correct?

15 D137: Perhaps.

COL STREIT: But your experience is that – previous experience is, is that position would be filled by a more senior Major who is not a pilot. Did I understand that correctly?

20 D137: That's how it has been in the past. As far as I'm aware, there's no Regulations or policy around whether that role is filled by an Aviation Officer or not. Just from my circumstance, it was an opportunity for me to fill that position.

25 COL STREIT: You're obviously the CO of 6 Aviation Regiment now. Do you have a Regimental Executive Officer?

D137: I do.

30 COL STREIT: And is that person a pilot?

D137: They are. Yes, they are.

COL STREIT: You attended Command and Staff College in 2019?

35 D137: That's correct.

40 COL STREIT: And you then had a posting in the Office of the Vice Chief of the Defence Force where you were the Staff Officer to VCDF 2019-2020?

D137: Yes, that's correct.

45 COL STREIT: And you then, as set out in (j), had two Aviation Command staff postings, 2021-2023, dealing with two different roles. Is that right?

5 D137: That's right. So very similar roles. The first one in 2020 was for a project called LAND 2097 Phase 4, which was the acquisition of a Special Operations light helicopter. And then at the end of '21 that project changed into LAND 4507 Phase 1, which is the MRH-90 Rapid Replacement Project, which is UH-60M Black Hawk.

10 COL STREIT: And from that last staff role you had as the Grade 1 Capability Implementation Team, Rapid Replacement Project for the UH-60M Black Hawk, you then, in 2024, at the start, you assumed command of 16 Aviation Regiment as the CO?

D137: That's correct.

15 COL STREIT: In terms of your tertiary qualifications, you set those out at paragraph 6(a)-(d); correct?

D137: Correct.

20 COL STREIT: In terms of your flying experience, you set that out at paragraph 8 of your statement; is that right?

D137: That's right.

25 COL STREIT: And is it fair to say that the lion's share of your flying experience is in relation to the S-70A Black Hawk?

D137: Yes, the majority of my experience is on the Black Hawk helicopter.

30 COL STREIT: At paragraph 9 you list the number of aircraft – or the aircraft types, I'm sorry, that you've held qualifications on. That's right?

D137: That's right.

35 COL STREIT: And at paragraph 11 you set out, as at the date of your statement, what your total flying hours are in relation to each particular airframe. Is that right?

40 D137: That's right.

COL STREIT: Now, you're not a qualified MRH-90 pilot. That's correct?

45 D137: Correct.

COL STREIT: You have had some experience, set out at paragraph 10(d), in relation to hours on the MRH-90 Taipan.

5 D137: Yes, and that's very minimal hours.

COL STREIT: Yes, but the lion's share, I think I said earlier, of your experience flying is on the S-70A Black Hawk, which you set out at paragraph 10(e).

10 D137: That's correct.

COL STREIT: You set out at paragraph 13 your total flying experience in terms of total hours, captaincy hours, and total hours on NVDs.

15 D137: Correct.

COL STREIT: And, as I understand from an aspect of your statement a little later, you have not had experience using TopOwl, helmet-mounted night-vision device, have you?

20 D137: No, I haven't.

COL STREIT: You presently – and at paragraph 14 – hold a pilot Category B on the UH-60M Black Hawk, and you are a Special Operations Aircraft Captain. Is that right?

25 D137: That's correct.

COL STREIT: You've previously held a pilot Category A on the S-70A-9 Black Hawk, and you previously were a Special Operations Air Mission Commander and Special Operations Aircraft Captain.

30 D137: That's correct.

COL STREIT: You set out at paragraph 15(a) to (d) the various Special Operations courses that you've attended; correct?

35 D137: Correct.

COL STREIT: And at paragraph 20 you were asked to describe the scope of your current role as the Commanding Officer of the 6 Aviation Regiment, including your responsibilities, and you set that out in paragraphs 21 to 26. Is that right?

45

D137: That's correct.

COL STREIT: And, in particular, at paragraph 23 you say:

5 *The Commanding Officer is responsible for the health, welfare,*
morale and discipline of their people. They have the authority and
responsibilities to set the conditions to enable a productive, ethical
10 *culture that promotes our Defence values, maintains the integrity*
of the ADF, and achieves the mission entrusted to us by the
Australian people.

Correct?

D137: Correct.

15 COL STREIT: At paragraph 27 you were asked whether you've ever
flown with CAPT Lyon, LT Nugent, WO2 Laycock, and CPL Naggs. You
say at paragraph 28 – and I'll read para 28, 29 and 30 – you say this:

20 *I never flew with or ever met, to the best of my recollection,*
CAPT Danniel Lyon, LT Max Nugent, or CPL Alexander Naggs. I
have worked closely with WO2 Joseph Laycock for over a
decade. Our first flight together was in February 2012. We then
25 *flew together many times between 2012 and 2017. In 2013,*
WO2 Joseph Laycock and I conducted a short-term exchange
program with Special Force's partner organisation in the
USA. We flew a lot together during that program.

What I've read out, paragraphs 28, 29, and 30. Is that accurate?

30 D137: That's accurate.

COL STREIT: And what was your opinion in relation to WO2 Laycock's
professional acumen?

35 D137: I found WO2 Laycock to be extremely professional. He was
fantastic to have as part of the team. A great individual. I only have
positive things to say.

40 COL STREIT: Just briefly turning to the issue of TopOwl, you said earlier
you've never used TopOwl. Is that correct?

D137: That's correct.

45 COL STREIT: TopOwl is not used on the Black Hawk; is that right?

D137: That's right.

5 COL STREIT: And paragraph 37 you were asked to indicate whether you were aware of an issue in relation to TopOwl version 5.1 relating to the attitude information that is projected onto the visor when the pilot turns their head to the left or to the right, i.e. off-axis. You say, "I'm unaware of this issue".

10 D137: Yes. So I'm unaware of the details around that issue. I'm only aware of what has been distributed in the media as an outcome of the Inquiry here.

15 COL STREIT: Sure. Now, can I indicate that you were – as I understand it, you were advised that you were a prospective witness for this Inquiry just prior to the commencement of the August hearing. Is that correct?

D137: I think so.

20 COL STREIT: And so is it the case that, as the Commanding Officer of 6 Aviation Regiment, prior to receiving that advice that you were a prospective witness, you have – and this is unsurprising – you have taken the opportunity to observe the evidence of some witnesses?

25 D137: Yes, that's right. I think it was the first three hearings I observed some of the testimonies of some of the witnesses.

30 COL STREIT: And did you become aware as a result of that testimony about – putting aside media reporting, but did you become aware of the issues the Inquiry was investigating in relation to TopOwl version 5.1 by observing the testimony of different witnesses?

D137: I may have; I can't recall.

35 COL STREIT: Can I take you to paragraph 41. You were asked which platforms aircrew in the 6 Aviation Regiment are currently flying and how many aircraft you have. Currently the Regiment is operating the UH-60M Black Hawk and the H135?

40 D137: That's correct.

COL STREIT: What's the H135?

45 D137: So the H135 is a small commercial helicopter that we are flying as an interim measure to continue the proficiency and development of some of

our aircrew who are awaiting transition onto UH-60M. It's relatively the same aircraft that is used during our pilot training system operating out of HMAS *Albatross* in Nowra.

5 COL STREIT: Moving to paragraph 50, if I may? You were asked to describe any policies pertaining to when a pilot can be promoted to Troop Commander and what additional pay they are entitled to performing that function. You set out at paragraphs 51 through to 56 your response to that matter. Is that right?

10

D137: That's right.

15 COL STREIT: Can I just ask you to explain two things? First is, can I just confirm that your description of matters in paragraphs 51 to 56 concerning the difference between a specialist Aviation engagement and general service Aviation engagement is as the date of your evidence that you're giving.

20

D137: Yes, that's right.

25 COL STREIT: And the reason for asking you that is because I want to ask you this. Since you first were engaged as a pilot at 6 Aviation Regiment a number of years ago, has that engagement process between Generalist and Specialist stream changed in any way?

30

D137: Yes. When I first entered the Regiment in 2009, yes, it has evolved over time. With respect to what I've written here in paragraphs 51 through 56, I am unaware of when precisely this was implemented. I would have to go back and have a look at the documents as to when that occurred.

35

COL STREIT: Sure.

40

D137: But it has changed over time.

45

COL STREIT: And so what was the circumstance – if you can recall, what was the circumstance in existence when you were last at 6 Aviation Regiment as a pilot, before you became the Commanding Officer?

50

D137: I can't recall.

55

COL STREIT: Sure. As the circumstances are now, as at today, when you look at paragraph 53 of your statement, you say:

60

An officer who is Captain Year 3 will elect to present to the Personnel Capability Management Board for consideration to be

streamed as a Generalist or Specialist. An officer who wishes to be considered for a Troop Command appointment will be present at this Board.

5 So, first, the distinction between Generalist and Specialist, what's that? Or the difference?

10 D137: So I'd need to refer back to the manual for a specific definition, but my understanding of it is a Generalist Officer is someone who wants to pursue a command/leadership/management pathway; so someone who aspires to be a Troop Commander, a Squadron Commander or a Commanding Officer.

15 A specialist pathway is someone who wants to pursue an instructional pathway, becoming a Qualified Flying Instructor or a Qualified Test Pilot. Or there is another stream called a Regimental pilot stream, which is about retaining experience within a Regiment as an aviator, for a capability enhancement reason.

20 That's my broad understanding of the difference between the two.

COL STREIT: As things are today, is it the case that all Aviation Command pilots are General Service Officers, to your understanding?

25 D137: As in the people who are currently occupying those appointments, are they all General Service Officers?

COL STREIT: Yes.

30 D137: I am unaware of everyone's background.

35 COL STREIT: Sure. Perhaps if I can put it this way, and it will be my last question. There was a time, was there, where the Army would recruit officers and train them as General Service Officers, going through the full training at Duntroon and then undertaking Aviation-specific training. You would accept that?

D137: Yes, that's correct.

40 COL STREIT: And an alternate pathway was for Specialist Service Officers to be recruited by Army, to undertake an abridged version of officer training at Duntroon, which is a much shorter period of time. And then, they would be fulfilling Aviation-specific roles as pilots, but unable to perform command functions because they haven't had the full Duntroon training. Do you remember a time when that existed?

45

5 D137: I do. Yes, that did exist over a period of years. I can't recall when precisely it stopped. Notwithstanding that, that didn't mean that someone who was a Specialist Service Officer could not, after a period of time, transition to become a Generalist. And similarly, we had those who were Generalists who aspired to become Specialists, so it wasn't necessarily a hard and fast rule.

10 COL STREIT: Sure.

D137: But there was a time where that existed.

15 COL STREIT: Correct me if I have this wrong, but did you understand the broad intent of recruiting Specialist Service Officers to Army Aviation was that they would be a resource to undertake, and focus on undertaking, flying duties? And they'd provide a capability in that space, with a shorter training continuum required of them to get to the point of being a qualified pilot?

20 D137: Yes. I'm not completely clear on the precise intent, but that would be a fair assumption, I would say.

COL STREIT: Ms McMurdo, I note the time.

25 MS McMURDO: Thank you. We'll adjourn now to 9.30 tomorrow morning. Thank you.

30 <WITNESS WITHDREW

**PUBLIC INQUIRY ADJOURNED UNTIL
WEDNESDAY, 20 NOVEMBER 2024 AT 0930**