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

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

PUBLIC INQUIRY

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

**COL J STREIT, with MAJ L CHAPMAN and FLTLT A ROSE,
 Counsel Assisting**

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 SQNLDR J GILES, representing LT M Nugent
 LCDR M TYSON, representing CPL A Naggs
 SQNLDR C THOMPSON, representing WO2 J P Laycock
 COL N GABBEDY, representing MAJGEN Jobson
 COL S THOMPSON, representing BRIG D Thompson
 LTCOL D HEALEY, representing BRIG J Fenwick
 SQNLDR T SCHMITT, representing COL D Lynch
 FLTLT S SEEFELD, representing D10
 LCDR M HAY, representing D19
 MS K MUSGROVE, representing the Commonwealth**

1000, MONDAY, 3 MARCH 2025

DAY 37

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	19/03/25	(Transcription)

EXHIBIT LIST

Date: 03/03/2025

Number	Description	Page No
EXHIBIT 131	- ADDENDUM STATEMENT OF D2.....	5698
EXHIBIT 132	- ADDENDUM STATEMENT OF D1.....	5700
EXHIBIT 133	- ADDENDUM STATEMENT OF D6.....	5700
EXHIBIT 134	- ADDENDUM STATEMENT OF D5.....	5702
EXHIBIT 135	- ADDENDUM STATEMENT OF D9.....	5703
EXHIBIT 136	- NAME OF SUPPORT PERSON FOR D29	5706
EXHIBIT 137	- STATEMENT OF D29	5707
EXHIBIT 138	- RISK MANAGEMENT WORKSHEET	5723
EXHIBIT 139	- AVIART RISK PLAN DATED 05/07/23	5736
EXHIBIT 140	- FRAGO	5739
EXHIBIT 141	- 6 AVN REGIMENT'S AIRCRAFT EMERGENCY RESPONSE GUIDE.....	5754
EXHIBIT 142	- SIX PHOTOGRAPHS OF WHITEBOARD	5756
EXHIBIT 143	- STATEMENT OF D144:.....	5800
EXHIBIT 144	- VIDEO FOOTAGE OF D11.....	5826
EXHIBIT 145	- OPTUS PHONE RECORDS OF CAPT LYON.....	5827
EXHIBIT 77E	- WHITSUNDAY COAST FLIGHT SCHEDULES – 23/09/24	5828
EXHIBIT 146A	- LETTER OF INSTRUCTION TO DR SMITH.....	5828
EXHIBIT 146B	- ADDENDUM STATEMENT OF DR SMITH.....	5828
EXHIBIT 147	- VIDEO OF FLYOVER FLIGHT	5830

WITNESS LIST

Date: 03/03/2025

Name Of Witness	Page No.
D29, Affirmed	5705
EXAMINATION-IN-CHIEF BY FLTLT ROSE	5705
HEARING ADJOURNED	5724
HEARING RESUMED	5724
CROSS-EXAMINATION BY LCDR GRACIE	5764
CROSS-EXAMINATION BY SQNLDR THOMPSON	5765
CROSS-EXAMINATION BY SQNLDR GILES.....	5767
CROSS-EXAMINATION BY LCDR TYSON	5767
CROSS-EXAMINATION BY COL GABBEDY.....	5770
HEARING ADJOURNED	5771
HEARING RESUMED	5772
CROSS-EXAMINATION BY SQNLDR NICOLSON.....	5778
CROSS-EXAMINATION BY LCDR HAY.....	5780
CROSS-EXAMINATION BY COL THOMPSON	5792
WITNESS WITHDREW	5798
D144, Sworn.....	5799
EXAMINATION-IN-CHIEF BY FLTLT ROSE	5799
CROSS-EXAMINATION BY COL GABBEDY	5824
WITNESS WITHDREW	5825

MS McMURDO: Yes. Of course, I'm just going to mention the cyclone that I'm sure is on everybody's minds, especially the large number of people involved in the Inquiry who are living interstate, particularly families and Counsel representing, as well as Counsel Assisting. We're
5 carefully monitoring the situation, we're very conscious of it, and we'll give regular updates about how we're progressing. But we are aware that it's quite possible we may have to finish these sittings prematurely to allow people to safely return to their homes.

10 Yes, COL Streit.

COL STREIT: Thank you, Ms McMurdo. And just in relation to that particular matter, people obviously here in the hearing are entitled to make their own decisions about these things. If any Counsel representing wish
15 to express any concerns or views to Counsel Assisting, then please do so

Second, members of the audience who don't have a legal role here, nonetheless an important role but not a legal one, should also consider whether they need to make enquiries about departing early as the safest
20 course of action. And happy for them to engage through the Family Witness Support Team as part of the Inquiry to seek further guidance about those matters.

Can I indicate this week in terms of the witnesses being called there have
25 been some amendments. The witnesses being called are as follows. First, there will be a summary of evidence obtained by way of addendum statement from the pilots of Bushman 81, 82 and 84. Those witnesses gave evidence in the August hearings in Sydney. They've provided the Inquiry an addendum statement in relation to some matters, and Counsel
30 Assisting will seek to tender those addendum statements without calling the witnesses. Counsel representing are, of course, aware of Counsel Assisting's intention. I understand there's no objection to that course of action, and if I'm wrong on that, then I'd invite Counsel Assisting to say so formally. FLTLT Rose will provide a summary of those statements at
35 the time that we seek to tender.

Second, the first witness to be called is D29, who will give evidence via audio-visual link. That will commence approximately at 1030, or thereabouts. The next witness for today is D144. So D29 was an
40 Operations Officer in 6 Avn and was involved in the MRH-90 search and rescue. D144 is a Defence member that was involved in Exercise TALISMAN SABRE and was also involved in the early component of the MRH-90 search and rescue.

45 Tomorrow, i.e. Tuesday 4 March, will see evidence from

AIRCDRE Joseph Medved, the current Director-General Defence Aviation Safety Authority. The Inquiry will recall that the Air Commodore gave evidence in the August hearing. Other matters have arisen where we've sought the Air Commodore's assistance in providing
5 further evidence to the Inquiry, particularly in relation to Aviation fatigue management and the Defence Aviation Safety Regulation concerning that matter, and decisions made by the Defence Aviation Safety Authority concerning TopOwl version 5.10

10 On Wednesday – sorry, forgive me – the next witness on Tuesday is COL Martin Levey AM. COL Levey is an advisor on Human Dimension and Organisational Performance to Army Aviation Command.

15 Then we have, on Wednesday, GPCAPT Keith Joiner, who, in his civilian life, is a lecturer at a university in Sydney – Dr Keith Joiner. He'll be giving evidence in relation to his position as the Technical Adviser to the Director Defence Test and Evaluation. So his evidence is largely confined to his experiences and subject matter expertise concerning Test and Evaluation within Defence. He has also written an article, which has been
20 published, in relation to Test and Evaluation and a comparison to matters occurring in the US, called "The Pentagon Wars".

The next witness is COL Jeff Brock, who is Dr Jeff Brock. He is or was previously the Staff Officer Grade 1 Aviation Medicine at Headquarters
25 Aviation Command in the period 2022-2023. He will give evidence, I anticipate, in relation to his role as the Senior Aviation Medical Specialist within the Headquarters. He also is, I understand, a subject matter expert engaged in the Defence Flight Safety Bureau investigation into the crash of Bushman 83. Save for preliminary matters, he will not be asked by
30 Counsel Assisting any questions in relation to his advices provided to the DFSB, for the simple reason that matter is confidential to the DFSB, and he's not being called before the Inquiry to give that evidence.

35 On Thursday, subject to obviously what you indicated earlier, Chair, concerning the cyclone, we have MAJGEN Jeremy King, who is presently the Head Joint Aviation Systems Division at CASG. He'll give evidence about a range of matters concerning the MRH-90, including TopOwl version 5.10, and the methods employed at the high level within Defence concerning that matter.

40 Following that, we have, at the moment, listed on Friday LTCOL Daniel Perren, who's presently an Operational Airworthiness Consultant. His evidence is largely confined to certain limited matters concerning some of the evidence alluded to by MAJ McCall in which he
45 was, properly in my submission, confined by Counsel for D19 in relation

to his responses. So I anticipate COL Perren's evidence will be limited. I indicate to Counsel representing that I am, this morning, going to make attempts to see if I can bring COL Perren's evidence forward in time.

5 MS McMURDO: Yes, I have asked the Inquiry Legal Team to see if there are any witnesses that can be brought forward. I understand we may have some space this afternoon. Because obviously that would be good, if we can bring the evidence of some witnesses forward. It's more difficult, of course, for those flying from interstate.

10 COL STREIT: I can indicate the majority of witnesses being called this week are travelling from interstate.

15 MS McMURDO: So there might be a possibility that LTCOL Perren may give evidence this afternoon.

COL STREIT: Or tomorrow.

20 MS McMURDO: Or tomorrow.

COL STREIT: Yes. The evidence today and throughout this week will largely be taken by FLTLT Rose, and I'll indicate where I'll be taking a witness or two as that arises. Thank you.

25 MS McMURDO: Thanks very much, COL Streit. Yes, FLTLT Rose.

FLTLT ROSE: Good morning, Ms McMurdo, AVM Harland. In the hearing block 8, Counsel Assisting intends to tender an expert report from Mr Michael Grant from the Defence Science Technology Group which
30 analyses specific information obtained from the flight data recorders from Bushman 81, 82 and 84. This includes the decision height settings and the modes of flight that each of the pilots in those aircraft used during the sortie on 28 July 2023

35 After receiving his expert report in November 2024, the Inquiry sent section 23 Notices to each of the pilots in Bushman 81, 82 and 84 requesting that they provide further evidence to the Inquiry about some of the differences between information obtained from the flight data recorder and evidence that they provided to the Inquiry in the public hearing in
40 Sydney in August last year.

Each of the pilots who have been the pseudonyms of D1, D2, D5, D6 and D9 provided addendum statements to the Inquiry as requested. I will now
45 tender them one by one and summarise the contents of those statements that are at the Official level.

I tender the addendum statement of D2 dated 6 February 2025.

5 MS McMURDO: So what exhibit number are we up to, please?

UNIDENTIFIED SPEAKER: 131.

MS McMURDO: Thank you. Which pilot is that one?

10 FLTLT ROSE: D2.

MS McMURDO: D2, 131.

15 **#EXHIBIT 131 - ADDENDUM STATEMENT OF D2**

20 FLTLT ROSE: D2 was the Aircraft Captain of Bushman 81 and the flight lead during the sortie on 28 July 2023. He was one of the Qualified Flying Instructors in 6 Aviation Regiment in 2023. He now has civilian employment and is transitioning to the Reserves. He gave oral evidence to the Inquiry on 12 and 13 August last year.

25 MS McMURDO: And that was D?

FLTLT ROSE: 2.

MS McMURDO: I thought D2 was Exhibit 131.

30 FLTLT ROSE: I was going to tender them separately, summarise them and then move to the next one if that's appropriate, Chair.

MS McMURDO: All right. Thank you.

35 FLTLT ROSE: In his addendum statement, D2 sets out the requirements in the MRH-90 Aircraft Standardisation Manual or the STANMAN with respect to the setting of the RADALT decision height warnings. I cannot read out any direct quotes from the STANMAN in the public hearing, but D2 does include those details in his statement.

40 D2 states that there may be circumstances when the two pilots in MRH-90 would set their decision height warnings at two different heights, for example, when conducting deck landings. So one pilot might set his or her decision height to 180 feet of the not below height if it was 200 feet
45 overwater while the other pilot may select the deck height of the ship for

their decision height. But if there was no relevant additional height for the sortie, D2 states that a decision height of zero feet would be selected for one side of the cockpit.

5 D2 states that the reference to “flying pilot” and “non-flying pilot” in the Regulations is mostly irrelevant, though, as the flying pilot and the non-flying pilot changes frequently during the sortie. So it would be impractical to adjust the decision height setting each time that occurs.

10 D2 states that a not below height was always stipulated in orders or the authorisation brief in 6 Aviation Regiment and that it was the not below height that should form the basis for the decision height setting calculation. D2 states that pilots in 173 Squadron would generally set a
15 10 per cent buffer on the not below height for a sortie, although he does set out some exceptions to that.

D2 states that MRH-90 pilots were required to announce their decision height setting to the crew during their before movement checklist and the Aircraft Captain confirmed that a relevant height for the sortie is set. If
20 the decision height setting was adjusted mid-sortie, pilots would likely announce those changes as well with a certain form of words.

In response to a question put to D2 about why he set his decision height to zero feet in Bushman 81 prior to taking off for the sortie on 28 July 2023,
25 he states that it was likely because the other pilot had set his decision height to a height that he recognised. However, D2 cannot recall this in detail because he and his crew had to move from their first aircraft to the spare aircraft just before taking off for the sortie due to the radar altimeter failure in the primary aircraft.

30 D2 states that the spare aircraft was already running and mostly reconfigured when they arrived to it and he, as the flight lead, would have been prioritising navigation and communication at that time. He states it is difficult to recall what he set for each aircraft; however, a setting of
35 180 feet makes sense to be the setting in line with the manual.

When asked to provide reasons why he did not adjust his decision height setting at any stage during the sortie, D2 stated that – and this is a quote:

40 *If you are working on an assumption when airborne that the aircraft was correctly configured on departure, it is unlikely you will seek to adjust the decision height warning unless circumstances change or checklist actions dictate a change.*

As to why none of the other aircraft in the formation had their decision height setting set up in line with the manual, D2 states that it may have been because the Squadron had just come off a period of intensive Special Operations Aviation training over terrain, which means the majority of Aircraft Captains would have ensured the decision height settings were lower for those sorties. And the mission on 28 July 2023 would've been one of the first missions after that training cycle, so perhaps muscle memory was a factor in the Aircraft Captains defaulting to a terrain flight setting.

5

I now tender the statement of D1 which is dated 4 February 2025.

MS McMURDO: The addendum statement of D1 will be Exhibit 132.

10

#EXHIBIT 132 - ADDENDUM STATEMENT OF D1

FLTLT ROSE: D1 was the co-pilot of Bushman 81 during the sortie on 28 July 2023. He is still a pilot in 6 Aviation Regiment. He gave oral evidence to the Inquiry on 16 August last year. D1 has classified his statement as "Official: Sensitive", so I will not summarise the contents of his statement in the public hearing.

15

I tender the addendum statement of D6 dated 7 February 2025.

MS McMURDO: Exhibit 133.

#EXHIBIT 133 - ADDENDUM STATEMENT OF D6

FLTLT ROSE: D6 was the Aircraft Captain of Bushman 82 during the sortie on 28 July 2023 and he was one of the Qualified Flying Instructors in 6 Aviation Regiment in 2023. He now has civilian employment and is transitioning to the Reserves. He gave oral evidence to the Inquiry on 13 and 14 August last year.

20

D6 also refers to the requirements set out in the STANMAN regarding the setting of decision heights that was in force as at 28 July in 2023, but I cannot read direct quotes from the manual in this forum.

25

Although D6 does state that because the manual states that pilots "shall set an appropriate height for the alerting system" and they "may set it on route as 10 per cent below the minimum authorised altitude, while the

30

other pilot may set their decision height at zero”, that this effectively gives the Aircraft Captain the final decision on how they elect to set up the decision height alerting system.

5 On this basis, D6 states that all aircraft in the formation on 28 July 2023 had an acceptable decision height setting if the Aircraft Captains deemed those heights were appropriate.

10 D6 then explains the function and purpose of the RADALT decision height alerting system, which is:

15 *designed to draw the crew’s attention to a descent, whether that’s intended or unintended, below the height set above terrain. But the decision height system is independent of any autopilot functions, so descending below the decision height will not trigger any autopilot function such as the collective safety function.*

20 D6 states that 6 Aviation Regiment pilots would set the decision height at 10 per cent below the minimum authorised height for a sortie as a standard setting on at least one side of the aircraft. But he notes that the unit had just completed a Special Operations Qualification Course, and provided some evidence about other common settings used in other contexts, which I cannot summarise in this forum.

25 D6 then states the pilots would confirm with the crew what their decision heights were set to as part of the checklists before take-off, and if the Aircraft Captain wanted them to be set to something different, then he or she would make that direction. And if the settings were changed in flight,
30 the same cross-checking procedure would then be conducted again.

35 When asked to explain why his recollection of what he thought he had set his decision height to on 28 July 2023 – i.e. 180 feet – differed to what the flight data indicates he set his decision height to, which was 80 feet, D6 acknowledges that he prepared his original statement to the Inquiry over 12 months after the sortie and he did not accurately recall the specific setting of his decision height. However, he states that he would not have set 80 feet without a reason, although he cannot recall what that reason was. He thinks it may have related to the landing phase of the flight and
40 due to his aircraft’s anticipated flyaway height loss figure, which is the height at which the aircraft can have a single engine failure and still safely fly away, whereas below that height the aircraft is committed to a single engine landing.

45 D6 states that it is likely he set his decision height to 80 feet prior to

take-off, but he cannot recall any discussion he had in the aircraft about this. He also believes that he may have reset his decision height for the search phase of the sortie after Bushman 83 crashed.

5 D6 states that he elected to have his and his co-pilot's decision height set to the same height, i.e. 80 feet, because it is his personal preference for the decision height audible warnings to be given in quick succession so that it's harder to miss. Although he did sometimes fly with two separate settings, it was not common for him to set one side to zero feet.

10 D6 then states that, in his opinion, he does not think the decision height setting of any of the formation aircraft had an impact on the outcome of the accident. He says it's only a tool to alert crews of deliberate and undesired descent below a certain height, and then even if the pilots of
15 Bushman 83 had set their decision heights to 180 feet, which is 10 per cent below the minimum authorised height, their flight path and rate of descent were already too high for them to have recovered from this state, even if they had acted on it at 180 feet.

20 D6 states that hearing the crew of Bushman 84 calling "Pull up" over the radio would have had more of an effect of alerting 83 to their undesired state than a decision height warning.

I now tender the addendum statement of D5 dated 5 February 2025.

25 MS McMURDO: That will be Exhibit 134.

#EXHIBIT 134 - ADDENDUM STATEMENT OF D5

30 FLTLT ROSE: D5 was the co-pilot of Bushman 82 during the sortie on 28 July 2023. He is still a pilot in 6 Aviation Regiment, and he gave oral evidence to the Inquiry on 14 August last year.

35 In his addendum statement, D5 sets out that the STANMAN states that the non-flying pilot may set a decision height to 10 per cent below the authorised height, and the flying pilot may set the decision height to zero for mission transit or the en route portion of a flight, but the Aircraft
40 Captain can have any setting they desire.

D5 states that there have been times he has flown with pilots who have different decision height settings, but the majority of his flights the pilots have set the decision height to the same number

45

He states if there was no specific height briefed as to what they should set their decision height to, it would usually be set to 10 per cent below the authorised height for overwater flights. But this might be different for an overland component to the sortie.

5

D5 believes that the flight crew would confirm what the decision height settings were in the after start checks and the Aircraft Captain would dictate exactly what was set on both sides if they wanted to. If the decision height setting was to be changed mid-flight, the crew would discuss that and then verbally announce any changes.

10

As to the decision to set the decision height to 80 feet on both sides of Bushman 82, D5 states that he recalls discussing this with D6, but he can't recall what the reasoning was. But he thinks it was probably set in preparation for the landing phase of the mission. D5 states that there was no reason for him and D6 to change the decision height prior to the crash of Bushman 83, but they did change it after the crash, during the search and rescue portion of the flight.

15

20 Finally, I tender the statement of D9 dated 7 February 2025.

MS McMURDO: Exhibit 135.

25 **#EXHIBIT 135 - ADDENDUM STATEMENT OF D9**

FLTLT ROSE: D9 was the co-pilot of Bushman 84 and he is still a pilot in 6 Aviation Regiment and the Officer Commanding of 173 Squadron. He gave evidence to the Inquiry on 15 and 16 August last year.

30

D9 states that to the best of his recollection the MRH-90 STANMAN recommended a decision height warning to be set to not below 10 per cent of the authorised height, but if conducting continuous circuits, it may be set to zero.

35

D9 believes it was part of 6 Aviation Regiment's Standard Operating Procedures to set the decision height at 10 per cent below the authorised height as a situational awareness tool, but it could be set above this height. D9 believes that the checking of the decision height settings occurred in one of the before flight checklists.

40

Noting that the evidence D9 gave in August last year about his recollection of the decision height settings differed from what the flight data recorder indicates, D9 states that the setting was not a detail he had

45

considered prior to giving oral evidence, and he assumed he had set it at 10 per cent below the authorised height, but he cannot recall what the authorised height was for the sortie.

5 D9 states that the decision height warning alert is a fantastic situational awareness tool to assist in alerting crews to recognise incipient – which means steady or gradual – rates of descent or changing – which means gently climbing – terrain

10 In his view, the usefulness of the decision height warning would have been severely diminished in alerting the crew of Bushman 83 due to the aircraft's state with its extreme nose low attitude and high rate of descent that he observed in that aircraft, and that they would not have had enough time to act. However, he states that this is not to undermine the usefulness
15 of the decision height when operating in low contrast environments.

D9 was then asked to provide evidence as to why Bushman 84 flew in tactical mode between specific timings of the flight – and those timings are between 22 hours 15 minutes and 1 second and 22 hours 24 minutes
20 and 26 seconds in local time – as opposed to in attitude mode. He states that he was the non-flying pilot monitoring during this phase of the flight, and he assumes that the aircraft went into tactical mode when the aircraft descended below 500 feet, as it can be useful in formation station-keeping. Although he notes that the 6 Aviation's Risk
25 Management Plan outlined that RADALT height hold shall be used when flying overwater below 500 feet.

He explains that when an aircraft flight control system upper mode such as the radar height hold is selected, the aircraft will set attitude mode
30 automatically.

That concludes the summary of the pilots' additional evidence.

35 MS McMURDO: Thank you.

FLTLT ROSE: I now call the witness D29. She is appearing via video-link, and in line with your non-publication direction, only the audio of her voice will be streamed on the livestream. They will not see footage of her face, although us in the hearing room, we will be able to see her
40 face.

MS McMURDO: Thank you

45 D29: Oath.

MS McMURDO: Sorry, just a minute. I think we had trouble hearing you. Could you just say perhaps your name again so we can - - -

5 FLTLT ROSE: Not her name.

MS McMURDO: Sorry, don't say your name. A bit early in the day. Could you just say a few words just so we can tell if we can hear you?

10 D29: (No audible reply).

MS McMURDO: No, we can't hear you. Is it because you've got the headphones in? Would that be affecting it?

15 D29: How is that coming through now?

MS McMURDO: Yes, that's better.

D29: Much better? Okay.

20 MS McMURDO: Yes, that's perfect. Thank you. You can hear and see us?

D29: I can, ma'am.

25 MS McMURDO: Let me know if you need a break at any time, please?

D29: Thank you.

30 <D29, Affirmed

<EXAMINATION-IN-CHIEF BY FLTLT ROSE

35 FLTLT ROSE: Can you please refer to the pseudonym list that you were provided with and confirm that you are the person who has been given the pseudonym D29?

40 D29: I am.

FLTLT ROSE: What is your current rank?

45 D29: [REDACTED].

FLTLT ROSE: What unit are you currently posted to?

D29: 723 Squadron.

5 FLTLT ROSE: You have a support person in the room with you and you have – is that correct?

D29: That's correct.

10 FLTLT ROSE: You have provided the Inquiry with the name of that support person this morning, and I will tender the name of the support person.

MS McMURDO: That will be Exhibit 136.

15

#EXHIBIT 136 - NAME OF SUPPORT PERSON FOR D29

20 FLTLT ROSE: D29, can you confirm that prior to appearing today you received the following documents: a section 23 Notice requiring your appearance today?

D29: Yes.

25

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

D29: Yes.

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

D29: Yes.

FLTLT ROSE: The Frequently Asked Questions Guide for Witnesses?

35

D29: Yes.

FLTLT ROSE: A Privacy Notice?

40

D29: Yes.

FLTLT ROSE: Did you prepare a statement for the Inquiry?

D29: Yes.

45

FLTLT ROSE: Have you got a copy of that statement with you?

D29: I do.

5 FLTLT ROSE: Is it dated 26 July 2024?

D29: Yes.

10 FLTLT ROSE: Is it 13 pages?

D29: Yes.

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

15 D29: No.

FLTLT ROSE: I tender the statement.

20 MS McMURDO: Exhibit 137.

#EXHIBIT 137 - STATEMENT OF D29

25 FLTLT ROSE: It's just come apart, stapled

MS McMURDO: And it has a number of annexures to it, doesn't it?

30 FLTLT ROSE: It does. They're not officially annexures, so I'll tender them through the witness one by one.

MS McMURDO: Okay.

35 FLTLT ROSE: Can I ask you, D29, to please be mindful of your security obligations? So if I, or anyone else, asks you a question today the answer to which you believe is at the "Official: Sensitive" level or above, can you say so and we won't discuss it in the public forum?

40 D29: Yes.

FLTLT ROSE: Turning to your background and qualifications, at paragraph 4 of your statement, you joined the Army as a pilot trainee in 2012?

45 D29: Correct.

FLTLT ROSE: You posted to 6 Aviation Regiment in 2014?

5 D29: Correct.

FLTLT ROSE: What aircraft were you flying at that stage?

D29: At 6 Avn Regiment?

10 FLTLT ROSE: Sorry, I couldn't hear that response?

D29: Sorry, was that, "What aircraft was I flying at 6 Avn Regiment?"

FLTLT ROSE: At 6 Avn.

15 D29: The Black Hawk.

FLTLT ROSE: At paragraph 6 you state that you completed your conversion to the MRH-90 in 2022?

20 D29: Correct.

FLTLT ROSE: At paragraph 9(b) you state that you completed your Special Operations Qualifications Co-pilots Course on MRH-90 in October-November 2022.

25 D29: Correct.

FLTLT ROSE: Was CAPT Danniell Lyon on that Special Operations Qualification Course as well?

30 D29: I believe he was, yes.

FLTLT ROSE: Was he completing his Captain's course?

35 D29: Correct, yes.

FLTLT ROSE: At paragraph 4 and 8 you state that you were largely posted to 6 Aviation Regiment between 2014 and 2023, performing in various different roles in addition to your pilot duties.

40 D29: Yes.

FLTLT ROSE: Did that include Troop 2IC of 173 Squadron in 2016?

45

D29: Yes.

FLTLT ROSE: Tactical Operations Officer in 2018?

5 D29: Yes.

FLTLT ROSE: The Operations Officer of 173 Squadron in 2019/20?

10 D29: Apologies, ma'am. So that should say, "Operations Officer 171 Squadron".

FLTLT ROSE: Yes. Of 171 Squadron, not of the Regiment. Is that the distinction you're drawing?

15 D29: Yes, 171. 171, not 173, yes.

FLTLT ROSE: 171, understood.

D29: Yes.

20

FLTLT ROSE: Then you became the S35 in Regiment Headquarters at the start of 2023?

D29: Yes.

25

FLTLT ROSE: Is it S35 or S35?

D29: S35.

30 FLTLT ROSE: At paragraph 7(a) you say:

Regiment S35 is responsible for planning and coordinating future operations, taskings and exercises under the command of the Regiment Operations Officer.

35

D29: Correct.

40 FLTLT ROSE: Can you please refer to that pseudonym list and identify if they're in the list, by the pseudonym, who the Regiment Operations Officer was in 2023?

D29: D23.

45 FLTLT ROSE: The S35, you state, also commands 6 Avn's Combat Rescue Troop.

D29: Yes, correct.

5 FLTLT ROSE: What is the Combat Rescue Troop?

D29: The Combat Rescue Troop is a team of between seven and 10 personnel that are within Regiment Headquarters, and they're Combat Rescue Operators.

10 FLTLT ROSE: So they're not within either of 171 or 173 Squadron?

D29: No, they're within Regiment Headquarters.

15 FLTLT ROSE: They're aircrew?

D29: No, they're Combat Rescue Operators is their trade designation. So they are Engineer Corps.

20 FLTLT ROSE: Engineering Corps?

D29: Correct.

25 FLTLT ROSE: Can you just explain what their role is to the Inquiry? What does – it says Combat Rescue Troop. Is it in relation to Aviation issues or is it more into ground Troop rescue?

30 D29: Aviation rescue is their core role. They sit within Regiment Headquarters; however, they're Force assigned to the SOATU, or the sub-units, when they deploy out. They comprise of four people within the Aviation Crash Rescue Team.

FLTLT ROSE: So there's a larger Crash Rescue Team and then there's a Combat Rescue Team within that?

35 D29: Correct. So Combat Rescue is the trade, or the ECN, of those members, and four of them will make up a component of the Aviation Crash Rescue Team.

40 FLTLT ROSE: You said they were Engineering Corps. Is their responsibility to recover aircraft equipment rather than personnel, or both?

D29: Both. They have specialist skills in rescue and recovery operations, with particular emphasis on rotary-wing aircraft.

FLTLT ROSE: It was your role, when you were the S35, to effectively manage the personnel of four - - -

5 D29: The entire Troop, but more of an administrative role. So I had no technical oversight of them. It was more to help with the administrative management of the team because there was no officer that sat over the top of them.

10 FLTLT ROSE: How much flying were you managing to fit in, in 2023, when you had these responsibilities as the S35?

D29: I believe that when we stopped flying in the middle year, I was on a rolling 12-month total of over 200 hours for the year.

15 FLTLT ROSE: You then set out some further duties of the S35 at paragraph 7(b). Is it fair to say, essentially, that this was an operations and planning role?

20 D29: Yes.

FLTLT ROSE: Back to paragraph 4, you set out that you completed your Flying Instructor Course at the start of 2024?

25 D29: Yes.

FLTLT ROSE: Was that at Oakey?

D29: No, that was at my current posting, so at 723 Squadron.

30 FLTLT ROSE: Does that mean that you're a Qualified Flying Instructor now?

D29: Yes.

35 FLTLT ROSE: Then you posted down to where you are now, at HMAS *Albatross* in Nowra, as the Pilot Instructor in 723 Squadron, which is the Joint Helicopter School.

40 D29: Correct.

FLTLT ROSE: Are you flying the EC135?

D29: Yes.

45 FLTLT ROSE: Is that a light utility helicopter?

D29: Yes.

5 FLTLT ROSE: You also have a Masters in Strategy and Security from ADFA.

D29: Yes.

10 FLTLT ROSE: At paragraphs 22 to 25 of your statement you set out how long you had known each of CAPT Lyon, LT Nugent, WO2 Laycock and CPL Naggs.

D29: Yes.

15 FLTLT ROSE: You knew each of them and you had flown with each of them.

D29: Yes.

20 FLTLT ROSE: In particular, at paragraph 24, you state that you met WO2 Laycock in 2015 and had flown with him on three occasions.

25 D29: Three occasions that I could pull up from my aircrew logbook. It could have been a bit more than that that wasn't logged correctly. But, yes, that's what I believe, three occasions.

FLTLT ROSE: I'm just going to read out what you stated then. You said that:

30 *WO2 Laycock was a professional and highly competent
aircrewman and Standards Warrant Officer. In his role as
Standards Warrant Officer, I regularly sought his advice on
matters of exercise design and Aviation safety. It was through
35 these interactions that he demonstrated strong intellect, wise
judgment and extensive experience in Special Operations
Aviation.*

D29: Yes.

40 FLTLT ROSE: I'm going to turn now to questions about the planning for Exercise TALISMAN SABRE 2023. So if you go to paragraph 17(b) of your statement, you set out that your involvement in the planning for TALISMAN SABRE started in late July 2022.

45 D29: Correct.

5 FLTLT ROSE: Your first initial planning stages, was this confined to planning within 6 Aviation Regiment, or did it include interactions with external persons and others involved in preparing for TALISMAN SABRE?

D29: It included interactions with external stakeholders and other exercise participants, yes.

10 FLTLT ROSE: Was there an overarching planning team for TALISMAN SABRE that you liaised with?

D29: From outside the unit?

15 FLTLT ROSE: Yes.

D29: Yes.

20 FLTLT ROSE: Did that team have a name, a particular designation?

D29: The SO J7 Cell within Headquarters SOCOMD.

25 FLTLT ROSE: Can you recall who the Exercise Director was for TALISMAN SABRE 2023?

D29: Not the Exercise Director, no.

30 FLTLT ROSE: If you look at the pseudonym list again, can you just have a look at D13?

D29: Yes.

FLTLT ROSE: Are you familiar with that person?

35 D29: Yes.

FLTLT ROSE: Did you liaise with D13 in the planning process at all for Exercise TALISMAN SABRE '23?

40 D29: Yes.

FLTLT ROSE: Did you discuss with her things about the camp layout or other things to do with the aircraft involved in the exercise?

45 D29: Yes.

FLTLT ROSE: Did you discuss the sleeping arrangements for aircrew and ways to help them sleep better in the field?

5 D29: Yes.

FLTLT ROSE: What discussions did you have on that topic?

10 D29: We discussed at length the planning process of TALISMAN SABRE 2023. We worked quite closely within RHQ Operations. We discussed particularly what the sleeping arrangements would be inside the tents, what those tents would look like, where they were coming from, and how we had access to that as well.

15 FLTLT ROSE: In terms of the tent layout, did you provide advice or assist D13 in deciding where the aircrew would sleep?

D29: No, I didn't specify exactly where people would be sleeping.

20 FLTLT ROSE: Did you discuss alternatives to sleeping in the tent for aircrew?

D29: No. We didn't talk about any alternatives, no.

25 FLTLT ROSE: In any of the deployments you'd undertaken in 6 Aviation Regiment up until that point – which was, essentially, about 10 years of experience in 6 Aviation Regiment – had you deployed yourself to tents in the field?

30 D29: Yes.

FLTLT ROSE: Was that often that you had done that? How often?

35 D29: Yes. So I attended TALISMAN SABRE in 2015, '17, '19, and then again in 2023. In '15 and '17, the sleeping conditions were comparable to what was experienced at Proserpine.

FLTLT ROSE: Then, in those intervening years, where was aircrew accommodated in those other TALISMAN SABRE exercises?

40

D29: In 2019, we were accommodated in barracks accommodation.

FLTLT ROSE: And 2021?

45 D29: I didn't participate in 2021. I was posted from the unit at that time.

FLTLT ROSE: Did you have any particular responsibilities as the S35 for fatigue management of the aircrew during the exercise?

5 D29: No.

FLTLT ROSE: Did D13?

10 D29: No.

FLTLT ROSE: Are you aware if any particular person or planner had responsibility for considering fatigue management during that exercise?

15 D29: I'm not aware of anyone that directly was responsible for considering it, but it's something that all planners and all Commanders take into account when they're designing an activity.

20 FLTLT ROSE: Were you concerned at any point about fatigue-related issues for aircrew being in tents in North Queensland, communal tents, next to others who were working on different shifts during TALISMAN SABRE?

D29: No, I wasn't concerned.

25 FLTLT ROSE: Have you heard of a biomathematical modelling tool that can assist planners called SAFTE-FAST?

D29: No, I haven't.

30 FLTLT ROSE: So I take it you haven't heard of it, so you haven't been trained on it in the past?

D29: No.

35 FLTLT ROSE: Then you didn't use it in your planning or preparations for TALISMAN SABRE?

D29: No.

40 FLTLT ROSE: Did anyone in the planning stages raise any issues, in your presence, about the sleeping arrangements for aircrew on the exercise?

45 D29: The sleeping arrangements were a point of discussion, as they are for any activity. However, I don't think anything was raised as a concern.

It was more a topic of discussion, so everyone understood the environment that we'd be operating in.

5 FLTLT ROSE: Were there discussions about whether the tents would be air-conditioned?

D29: There were discussions initially about that. That was a preference that was put forward in the initial planning stages. And then we were aware when those conditions changed along the planning process, yes.

10 FLTLT ROSE: So who is it that specifically requested for the tents to be air-conditioned? If you want to say the person's position number if you don't know their name, or you can look at the pseudonym list and identify them by name through the pseudonym.

15 D29: Well, it was actually me. So in the mid-planning conference I sat down with logistics planners – so end of 2022 – and put out a preference list of the conditions that we would like to stay in. However, that was diminished or slowly diluted as the planning process went on and resources became apparent.

20 FLTLT ROSE: Is that a document? You said the “preference list” that you created?

25 D29: No, it was a conversation at a planning conference, on a whiteboard.

FLTLT ROSE: Can you recall the specifics of what you wanted? You said air-conditioning for the tents was one.

30 D29: It was a while ago, so trying to recall it specifically, I'll do my best. However, yes, air-conditioning for tents is something that I proposed, as well as shower facilities, toilets and fresh rations, vehicles - - -

35 FLTLT ROSE: Fresh rations, you said?

D29: Correct, yes

40 FLTLT ROSE: And you said they slowly got watered down. Do you recall specific reasons given, for example, why the tents were not going to be air-conditioned?

45 D29: I understand it was resource availability. So a lot of the logistical support was received from Coalition partners overseas. And as their

commitment was reduced – as the planning cycle continued, their commitment was slowly reduced, therefore we had less resources available to plan off. Therefore, the air-conditioned tents weren't brought over from the US, is the way I understand it.

5

FLTLT ROSE: This was quite a few months before TALISMAN SABRE actually took place, that you were aware that there weren't going to be air-condition units available for the tents?

10 D29: Yes, correct.

FLTLT ROSE: In terms of fresh rations, was that something you were aware of in advance of TALISMAN SABRE commencing?

15 D29: Yes.

FLTLT ROSE: That there were going to not be fresh rations?

20 D29: Correct, yes. I was aware that we wouldn't have – we had fresh rations on a semi-regular occurrence, but we were primarily on not fresh rations throughout the activity.

25 FLTLT ROSE: When you say you wrote this on a whiteboard, who do you understand was the decision-maker about the arrangements in terms of, "Didn't have enough air-conditioned tents, therefore the aircrew wouldn't get one", or "We don't have enough fresh ration packs. We're going to go to dry rations"?

30 D29: I couldn't specify one particular person at any one time that made a distinct decision to pivot to, as you've said, no air-conditioner or dry rations. Yes, I couldn't pinpoint one person.

35 MS McMURDO: So your preference for air-conditioning, of course, is it's naturally more comfortable, easier to sleep in – more comfortable to sleep in?

D29: Yes, ma'am.

40 MS McMURDO: Also, in terms of the sleeping arrangements, it's the white noise of the air-conditioning that keeps exterior noises out and makes it easier to sleep, as well as the temperature control?

D29: Primarily the temperature control was what I was considering at that time, ma'am.

45

MS McMURDO: Thank you.

5 FLTLT ROSE: Once you learned that these items on your preference list weren't all going to be met, did you communicate that back to 6 Avn Regiment aircrew?

D29: Yes, I did.

10 FLTLT ROSE: Did you have anyone in 6 Avn Regiment express displeasure about those items not being available to them in the field?

D29: Not that I can recall.

15 FLTLT ROSE: If you cast your mind back to July 2023, were you aware at that time of the DASR on Aviation Fatigue Management?

D29: Not specifically.

20 FLTLT ROSE: Were you aware of the DFSB's Aviation Fatigue Management Guidebook?

D29: No.

25 FLTLT ROSE: Had you heard of the Fatigue Risk Awareness Tool?

D29: No.

30 FLTLT ROSE: But you did previously state that you were required or were expected, as one of the planners for the exercise, to take aircrew fatigue into consideration in your planning?

D29: Yes.

35 FLTLT ROSE: So what information or training had you received up until you started planning for TALISMAN SABRE in 2022 about fatigue management?

40 D29: I conducted a fatigue management online course as part of mandatory training in early 2023. Conduct non-technical skills training every two years as well, as well as Aviation Medical Training refresher and then initial courses. So I believe it's every two to three years for the Aviation Medical Training. And then I also was mentored through operations planning throughout my career. So I'd done it in 2018, 2019 and then again in 2023. So I was mentored through how to plan activities.

45

FLTLT ROSE: So you were mentored by other operations planners within 6 Aviation Regiment?

5 D29: Yes, correct.

FLTLT ROSE: Had they given you some guidance about steps to take to help alleviate fatigue for aircrew in the field?

10 D29: Not specifically steps to alleviate fatigue in the field, but how to make recommendations on exercise design that is safe and also achieving as many training objectives as possible, but in a safe manner.

FLTLT ROSE: When you posted out of 6 Aviation Regiment into your current role – you're no longer a planner; is that correct?

15 D29: That's correct, yes.

FLTLT ROSE: Have you now heard of the Fatigue Risk Awareness Tool?

20 D29: I have.

FLTLT ROSE: Do you use it in your current Squadron?

25 D29: It is occasionally used, yes.

FLTLT ROSE: But not mandated to be used every time before a sortie?

30 D29: It's not mandated.

MS McMURDO: Could I just take you back for a moment to the air-conditioning? Your recollection is definitely that the air-conditioning was taken out of the planning stage at some time before the exercise started, not that the air-conditioning was planned to be installed there but at the last minute didn't arrive with the supplies?

35 D29: That's my recollection, yes, ma'am.

MS McMURDO: The former is your recollection; that is, that it was taken out of the planning stage sometime before the exercise started?

40 D29: Correct, the former.

MS McMURDO: Thank you for clarifying that.

45

D29: That's how I recall it, yes.

AVM HARLAND: Would it be safe to characterise it as air-conditioning for the aircrew accommodation wasn't considered a high priority?

5

D29: I wasn't personally involved in the prioritisation of resources for the logistics plan, so I wouldn't be comfortable in making that distinction there, sir.

10

AVM HARLAND: So I guess maybe another way to frame it: as an exercise plan goes forward and you go into execution and you realise you don't have load space available for things, would the decision on what to put on aircraft or what not to put on aircraft or other means of transport be made by a prioritisation?

15

D29: It would be, yes.

AVM HARLAND: Okay, thank you.

20

FLTLT ROSE: Were you aware of other tents at Proserpine having air-conditioning?

25

D29: I can't recall specifically if the planning tent and the TOC, or the Tactical Operations Cell, if it had air-conditioning or not. I can't recall off the top of my head.

FLTLT ROSE: Do you recall whether the LC tent had air-conditioning?

30

D29: I don't believe it did.

FLTLT ROSE: Can you look at the pseudonym list again, at D15?

D29: Yes.

35

FLTLT ROSE: Was he the Operations Officer for 173 Squadron in July 2023?

D29: Yes.

40

FLTLT ROSE: Did you liaise with D15 about planning for Exercise TALISMAN SABRE?

D29: Yes.

45

FLTLT ROSE: Did he express any concerns to you about aircrew

sleeping in communal tents?

D29: Not direct concern, no.

5 FLTLT ROSE: Would you be the appropriate person for him to express those concerns to in the role that you had at that time, or would it be better to have talked to someone else about those concerns?

10 D29: During the exercise conduct, no, I wasn't the person to raise those issues with. But if it was prior to the mid-planning conference at the Regiment level, yes, I'd be the appropriate person to talk to.

15 FLTLT ROSE: Who would have been the appropriate person to talk to whilst it was ongoing or just before it started? You can look at the pseudonym list if you need to.

D29: Sure. If I was in that position, I would have raised it through the Chain of Command.

20 FLTLT ROSE: Is there anyone else on the pseudonym list that was in 6 Avn who you worked closely with in the planning stages for Exercise TALISMAN SABRE? You can just identify them by their pseudonym.

25 D29: D13, as discussed; D15, as discussed; D23, D19, on occasion; D10, on occasion; D9, in his previous role.

FLTLT ROSE: Is that when D9 was the Brigade Major of 16 Aviation Brigade?

30 D29: Yes. D135, D132, D139 and D144. Other members that aren't on the pseudonym list as well.

35 FLTLT ROSE: In terms of you said on occasion you spoke to D19 and D10 about the planning, did you have any conversations with them about fatigue management for aircrew?

D29: Not that I can directly recall.

40 FLTLT ROSE: They didn't give you any input into the preferences that they wanted to see for aircrew which you then put forward to the planning team?

D29: Not that I can recall.

45 FLTLT ROSE: Are you familiar with the term "Risk Management

Plans”, or RMPs?

D29: Yes.

5 FLTLT ROSE: Are you familiar with the term “Core Risk Profiles”, or CRPs?

D29: Yes.

10 FLTLT ROSE: And with “Mission Risk Profiles”, or MRPs?

D29: Yes.

15 FLTLT ROSE: If we start with Risk Management Plans, if you can confirm whether my understanding is correct? Are these plans developed for specific one-off missions or exercises?

D29: Correct.

20 FLTLT ROSE: Then they’re essentially set aside once that mission is completed?

D29: Yes, correct.

25 FLTLT ROSE: Was there a Risk Management Plan for Exercise TALISMAN SABRE 2023?

D29: Yes.

30 FLTLT ROSE: At paragraph 17(c), you state that you provided advice or input into a risk management worksheet for the SOF component of TALISMAN SABRE. Does “SOF” mean Special Operations Forces?

D29: Yes.

35 FLTLT ROSE: Was this worksheet that you refer to effectively the Risk Management Plan for the exercise, being exercises that were conducted out of Proserpine?

40 D29: Yes, for the SOF component.

FLTLT ROSE: Now, the Inquiry emailed you a series of documents in advance of you giving evidence today. Could you open or turn to the one numbered 1.

45

D29: Yes.

FLTLT ROSE: Is this the risk management worksheet that you were referring to at paragraph 17(c) of your statement?

5

D29: Yes.

FLTLT ROSE: It's dated 7 July 2023?

10

D29: Correct.

FLTLT ROSE: What I'll do is, I'll tender that now. It is protected, so I won't ask you anything particular about the document, but I will tender it.

15

MS McMURDO: Exhibit 138.

#EXHIBIT 138 - RISK MANAGEMENT WORKSHEET

20

FLTLT ROSE: I do have some general questions for you though about the Risk Management Planning process. Did you provide advice to the TALISMAN SABRE exercise planners about the particular requirements that 6 Avn needed in terms of the missions that they were going to partake in?

25

D29: Sorry, can you please clarify, did I provide advice on the risk management specifically or the risk controls needed to be implemented for Aviation?

30

FLTLT ROSE: Both. I was going to come to that. So what was your role then as the S35? Did you provide advice about the risks that rotary-wing aircraft could encounter generally or more specifically about the controls to manage those identified risks?

35

D29: I was involved in discussion - - -

FLTLT ROSE: I understand the video has frozen.

40

MS McMURDO: All right. We'll just see what we can do.

FLTLT ROSE: D29, if you can hear me, just pause for a moment.

45

MS McMURDO: Okay. Do we need to have a break? You might tell D29 that she can get up and have a stretch if she can hear us.

FLTLT ROSE: If you can hear us, D29?

5 MS McMURDO: Get up and have a stretch. A break? Okay. We'll have a short break.

HEARING ADJOURNED

10

HEARING RESUMED

15 MS McMURDO: Just before we resume with our witness, in terms of the cyclone, if I could say we've had some discussions and we are concerned about making sure that family members and Counsel representing and Counsel assisting people out of Brisbane can change their flights, and so we want to give as much notice as possible. So what we have decided to do is that we won't sit in live hearings after tomorrow night – tomorrow afternoon. So if I could ask those who are from interstate or need to fly, to make plans to leave on Tuesday evening. Hopefully, flights will be available with that sort of notice.

25 What we'll then look at doing is on Wednesday having a video-link hearing here for those who are based in Brisbane and with the other people, including Counsel representing, joining in through the Defence Teams system. We think that's going to be feasible, but we will be liaising with Counsel representing about that. Of course, then it would be livestreamed so family members could join in remotely. That's the plan. So if people could work on that basis for the moment

35 We certainly won't change the fact that we won't be having live hearings after Tuesday, but we will remain flexible in terms of video and whether it continues on until Wednesday and Thursday, or whether it is just Wednesday. Thank you. Yes, FLTLT Rose.

FLTLT ROSE: D29, can you see and hear me?

40 D29: I can and apologies for dropping out before.

MS McMURDO: I'm sure it wasn't your fault. I'm sorry that you were cut off. At least it gave you an opportunity for a break.

45 D29: Yes, thank you.

5 FLTLT ROSE: Before you got cut off, we were talking about the Risk Management Planning, but before I go back to that specific question I put to you, I just wanted to ask a question. We were discussing the decision-making around the logistics and the planning for the air-conditioning of the tents, for example. The evidence you gave was that it was some months prior to TALISMAN SABRE commencing that the decision was made that there were not going to be sufficient air-conditioners available to use in the aircrew's tents. Is that correct?

10 D29: That's my recollection; however, I can't recall a specific decision being made.

15 FLTLT ROSE: Do you recall whether the reasoning for the decision was more to do with the fact that there weren't going to be enough resources allocated to provide the air-conditioning to the 6 Aviation aircrew, or was it more a decision to replicate in the training environment how you would fight? So that if there wasn't going to be air-conditioners available for tents in warlike conditions, then we won't have it simulated in the training environment?

20 D29: As I mentioned, I apologise, I can't recall a specific decision being made or by who. I more had an awareness of the fact that we weren't going to have air-conditioning at the location. So I just don't have that background knowledge

25 FLTLT ROSE: Turning back to the Risk Management Planning, we were discussing what advice you gave on behalf of 6 Aviation Regiment's needs, the aircrew's needs. Was it more with respect to identifying the risk involved in rotary-wing missions or the controls to be put in place to manage those risks?

30 D29: Yes. In terms of the controls to manage risk, my job as the planner and Operations Officer is to make recommendations for an activity that allows those controls to be inputted or adhered to, essentially. Whereas, in terms of adherence to those controls and writing a Risk Management Plan, that was not something that I did. I acted as a conduit for the unit, and the Standards Cell within 6 Avn Regiment made recommendations on that risk management worksheet and then those changes were made by the SO J7 Cell and Headquarters SOCOMD

40 FLTLT ROSE: So in terms of the controls that you recommended be put in place, do you recall what controls you recommended?

45 D29: Not specifically. It's more designing an activity that is in accordance with the extant OIP and AVIART Core Risk Profiles.

FLTLT ROSE: So let's just break that down. You said "OIP".

5 D29: Yes.

FLTLT ROSE: Orders, Instructions and Publications?

D29: Correct.

10 FLTLT ROSE: So that means STANMAN. Does it also mean the Core Risk Profiles and the Mission Risk Profiles?

D29: Core risk profiles, yes. SI 6 Avn and SI Aviation are the big ones that I will try and always adhere to. However, it's a Command responsibility to ensure that they have adhered to. But as a good Operations Officer, I would try and design an activity that would allow for – or that would be in accordance with those documents.

15 FLTLT ROSE: You also refer to AVIART. Now, that's a Risk Management Planning Tool. Is that correct? Do you remember what it stands for?

D29: Off the top of my head, Aviation Risk Assessment Tool would be a guess.

20 FLTLT ROSE: Would it be Aviation Integrated and Aggregated Risk Tool?

D29: That would be correct.

25 FLTLT ROSE: AVIART is how you refer to it colloquially in 6 Aviation Regiment?

D29: Yes.

30 FLTLT ROSE: Is that a computerised electronic program where you put in the risks and their controls in the one document?

D29: Yes.

35 FLTLT ROSE: Who has access to AVIART?

D29: I believe all aircrew members.

40 FLTLT ROSE: I'll come back to that in a moment in terms of how that

45

system works. But is your evidence that you didn't provide specific advice to the planners for TALISMAN SABRE about the proposed flight profiles or the activities that 6 Aviation Regiment were going to participate in at Proserpine?

5

D29: No, I provided advice on how 6 Avn can integrate into those mission profiles. It's a collaborative decision between myself, other exercise participants, as well as our higher Headquarters, being the SO J7 Cell.

10

FLTLT ROSE: So did you then provide advice on the fact that 6 Aviation Regiment aircrew can assist by collecting ground Troops, say, from Proserpine to Lindeman Island for FMP 2?

15

D29: Yes.

FLTLT ROSE: Did you then advise whether that would be at night or day, or whether they would fly in formation, or loose, or separately?

20

D29: I wouldn't be into the specifics of that. That would be more up to the tactical planners on the day or in the actual execution phases of the activity to specify that tactical detail

25

FLTLT ROSE: Who were the tactical planners for 6 Aviation Regiment? You can look at the pseudonym list if there's a particular person in that role?

30

D29: So the tactical planners, the actual execution of the Proserpine component, was handed over to 173 Squadron. So there were a number of members from within 173 Squadron that would have been the tactical planners. But in terms of the FMP 2, I understand the flight lead would have been the lead tactical planner, so D2, in consultation with D10.

35

FLTLT ROSE: You're saying that they would actually come up with that plan the night before or the day of FMP 2?

40

D29: It wouldn't have been the day of, no. It's an extended planning process. I wasn't privy to the tactical planning on the preceding day, so the one or two days beforehand.

FLTLT ROSE: Would you expect then D2 and D10, as the tactical planners, to have had in mind the risk management worksheet that we tendered previously?

45

D29: I would expect D10 to, yes.

5 FLTLT ROSE: Would you expect them to have in mind the core risk profiles and the Mission Risk Profiles that apply to the type of missions that they were going to fly?

D29: Yes.

10 FLTLT ROSE: Would you expect them to have regard to any documents, and AVIART-specific, to the profile that they were flying?

D29: Yes.

15 FLTLT ROSE: Any other risk planning documents you would expect them to have taken into consideration?

D29: I would expect all aircrew to have a good understanding of SI Aviation and SI 6 Avn Ops as well.

20 AVM HARLAND: Could I just ask a question? I'm a little bit unclear as to whether, in addition to tab 1 that was tendered, which was the SOF risk management worksheet, was there an aviation-based Risk Management Plan, maybe at the 6 Avn level, completed, which identified - looked at the environment of TALISMAN SABRE '23, looked at the exercise construct and identified the risks. So was there an
25 aviation-specific Risk Management Plan, or RMP, completed by 6 Avn or another organisation within Aviation Command for TALISMAN SABRE '23?

30 D29: Not that I was aware of, sir.

AVM HARLAND: Thank you.

35 FLTLT ROSE: The Inquiry has received evidence that there was a 6 Aviation Risk Management Plan, or that's how that was referred to, that stated that the RADALT height hold should be used when flying overwater below 500 feet. Do you remember that being in a specific RMP for 6 Avn, or do you recall that being in a different document?

40 D29: I don't recall a specific RMP for Aviation for TALISMAN SABRE, or TS23

FLTLT ROSE: If there was one, you would have seen it in your role as the S35?

45 D29: I may not have. It might have been drafted at a lower level than

Headquarters level, but I'm not aware of anything.

FLTLT ROSE: Where would that be saved? Would that be saved within AVIART, if there was one?

5

D29: If there was a Core Risk Profile or a new risk within AVIART, it could have been put within AVIART. The risk management worksheets, however, are generally not uploaded to AVIART because they're exercise-specific. It might not have been on AVIART. I can't comment.

10

FLTLT ROSE: We have referred to Core Risk Profiles before. Do they relate to general flying operations, so there will be Core Risk Profiles at all levels that are relevant to a particular aircraft type?

15

D29: Correct, yes.

FLTLT ROSE: They're standard, in terms of they don't necessarily change or are amended that often?

20

D29: I'm not a Risk Management Specialist, so I'm not familiar with how often they're reviewed

FLTLT ROSE: In terms of Mission Risk Profiles, do they relate to risks associate with particular types of activities, say, for example, extractions – rotary-wing aircraft involved in extractions?

25

D29: I'm not sure off the top of my head.

FLTLT ROSE: You said before, your evidence was that you expect all aircrew to have a good understanding of the various risk management documents that they had to take into consideration for their planning purposes.

30

D29: An understanding, yes.

35

FLTLT ROSE: You said before that they may not all be saved within the same system. For example, all these various profiles or risk documents they need to take into account aren't in the same computer system, they're saved in various places.

40

D29: Correct.

FLTLT ROSE: When you say "all aircrew", are you being specific about the Aircraft Captains need to be aware of these documents?

45

5 D29: It depends on the documents. All aircrew should have an understanding of OIPs, so STANMAN, Base Standing Instructions, et cetera, and an overview understanding I would expect of Core Risk Profiles as well. In terms of the risk management worksheet, however, or the combined RMP, I wouldn't expect co-pilots to have a working understanding of that. But I was not a Commander, so I couldn't enforce or comment either way really on how much people understood the RMP. I would expect Commanders, for sure, to understand the RMP though.

10 FLTLT ROSE: Would you also expect the Authorisation Officer for the flight or the sortie to understand all those various risk documents?

15 D29: I would, yes.

FLTLT ROSE: Would you expect the flight lead to be aware of all the different risk documents?

20 D29: It's not really my position to comment on what I would expect. I was the exercise planner early on and then I wasn't really involved in the execution phase in terms of the tactical planning. So it's not really my position to comment on that.

25 FLTLT ROSE: But regardless of who specifically, it's a Command responsibility to be aware of risk?

D29: Yes.

30 FLTLT ROSE: Was there – and I'm specifically asking about the overarching Risk Management Plan for TALISMAN SABRE – was there specific consideration during the planning stages for TALISMAN SABRE of the risk of fatalities occurring from an MRH-90 flying into terrain or water?

35 D29: That is always considered as part of our Risk Management Plan, yes.

FLTLT ROSE: Is that considered a catastrophic event if it had occurred?

40 D29: Are you referring to catastrophic in terms of the actual Risk Management Planning worksheet or just catastrophic in - - -

45 FLTLT ROSE: Well, that's a protected document, but as a general proposition, would controlled flight into terrain be considered a catastrophic event?

D29: Absolutely.

5 FLTLT ROSE: Can you recall whether that risk of controlled flight into terrain was deemed to be a low, medium or high risk in terms of the operations out of Proserpine?

D29: I can't recall.

10 FLTLT ROSE: Who would be able to sign off on, say, for example, low, medium and high risks? From your understanding as a planner, who owns the risk within 6 Aviation Regiment and what level of risk can they sign off on?

15 D29: I can't recall the separation of powers between aviation risk profiles and general ground OH&S profiles, unfortunately.

FLTLT ROSE: But there would be – there is an understanding that there are persons of certain levels of Command who can sign off on low risk?

20 D29: Yes.

FLTLT ROSE: Then it may be a higher Command can sign off on medium risk.

25 D29: Yes, the fact - - -

FLTLT ROSE: And higher Command can sign off on high risk?

30 D29: Yes, exactly. I just can't recall exactly who signs off on which risk profile.

FLTLT ROSE: Now, turning back to the evidence you gave that you had some input into the controls that were to be put in place for aircrew involved in the sorties out of Proserpine. Is that correct?

35 D29: Yes, I had some input.

40 FLTLT ROSE: You said before you can't remember what advice you gave about what controls should be put in place?

D29: There is a massive suite of controls that were put in place across the entire activity. An example is the FIT week, or the Force Integration Training week. That is an example of controls that were put in to reduce the risk in the Full Mission Profiles that occurred during the activity

45

5 So, yes, I had an input into the exercise design or to the sequence of events and how we did that sequential build-up training. I also had input into the AVIART entry for the new risk profile for the flares or the electronic countermeasure dispense within Lindeman Island area

10 So in that broad term, yes, I had input into the controls for the activity. However, in terms of specific flying on the night – not below heights, for instance, formation, types of formation that they flew – that was more up to the sub-unit level to determine.

15 FLTLT ROSE: The Inquiry's heard evidence that some of those involved in the sortie on 28 July conducted a reconnaissance mission the day before to fly to Lindeman Island and view the landing zone?

D29: Yes.

20 FLTLT ROSE: Would that be considered a type of control that could be introduced so that all aircrew who were involved in that sortie could have been mandated to conduct that reconnaissance flight during the day?

D29: That is an extant control that is outlined in SI 6 Avn Ops, to do a day rehearsal prior to the night rehearsal – sorry, prior to a night mission.

25 FLTLT ROSE: Is that for all sorties or only Special Operations sorties?

D29: For Special Operations Aviation, yes.

30 FLTLT ROSE: So the evidence the Inquiry has heard is that aircrew didn't understand it as mandatory for them to conduct this reconnaissance, although a number of them elected to do so anyway. Is that your understanding?

35 D29: No, that's not my understanding. My understanding is that a day rehearsal is mandatory prior to a night rehearsal; however, this requirement, being a unit-led SI, can be waived at the discretion of the CO. However, that wasn't a regular occurrence.

40 FLTLT ROSE: Do you know if that requirement was waived by the CO?

D29: I don't believe it was.

45 FLTLT ROSE: So that in your mind, it was mandatory for anyone who was flying on 28 July to conduct a reconnaissance flight on 27 July by day?

D29: That was my understanding, yes.

5 FLTLT ROSE: You flew in a flight on 27 July?

D29: Correct, yes.

FLTLT ROSE: Was that as a reconnaissance mission?

10 D29: It had two components to it, yes. Part of that component was a reconnaissance mission, yes.

FLTLT ROSE: Did you fly in that particular mission with CAPT Lyon or LT Nugent, WO2 Laycock, or CPL Naggs?

15 D29: I can't recall the aircrewman on the sortie. So I could have flown with CPL Naggs or WO2 Laycock, but I can't recall the aircrewman that were crewed that day.

20 FLTLT ROSE: But you're quite sure you didn't fly with CAPT Lyon or LT Nugent?

D29: Yes, correct. I didn't fly with them.

25 FLTLT ROSE: When you mention controls that could be put in place by the tactical designers for the particular sortie on 28 July, would one of those controls – and I'm talking now from your experience as a pilot, and noting that you said you weren't particularly involved in the controls to be in place for that sortie – one control that could've been put in place, for

30 example, is that the crews had to use formation lights?

D29: Yes, that could've been put in place.

FLTLT ROSE: That they had to also use the IRAPALs, or the infrared

35 lights on the tail?

D29: Yes.

FLTLT ROSE: What about that they couldn't fly without a visible

40 horizon, would that be a type of control?

D29: Potentially yes.

FLTLT ROSE: How about not flying in less than two millilux?

45

D29: Yes.

5 FLTLT ROSE: What about mandating that the Aircraft Captains ensure that the RADALT decision height settings were set to 10 per cent below the not below height for the sortie?

D29: Yes.

10 FLTLT ROSE: Or mandating that the doors had to be open for the entire sortie?

D29: Yes.

15 FLTLT ROSE: What about mandating that the aircraft not fly in formation or not fly tight in formation?

D29: Yes, that could be implemented. It might reduce the tactical relevance of the mission, however.

20 FLTLT ROSE: And what about mandating that the aircraft transit at 500 feet instead of 200 feet?

D29: Yes, that could be implemented.

25 FLTLT ROSE: And the people that would make that decision, would that include the flight lead?

D29: Potentially yes.

30 FLTLT ROSE: The Authorisation Officer?

D29: Potentially, yes.

35 FLTLT ROSE: The CO of 6 Avn?

D29: Potentially, yes; however, I don't believe he was in location.

40 FLTLT ROSE: So it would be more to do with those planning in location for that particular sortie who would be making those decisions about those controls?

45 D29: If it was deemed necessary to implement them. However, I don't understand it – I don't – I understand it wasn't deemed necessary to implement those controls at the time.

FLTLT ROSE: When you say that, do you have knowledge of someone making a specific decision that those controls weren't necessary?

5 D29: No. That's my assumption based on the fact that they weren't implemented.

FLTLT ROSE: In your experience as a pilot, would you agree that flying rotary-wing aircraft in formation at low level at night, on night-vision devices, was one of the most demanding flight profiles you could fly?
10

D29: Yes.

FLTLT ROSE: You referred before to an AVIART that you drafted specifically about this sortie. Now, if you can open document number 2 that you were emailed in advance, this is an Official document. Do you have it before you?
15

D29: I do.
20

FLTLT ROSE: It appears to be created in the computer program AVIART; is that correct?

D29: Yes, correct.
25

FLTLT ROSE: And is this the Army Military Air Operators' Risk Management System or database used to record and manage hazards, risks and treatments across the Army MAO?

D29: Yes.
30

FLTLT ROSE: As you said before, it doesn't capture all risk management documents, this program?

D29: Correct.
35

FLTLT ROSE: But you did create this particular risk plan and saved it within AVIART?

D29: Yes.
40

FLTLT ROSE: Now, if you look at the date, you created it or it was raised on 5 July 2023?

D29: Yes.
45

FLTLT ROSE: And it was approved by D19 on 16 July 2023?

D29: Yes.

5

FLTLT ROSE: Now, this is related to electronic countermeasure dispense during Exercise TALISMAN SABRE?

D29: Yes.

10

FLTLT ROSE: I will tender this document.

MS McMURDO: Exhibit 139.

15

#EXHIBIT 139 - AVIART RISK PLAN DATED 05/07/23

MS McMURDO: Could I just have a look at it, please. Yes, great, thank you.

20

FLTLT ROSE: The Inquiry's heard evidence that Bushman 81 and 82 were fitted with flares during the sortie on 28 July. Is that your understanding?

25

D29: That's my understanding.

FLTLT ROSE: And that they were intending to dispense those flares on their return to Proserpine Airport after they'd picked up the ground force?

30

D29: That's my understanding, yes.

FLTLT ROSE: And that is why you created this document, because it relates to dispensing of those flares?

35

D29: Yes.

FLTLT ROSE: Sorry, I didn't hear your answer then.

40

D29: Sorry. Yes

FLTLT ROSE: So is it the usual process then – because you gave evidence before that you weren't necessarily involved with the tactical planning for a sortie – was it usual for the S35 to draft risk plans such as the one that you did for the electronic countermeasure dispense?

45

5 D29: It was not usual. I hadn't done it before, but it's definitely not outside the scope of – any Aircrew member really should be able to draft an AVIART entry.

FLTLT ROSE: Is there a reason why you were asked to draft that particular one?

10 D29: There was no particular reason, no.

FLTLT ROSE: And were you tasked with this by D19?

15 D29: I can't recall if I was specifically tasked with it. I suspect I was likely just trying to get ahead of the game and get these documents signed and ready to go in preparation for the activity.

FLTLT ROSE: Are you aware if any of the Aircrew involved in the sortie on 28 July did in fact dispense any flares?

20 D29: I'm not aware.

FLTLT ROSE: At paragraph 17(d) of your statement you state that you also drafted a number of other documents.

25 D29: Yes.

FLTLT ROSE: It includes the tactical site survey for Lindeman Island and Proserpine Airfield.

30 D29: Yes.

FLTLT ROSE: And a warning order for 6 Aviation Regiment for Exercise TALISMAN SABRE that's saved on the Defence Secret Network and was not signed. Just as a general proposition, what's a warning order?

35 D29: It's an order that would have been released by Regiment Headquarters just to give a broad understanding of the likely tasks that would be – the likely task of the activity.

40 FLTLT ROSE: And it's a Protected document, is it?

D29: I can't recall the classification.

45 FLTLT ROSE: Is there anything that you think you can tell us at the

Official level about what the warning order contained?

5 D29: It would have been a brief summary in the form of normal ADF orders that looked at different staff functions and then set out a number of early tasks to get people or other exercise planners within the unit to start the planning process for the activity.

10 FLTLT ROSE: And it was not signed, you state in your statement. Was there a reason why it was not signed?

D29: I don't recall a specific reason that it wasn't signed. I suspect it was just an administrative oversight.

15 FLTLT ROSE: They referred to an exercise order for 6 Aviation Regiment for the TALISMAN SABRE.

D29: Yes.

20 FLTLT ROSE: As a general proposition, what's an exercise order?

D29: It's an order that was signed by CO 6 Avn in the similar format; however, a lot more detail. So outlining everything from logistics to administration, to tasking for the entire unit.

25 FLTLT ROSE: And you said D19 would've signed this?

D29: Yes.

30 FLTLT ROSE: And is that a protected document?

D29: I can't recall the classification.

35 FLTLT ROSE: Can you open the document numbered 3 that you were provided with?

D29: Yes.

40 FLTLT ROSE: Now, this is, it says in the top right-hand corner, a FRAGO?

D29: Yes.

FLTLT ROSE: And "FRAGO", does that stand for fragmentary order?

45 D29: Fragmented Order, yes.

FLTLT ROSE: Is that a directive used by Army and it's to communicate changes to the original operational order?

5 D29: Yes.

FLTLT ROSE: Now, this is classified as "Protected", so I won't be asking you anything specific about its contents.

10 D29: Sure.

FLTLT ROSE: But did you draft this document?

15 D29: No.

FLTLT ROSE: Now, it's not signed. Can we take that that means it wasn't implemented?

20 D29: I couldn't comment.

FLTLT ROSE: Is it your experience that sometimes these types of orders are not signed, but they are still implemented?

25 D29: I suspect it was signed. Maybe that copy didn't come through to the Inquiry, or maybe through to 6 Avn Regiment. Yes, that's my understanding.

FLTLT ROSE: I tender the FRAGO.

30 MS McMURDO: That will be Exhibit 140.

#EXHIBIT 140 - FRAGO

35 FLTLT ROSE: So at paragraph 21(c) you list various planning conferences that you attended whilst preparing for TALISMAN SABRE. Do you see that?

40 D29: Yes.

45 FLTLT ROSE: That included a safety conference at Holsworthy on 14 July 2023.

D29: Yes.

5 FLTLT ROSE: And who attended this conference? Did it include all the
aircrew involved in flying the sorties, or was it a more Command level
planning level conference?

10 D29: It was a Command level planning conference. So I attended;
Coalition partners and other rotary-wing exercise participants
attended. And that's all I can recall off the top of my head.

15 FLTLT ROSE: At that safety conference, were the risks of 5 Avn
aircrew becoming spatially disoriented while flying low at night, in
formation, on night-vision devices, overwater, discussed at that
conference?

15 D29: Not specifically to that detail that you've just described.

20 FLTLT ROSE: Was the risk of aircraft flying into terrain or water
discussed?

20 D29: Yes.

FLTLT ROSE: Were additional controls proposed, to manage that risk?

25 D29: No additional controls were proposed at that conference; however,
that specific incident of aircraft crashing into water was essentially
wargamed, or discussed amongst the participants at the conference, yes

30 FLTLT ROSE: As you did the wargaming, did any additional controls
be put into the planning, or the risk planning documents after that
wargaming occurred?

D29: Not that I can recall

35 FLTLT ROSE: Was the – sorry.

40 AVM HARLAND: My apologies. Was that documented at all, that
discussion? Because I'm just trying to find out whether that was actually
put on a Risk Management Plan at all

45 D29: I can't recall how it was documented. It was led by the SO J7 Cell
in Headquarters SOCOM. And I believe – or this was right up just before
the activity, so it was more of a rehearsal of concept, I think, for the safety
architecture of the activity, rather than a wargaming to identify additional
controls to implement

AVM HARLAND: Okay, thank you.

5 FLTLT ROSE: At paragraph 17(c), the second bullet point, you also said that you prepared documentation for the TALISMAN SABRE '23 Battleworthiness Board.

D29: I assisted in the preparation of the slide deck, yes

10 FLTLT ROSE: So was this wargaming at the safety conference different to what you essentially were discussing in those documents for the Battleworthiness Board?

15 D29: I can't recall the slide deck for the Battleworthiness Board; I apologise.

FLTLT ROSE: Which came first, the Battleworthiness Board or the safety conference?

20 D29: I can't recall.

FLTLT ROSE: Were they around the same time?

25 D29: I suspect they were around the same time, sometime in early July, but I can't recall.

30 FLTLT ROSE: Tell me if you don't recall: when you were preparing the documents for the Battleworthiness Board, did you also put in the risks identified with the flight profiles that were being proposed, and the controls that were going to be put in place to manage those risks?

D29: I can't recall the exact content

35 FLTLT ROSE: But you prepared a package of documents for the Battleworthiness Board?

D29: I assisted with preparing the slide deck only.

40 FLTLT ROSE: The slide deck.

D29: I was one of a number of Staff Officers that provided input into that deck

45 FLTLT ROSE: At the bottom of page 7, can you see the final bullet point?

D29: Yes.

5 FLTLT ROSE: You state that you attended at 173 Squadron safety meeting, on the same day as the safety conference.

D29: Yes.

10 FLTLT ROSE: So I take it this is a meeting that occurred after the safety conference?

D29: Yes.

15 FLTLT ROSE: Did the aircrew participating in the sorties on TALISMAN SABRE all attend this meeting?

D29: Not all the aircrew; some of the aircrew.

20 FLTLT ROSE: Did you discuss the risk of the flight profiles that were being proposed at that meeting?

D29: Yes

25 FLTLT ROSE: Did you discuss a Search and Rescue Plan, in case there was the incident of aircraft flying into terrain or water?

D29: Yes.

30 FLTLT ROSE: Was there also a mass Air brief at some stage prior for you leaving for Proserpine?

D29: Yes.

35 FLTLT ROSE: Do you recall who ran that?

D29: I don't recall the name specifically, but I believe it was through Air Force, through JOC

40 FLTLT ROSE: And you attended that, I take it?

D29: I can't recall specifically if I dialled in or not

45 FLTLT ROSE: At the top of page 8, the first bullet point, you refer to a rehearsal of concepts crash exercise that was conducted at Proserpine on 24 July.

D29: Yes.

5 FLTLT ROSE: The Inquiry has heard evidence that 6 Aviation
Regiment self-deployed to Proserpine on 24 July. Is that your
understanding?

D29: That's my understanding, yes.

10 FLTLT ROSE: And that the last aircraft only arrived just before dusk.

D29: I can't recall specifically when they arrived.

15 FLTLT ROSE: Do you recall when the crash exercise was conducted?

D29: It was by night-time, so it was dark. That's all I can recall.

FLTLT ROSE: What is a crash exercise?

20 D29: It's essentially a rehearsal of concept that everyone talks through a
proposed scenario. So if an aircraft had crashed, what each person would
do to help in the search and recovery effort

FLTLT ROSE: Is this a desktop crash exercise?

25

D29: Yes.

FLTLT ROSE: So that was everyone who was on site at Proserpine in
6 Aviation Regiment participated in this?

30

D29: No, key stakeholders participated.

FLTLT ROSE: Who are key stakeholders?

35 D29: I can't recall everyone that was in the meeting at the time, but
section heads are generally who attend the desktop CRASHEX.

FLTLT ROSE: So would D10 have attended?

40 D29: From memory, D10 led the CRASHEX, yes

FLTLT ROSE: Would the Aircraft Captains, the qualified Aircraft
Captains in 6 Aviation Regiment have attended?

45 D29: I can't recall if they all attended.

FLTLT ROSE: Did you prepare the documents or the slide deck for this crash exercise?

5 D29: No.

FLTLT ROSE: Do you know who did?

10 D29: I don't recall having a slide deck for it.

FLTLT ROSE: What do you recall? How was it run?

15 D29: I recall D10 running through a scenario and stakeholders, in terms of section heads, would then contribute how their section would respond in the incident and how they could contribute, where they would be; and then down to the detail of Communication Plan; and then Help Support Plan, so what hospital members would be transported to, et cetera.

20 FLTLT ROSE: What was the plan if one of the MRH-90s involved in the sortie was to crash? Who, for example, was to provide assistance in the air?

25 D29: So the initial response in a formation, the Standard Operating Procedure, is always the other aircraft within that formation is to provide immediate assistance where possible.

FLTLT ROSE: Then I take it when you talk about section heads, there was a plan for vessels on the water to assist?

30 D29: That was not part of the plan. The exercise safety plan though, that was an opportunistic re-tasking of other blue force elements that were in the location.

35 FLTLT ROSE: So can I take it then that the plan was always just to rely on the other ships in the formation?

D29: There were other layers of it as part of that plan, but that was the initial immediate response, yes.

40 FLTLT ROSE: What were the other layers?

45 D29: We had a CareFlight aircraft that was on 30-minute notice to move, based at Proserpine, that could respond in the event of any sort of incident in the region

FLTLT ROSE: Did you know if that CareFlight helicopter had a winch?

D29: I didn't know before the activity, no.

5 FLTLT ROSE: You didn't know because you hadn't asked, or it wasn't your job to know?

D29: Probably both

10 AVM HARLAND: Were all aircraft that participated in TALISMAN SABRE '23 fitted with a winch?

D29: I couldn't definitively say, sir. But it was Standard Operating Procedure to, yes, have a winch fitted on MRH-90 at the time.

15 AVM HARLAND: And that would be part of the Search and Rescue Plan, I gather, with having the first response being other formation members, assuming they had a winch so that if they needed to rescue, they had the ability to do so?

20 D29: Yes.

AVM HARLAND: Okay, thank you.

25 FLTLT ROSE: What was the plan if, for some reason, none of the other members of the formation were able to assist? What was the back-up plan?

30 D29: That would be a pretty catastrophic incident, if there was four aircraft unable to assist in that situation. However, we did have two other aircraft of our MRH-90s in location at Proserpine. But that contingency wasn't wargamed, to the extent that there was no MRH available to assist.

35 FLTLT ROSE: I want to turn now to a different topic. It's Exercise TALISMAN SABRE itself. If you look at paragraph 26(b) on page 9 of your statement, you state that you deployed to Proserpine via a strategic airlift on 22 July '23?

40 D29: Yes.

FLTLT ROSE: So you were there two days in advance of the MRH-90s arriving?

45 D29: Yes.

FLTLT ROSE: And you were the Aviation Exercise Control for the Proserpine component of TALISMAN SABRE?

D29: Yes.

5

FLTLT ROSE: What does that mean, “the Aviation Exercise Control”?

D29: Exercise Control? I didn’t have a defined duty statement at the time, but I understood “Exercise Control” to mean attempting to assist Command to keep the exercise within the prescribed scope or the script that was written for the exercise

10

FLTLT ROSE: So you were across all of the FMPs that were being planned, to be able to fulfil that role?

15

D29: I would be, yes. Yes.

FLTLT ROSE: The final bullet point under that paragraph states that you were prepared to assist in the search and rescue incident management and reporting

20

D29: Yes.

FLTLT ROSE: Does that mean that you were to be in charge of any search and rescue response if an aircraft did ditch into water?

25

D29: No, not in charge.

FLTLT ROSE: Who was it planned to be in charge of the SAR response?

30

D29: It’s the senior ranking member in the TOC at the time would take responsibility for the incident management. However, the On-scene Commander is generally – or in the case that the incident occurred, was the AMC at the time, or the senior ranking member, aircrew member, at the incident.

35

FLTLT ROSE: Did you, in this role as the Aviation Exercise Control, have any cause to liaise with anyone from QPS in advance of TALISMAN SABRE commencing?

40

D29: I did, yes.

FLTLT ROSE: You did liaise with QPS?

45

D29: Yes

FLTLT ROSE: Can you remember who you liaised with, and what you discussed?

5

D29: No, I don't remember who I liaised with specifically. However, I did call the local QPS station, I believe, at Proserpine – but I'm not definitive on that – to discuss the use of flares in the area. So it was a pre-warning and to give them an understanding of what our operations were going to be

10

FLTLT ROSE: Did you liaise with anyone from AMSA in advance?

D29: No

15

FLTLT ROSE: Any other search and rescue agencies, such as a Volunteer Marine Rescue Service?

D29: No

20

FLTLT ROSE: Was there an Aircraft Crash Team at Proserpine?

D29: During which period?

25

FLTLT ROSE: During the week of TALISMAN SABRE, so 24 to 29 July

D29: Yes, so they projected up to Proserpine; however, they were then stationed on Lindeman Island.

30

FLTLT ROSE: So the crash team were not actual members of 6 Aviation Regiment, they were members of other units or Commands. Is that correct?

35

D29: No, that's not correct. They were members of 6 Aviation Regiment. The medical personnel were Force assigned from 2 HB, I believe.

FLTLT ROSE: And they were on Lindeman Island at the time?

40

D29: They were.

FLTLT ROSE: At paragraph 28, you state that you were sleeping in the communal tents with the rest of 173 Squadron; is that correct?

45

5 D29: I actually wasn't with the rest of 173 Squadron, because I arrived a couple of days earlier and my role was slightly different to the aircrew that were flying the mission. I actually resided with the US force elements that were there, the aircrew members from the US.

10 FLTLT ROSE: But was that also at the Proserpine Airport, in one of the tents in the lines?

D29: Sorry, yes, it was one of the tents in the lines in Proserpine.

15 FLTLT ROSE: And you state that you were prescribed some sleeping pills, but you don't recall if you took them.

D29: That's correct.

20 FLTLT ROSE: So can I take it then that you did complete a ground trial at some point prior to TALISMAN SABRE, for that particular sleeping pill that you were prescribed?

D29: Yes

FLTLT ROSE: How was the quality of your sleep that week?

25 D29: It wasn't too bad, to be honest. I'd slept in conditions like that before, so I was able to adapt

AVM HARLAND: Were your sleeping conditions in the US forces tent similar to the sleeping conditions of the 6 Aviation Regiment aircrew?

30 D29: Yes, they were identical

FLTLT ROSE: Paragraph 27, you state that you flew in a sortie on 27 July, which we talked about before. Did you fly in any other sorties that week?

35 D29: No, I believe that was the only one I did

FLTLT ROSE: And then in paragraph 29 you state you were located in the Aviation Tactical Operations Cell, or the TOC, on the evening of

40 28 July

D29: Yes.

45 FLTLT ROSE: Is that within the Command Post?

D29: Yes.

FLTLT ROSE: And you state that you were assisting with flight planning for future tasks.

5

D29: Yes.

FLTLT ROSE: Were these future tasks to be undertaken on TALISMAN SABRE, or were they future tasks that 6 Avn were involved in post-TALISMAN SABRE?

10

D29: During TALISMAN SABRE. We were looking at FMP 3.

FLTLT ROSE: Was it typical for persons in the TOC to be planning for another mission whilst there was a sortie taking place?

15

D29: Potentially, yes. As that – FMP 2 in this instance – had taken off, so we could pivot our focus onto the next mission, yes.

FLTLT ROSE: That wasn't distracting in any way, to those involved in the current mission, to have those in the TOC planning for a different mission?

20

D29: No.

25

FLTLT ROSE: Can you just look at that pseudonym list again? Can you confirm with me whether the following persons were in the TOC with you? D16?

30

D29: Yes.

FLTLT ROSE: D15?

D29: Yes.

35

FLTLT ROSE: D13?

D29: I can't recall if she was specifically in there when the incident occurred, but she was in and out of the TOC or the CP during that period, yes.

40

FLTLT ROSE: D14?

D29: Yes.

45

FLTLT ROSE: Did you observe the Mission Orders or the rehearsal of concept drill for the sortie on 28 July?

5 D29: Yes, I believe I did.

FLTLT ROSE: Do you recall what the not below height was, or the authorised height for the mission?

10 D29: I don't recall

FLTLT ROSE: Do you recall any discussions about the aircrew being told what to set the decision heights at?

15 D29: I don't recall.

FLTLT ROSE: Do you recall discussions about whether the doors would be open or closed?

20 D29: No.

FLTLT ROSE: Do you recall if the aircrew were directed to leave their mobile phones in the TOC, before going to their aircraft?

25 D29: I don't recall

FLTLT ROSE: Were you communicating via mobile phone with anyone in either of the Bushman 81, 82, 83 or 84, whilst they were waiting on the APU before lift-off?

30 D29: No.

FLTLT ROSE: Were you communicating with any of the aircrew during the sortie, over the radios?

35 D29: No.

FLTLT ROSE: But could you hear the radio operators communicating with the aircraft?

40 D29: Yes

FLTLT ROSE: At paragraph 29(c) you state that you were in the TOC when you heard a radio call stating words to the effect, "Bushman 83, knock it off, knock it off. Fallen angel".
45

D29: Yes, correct.

FLTLT ROSE: Referring to the pseudonym list, can you state whose voice said that?

5

D29: D10.

FLTLT ROSE: Did you understand that Bushman 83 had entered the water at that stage?

10

D29: I didn't have that much fidelity on what had happened.

FLTLT ROSE: Did you learn soon after that, that Bushman 83 had entered the water?

15

D29: Yes.

FLTLT ROSE: And then did the team commence a search and rescue process for Bushman 83?

20

D29: Yes.

FLTLT ROSE: The Inquiry has heard evidence that D16 called Triple Zero very soon after the accident. Do you recall that?

25

D29: Yes.

FLTLT ROSE: Do you recall him also calling AMSA?

30

D29: I don't recall him specifically doing it, but I had an understanding that he was doing it at the time, yes.

FLTLT ROSE: Do you recall him calling DASA?

35

D29: I don't recall that, no.

FLTLT ROSE: Or the DFSB?

40

D29: No.

FLTLT ROSE: We've also heard evidence that you called 6 Aviation Regiment Headquarters to inform them of the incident.

45

D29: Yes.

FLTLT ROSE: Was that D19?

D29: My intention was to speak with D19. I can't recall if I spoke to D19 or D23 directly on the phone. It was one of the two.

5

FLTLT ROSE: So D23 was with D19?

D29: That was my understanding, yes.

10 FLTLT ROSE: Were they at RAAF Base Richmond?

D29: Yes.

FLTLT ROSE: Did D19 put you in charge of the safety response?

15

D29: I don't recall it directly putting me in charge of the safety response. However, I remember a radio call coming through stating that D13 and me were to keep our mobile phones and continue essentially acting in the manner that we were acting in, yes.

20

FLTLT ROSE: Was there any particular person who you understood to be in charge in the TOC for the search and rescue function?

D29: I understand that to be D14, as the senior ranking member in the TOC.

25

FLTLT ROSE: And in terms of the on-site Commander for the search and rescue, did you understand that to be D10?

D29: Yes, until he returned back to the TOC and then he assumed the role as the Incident Manager or the person in charge of the TOC, i.e. the OC of 173.

30

FLTLT ROSE: The Inquiry's heard evidence you had access to a Signal chat for the exercise; is that correct?

35

D29: That's correct.

FLTLT ROSE: And that you began coordinating the various exercise-specific safety parties?

40

D29: Yes.

FLTLT ROSE: Who were they?

45

5 D29: There was a number of different safety parties that responded to the incident at the time. My role – well, I understood my role – and this sort of organically happened with the participants in the TOC at the time – was to coordinate or assist in the coordination of the Military-specific assets as well as the CareFlight asset that was assigned to the activity.

FLTLT ROSE: Did the CareFlight asset actually fly in assistance on the night?

10 D29: No.

FLTLT ROSE: And the reason for that?

15 D29: They were on a defined crew duty period. So they were enacted and they came to the airfield on a short notice to move. However, it was deemed that there was no real use for them to go out and assist with the search effort. They were reserved or we didn't – they weren't enacted in order to preserve their crew duty should they need to actually do a recovery of personnel.

20 FLTLT ROSE: The Inquiry's heard evidence that you, and D15 and D16, and then later D10, when he returned to the TOC, continued to manage the search and rescue until AMSA took control at about 4 am.

25 D29: Yes.

FLTLT ROSE: At paragraph 31 you list some documents that you relied on to assist you with the search and rescue, including an Aircraft Emergency Response Guide.

30 D29: Yes.

FLTLT ROSE: If you can open the document numbered 4.

35 D29: Yes.

FLTLT ROSE: Now, this does not have a classification, so can we just – I assume we can discuss it at the Official level, parts of it.

40 D29: Yes.

FLTLT ROSE: So page 2 says that it was authorised by D19 on 7 July 2022.

45 D29: Yes.

FLTLT ROSE: So this is a document that 6 Avn Regiment had drafted and relied on for at least 12 months before the incident on 28 July '23.

5 D29: Yes.

FLTLT ROSE: And it was still in force at that time.

D29: Yes.

10

FLTLT ROSE: I tender this document.

MS McMURDO: Exhibit 141.

15

#EXHIBIT 141 - 6 AVN REGIMENT'S AIRCRAFT EMERGENCY RESPONSE GUIDE

20 FLTLT ROSE: Now, there's a flowchart on page 3 that sets out the immediate actions to follow. Do you see that?

D29: I do.

25 FLTLT ROSE: It's about developing a plan, and then steps for briefing the response plan and then enacting the plan?

D29: Yes.

30 FLTLT ROSE: And then finally it says to review the unit's response and then prepare for subsequent investigations and prepare for future tasking?

D29: Yes.

35 FLTLT ROSE: Is this what happened on the evening? Did you step through those various requirements?

D29: I believe we did, yes.

40 FLTLT ROSE: And who was the Emergency Response Commander?

D29: We didn't allocate a person in that exact term "Emergency Response Commander". However, the senior ranking member within the TOC fulfilled that role as the Incident Manager. So I believe those words are pretty synonymous

45

FLTLT ROSE: So that was D14 and then it was D10?

5 D29: D14 and then D10. Correct.

FLTLT ROSE: And the Emergency Coordination Centre, where was that? Was that the TOC?

10 D29: I understand that to be the TOC, yes.

FLTLT ROSE: During this time, were you and D15 and D16 and D10 using whiteboards in the TOC to record information about the search and rescue?

15 D29: Yes.

FLTLT ROSE: And did you take photographs of these whiteboards at any stage?

20 D29: I did, yes.

FLTLT ROSE: Why did you take photographs of them?

D29: For debriefing, quarantining and further investigation.

25 FLTLT ROSE: Can you open the documents numbered 5 to 10.

D29: Yes.

30 FLTLT ROSE: Now, are each of these photographs of whiteboards that you took?

D29: Yes.

35 FLTLT ROSE: Now, some of them are at the “Protected” level and some at the “Official: Sensitive” level so I won’t be asking you anything specific about what was on the whiteboards, but I will tender them as a bundle.

40 MS McMURDO: So that’s five, is it? Five?

FLTLT ROSE: There’s six documents.

MS McMURDO: Six photographs. Six photographs of the whiteboard

45 will be Exhibit – 142, I think we’re up to – yes, 142.

#EXHIBIT 142 - SIX PHOTOGRAPHS OF WHITEBOARD

5

FLTLT ROSE: The Inquiry's heard evidence about various vessels that were on the water assisting with the search and rescue.

D29: Yes.

10

FLTLT ROSE: You state that they weren't planned to be part of the search and rescue initially in your planning stages; is that correct?

D29: That's correct.

15

FLTLT ROSE: And that you state – you gave evidence that it was fortuitous that they were in the vicinity?

D29: Yes.

20

FLTLT ROSE: As far as you can remember, were there ADF or Coalition vessels in the vicinity that assisted with the search and rescue?

D29: Coalition vessels.

25

FLTLT ROSE: Do you recall when they arrived on scene?

D29: My recollection is that they arrived within nine minutes of the incident happening; however, that was based off information that was passed to me second-hand.

30

FLTLT ROSE: And were you aware of any civilian vessels assisting with the search and rescue?

35

D29: I understand – I wasn't aware at the time, but I've since learned that there was, yes, civilian vessels assisting with the recovery.

FLTLT ROSE: Were you still in the TOC when HMAS *Adelaide* arrived on scene?

40

D29: I was still at Proserpine, but I believe the TOC – we'd handed over to AMSA at that stage.

FLTLT ROSE: And in terms of air assets, you said the CareFlight asset wasn't utilised. Were there any other air assets assisting with the search and rescue?

5 D29: Yes, there was.

FLTLT ROSE: And where were they from?

10 D29: So there's the MRH-90 overhead at all times; different Bushman call-signs; there was the rescue call-sign; a civilian rotary-wing asset that was redirected within approximately an hour and a half, and that was activated through the civilian chain; and then an AMSA aircraft came overhead later in the evening; as well as other coalition fixed-wing aircraft.

15 FLTLT ROSE: When did you actually leave the TOC?

20 D29: So the TOC was still stood up until the – that we left the next day, I believe early afternoon the next day. But in terms of finishing the search and rescue, it would've been early morning, I couldn't give you an exact time but probably around 5, 6 o'clock in the morning.

FLTLT ROSE: And were any QPS Officers in the TOC at any stage with you?

25 D29: I recall the QPS Officers coming in, into the tent; however, I didn't interact with them.

30 FLTLT ROSE: Do you know what they were doing in the tent? What their role was?

D29: I can't recall.

35 FLTLT ROSE: Were any members of the Joint Military Police Unit in the TOC at any stage?

D29: I don't recall seeing anyone from the Joint Military Police, no.

40 FLTLT ROSE: Do you recall anyone from the DFSB being in the TOC?

D29: No.

45 FLTLT ROSE: Did any Commanders from 6 Aviation Regiment or 16 Aviation Brigade or Avn Command arrive while you were still in the TOC?

D29: Yes. CO 6 Avn and the 16 Brigade Commander arrived when I was in the TOC.

5 FLTLT ROSE: So CO 6 Avn, D19?

D29: Yes.

10 FLTLT ROSE: And the 16 Aviation Brigade Commander, who is that?

D29: Sorry, are they on the pseudonym list or – they're not protected identity, I assume?

15 FLTLT ROSE: Well, it's your evidence as to who the name of that person was. If they're on the pseudonym list, then use a pseudonym. If they're not on the pseudonym list, you can say their name.

D29: BRIG Thompson.

20 FLTLT ROSE: Dean Thompson?

D29: Yes.

25 FLTLT ROSE: Do you recall what time they arrived at Proserpine?

D29: Not exactly. Within the window of approximately 0300 to 0400, potentially

30 FLTLT ROSE: And did you talk to them?

D29: I did, yes.

FLTLT ROSE: Both of them?

35 D29: Yes.

FLTLT ROSE: Did you essentially give them a debrief of where you were at in terms of the search and rescue?

40 D29: I aided in that debrief, yes.

FLTLT ROSE: So was it you and D16?

45 D29: It was a - - -

FLTLT ROSE: And anyone else - - -

D29: Sorry. It was a collaborative debrief, yes

5 FLTLT ROSE: And did they give you any specific orders with respect to the search and rescue at that point?

D29: Nothing that I can specifically recall at that immediate point, no.

10 FLTLT ROSE: And then did you hand over to AMSA before or after you'd spoken to BRIG Dean Thompson and D19?

D29: I can't specifically recall the timeline. I believe, from memory, it was after both members had arrived in location.

15 FLTLT ROSE: You state in your paragraph 32 that AMSA arrived on scene and took control of the airborne search and rescue.

D29: Yes.

20 FLTLT ROSE: So did they not take over on the water search and rescue?

25 D29: My understanding is quite limited because I wasn't out on the scene; however, that was my understanding, yes, that they took over from the airborne search and rescue and then a key ADF member remained as the On-scene Commander until they could be relieved by either QPS or AMSA – I'm not sure how that actually occurred.

30 FLTLT ROSE: And AMSA, the officials, they took over the TOC?

D29: They didn't take over the TOC as such. They took over control of the airborne recovery mission, or site.

35 FLTLT ROSE: So does that mean that they were communicating with the MRH-90s in the air?

D29: I wasn't out there, so I couldn't comment if they were actually communicating in the air.

40 FLTLT ROSE: What did you do in terms of quarantining any evidence in the Command Post?

45 D29: We had no (indistinct) in place for any hardcopy evidence that needed to be quarantined or that we deemed necessary to be quarantined –

so mission product, for instance – and then I attempted, as I mentioned, to take photos of anything that could potentially be erased. So the whiteboards, for example.

5 FLTLT ROSE: Who gave you directions about what to quarantine, or advice on what should be quarantined?

D29: I can't recall specifically any advice.

10 FLTLT ROSE: So it was just off your own initiative you took steps to quarantine what you thought was important?

D29: It was likely that I was advised; I just can't recall specifically who gave it or at what point.

15 AVM HARLAND: Did you use any of the guidance that's in the Emergency guide that was tendered under tab 4, which had a quarantine checklist?

20 D29: Yes, sir, we did. So in terms of the quarantining of ASLE equipment and maintenance (indistinct). Yes.

AVM HARLAND: Yes. So, for example, on page 33 of that Emergency Guide document, did you use that checklist?

25 D29: We did, yes

AVM HARLAND: Thank you

30 FLTLT ROSE: The Inquiry's heard evidence about that personal effects of the crew of Bushman 83 were removed from their sleeping quarters and brought into the Command Post. Were you aware of that?

35 D29: I saw the personal effects. However, I wasn't aware of any decision to do that or how that occurred.

FLTLT ROSE: So you're not sure on whose instructions it was to bring their effects into the TOC.

40 D29: I'm not sure.

FLTLT ROSE: Did you speak to anyone from the DFSB while you were at Proserpine about quarantining evidence at all, or the JMPU, or the QPS?

45

D29: No.

FLTLT ROSE: At paragraph 33 you state that you left Proserpine on the afternoon of 29 July.

5

D29: Correct.

FLTLT ROSE: And was that with the other members of 6 Avn on the RAAF flight?

10

D29: Yes.

FLTLT ROSE: Sorry, I think we can't hear your answer.

15

D29: Sorry. Yes

FLTLT ROSE: Thank you. Do you recall whose decision it was for the members of 6 Aviation Regiment to leave Proserpine that afternoon?

20

D29: I don't recall exactly the decision being made; however, I was privy to some conversations about discussions on whether or not to leave at that time, but I can't recall the exact decision.

25

FLTLT ROSE: Just some final questions about what occurred after the incident. At paragraph 35 you state you've never been interviewed by the QPS about the incident.

D29: That's correct.

30

FLTLT ROSE: Sorry, I can't hear you again.

D29: That's correct. I haven't been interviewed by QPS.

35

FLTLT ROSE: Have you ever been interviewed by Comcare?

D29: No.

40

FLTLT ROSE: But you have been interviewed by the DFSB and that was in October 2023?

D29: Yes, correct.

45

FLTLT ROSE: And then you attended the funerals of each of CAPT Lyon, LT Nugent, WO2 Laycock, and CPL Naggs?

D29: Yes.

FLTLT ROSE: You also attended the Anzac Day ceremony at Holsworthy Barracks in 2024 that was conducted by 2 Commando?

5

D29: Yes.

FLTLT ROSE: And you state that you heard someone, but you can't remember who, read out each of Bushman 83's – each of their names.

10

D29: Yes.

FLTLT ROSE: Do you recall if that was on the Honour Roll?

15

D29: I don't recall.

FLTLT ROSE: You're saying you don't recall? It's just difficult to hear.

20

D29: Sorry. I don't recall when it was actually read out. I recall the names being read out, but at what point in the service, I don't recall.

FLTLT ROSE: You were asked in your section 23 Notice whether you thought the search and rescue and the emergency response preparation for 6 Aviation Regiment's taskings for TALISMAN SABRE '23 were sufficient to keep the aircrew safe during their missions, and to respond to the ditching of an aircraft. And in your statement at paragraph 34 you state that – this is a quote:

25

30

The overall safety architecture for the activity was suitable and sufficient.

D29: Yes.

35

FLTLT ROSE: And then you state that:

The Emergency Response Plan for the Special Operations Force's component of TALISMAN SABRE '23 was the most robust, detailed and well-rehearsed plan I have witnessed during my time in Defence. All emergency responders acted in accordance with the Emergency Response Plan.

40

D29: Yes.

45

FLTLT ROSE: Do you still believe that? You wrote that in July 2024.

Is that still your view today?

D29: Absolutely yes.

5 FLTLT ROSE: Sorry, we can't hear you again.

D29: Sorry. I'm just getting some instructions on how to fix my microphone a little bit.

10 FLTLT ROSE: That's better now, whatever you've just done.

D29: That's better? Okay. Yes, that's still my opinion today.

FLTLT ROSE: Those are my questions.

15

MS McMURDO: Thank you. Are there applications to cross-examine?

LCDR GRACIE: Yes, ma'am.

20 MS McMURDO: How long?

LCDR GRACIE: Four minutes.

MS McMURDO: Any other applications? A couple.

25

SQNLDR THOMPSON: Maybe five.

SQNLDR GILES: Five minutes.

30 LCDR TYSON: Five minutes.

MS McMURDO: So we've got quite a few applications to cross-examine that shouldn't be very long, but there are a number of them.

35 LCDR HAY: Sorry, can I indicate I probably have about 20, 25 minutes.

MS McMURDO: 25. Okay, so some of them will be a little bit long. Would you like a break before we start the cross-examination? We'll have a break for lunch in any case at about 1 o'clock, but if you'd like a break now, you can have one.

40

D29: I'm happy to continue, ma'am, until lunch.

MS McMURDO: Continue, okay. We'll adjourn at 1 o'clock for lunch. You'll have a good break then. All right, yes, thank you.

45

<CROSS-EXAMINATION BY LCDR GRACIE

5

LCDR GRACIE: D29, my name's LCDR Malcolm Gracie. I represent the interests of CAPT Danniell Lyon. Do you know CAPT Lyon as "Diesel"?

10

D29: Yes, sir.

LCDR GRACIE: And are you comfortable with me referring to him as "Diesel" in these few questions?

15

D29: Yes.

20

LCDR GRACIE: All right, thank you. You mention flying together with him on a total of about 25 hours and knowing him in a work capacity since about mid-2022. Could you just tell the Inquiry your assessment of him as a pilot in a professional capacity.

25

D29: As I mentioned in my statement, I flew with Diesel on a number of occasions, totalling about approximately 25 hours, and I understood him to be able to operate in accordance with his roles that he was tasked for.

MS McMURDO: So we're just having trouble. You're breaking up a bit, I'm afraid.

30

D29: Sorry about that, ma'am. Yes, I flew with him on a number of Occasions, and I understood him to be able to operate in accordance with his role as an Aircraft Captain and as a Troop Commander.

35

LCDR GRACIE: And in that time working with him, did he express to you any concerns in relation to the tempo of 6 Avn, the workload over and above the usual demands of keeping his currency as a flying Captain?

D29: Nothing that I can specifically recall.

40

LCDR GRACIE: And I just want to take you to paragraph 27(a) of your statement where you've mentioned flying the recce on 27 July '23.

D29: Yes, sir.

LCDR GRACIE: I know you mentioned that there are two aspects to it;

I only want to focus on the Lindeman Island recce. Do I understand that that recce was specifically for the mission on the subsequent day, on 28 July?

5 D29: The recce, yes. Some members hadn't done the day rehearsal or flown FMP 1 earlier in the week, so I understand that, again, we went and did a bit of a recce of the island and a landing at the island so that they could be familiar with it by day. So it was a component of the aircrew; it wasn't all the aircrew.

10

LCDR GRACIE: Was it a formation, a four-ship sortie?

D29: It was a formation. From memory, it was two or three MRHs, but I can't recall specifically. But it was also – we were operating with Coalition rotary-wing as well

15

LCDR GRACIE: I just want to touch on something that I think you said. I think you said not all of the aircrew who were to be participating in the sortie on the 28th participated in a recce. Is that what you said?

20

D29: So all of the aircrew that were participating in the sortie on the 28th had done a day – well, I understood that they should have done a day rehearsal at some point prior to that. Some of those members that participated on the 28th may have done that day rehearsal earlier in the week.

25

LCDR GRACIE: All right, thank you. That saves some next questions. I only have one other though, and that is, is – actually, no, I won't, that's fine. Thank you, and thanks for your time. Thanks, ma'am.

30

MS McMURDO: Yes, next please

<CROSS-EXAMINATION BY SQNLDR THOMPSON

35

SQNLDR THOMPSON: Thank you. My name is SQNLDR Christopher Thompson. I am here for the interests of WO2 Laycock. I have a couple of questions for you. As a pilot, could you safely fly the MRH-90 with the back doors closed?

40

D29: Yes.

SQNLDR THOMPSON: Would you agree that there could be hazards

for the crew in the back when flying with the back doors open? I'll give you some examples, if that assists, such as cold.

D29: Yes.

5

SQNLDR THOMPSON: Would you agree rain could also be a hazard for the crew in the back, with the doors open?

D29: Yes.

10

SQNLDR THOMPSON: If it were mandated that the doors were to remain open during a mission, would you agree that that in itself could create problems, having to deal with a mandate such as that?

15

D29: I wouldn't necessarily say it could create problems. I would say it is a cost-benefit analysis by the Commander and the flight lead at the time

20

SQNLDR THOMPSON: Would you agree then – I think you may have answered this question – that the pilot and crew are capable of making a decision on whether to fly with the doors open or closed?

D29: Yes.

25

SQNLDR THOMPSON: And a final question – actually, I'll leave it there. They were my questions

MS McMURDO: Thank you

30

FLTLT ROSE: Sorry, ma'am, I've just noticed the witness, one of her earbuds is out. I wonder if that's making it more difficult to hear the responses?

35

MS McMURDO: No, I think she took it out because she thought it would improve things, I think.

D29: Yes, I apologise. It just went flat. That one, the earphone went flat, so I'll continue to try and speak up if that's helpful.

40

MS McMURDO: Yes.

D29: And I'll also try and get another set of headphones.

MS McMURDO: Thank you.

45

<CROSS-EXAMINATION BY SQNLDR GILES

5 SQNLDR GILES: D29, my name is SQNLDR Jonathan Giles
I represent the interests of LT Max Nugent. I just want to draw your
attention to paragraph 27 of your statement, where you discussed earlier
with my colleague in relation to the Lindeman Island recce. I just had a
simple question for you, and that was, did LT Max Nugent ever fly on the
10 FMP 1 recce, or during that recce that you undertook on 27 July?

15 D29: I'm not sure, sir

SQNLDR GILES: Sorry, we didn't hear the answer.

15 D29: Sorry, sir. I'm not sure if he flew.

SQNLDR GILES: So you're unaware if LT Nugent flew at all for the
recce?

20 D29: Correct, I'm unaware.

SQNLDR GILES: Okay, thank you.

25 **<CROSS-EXAMINATION BY LCDR TYSON**

LCDR TYSON: My name is LCDR Matthew Tyson. I represent the
interests of CPL Alex Naggs. The decision whether or not to keep the two
30 sliding doors on an MRH-90 Taipan open or closed when the Taipan is
flying, who ultimately makes that decision? Is it a matter that's set down
in doctrine and Standard Operating Procedures, or is it the Mission
Commander for the sortie, or is it the Aircraft Captain, or is it someone
else who makes that decision, please?

35 D29: I actually can't recall, sir, the operating procedures, or the Standard
Operating Procedures for, you know, the time. It's been quite a while
since I've posted there, but I can tell you it would either be the Air
Mission Commander or the flight lead for the sortie. So it would be either
40 the whole formation, or it may be up to the discretion of the Aircraft
Captain. One of those two options. I couldn't give you a definitive
answer, I apologise

45 LCDR TYSON: So they'd take input from other sources, and be open to
suggestions, but ultimately it would be their decision?

D29: I couldn't comment directly if it was a formation decision, or if it was up to the Aircraft Captains. I can't recall the way that we used to run it.

5

LCDR TYSON: What about if the decision is made beforehand whether or not that's part of mission planning or Standard doctrine, what scope is there for the decision to change or be adjusted during flying conditions?

10 D29: I can't recall if it would be up to the Mission Commander, or if it would be up to the individual Aircraft Captain, if they had that discretion at the time. I couldn't be more definitive on that; I apologise.

15 LCDR TYSON: All right. But it's one of those decision-makers; it's either the Aircraft Captain or the Mission Commander? You're sure about that, aren't you?

20 D29: Yes, and we have SOPs that would make recommendations on the Standard way to do it, but that could be changed at the discretion of either the AMC flight lead, or individual Aircraft Captains. One of those two options, yes.

25 LCDR TYSON: Just a final question. I just want to ask what you might do in this scenario. So imagine you're the flying pilot for a Taipan and you're struggling to keep station. You're flying as part of a heavy left formation. You're the third aircraft in a four-ship formation. You're flying at night, overwater, at 200 feet. The formation is going through turns. If you're struggling to keep station in that scenario, what do you do?

30

D29: There is a number of techniques that we teach – or that are taught to aircrew to fly in formation. So it's normal formation training to (a) either – there's a number of different things that you could do at the time. It's hard to put myself in that situation, but I would fall back on the training that I had, from leaning on the Aircraft Captain for assistance, talking to the crew, potentially flying closer if that gave you better visual references but not closer than our prescribed limit for the day, or other mitigation techniques. There's a number of different things you could do.

40 Additionally, you can also descend lower to get better visuals with – the terrain or the water around you can help give you more contrast as well.

45 LCDR TYSON: But it sounds like you're saying that you're going to persevere with the mission, and it's not an option that you would think about that you might actually say, "We're leaving this mission".

5 LCDR GRACIE: I'm going to object to that, ma'am. It's not what the witness said. The witness said there's a range of matters, and then gave some examples. But I felt the question itself was so broad, that it was a very difficult question to answer in any comprehensive and meaningful way to assist the Inquiry

10 MS McMURDO: Well the witness has probably forgotten what the question was, now. But, LCDR Tyson, if you could just clarify the question, please?

LCDR TYSON: Certainly, ma'am

15 So just trying to get your perspective on this as a flying pilot. So the scenario is this: that you're flying. There's a heavy left formation. You're the third aircraft in a heavy left formation. You're flying at night, overwater, at 200 feet. The formation has gone through a couple of turns. And you, as a flying pilot, you're struggling to keep station; it's difficult

20 You've said that there are a range of things that you might do – a range of options. What are the sorts of things that you might do in that scenario to address the problem that you're facing of struggling to keep station?

25 D29: Just for clarity, sir, on that question, am I struggling because of my ability as a pilot or am I struggling because of the conditions on the night?

30 LCDR TYSON: It's the conditions on the night. It's not in any way a reflection on your flying skills. And it could be for a number of reasons. It could be difficulty seeing the flight lead. It could be because the second aircraft – there might be obstacle clearance considerations, and that's moving around. But just in a general sense, to assist the Inquiry, what are some of the things that you might do in that scenario? And if you can't answer the question, if you don't know what you'd do, if you're not confident what you might do, please feel free to answer it that way.

35 MS McMURDO: Or if you need more detail.

40 D29: Sure. I guess I'll just say it's a very broad question, to put myself in that situation. There is a number of mitigation techniques and techniques that we learn to reduce the risk of formation flight and formation flight at night. So, as I said, I'd fall back on that training, and the specific formation techniques, to try and make it easier for myself and easier for the crew to fly around in that formation

5 Additionally, I will add if it is conditions-based, or if it's challenging because of the conditions on the night, any person in that formation always has the opportunity to speak up and say that they're uncomfortable, and either make changes to the mission or return back to base.

LCDR TYSON: Thank you, ma'am

10 MS McMURDO: Yes?

<CROSS-EXAMINATION BY COL GABBEDY

15 COL GABBEDY: Good afternoon, [REDACTED]. You're very popular today. I'm COL Nigel Gabbedy. I'm appearing for MAJGEN Jobson. You were asked a few questions about fatigue and environmental conditions at Proserpine Airport. I want to visit that with you first, if I could?

20 D29: Sure.

COL GABBEDY: Do you understand there to be a service need to deploy to a field environment and live under canvas in stretchers?

25 D29: Yes.

COL GABBEDY: Sorry, you've gone into stealth mode again, [REDACTED]

30 D29: Sir, if you don't mind, I might try and just switch headphones, just very quickly.

COL GABBEDY: We've got you now. Yes, by all means have a break to do that

35 D29: It will take me two seconds

MS McMURDO: Well, we could take the lunch break now, so perhaps we'll take the lunch break.

40 COL GABBEDY: I'm happy to come back.

MS McMURDO: No, we're told it's not okay

45 COL GABBEDY: How are we going now?

MS McMURDO: It's not working at all.

COL GABBEDY: We may still have a problem, [REDACTED]. The Chair might break for lunch, so we can fix it.

5

MS McMURDO: Yes, we will, we'll break for lunch now. Sorry, that's not working at all, we couldn't hear you. We'll resume at 2 o'clock, thank you.

10

HEARING ADJOURNED

HEARING RESUMED

5 MS McMURDO: Yes, COL Gabbedy?

COL GABBEDY: Thank you, ma'am, sir

D19, I don't suppose there's any chance you'd remember - - -

10 D29: D29.

COL GABBEDY: D29, I don't suppose there's any chance you can remember my question?

15 MS McMURDO: No.

D29: I definitely can't, sir. My apologies.

20 COL GABBEDY: Fair enough.

MS McMURDO: No, I don't think you need to apologise.

25 COL GABBEDY: What I was asking you about before the link cut out was issues of environmental factors and fatigue and whether you believe that there was a service need to deploy into a field environment.

D29: Yes, sir. There's a service need to be able to deploy into a field environment.

30 COL GABBEDY: Are you able to expand on that? What is the basis of that need?

D29: With respect to TALISMAN SABRE, or just broadly for the – yes.

35 COL GABBEDY: Broadly speaking, and just being mindful of, I suppose, classification levels.

40 D29: Sure. Yes, the ADF needs to be able to deploy into a number of different environments, particularly ones that might be future operating environments.

45 COL GABBEDY: Thank you. And in your evidence, you were asked about how you slept in your stretcher, and you said that basically – and I paraphrase; tell me if I've got this wrong – that it was fine and that you were able to adapt.

D29: Yes, that's correct.

5 COL GABBEDY: This was not the first time you had deployed onto a stretcher under canvas, was it?

D29: It was not the first time, no.

10 COL GABBEDY: Is your personal experience that the more often you do that, the easier it is to do, you get used to that environment?

D29: Yes.

15 COL GABBEDY: And is that a sensible thing to do when that's the way you're looking – or that's where the service need is?

D29: Yes, I would say so.

20 COL GABBEDY: You said in your evidence – and I took this down, so again, tell me if I've got it slightly wrong – you weren't concerned about the sleeping arrangements. Do you recall saying that?

D29: Yes, I recall saying that.

25 COL GABBEDY: Why was that?

D29: I'd operated out of an environment similar to that in the past, and I felt I'd prepared myself to sleep in that environment.

30 COL GABBEDY: And, ultimately, there was initially planning for air-conditioned tents; that didn't happen. Did you have any concerns about the fact that the tents weren't air-conditioned?

35 D29: I'm not sure if "concern" is the right way. Ideally, that if we can make conditions better, that is always the aim to do so, with things like air-conditioning. However, I didn't have explicit concerns, in that it was inappropriate.

40 COL GABBEDY: And if I put that slightly differently, did the absence of air-conditioning, to your mind, materially impact upon the quality of your sleep?

D29: Yes. I would have slept better if there was air-conditioning.

45 COL GABBEDY: And did you sleep all right without it?

D29: I slept okay without it, yes.

5 COL GABBEDY: We heard evidence from D13 to the effect that in her tent, which wasn't your tent, they slept with the flaps shut and she slept in her sleeping bag because it became chilly at night – or I won't use the word "chilly" – it cooled down at night. Was that your experience?

10 D29: I can't recall if we had the flaps open or closed, I apologise.

COL GABBEDY: All right. Thank you for that

15 AVM HARLAND: Just one follow-on question there. Were you on day shift or night shift? So was your sleeping pattern primarily revolving around sleeping at night or sleeping during the day?

20 D29: I was on a similar shift to the aircrew within 173; however, I was a little bit earlier because I had Exercise Control commitments earlier in the morning than they did. So afternoon to evening shift.

AVM HARLAND: So would the bulk of your sleep be during the night hours or during the day hours?

25 D29: Mostly during the night, with a bit of a sleep-in in the morning generally to – I can't remember the exact time.

AVM HARLAND: Okay. Thank you.

30 D29: Yes.

COL GABBEDY: Thank you, sir. And, look, moving from that or connected with that, you were asked some questions in relation to noise. Are you able to recall whether there was significant noise between the hours of 11 in the evening and 7 in the morning?

35 D29: There was noise from other exercise participants in the camp; however, it was generally pretty quiet outside of our own camp structure. So there was no other aircraft coming into Proserpine.

40 COL GABBEDY: And the noise within the camp, if you were sleeping those sort of hours where you're mainly sleeping at night, was it sufficient to disrupt your sleep or was it peripheral?

D29: It wasn't ideal. So I personally slept with ear buds in just to try

and reduce that a little bit, yes. But with the ear buds in, to me, it became peripheral noise.

5 COL GABBEDY: And that was an option available to everyone, wasn't it, using ear buds?

D29: There's no rule saying that you can't do it, so yes.

10 COL GABBEDY: They were readily available, weren't they?

D29: I'm not sure if they were readily available.

MS McMURDO: So you would supply your own ear buds?

15 D29: From memory, I believe I brought mine with me.

MS McMURDO: Yes.

20 COL GABBEDY: You don't have them as part of the stores on board an aircraft?

D29: I can't recall where they were in that activity. But it's something - - -

25 MS McMURDO: Were these ones you played music through or they were just ear plugs?

30 D29: No, ma'am, they were just ear plugs. They're Aviation-issued ear plugs that are pretty accessible in an Aviation unit, yes.

MS McMURDO: All right. Thank you

35 COL GABBEDY: Are you aware of any action that was taken to speak to people to keep the noise level down around the tents when people were trying to sleep?

D29: Not that I can recall.

40 COL GABBEDY: Just to move on to something else in relation to fatigue management, it's the case, isn't it, that in 6 Aviation Regiment, there's regular education about fatigue management?

D29: Yes.

45 COL GABBEDY: Do you think it's well understood by all aircrew?

5 D29: I can't really speak for anyone outside of my own experience. I think I have a generally pretty good understanding of fatigue management and how to implement individual strategies to manage that.

COL GABBEDY: And just speaking from your own personal experience, your understanding includes sleep hygiene, I assume?

10 D29: Yes.

COL GABBEDY: And that's part of the education that's provided to all aircrew, is it not?

15 D29: I can't recall exactly the education that was provided.

COL GABBEDY: Thank you. One of the techniques used at the time of this accident to manage air fatigue – or aircrew fatigue, was FACE checks, wasn't it?

20 D29: Yes.

COL GABBEDY: Was that well understood, as far as you were aware, by all members of 6 Aviation?

25 D29: I couldn't speak for all members of 6 Aviation, but I have a good understanding of the FACE check, yes.

COL GABBEDY: And from your understanding, would there be any problems if you needed to FACE out of a mission?

30 D29: Not from my understanding, no. It would actually be encouraged if you were feeling that it was relevant – I think it would be encouraged that people would speak up and pull themselves off the board if necessary.

35 COL GABBEDY: So it was encouraged to have that conversation within the aircrew in terms of how people were feeling.

D29: Yes.

40 COL GABBEDY: You're now at 723 Squadron. Is that a Navy Squadron?

D29: Yes, it's the Joint Helicopter School, but primarily – it's within the Navy, yes.

45

COL GABBEDY: I understood your evidence to say that you don't use the FRAT as a tool in that Squadron; is that right?

5 D29: No, that's not correct. It's a tool that's available, and it's actually posted on the walls within the Squadron. However, it's not a mandatory assessment tool that is necessarily logged prior to any flight.

10 COL GABBEDY: Thank you. I misunderstood that bit. So prior to any flight, is it mandatory that you're required to go through that checklist, or is that optional?

D29: I understand it to be optional. But a FACE check by itself is mandatory prior to a flight.

15 COL GABBEDY: So a FACE check is mandatory there.

D29: Yes.

20 COL GABBEDY: Just to finish up, you were asked some questions in relation to planning of missions, and I want to look at that issue of mission focus and distraction. I understood in your evidence that you're a pilot, you're a QFI, and you've been an Aircraft Captain. Is that right?

25 D29: That's correct.

COL GABBEDY: Are you familiar with the concept of a mission bubble, or an OC's hour, where there's time prior to executing a mission where you need to focus on the mission?

30 D29: Yes, I am aware of that.

COL GABBEDY: That's not a period of time where you would be doing other planning, is it?

35 D29: Personally not. And I understand that to be the intent of that mission window, or the OC's hour, as you put it, that you would be solely focusing on the mission that's coming up.

40 COL GABBEDY: And the intent of that is to ensure focus on the mission and to limit other distractions, isn't it?

D29: Yes.

45 COL GABBEDY: Thank you very much. I have nothing further.

MS McMURDO: Yes.

<CROSS-EXAMINATION BY SQNLDR NICOLSON

5

SQNLDR NICOLSON: Good afternoon. SQNLDR Nicolson. I appear for D10 in these proceedings. I just want to ask you a topic in terms of mission planning. Do you have your statement with you? Can I just take you to paragraph 29(b), which is on page 9 of 13?

D29: Yes, sir.

SQNLDR NICOLSON: I just wanted to clarify the second sentence on the role, on 28 July 2023, that you were assisting with flight planning for future tasks. Did that include further mission planning? Is that how I understand that's what you mean?

D29: Yes, sir. That was assisting with mission planning for FMP 3.

20

SQNLDR NICOLSON: In your statement, you've identified the role that you had at paragraph 29(a) with the dot points that follow. And then at paragraph 31 you identify the documents that helped you complete your taskings. Is that correct?

25

D29: That's correct.

SQNLDR NICOLSON: So this flight planning, was that an additional task or additional role that you had on top of your primary tasks?

30

D29: It wasn't a specified role by anyone in Command, but as an aircrew member with the Special Operations qualification, it was – I had capacity to assist with the future planning at the time, and it was also good development for me to be involved in that exercise – sorry, in that tactical planning.

35

SQNLDR NICOLSON: So with that planning, we're talking about mission planning - - -

40

D29: Yes.

SQNLDR NICOLSON: - - - I take it there'd be more documents that would be assisting you in terms of that mission planning, apart from the documents you've referred to at paragraph 31?

45

5 D29: So, sorry, for clarity, the documents I've referred to at 31, they were the documents that aided in the emergency response taskings that I assisted with. And then the role on exercise – sorry, the role on 28 July at paragraph 29, I'm referring to what I was doing before the incident occurred

So the mission planning, there's a number of SOPs and TTPs that I was using to help with the mission planning on the day.

10 SQNLDR NICOLSON: And with the mission planning that you talked about in paragraph 29, I take it it wasn't you solely doing that tasking; it was a collective group?

15 D29: Yes, that's correct.

SQNLDR NICOLSON: And in terms of for a specific planning or a specific mission, the relevant names of the Risk Management Plans, would they be identified in the mission orders and the execution brief as far as you're aware?

20 D29: I can't recall off the top of my head if there were.

25 SQNLDR NICOLSON: And in terms of Risk Management Plans, are you familiar with the Special Operations Aviation Risk Management Plan?

D29: Yes.

30 SQNLDR NICOLSON: And was that a management plan that you would have used and adopted when you're preparing for mission orders or mission planning?

D29: Yes.

35 SQNLDR NICOLSON: The other issue I wanted just to talk about is in your statement you referred to, at paragraph 21 – this is at the top of page 8 of 13 – this is the rehearsal of concepts for the crash exercise.

40 D29: Yes.

SQNLDR NICOLSON: You were asked some questions about that. I just wanted to explore one issue in terms of that. In terms of the crash exercise, was the purpose of that exercise to understand if the safety architecture was appropriate for the conduct of the exercise in Proserpine?

45

D29: Yes, that was one of the purposes.

5 SQNLDR NICOLSON: And in terms of the exercise, it would have identified any deficiencies that you could have improved upon by running through this Rehearsal of Concept.

D29: Yes.

10 SQNLDR NICOLSON: Yes, thank you. Thank you.

MS McMURDO: Yes.

15 <CROSS-EXAMINATION BY LCDR HAY

LCDR HAY: Good afternoon, D29. My name is LCDR Mark Hay, and I appear representing the interests of D19. The questions that I have for you today are primarily relating to those matters that you raise at paragraph 47 of your statement on page 13 of 13. Broadly, you were given an opportunity to add any other observations or comments that you thought might assist the Inquiry. Do you agree with that?

25 D29: Yes.

LCDR HAY: And you went on, at paragraph 47, to set out some of your observations of D19 before, during and after Exercise TALISMAN SABRE '23. Do you agree with that?

30 D29: Yes.

LCDR HAY: And my questions are really going to go to some of those themes and issues that underpin what you say there at paragraph 47. Can I begin just by going through the career history that you outline at paragraph 4 of your statement; that is, pages 1 and 2? Do I understand that table to be saying that you first posted into 6 Avn in December of 2014?

40 D29: That's correct, sir.

LCDR HAY: And except for a brief period in between 2020 and 2022, is it the case that you were a member of 6 Avn throughout, from 2014 through to 2024, or thereabouts?

45 D29: Yes, that's correct.

LCDR HAY: And in that time, did you have a number of Commanding Officers at 6 Aviation Regiment?

5 D29: Yes.

LCDR HAY: Were you able to observe different command philosophies and different command styles during those times?

10 D29: Yes.

LCDR HAY: In the period 2018 and 2019, when you were at the Regiment, did you have interactions with – did you observe D19 as one of the OCs of one of the Squadrons?

15 D29: I did, yes.

LCDR HAY: So the observations that you made of him, were they both as an OC and also the Commanding Officer of the Regiment?

20 D29: I had more interactions with him as the CO of the Regiment, but I guess some interactions during that period of him as the OC.

LCDR HAY: Did you ever fly with him? Did you ever fly with him as the Aircraft Captain?

25 D29: I can't recall off the top of my head.

LCDR HAY: Would you agree with this general characterisation: that D19 was, as the CO of the Regiment, people-focused in his command style and command philosophy?

30 D29: Yes.

LCDR HAY: Was it your observation of him that he appeared to regard the morale and welfare of the people within the Regiment very highly and important to him?

35 D29: Yes, absolutely.

40 Lcdr HAY: In terms of issues such as fatigue management and his attitude to safety, what was your overall impression of him as a Commander?

D29: I think he was very proactive in his fatigue management strategies as well as his attitude towards safety.

5 LCDR HAY: If I said to you that somebody in this Inquiry has said that D19 said the words at some time, “We need to crash some aircraft”, does that sound like the D19 that you observed and interacted with?

D29: Absolutely not.

10 LCDR HAY: Just for background, can you confirm that in your time at 6 Aviation Regiment, were there effectively two transitions of platforms in your time; that is, from Black Hawk to MRH and then to Black Hawk again?

15 D29: Yes, that is correct.

LCDR HAY: And as you understand it, did those transitions to different platforms, did they put pressures on the Regiment to undertake both the taskings that they had, and also managing, training personnel on to the new platforms?
20

D29: Yes, definitely. Particularly workforce pressures.

LCDR HAY: And those workforce pressures, were they things that you saw or came to be aware of the Commanding Officer managing within the Regiment?
25

D29: To the best of his ability, yes.

30 LCDR HAY: You transitioned from Black Hawk to MRH; is that right?

D29: Yes.

LCDR HAY: Did you ever do, then, the conversion to the new Black Hawk platform?
35

D29: No, I did not.

LCDR HAY: Did you post out of the unit before the new platform came online, or was there some other reason why you didn't do the transition training?
40

D29: The Black Hawk came into the 6 Avn Regiment when I was still there. However, I was due to post in 2024, so there was no need for me to actually do a Black Hawk transition, because I was posting from the unit.
45

5 LCDR HAY: I'm just going to unpack some of the issues that I raised with you a moment ago. Just in relation to fatigue management, were you aware that D19 effectively extended the Christmas LTP whilst the Commanding Officer at 6 Avn?

D29: Yes, between the reduced tempo period of '22 and '23.

10 LCDR HAY: Were you aware that CO – I withdraw that – that D19 implemented a strict no flying policy during RTPs?

D29: Yes, that's correct.

15 MS McMURDO: We're trying not to use too many acronyms so people can make sense of it.

LCDR HAY: Sorry, ma'am. Thank you

20 "LTP", is that low tempo period?

D29: Reduced tempo period.

LCDR HAY: I'm sorry?

25 D29: RTP is the acronym we use, yes.

LCDR HAY: What about LTP, L-T-P, have you ever heard that acronym?

30 D29: I haven't heard it, but it sounds very similar to the reduced tempo period, so they might be using that.

LCDR HAY: All right. So let's go with RTP.

35 D29: Sure.

LCDR HAY: The extended Christmas break, was that an RTP, did you understand?

40 D29: That's how I understood, yes, RTP.

LCDR HAY: And just going back to my question, did you come to understand that D19 had a strict no flying policy during RTPs?

45 D29: Yes.

LCDR HAY: And by that, did you understand that if you were not on call, you knew that you would not be flying during those RTPs.

5 D29: Yes.

LCDR HAY: Were you aware that the Commanding Officer encouraged and approved various sporting activities during his time as Command of 6 Avn?

10

D29: Yes.

LCDR HAY: Did you ever participate in one of the surf camps?

15 D29: Yes, I did, on two occasions whilst at 6 Avn Regiment.

LCDR HAY: And did you understand that some 20 or so members of the Regiment participated in surf camps in 2022 and 2023?

20 D29: Yes, I believe it was a bit above 20, between 20 and 30 people.

LCDR HAY: Had you ever heard that the Regiment was actually the ADF unit with the most participants in that – or those surf camps?

25 D29: I hadn't heard it formally, but that makes sense because there were a lot of us at the camp.

LCDR HAY: And what about ski trips? Have you heard of ski trips approved by the CO during that time?

30

D29: Yes, sir.

LCDR HAY: Did you understand that D19 had implemented a policy, after consultation with the members of the Regiment, that there would be no social engagements during work hours?

35

D29: I wasn't aware - - -

LCDR HAY: No social functions.

40

D29: No, I wasn't aware of that.

LCDR HAY: Do you know whether or not there was any officers' cocktail parties during the years 2022 and 2023?

45

D29: I can't recall them in 2022 or 2023, no.

LCDR HAY: I'm going to move now to considerations of safety.
Would you say that the Commanding Officer had encouraged, in fact
5 insisted, on a just culture being implemented in the Regiment?

D29: Yes.

LCDR HAY: And just in relation to how that manifested, can you tell
10 the Inquiry, if you would, was there something about your observations of
Exercise PHOENIX SABRE in 2023 that demonstrated the CO's attitude
to safety?

D29: Yes, there was. PHOENIX SABRE 2023 was an activity that the
15 CO attended, and I had a – well, I was privy to a conversation with him,
D10 and myself, about the scope of employment of our aircraft during that
exercise. And there were two particular instances that I recall he scaled
back the training objectives in order to make the mission profiles more
simple and therefore more safe.

20
LCDR HAY: And were there other instances where D19 gave directions
such as that to scale back the exercise to ensure safety?

D29: Specifically in that instance, he advised us not to conduct two
25 training serials. So live hoisting was the first example of our 6 Avn
members, because it was deemed to be above the risk threshold that he
was willing to accept. And then, similarly, I was trying to increase the
training objectives on the – well, the team, the planning team was looking
to conduct another training serial, and he advised us not to do this specific
30 training serial, which I'll leave outside of this forum.

LCDR HAY: Yes. Just coming back to your core duties.

D29: Sure.
35

LCDR HAY: Did you see your core duties as planning these exercises to
as closely as possible resemble potential operational conditions - - -

D29: Yes.
40

LCDR HAY: - - - whilst maintaining safety at all times? You wanted to
ensure that personnel involved were getting training which would assist
them in an operational environment; is that right?

D29: Absolutely. It was always the goal to make the training as realistic and relevant as possible. But, as you said, whilst always keeping safety at the forefront of our minds.

5 LCDR HAY: And that attitude of simulating as closely as possible the operational environment whilst maintaining safety, was that something that came through your interactions, your communications, with D19? Is that his attitude?

10 D29: Yes, I believe so.

LCDR HAY: Can I just ask you about the SOQC in 2022? Do you understand that the SOQC was either cancelled or delayed?

15 MS McMURDO: So SOQC is Special Operations - - -

LCDR HAY: The Special Operations Qualification Course.

20 D29: Are you referring to, sir, the SOQC that I participated in, in October?

LCDR HAY: No, I don't believe so. To your knowledge, was there a Special Operations Qualifications Course that was delayed or cancelled due to some staffing issues?

25 D29: Not that I'm aware of, in 2022, no. I am aware of one in 2023.

LCDR HAY: Well, just tell us about what happened in 2023. Was that Qualification Course delayed or cancelled?

30 D29: I don't have an intimate understanding of the reasons behind it, but as a member of the unit, I understood that there was supposed to be an SOQC in the first quarter of 2023; however, that was delayed or cancelled.

35 LCDR HAY: And your evidence is that you don't know why it was delayed, but you understand that it was delayed in the first quarter of 2023.

40 D29: Yes, that's my understanding.

LCDR HAY: I'm just now going to turn to the topic of D19's communications with members of the unit. Did you see D19 around the unit, from time to time walk around communicating with Troops?

45 D29: Yes, he was a very forward-facing CO. I think he was very active

in his management of his personnel, so I'd often see him down at the Squadron chatting to the aircrew or the other staff.

5 LCDR HAY: And in those contacts either with yourself or observing him with others, did you form a view that he was open to full and frank discussions with those personnel?

D29: Yes, I did.

10 LCDR HAY: If you had had any concerns, would you feel confident with raising those with D19 if you wanted to?

D29: Yes, I would.

15 LCDR HAY: I'm just going to ask you for the time being, if you could, just to direct your evidence to before the incident, the Lindeman Island incident. Were there meetings across the Regiment? Were there occasions where the CO was communicating directly with the entire Regiment from time to time?

20

D29: Yes.

25 LCDR HAY: And in those meetings, did you get a sense as to, firstly, the CO's attitude to communications with personnel? Was he an open communicator? Was he the sort of person who would encourage feedback?

30 D29: Yes, that was the sense that I got in those addresses, when he would address the unit, is that he was very open to feedback, and a philosophy of an open-door policy.

LCDR HAY: And did you attend WHS meetings within the unit from time to time?

35 D29: I attended one of them on an ad hoc basis, but I can't recall the date of it. It was not within my normal duty statement.

40 LCDR HAY: That's all right. Do you remember now what year that was? Was it 2022, 2023, or later?

D29: I suspect it was in 2023.

45 LCDR HAY: And do you have an – and I appreciate this is stretching your memory – but do you have a recollection as to whether or not D19 was present at the meeting that you attended?

D29: I can't recall specifically. I believe he was, but I couldn't hand on heart say that.

5 LCDR HAY: Yes, that's all right. I'm just going to ask you now, if you would, just to direct your attention to the Jervis Bay incident. Do you understand what I mean when I'm talking about the Jervis Bay incident?

D29: Yes.

10

LCDR HAY: Firstly, you weren't directly involved – you weren't on the platform when the incident occurred at Jervis Bay, were you?

D29: No.

15

LCDR HAY: Do you have any first-hand knowledge of the response to the Jervis Bay incident? Do you know, for instance, what the D19's attitude was to returning personnel to the unit at that time?

20

D29: Yes. I was involved in a Regiment Headquarters capacity, in assisting with the recovery or coordinating the recovery of the aircraft. So I had several interactions with the CO through that role, and he was very proactive in engaging with the members that had deployed out in challenging conditions through – yes, in challenging conditions. And he was very proactive in assisting his people.

25

LCDR HAY: Did he ever communicate to you what his priorities were in getting his people returned from those challenging conditions?

30

D29: Not as such. I don't believe I can recall exactly what you're referring to.

LCDR HAY: I'll try and make it clearer. Did you understand that his priority at that time was the welfare of those individuals involved in the JB incident?

35

D29: Yes, absolutely.

LCDR HAY: And returning then to the unit, did you understand was his way of ensuring that they were receiving appropriate care and support much closer to the Regimental home than perhaps they might receive at Jervis Bay?

40

D29: Sorry, just for clarity in my response to your initial questions, I was more referring to the recovery of the aircraft in the days following the

45

incident. I had no involvement in the initial incident response on the night. So my observations of the actual aircrew coming back are very limited.

5 LCDR HAY: What about turning then to the return of the actual aircraft itself? You had some contact with D19 about the recovery of the aircraft?

D29: Yes.

10 LCDR HAY: Was there an occasion where D19 turned up to a location – Sydney ports – that you observed?

D29: Yes, I believe it was the Saturday or the Sunday after the incident had occurred. The aircraft had been hoisted out of the water and was on board one of the Navy ships to then be transported via truck at Port Botany, and the Recovery Team – the maintenance personnel that had been staying with the aircraft, and a few other key staff officers, had gone to Port Botany to make sure that the transfer of the aircraft ran smoothly. And the CO 6 Avn, or D19, came in attendance as well.

20 LCDR HAY: And just speaking for yourself, did you have any personal views about him being there at that time?

D29: Yes. I thought it was a good display of leadership, essentially, that he was one of the only Commanders to attend this event. And I know that the team of maintainers and myself felt that the hard work that we'd put into recovering that aircraft – which had been extensive over a couple of days beforehand – was actually appreciated by him coming and showing up and supporting us through that.

30 LCDR HAY: Can I turn now then to the exercise itself? Did you see D19 in and around the training area around Proserpine during that time, 24 through 29 July?

35 D29: Prior to the incident, is that the question, sorry?

LCDR HAY: Yes.

D29: Or after the incident?

40 LCDR HAY: No, prior to.

D29: I actually don't recall that he was there. I know he was, but I can't recall our interactions during the actual exercise conduct.

45

LCDR HAY: I turn then to the immediate aftermath or the response to the incident. In your statement, at paragraph 47, you say – I’m just going to quote this – you say you –

5 *witnessed CO 6 Avn thoughtfully and proactively manage the*
 health, wellbeing, and safety of members within 6 Aviation
 Regiment during his tenure. He demonstrated immense courage
 and leadership in the aftermath of the accident on 28 July 2023,
10 *and I believe the unit would not have fared the way that it did*
 without his guidance.

Can you just perhaps expand on that so the Inquiry knows precisely what you mean by “He demonstrated courage and leadership in the aftermath”?

15 D29: Sure. I think the incident in TS23 was an incredibly tragic and
 challenging incident for everyone involved. And in the aftermath, as I
 said, to stand up and lead a force of people that are grieving and trying to
 process what had happened, would be an immense challenge

20 So what I saw was him putting himself out there, trying his best to provide
 the support services and support his people first. I witnessed that through
 a number of different ways: from bringing everyone to work, to offering
 psychological support, to speaking at all the funerals – just to name a few.

25 LCDR HAY: Did you understand – and tell the Inquiry if you are able to
 answer this or not – but did you understand that the decision to return
 members, and particularly those members who may have witnessed the
 incident, to Holsworthy was again to ensure that they were properly
 supported and cared for in a known environment, a safe environment?

30 D29: That’s how I understand it, yes.

 LCDR HAY: And was it your evidence that you were offered
 psychological care if you wanted or needed it?

35 D29: Yes.

 LCDR HAY: Did you feel supported by the Command team upon your
 return to Holsworthy?

40 D29: I felt supported by the Command team in 6 Avn Regiment, yes.

 LCDR HAY: And can you tell the Inquiry, if you would, beyond those
 first days and weeks, did you continue to feel supported by the Command
45 team of the Regiment into the future; that is, following the incident?

D29: Yes.

5 LCDR HAY: Can I just ask you then, the decision to return to the Sydney location, did you initially support that decision?

D29: No, I disagreed with that decision at the start.

10 LCDR HAY: And was that because you felt that you were value adding to the search and rescue efforts in the immediate aftermath of the incident?

D29: Yes.

15 LCDR HAY: Can you tell the Inquiry, do you maintain – well, I withdraw that. Do you now think that it was the correct decision to return personnel to the Sydney location, for the reasons that I've just asked you about?

20 D29: I think it was the correct decision, and I also think it was made with the best – or the interests of the members at heart, as much as I still would have liked to have stayed. I felt very connected to the activity and connected to the response to the incident. I understand that the decision was probably best for the majority of people that were affected, yes.

25 LCDR HAY: And that decision applied across the board for the members of the Regiment? It wasn't directed at you or any other individuals; it was for everybody. Is that right?

30 D29: I know that some members from the Regiment were required to stay on location, but I believe the decision was made for everyone. But in saying that, I wasn't privy to the actual decisions being made; I was there for the conversations preceding that.

35 LCDR HAY: Yes. Thank you. And just finally, did D19 speak at each of the funerals of the fallen soldiers and officers, in your understanding?

D29: That's my recollection, yes.

40 LCDR HAY: Thank you. I have nothing further.

45 MS McMURDO: Just on the question about the decision to return everyone to Holsworthy. You were keen to stay because of the search and rescue aspect. You were keen to finish that work. Was another consideration the fact that those who had been eyewitnesses, in effect those who had been flying in the mission and others, could provide

assistance to Queensland Police, who were assisting the Coroner? Did that factor into your decision-making?

5 D29: No, ma'am, that was not part of my calculus. It was more of an emotional decision from me, that I felt connected to the search and rescue efforts.

10 MS McMURDO: And as far as you were aware, that didn't factor in anyone's decision-making?

D29: That's correct, I'm not aware of that.

MS McMURDO: Thank you. Yes. Anything arising?

15 LCDR HAY: No, ma'am. Thank you.

MS McMURDO: Yes, next?

20 COL THOMPSON: I seek leave, ma'am.

MS McMURDO: Yes.

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

COL THOMPSON: Good afternoon, D29. COL Thompson, Legal Officer for BRIG Dean Thompson. No relation, as I keep telling people. You said in answer to a question from Counsel Assisting this morning that the DFSB Fatigue Risk Assessment Tool, the FRAT, was not mandated for use by Army Aviation operators on TALISMAN SABRE '23. Did I make a correct note of that? Not mandated?

35 D29: I don't recall it being mandated, no.

COL THOMPSON: And was your evidence in response to a question from COL Gabbedy that it's still not mandated as far as you know?

40 D29: I'm not aware, sir. I haven't worked in Army Aviation since 2023.

COL THOMPSON: Just to make sure we're 100 per cent certain about reading off the same document, have you got - - -

45 FLTLT ROSE: It's not going to be possible to show the witness a document in that form.

COL THOMPSON: All right. Well, have you got - - -

UNIDENTIFIED SPEAKER: Isn't that Exhibit 37?

5

COL THOMPSON: - - - Exhibit 37?

FLTLT ROSE: But she won't have access to that.

10 COL THOMPSON: All right. You're probably aware of the FRAT. It's got a little green person – you don't mind me saying that – so for "Monitor" – and it's a two-page document – a little amber person for "Actively Manage"; a little red person for "Caution!" Is that a familiar document to you? That's the FRAT.

15

D29: I'm actually not very familiar with it, sir. It's not widely used in my normal organisation at the moment.

20 COL THOMPSON: Is it possible to call up Exhibit 35 without much trouble, Madam Chair?

FLTLT ROSE: It won't be possible to.

25 COL THOMPSON: You just said that, I'm sorry. She can't see it anyway. All right.

Do you use the FRAT these days?

30 D29: I don't regularly use it, sir, no.

COL THOMPSON: So when you do use it, if it's not mandated, do you use it as a matter of best practice when you go for a flight?

35 D29: Depends on the situation.

40 COL THOMPSON: You were asked this morning by Counsel Assisting whether you took into account the FRAT – and I think we can be reasonably certain we're talking about the same document – whether you took into account the FRAT when planning for TALISMAN SABRE '23. Do you remember that question?

D29: Yes.

COL THOMPSON: Well, I put it to you that you couldn't take it into

account because it's for use by operators, not by planners. Would you agree with that?

5 D29: As I said, I don't have a detailed understanding of the use of the FRAT.

10 COL THOMPSON: The evidence before the Inquiry is that the FRAT was part of Army Aviation Command's Standing Instructions; Aviation Operates for the whole of 2023, including that fateful night of 28 July 2023.

FLTLT ROSE: Sorry, that's not a question, and I'm not sure that's an accurate reflection of the evidence.

15 COL THOMPSON: It certainly is. In fact, it's my client's evidence, Madam Chair. It's Annexure E to my client's statement which is in evidence, and I don't have the exhibit number in front of me. Indeed, I can assure you, Madam Chair, that in the Standing Instructions Aviation Ops, Edition 5, Amendment List 10, the FRAT is referred to at
20 paragraph 20 of 6-201.

MS McMURDO: Sorry, have you got the exhibit number?

25 COL THOMPSON: I'm sorry, I didn't bring one to the lectern.

MS McMURDO: Of the hundred – 100. Thank you.

COL THOMPSON: That sounds right. 100.

30 AVM HARLAND: What date was Amendment List 10 of those Instructions?

35 COL THOMPSON: Amendment List 10? One moment, sir. I think I've got that here.

MS McMURDO: You've got it?

40 COL THOMPSON: Amendment List 10, 14 May '23. But the evidence is that the FRAT had been there since about 2021 in the Aviation Standing Orders – Standing Instructions.

AVM HARLAND: So just to be clear, are you saying that the FRAT was included in the Instructions in that May '23 amendment?

45 COL THOMPSON: Yes, sir.

AVM HARLAND: Okay. Great.

5 COL THOMPSON: A reference to it. Not an explicit order that mandated the use of the Instructions. Madam Chair is just looking at it now and I think she would agree with me that the words “must” or “shall” are not in that paragraph. There’s a reference to it.

10 MS McMURDO: So where are we looking at? What’s your attachment to the statement?

COL THOMPSON: Annexure E for Echo, ma’am.

15 MS McMURDO: And which paragraph were you referring to?

COL THOMPSON: You’ll find it in Chapter 6-201, paragraph 20. It’s a very short paragraph when you get to it.

20 MS McMURDO: That’s the, “Aircrew and uncrewed aircraft system operator endurance”; is that right? 6-201? Is that - - -

COL THOMPSON: 6, 201. That might be the heading for the chapter, but if you look at paragraph 20.

25 MS McMURDO: Perhaps if I give it to you, you might be able to find it for me.

30 COL THOMPSON: Now, rather than waste your time just now, can I come back to that, perhaps after other Counsel representing has spoken to the witness, and if I can just finish the questions I had for the witness.

MS McMURDO: The other questions. All right. Thank you.

35 COL THOMPSON: Now, D29, assuming that’s right – and I’m yet to demonstrate it – that it was part of the Standing Instructions in 2023, were you aware of that in planning for TALISMAN SABRE ‘23?

D29: I was not aware of the FRAT at that time.

40 COL THOMPSON: You said that aircrew should have an understanding of the Standing Instructions Aviation Ops. Would you go so far as to say they should have an understanding of the FRAT?

45 D29: I can only comment for myself, and I know I didn’t have a – I wasn’t aware that it was in the SIs at that time.

COL THOMPSON: But commenting for yourself, would you say that use of the FRAT is best practice, whether it's mandated or not?

5 D29: I don't have experience utilising it, so I can't comment on whether it's best practice or not.

COL THOMPSON: Thanks. Perhaps if I could just wait until that's found and I'll - - -

10

MS McMURDO: If it's all right, we might get on – are you suggesting you sit down, and we get on with some other questions?

COL THOMPSON: Yes, if I can sit down for a moment?

15

MS McMURDO: Thank you.

COL THOMPSON: Thank you.

20 MS McMURDO: All right. Who's next? There are no more. You're it, okay.

COL THOMPSON: Right. FLTLT Rose is an expert in this sort of thing. I'm sure she'll come across it in a moment. And it is important, ma'am. Thank you. I'm indebted to my friend. She's drawn my attention to 2-122.6(b). It talks about the FRAT. 2-122.7(a) talks about the FRAT. But there is another paragraph in there that refers to the FRAT, as I say, at paragraph 20 of 6-201. And before the end of the day – thank you, my friend has found it. There it is. He's probably going to hand up his laptop now, but I can read it out. 20, "DFSB" - - -

25

30

MS McMURDO: Can you tell me where we find it in the tendered document?

35 COL THOMPSON: Well, as I say, it's in Annexure E for Echo – thank you. PDF, page 388.

MS McMURDO: Page 388 of the - - -

40 UNIDENTIFIED SPEAKER: Yes, of the PDF the page is 388, but of the document itself, is not paginated.

UNIDENTIFIED SPEAKER: But it's 6-201.

45 UNIDENTIFIED SPEAKER: Yes.

MS McMURDO: Thank you.

COL THOMPSON: Yes, OPS 6-201.

5

MS McMURDO: So it's at page 388 of the tendered document. It seems to be in F, not in E, as far as I can see. No? Not correct?

COL THOMPSON: SI (AVN) OPS 6-201, paragraph 20. Can we stand down for two minutes, ma'am, so I can find it in your hard copy? I can see you're struggling as much as me.

MS McMURDO: Well, I'd like to know where it is in the tendered exhibit. That's what I'd like to know. So if I hand the tendered exhibit over and perhaps we can find it. I appreciate the assistance the Commonwealth is giving in this.

COL THOMPSON: Thank you. I appreciate it too. If I can hand that up to you, Chair.

20

MS McMURDO: Thank you. So this is in Annexure E, and the heading at the top of the page is, "SI (AVN) OPS 6-201". And at the bottom of the page, "AL9.13". And that heading above – it's paragraph 20?

COL THOMPSON: Paragraph 20.

MS McMURDO: Paragraph 20, "Fatigue Management".

COL THOMPSON: Which was the Standing Instruction extant on 28 July 2023. That's the effect of the evidence.

MS McMURDO: And it reads:

DFSB provides guidance on fatigue management to assist Commanders, Managers and individuals in managing fatigue-related risk within the Defence Aviation context. The DFSB Fatigue Risk Management Chart –

and it gives a reference to that –

40

is available as a tool for assessing fatigue risk.

COL THOMPSON: Thank you, ma'am. So, D29, arising from that, that being the case, would the FRAT have made any difference to your planning for TALISMAN SABRE '23?

45

D29: I still haven't utilised the FRAT in my workplace, so I can't comment on its use retrospectively, unfortunately.

5 COL THOMPSON: Thank you, D29. Thank you, ma'am.

MS McMURDO: But the point is that you didn't use it to any extent at all in your planning?

10 D29: I did not use it at all.

MS McMURDO: Thank you.

15 COL THOMPSON: Well, she couldn't use it as a planner, I think the evidence is.

MS McMURDO: Any re-examination? No re-examination. Thank you very much, [REDACTED], for your assistance to the Inquiry; it's greatly appreciated. Giving evidence to an Inquiry like this is always difficult, especially so when it brings back traumatic memories of a terrible night in your life. We seem to have frozen

D29: I'm still here, ma'am.

25 MS McMURDO: Thank you. And involving colleagues. So there is, as you know, assistance available, so could I please encourage you to make use of it if you need it. Thank you very much.

30 D29: Thank you, ma'am.

<WITNESS WITHDREW

35 MS McMURDO: Yes, FLTLT Rose. We can end the video there.

40 FLTLT ROSE: Yes. the next witness is here in person, so I call the witness with the pseudonym D144. Because he has a pseudonym, only the audio of his evidence will be shown, and no footage of his face will be shown.

<D144, Sworn

<EXAMINATION-IN-CHIEF BY FLTLT ROSE

5

MS McMURDO: Please let me know if you need a break at any time.

D144: Will do. Thanks, ma'am.

10

MS McMURDO: Thank you.

FLTLT ROSE: Can you please refer to the pseudonym list that is in front of you and confirm if you are the person that has been given the pseudonym D144?

15

D144: Yes, that's correct.

FLTLT ROSE: What is your current rank?

20

D144: [REDACTED].

FLTLT ROSE: You are in an Army unit based in Sydney?

25

D144: That's correct.

FLTLT ROSE: Can you confirm that prior to appearing today you received a section 23 Notice requiring your appearance?

30

D144: I can, yes.

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

D144: Yes.

35

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

D144: I can, yes.

40

FLTLT ROSE: A Frequently Asked Questions Guide for Witnesses?

D144: Yes.

45

FLTLT ROSE: And a Privacy Notice?

D144: Yes.

5 FLTLT ROSE: Did you prepare a statement for the Inquiry?

D144: I did.

10 FLTLT ROSE: I'll hand you this document. Is this the statement that you prepared?

D144: It is.

FLTLT ROSE: Is it dated 5 February 2025?

15 D144: It is.

FLTLT ROSE: Do you wish to make any amendments to it?

20 D144: No.

FLTLT ROSE: I tender the statement.

MS McMURDO: Exhibit 143.

25 **#EXHIBIT 143 - STATEMENT OF D144**

30 FLTLT ROSE: Can I ask you, please, to be mindful of your security obligations throughout your evidence. So if I ask you a question or if anyone asks you a question that you think the answer to is at the "Official: Sensitive" level or above, to just let us know and we won't explore that in this forum?

35 D144: No worries.

FLTLT ROSE: Starting at paragraph 4 of your statement, you enlisted in the Army Reserves in 1994 as an Infantryman?

40 D144: Yes, that's correct.

FLTLT ROSE: Then you transferred to the Regular Army in 2004?

45 D144: Yes.

FLTLT ROSE: You posted to the unit where you are now.

D144: That's correct.

5 FLTLT ROSE: You've had various postings within that particular Command.

D144: Yes.

10 FLTLT ROSE: I'm not mentioning on purpose what that Command is, but you've participated in various search and rescue training courses and amphibious exercises and activities over the years.

D144: I have, yes.

15 FLTLT ROSE: You've been involved in the search and rescue components of those exercises and activities.

D144: In the planning for them, yes.

20 FLTLT ROSE: In the planning stages, and also in the execution?

D144: Yes. As in not in the execution of conducting a search and rescue.

25 FLTLT ROSE: So does that mean that you've primarily been involved in, say, the on-water response to a search and rescue?

D144: Yes.

30 FLTLT ROSE: Paragraph 4, in the course of your career, you state that you met WO2 Joseph Laycock.

D144: I have, yes.

35 FLTLT ROSE: You said he was a professional and very well-liked member of the Command; that you have flown with him on multiple occasions.

40 D144: Yes, I've known him – did know him for a number of years and worked with him in the past.

FLTLT ROSE: But you did not know CAPT Danniell Lyon, LT Max Nugent or CPL Alex Naggs?

45

D144: No.

5 FLTLT ROSE: I'm going to ask you some questions now about Exercise TALISMAN SABRE 2023. From paragraph 5, you state that you were one of the lead planners in your Command for TALISMAN SABRE?

D144: That's correct.

10 FLTLT ROSE: I imagine that included the planning for the activities your Command was involved in; is that right?

D144: Yes.

15 FLTLT ROSE: It also included planning for any search and rescue activities that might be needed at Proserpine.

D144: Not in the early phase of the planning, but as the activity went on to where it actually started, it would have been, yes.

20 FLTLT ROSE: So your planning for the search and rescue element was only once you were on site at Proserpine?

25 D144: No, it was talked about for the planning of a search and rescue from an amphibious side of the house, not for a helicopter-based side of the house.

FLTLT ROSE: I understand. So if there was to be an on-water incident, you had a plan for you and your team to be involved in that search and rescue activity.

30

D144: Yes.

35 FLTLT ROSE: There were no specific collaborations with the Aviation unit specifically about what would happen if an aircraft flew into terrain or into water?

D144: No.

40 FLTLT ROSE: So do I take it then that you didn't plan any scenarios or go through any exercises similar to the one that actually occurred on 28 July 2023?

D144: Not from my level, no.

45 FLTLT ROSE: Sorry, I couldn't hear that.

D144: Not from my level, no.

5 FLTLT ROSE: Did you liaise with any of the planners from 6 Aviation Regiment about the assistance that you and your unit could provide if it was needed in an event where an aircraft flew into terrain?

10 D144: I don't believe so. There was a lot of conversations had. However, I don't recall having that particular conversation regarding aircraft going into the water, no.

FLTLT ROSE: Have you heard of Aircraft Crash Teams?

15 D144: Yes.

FLTLT ROSE: Was there an Aircraft Crash Team planned for the activities out of Proserpine?

20 D144: Yes.

FLTLT ROSE: Where were they located?

25 D144: They were primarily based at the airfield, and I believe they were then moved closer to the areas once the aircraft (indistinct), but I'm not sure about that.

FLTLT ROSE: Were you aware of any Aircraft Crash Teams on Lindeman Island itself?

30 D144: Yes, there was an Aircraft Crash Team on Lindeman Island, from my recollection.

35 FLTLT ROSE: But your particular unit wasn't liaising with the Aircraft Crash Teams as part of your planning?

D144: No, not for that particular serial.

40 FLTLT ROSE: And by "serial", do you mean a particular FMP, or do you mean for the sequence of FMP 1, FMP 2, FMP 3?

D144: For that particular serial.

FLTLT ROSE: FMP 2?

45 D144: Yes.

5 FLTLT ROSE: During TALISMAN SABRE, you were one of the Officers in Charge for some of the exercises or the FMP, the Full Mission Profiles, that were conducted from Proserpine. Is that correct?

D144: Yes.

10 FLTLT ROSE: This included members of your company and members of 6 Aviation Regiment, the FMP?

D144: Yes.

FLTLT ROSE: What does the Officer in Charge do?

15 D144: Officer in Charge runs the activity to make sure it goes according to plan, and all the safety architecture associated with it.

FLTLT ROSE: So there would be more than one Officer in Charge?

20 D144: There's usually an Officer in Charge for the different components of the activity. For that particular FMP, I was the OIC or Safety Afloat for the water-based side of the house.

FLTLT ROSE: Are those two terms interchangeable, "Safety Officer Afloat" and "Officer in Charge"?

25 D144: For amphib-based activities, to a certain extent, yes.

FLTLT ROSE: But, essentially, they can be two different roles fulfilled by two different people?

30 D144: They could be, but generally filled by the same person.

FLTLT ROSE: So there would be an Officer in Charge for the safety concerns for the on-water aspect of the FMP?

35 D144: Yes.

FLTLT ROSE: There'd be an Officer in Charge of the on-ground safely elements?

40 D144: Yes, that's correct.

FLTLT ROSE: And there'd be an Officer in Charge for the Aviation elements?

45

D144: I can't speak to the Aviation elements, I'm afraid.

5 FLTLT ROSE: Do you know, by looking at the pseudonym list, if there was an Officer in Charge for the Aviation elements, who that was?

D144: No.

10 FLTLT ROSE: Page 3, paragraph 5 of your statement, you state that you and your company were sleeping in tents at Proserpine Airport alongside personnel from 6 Aviation Regiment.

D144: Yes.

15 FLTLT ROSE: When you say "alongside", does that mean your tents were next to the Aviation tents, or just within the lines?

D144: Just within the lines of the tents.

20 FLTLT ROSE: So not immediately next to the Aviation crew?

D144: I can't say for sure whether I was or not. I'm unsure about that.

25 FLTLT ROSE: You described the accommodation you slept in as an 11 by 11 Army tent and sleeping stretcher?

D144: Yes.

30 FLTLT ROSE: What does that mean?

D144: It's a tent. They just call it an 11 by 11. It can sleep about eight people.

35 FLTLT ROSE: Is 11 by 11 the size of it, a square tent?

D144: Yes.

FLTLT ROSE: Was it a green Army tent or was it a Base-X tent?

40 D144: It was a green Army tent.

FLTLT ROSE: So there was no air-conditioning in your tent?

45 D144: No.

FLTLT ROSE: Not even capabilities to put air-conditioning in?

D144: No.

5 FLTLT ROSE: Was it difficult for you to get adequate sleep when you were on the exercise?

D144: I was working quite long hours, so when I did go to bed, yes, I did go to sleep.

10

FLTLT ROSE: Were you on night shift or day shift?

D144: A combination of both.

15 FLTLT ROSE: Did you need sleeping aids to help you sleep, such as medications?

D144: No.

20 FLTLT ROSE: At page 3 again, paragraph 5, it states that you participated in the FMP 2 that occurred on 28 July 2023?

D144: Yes.

25 FLTLT ROSE: You were, as you said before, the OIC and the Safety Officer Afloat for the amphibious insertion for the assault Force element onto Lindeman Island.

D144: That's correct.

30

FLTLT ROSE: I take it by reference to "amphibious", that you were on a vessel during FMP 2?

D144: Yes, that's correct, I was on a vessel.

35

FLTLT ROSE: You weren't part of the ground Force element that was to be extracted by the MRH-90s?

D144: No.

40

FLTLT ROSE: You were always supposed to remain in that vessel for the entirety of FMP 2?

D144: Yes.

45

FLTLT ROSE: You were positioned approximately one to two nautical miles west of Lindeman Island, on a Coalition watercraft, when you heard a call over the radio of “Fallen angel”?

5 D144: That’s correct.

FLTLT ROSE: That was about 2230 on 28 July 2023, or 10.30 local time?

10 D144: Yes, approximately.

FLTLT ROSE: Did you understand what had happened when you heard that call, “Fallen angel”?

15 D144: Yes.

FLTLT ROSE: You state that you spoke with the Commander of the watercraft that you were on, who was part of a Coalition Force.

20 D144: That’s correct.

FLTLT ROSE: You decided to move directly to the incident site and assist with the search for survivors?

25 D144: That’s correct.

FLTLT ROSE: You state that there was no direct orders given for you to proceed to the crash site?

30 D144: No.

FLTLT ROSE: It was standard procedure that if there was a watercraft within the area and available to support, you moved directly to the incident site.

35

D144: Yes, that’s correct.

FLTLT ROSE: Is that an international rule from the law of the sea, that all sailors follow, or is that something specifically set out in the Defence OIP, or both?

40

D144: From my understanding, it’s both.

FLTLT ROSE: Were you on the same comms channel as the Bushman pilots?

45

D144: Yes.

5 FLTLT ROSE: So you were. And did they give you the crash site coordinates, one of the Bushman pilots?

10 D144: I didn't actually – I was not on the radio exactly at the time, but the coordinates were given to the – we heard it over the radio and one of the Coalition members heard the coordinates.

FLTLT ROSE: How many persons were in your vessel?

15 D144: I don't believe I can answer that question, due to the classification.

FLTLT ROSE: Were you in a fleet of vessels or on your own?

D144: There was a fleet of vessels.

20 FLTLT ROSE: Did the entire fleet that you were with respond to the incident site or was it only your vessel that went to the - - -

D144: The whole fleet went.

25 FLTLT ROSE: They were all Coalition vessels?

D144: They were, yes.

30 FLTLT ROSE: You were the only ADF member in any of the vessels?

D144: That's correct.

35 FLTLT ROSE: At page 4 of your statement you state that you arrived on scene about 12 minutes after the crash?

D144: I believe it was. It was anywhere between nine and 12 minutes, I believe.

40 FLTLT ROSE: So that was approximately at 2245?

D144: Yes.

45 FLTLT ROSE: Did you write down the time anywhere in a logbook or was it recorded by someone else on the vessel, as to what time you arrived?

D144: At the time, no, I didn't write anything down. Due to the speed and the weather conditions, that was somewhat untenable.

5 FLTLT ROSE: What were the weather conditions?

D144: Rough enough not to be able to write on a notebook, to get there and back.

10 FLTLT ROSE: Was it raining?

D144: I don't believe so.

15 FLTLT ROSE: When you arrived at the coordinates that you'd been provided with, were there any aircraft above you?

D144: Not immediately, no.

20 FLTLT ROSE: Did you expect there to be?

D144: No.

25 FLTLT ROSE: Were you able to communicate with anyone who was in the air, even if you couldn't see them?

D144: Soon after that, we established radio communications with another OIC of the actual Lindeman target, and then we had overhead – and then, between the two of us, we established communications with the overhead assets.

30 FLTLT ROSE: So you were able to hear what the pilots from the Bushman aircraft were saying in terms of to obtain the coordinates, but you weren't able to communicate with them until there was a connection set up through the on-land OIC – yourself in the vessel, and then the air asset?

35

D144: That's correct.

40 FLTLT ROSE: How long did that take, to get comms initiated?

D144: We established communications with the overhead assets, whilst at the same time I was establishing communications with the OIC on Lindeman Island, whilst at the same time doing a search. I'd say probably approximately 10 to 15 minutes, maybe.

45

FLTLT ROSE: And when you say “overhead assets”, was there more than one that you were talking to?

D144: Yes.

5

FLTLT ROSE: Do you remember which Bushman you were able to communicate with, in terms of their call-signs?

D144: Yes, I believe I do.

10

FLTLT ROSE: Is it 84?

D144: Yes.

15

FLTLT ROSE: 82?

D144: Yes.

20

FLTLT ROSE: 81?

D144: I don't recall hearing 81. I remember 84 and 82.

FLTLT ROSE: Were you able to establish any communications with the Command Post back at Proserpine?

25

D144: No. Through my communications from back to the OIC of Lindeman Island, he then spoke back to Proserpine. I also spoke to the head OIC via mobile, but that was very broken, and due to the wet weather conditions, a little bit untenable as well.

30

FLTLT ROSE: Who's the head OIC?

D144: Well, there's a number of OICs within the activity, and he was based on land.

35

FLTLT ROSE: Not at Proserpine though, somewhere else?

D144: No, he was in the vicinity of – not in Proserpine; he was in the vicinity.

40

FLTLT ROSE: Could you see any debris when you arrived at the coordinates you were given?

D144: Yes.

45

FLTLT ROSE: You state that the Coalition watercraft you were on immediately launched two smaller watercraft?

5 D144: That's correct.

FLTLT ROSE: Did you remain on the larger watercraft or were you in one of these smaller?

10 D144: I remained in one of the larger watercraft.

FLTLT ROSE: So then there were three craft who commenced a box search of the initial crash area?

15 D144: Well, there was four. Each larger watercraft released a smaller watercraft.

FLTLT ROSE: How many larger watercraft were there?

20 D144: Probably above this classification.

FLTLT ROSE: So there were a number of larger watercraft who were then able to have smaller watercraft come from the mother ship, if I can use it?

25 D144: That's correct. Yes, so each watercraft had a smaller watercraft. So we launched all the smaller watercraft, and they were crewed by Coalition members. Then we started a box search of the area.

30 FLTLT ROSE: "A box search", just can you explain what that means?

D144: The craft separate, given the weather conditions, and then the smaller craft go out in a box to search around the areas.

35 MS McMURDO: So how many smaller craft would there have been?

D144: Probably shouldn't answer that question, ma'am.

MS McMURDO: Okay. That's all right.

40 FLTLT ROSE: Did you see any other vessels in the area at this initial stage, other than the Coalition water vessels you were on?

D144: No.

45 FLTLT ROSE: What was the illumination like at the site?

5 D144: The illumination was – it wasn't – it was probably about 50 per cent. It wasn't too bad. The weather was tenable to conduct a search in terms of visual. We had various sensors on board that made searching quite feasible.

FLTLT ROSE: Was there any cultural lighting to assist?

10 D144: Pardon?

FLTLT ROSE: Any cultural lighting to assist you? Lighting off Lindeman Island or off the coast of Queensland?

15 D144: No.

FLTLT ROSE: You said the moon state was about 50 per cent?

D144: Approximately.

20 FLTLT ROSE: Was there lighting from any aircraft above? Search lights, spotlights?

D144: As assets came on station, yes.

25 FLTLT ROSE: How about the vessels you were on, did they have search lights on your vessels?

D144: Yes.

30 FLTLT ROSE: You mentioned sensors as well?

D144: Yes.

35 FLTLT ROSE: So how many metres do you think you could see in front of you?

D144: Easily 50 to 100 metres.

40 FLTLT ROSE: Were you aware at any stage if any other Military vessels were in the area and if they were coming to assist you with the search?

D144: In those early stages, no.

FLTLT ROSE: In terms of air assets, as you said, they came on station.
Were they ADF air assets?

5 D144: There was initially some ADF air assets, yes.

FLTLT ROSE: Did you understand that that was Bushman 84?

D144: Yes.

10 FLTLT ROSE: And then Bushman 82?

D144: Yes.

15 FLTLT ROSE: Bushman 81?

D144: Yes.

FLTLT ROSE: Any other ADF air assets?

20 D144: There was - - -

FLTLT ROSE: Or Coalition assets?

25 D144: There was more Coalition assets that came on line.

FLTLT ROSE: What about civilian air assets?

30 D144: The civilian search and rescue helicopter, I believe, came on line;
I can't remember what time though.

FLTLT ROSE: But sometime after the search had started.

D144: Yes.

35 FLTLT ROSE: Were you in contact with any civilian vessels in that
initial stage, even if you couldn't see them out there in the sea?

40 D144: I suppose as the initial stage started to get on line, I guess I started
to coord the few civilian vessels that came on station or came to join the
search, because they knew something was up. And I had broken
communications with them initially, yes.

45 FLTLT ROSE: You said that when you first arrived on the scene you
observed small broken-up pieces of fuselage?

D144: That's correct.

FLTLT ROSE: And white foam pieces?

5 D144: Yes.

FLTLT ROSE: Fuel?

10 D144: Yes.

FLTLT ROSE: And the large tail section?

D144: Yes.

15 FLTLT ROSE: And one large side door or rear ramp or panel?

D144: That's correct.

20 FLTLT ROSE: But they were too large for you to recover in your vessel?

D144: That's correct.

25 FLTLT ROSE: You also state that the priority was looking for survivors, not recovering debris at that stage.

D144: Yes.

30 FLTLT ROSE: Were there any divers on your vessels?

D144: No.

35 FLTLT ROSE: So I take it no one went into the water to look for survivors?

D144: No.

40 FLTLT ROSE: You state that the crash debris was dispersing quickly due to the weather conditions?

D144: That's correct.

FLTLT ROSE: And the swell, and there was waves?

45 D144: Yes.

FLTLT ROSE: There was also wind?

D144: Yes.

5

FLTLT ROSE: So you extended your search zones to meet those expanding areas?

D144: That's correct.

10

FLTLT ROSE: You state that you remained at the initial crash site for 120 minutes, halfway down page 4 of your statement. If you note that?

D144: Yes.

15

FLTLT ROSE: But then in the following paragraph you state that you continued to search for survivors up until approximately 5.30 on 29 July.

D144: That's correct.

20

FLTLT ROSE: So if you arrived on scene at about 2245, 120 minutes after that would only get you to 45 minutes past midnight. So which of those is correct? Were you there until 5.30 in the morning or - - -

25

D144: So the initial crash site, we stayed there for approximately 120 minutes, in that vicinity. And then, due to the overhead assets, which I was in communication with them, having possible new search locations, we moved from that initial area off to these other areas. Given the environmental conditions, obviously – well, not obviously – debris was moving quite quickly.

30

FLTLT ROSE: So, in essence, you were following the debris, the line it was flowing?

35

D144: Yes.

FLTLT ROSE: At page 5 you state that about 60 minutes after you arrived on scene a civilian vessel joined the search several nautical miles to the north-east of the crash site?

40

D144: That's correct.

FLTLT ROSE: So that would have been at around 2345?

45

D144: Yes.

FLTLT ROSE: You were able to communicate with them to coordinate the search?

5 D144: Initially, yes.

FLTLT ROSE: What do you mean by that?

10 D144: Initially I had communications with them, but as we were moving around the search location, communication became broken at stages.

FLTLT ROSE: Was it difficult to communicate with them because of the distance between you by that stage?

15 D144: Yes.

FLTLT ROSE: You then state that a barge was near the crash site at 30 minutes past midnight?

20 D144: That's correct.

FLTLT ROSE: Were you able to communicate with that barge?

25 D144: No, I didn't communicate with that barge, in particular.

FLTLT ROSE: Then there was the Volunteer Marine Rescue vessel that arrived on scene at approximately 1.30 in the morning?

30 D144: Correct.

FLTLT ROSE: Were you able to communicate with that service?

D144: Yes.

35 FLTLT ROSE: Is that because they were closer to you or you just were on the same comms channel?

40 D144: On the same comms channel, and at the time was mainly communicating with the overhead assets, obviously given their ability to search. So I was concentrating on that as well.

FLTLT ROSE: Were you continuing to do a box search?

45 D144: As time went on and we started to expand the search, we moved into a line. So there was the Coalition vessels and some civilian vessels,

we were in a search line, and then the overhead assets would – there was quite a few times where they thought they spotted some identified – some survivors in the water, so we'd move – would've moved – we moved quickly due to the capacity of the Coalition watercraft to those areas.

5

FLTLT ROSE: Your vessels were more nimble than perhaps the barge or other civilian vessels.

D144: They were, yes.

10

FLTLT ROSE: And by 2 o'clock in the morning there were three civilian vessels and the Volunteer Marine Rescue service conducting a straight line search to the north of the search area, and you could see all those four vessels during that search.

15

D144: Yes.

FLTLT ROSE: At page 6 you state that you coordinated the actual search of the crash site between each of these vessels. When you say you, do you mean you or do you mean the Commander of your water vessel?

20

D144: Me.

FLTLT ROSE: And that was in conjunction with the OIC of FMP 2, who was based on Lindeman Island?

25

D144: Yes.

FLTLT ROSE: And together you directed the additional assets that came on scene to conduct the search.

30

D144: Yes, the OIC, through his Chain of Command on Lindeman Island, was obviously in a better position to direct further assets to the actual search. And once they moved into the search area, I was in the position to coordinate them then.

35

FLTLT ROSE: Were you or the OIC for FMP 2 either of the persons nominated in any Risk Management Plans to coordinate this on-water component of any search and rescue activity?

40

D144: I believe so, for the land-based side of the house, or the amphibious side, but I'm unsure about from the Aviation side.

FLTLT ROSE: So can I take it from that answer you never saw a 6 Aviation Regiment specific Risk Management Plan?

45

D144: I believe I did, yes, but I don't recall being directly involved in the search and rescue for that portion of that Risk Management Plan.

5 FLTLT ROSE: Were you also aware of a Risk Management Plan or risk management worksheet for the Proserpine component of TALISMAN SABRE?

D144: Yes.

10

FLTLT ROSE: Is that what you're referring to, rather than a 6 Aviation Regiment specific Risk Management Plan?

D144: That's correct.

15

FLTLT ROSE: Can I take it then that you never saw an Emergency Response Plan that 6 Aviation relied on in terms of setting out their procedures in responding to an incident such as this?

20

D144: No, I didn't see that.

FLTLT ROSE: Now, you said just before that the overhead assets would give you coordinates of possible sightings of survivors and then you would direct your vessels to move towards them.

25

D144: That's correct.

FLTLT ROSE: And I take it, it wasn't survivors in the water.

30

D144: No, we didn't find any.

FLTLT ROSE: You then state that the Volunteer Marine Rescue service was coordinating some other civilian vessels; is that correct?

35

D144: Yes.

FLTLT ROSE: So there was you as one of the direct points of contacts for directing the vessels, and then the Volunteer Marine Rescue service was also directing some additional civilian assets.

40

D144: So as the time went on and as we started to move around the search area, I was mainly speaking to the overhead assets, and the volunteer rescue was sort of taking charge of the civilian vessels there, being the straight line, and moving to other areas.

45

FLTLT ROSE: On page 5 you state that by approximately 4 in the morning the Australian Maritime Safety Authority took over command of the search and rescue.

5 D144: Can you say what page again, sorry?

FLTLT ROSE: Page 5. It's the last paragraph not in the bold.

D144: Yes.

10

FLTLT ROSE: So that when AMSA took over, that included coordinating the on-water component of the search or just the air assets?

D144: I believe it was the on-water and air assets.

15

FLTLT ROSE: Both?

D144: I believe so.

20

FLTLT ROSE: So it was your understanding that by 4 o'clock you could hand over, in a sense, your role to AMSA?

D144: I informed the OIC of Lindeman Island that we were running low on fuel and that we would have to come off station. From there we handed off to the Maritime – the VMR. What do you call them? Yes.

25

FLTLT ROSE: Volunteer Marine Rescue Service?

D144: Yes.

30

FLTLT ROSE: You said that by daybreak additional civilian vessels and the Water Police had joined the search and rescue.

D144: Yes.

35

FLTLT ROSE: What's daybreak? What time is daybreak?

D144: Around 5, 0500.

40

FLTLT ROSE: Were you still on water when the police vessels joined the search?

D144: I didn't actually physically see them, no.

45

FLTLT ROSE: At the top of page 7 you state that the crew of the

Coalition watercraft were operating past their approved operating hours.

D144: That's correct.

5 FLTLT ROSE: And you've also mentioned that you were running low on fuel.

D144: That's correct.

10 FLTLT ROSE: So you said that you conducted your last search sometime between 0400 and 0530?

15 D144: Yes, as we are – as we said, we were coming off station. We got a – there was a new, like – well, might – could be a new possible location. So we quickly – well, not quickly – we went and searched that area.

FLTLT ROSE: And then you returned to base?

20 D144: That's correct.

FLTLT ROSE: And where was base?

25 D144: Well, the Coalition watercraft was marina. And then, from there, I then moved back to Proserpine.

FLTLT ROSE: So you said "marina". Is that somewhere on Lindeman Island?

30 D144: No, in the Whitsundays area there, in the local area.

FLTLT ROSE: But the civilian vessels remained on station as far as you're aware?

35 D144: A number of them did, yes, as far I'm aware.

FLTLT ROSE: Now, if you go back to the top of page 5, you state that you and your colleagues in your vessel did recover some debris from the scene.

40 D144: That's correct.

FLTLT ROSE: And that included an aircraft helmet?

45 D144: Yes.

FLTLT ROSE: Army combat webbing?

D144: Yes.

5 FLTLT ROSE: Life jacket and equipment bag?

D144: Yes.

10 FLTLT ROSE: Now, this is a sensitive question, but did any of those items contain human remains?

D144: No, they did not.

15 FLTLT ROSE: Did you have any evidence bags or anything sterile to put these items in?

D144: We placed them in plastic bags, yes.

20 FLTLT ROSE: Once you got back onshore you said you tried to hand these recovered items to the police, but they were unavailable at that time.

D144: That's correct.

25 FLTLT ROSE: What do you mean by "unavailable"?

D144: I went to the Water Police station and the local police station and there was no one there.

30 FLTLT ROSE: As in you knocked on the door and there was no answer?

D144: That's correct.

35 FLTLT ROSE: But you said you did end up handing those recovered items to the police later that day.

D144: Yes, another member, later that day, came and collected the items which were securely locked in my car, and then took them into the police.

40 FLTLT ROSE: Do you remember what time of day that was?

D144: 1400, 2 o'clock.

45 FLTLT ROSE: And was that QPS Queensland Police Officers or was it Joint Military Police Unit Officers?

D144: No, it was another member of Special Operations Command.

5 FLTLT ROSE: And that person told you they were taking them to the police?

D144: That's correct.

10 FLTLT ROSE: But you physically don't know for certain when it was handed over?

D144: No.

15 FLTLT ROSE: Or who it was handed over to?

D144: No.

20 FLTLT ROSE: Did you keep a log of what you'd recovered that went with the items?

D144: At the time I did, yes.

25 FLTLT ROSE: And they included coordinates of where they were found?

D144: Yes, they were approximately at the impact site of the aircraft.

30 FLTLT ROSE: You didn't participate in the search and rescue, I take it, after your vessels had returned back to base?

D144: No, I did not.

35 FLTLT ROSE: Did you see any Navy vessels at the crash site at any stage?

D144: Later on, the next day I had to go and withdraw the members on Lindeman Island, and as we were going there to withdraw the members that were still on Lindeman Island, I did see some Navy ships, yes.

40 FLTLT ROSE: Was it HMAS *Adelaide*?

D144: I believe so.

45 FLTLT ROSE: At the bottom of page 7 you state that you left Proserpine on 1 August 2023.

D144: Yes.

5 FLTLT ROSE: Is it the case that your unit or your Command continued with some other exercises, or is that because you had to pack up the equipment and stores?

10 D144: Excuse me. My unit, in particular, was still participating in TALISMAN SABRE. I also had to help close down the actual activities that we conducted in that vicinity.

15 FLTLT ROSE: I'll ask you some questions now about what happened after the incident. At page 8 you said you were interviewed by the DFSB a few weeks after the crash?

D144: That's correct.

FLTLT ROSE: Have you ever been interviewed by the QPS?

20 D144: No.

FLTLT ROSE: Or Comcare?

25 D144: No.

FLTLT ROSE: At page 9 you state – and I'll quote this – that you:

30 *would like to acknowledge the search and rescue effort and assistance given by our Coalition watercraft members over the period 28 to 29 July 2023*

35 *I would like to pass on my condolences to the family members of CAPT Danniell Lyon, LT Maxwell Nugent, WO2 Joseph Laycock and CPL Alexander Naggs.*

D144: Yes.

FLTLT ROSE: Those are my questions.

40 MS McMURDO: Thank you. Any applications to cross-examine? COL Gabbedy?

<CROSS-EXAMINATION BY COL GABBEDDY

- 5 COL GABBEDDY: Just a few short questions, thanks, ma'am.
- Good afternoon, CSM. I'm COL Nigel Gabbedy. I appear for
GEN Jobson. Counsel Assisting asked you a number of questions about
your sleeping arrangements. As I understand it, you were sleeping in a
10 row of tents that were located between the Aviation tents and the tree line;
is that right?
- D144: I don't exactly recall where my tent was. It was in the vicinity of
where all the tents were, yes.
- 15 COL GABBEDDY: And you said you were working long hours and you
were working day and night shift.
- D144: That's correct.
- 20 COL GABBEDDY: Did you find that noise around the sleeping area was a
problem in terms of getting to sleep?
- D144: From my perspective, no. As I say, I was working quite long
hours. So when I did get some sleep, I was sleeping.
- 25 COL GABBEDDY: Did you use sleeping aids?
- D144: No.
- 30 COL GABBEDDY: And did you find that the heat was a factor in terms of
whether or not it was easy or hard to get to sleep?
- D144: The heat didn't help getting to sleep, but I'm sort of used to the
heat so that's not – yes, I'm quite used to it.
- 35 COL GABBEDDY: Were you aware of any service-related need for you
to be accommodated, or the elements to be accommodated in tents?
- D144: Can you repeat the question?
- 40 COL GABBEDDY: Are you aware of any service-related need for the
elements involved in this exercise as to be accommodated in tents?
- D144: Well, it was a field exercise, so I believe that's what was
45 provided, was tents, which is a standard field environment.

COL GABBEDY: And in terms of the sleeping environments that you're used to when you're on exercise, was this better or worse?

5 D144: Probably better.

COL GABBEDY: Thank you. I have nothing further, ma'am.

10 MS McMURDO: Any other applications to cross-examine?
Any re-examination?

FLTLT ROSE: Nothing.

15 MS McMURDO: Thank you very much, you're free to go now. The Inquiry really appreciates the assistance you've given. Please be aware that you have given evidence about a very traumatic time in your life no doubt and assistance is available if you need it, and don't hesitate to use that assistance if required. Thank you very much.

20 D144: No worries. Thanks, ma'am. Thanks, sir.

MS McMURDO: Thank you.

25 <WITNESS WITHDREW

MS McMURDO: Yes, FLTLT Rose?

30 FLTLT ROSE: Ms McMurdo, I propose to tender a number of documents this afternoon. Would you like us to continue?

MS McMURDO: Yes. We'll be a little while before we finish this afternoon, won't we?

35 FLTLT ROSE: I propose it might take me half an hour at most to conclude the proceedings.

40 MS McMURDO: All right. Well, maybe then we'll just keep going. Yes, thank you.

45 FLTLT ROSE: The Inquiry has been provided with body-worn camera footage by Queensland Police Service under a section 23 Notice depicting the interview that a Queensland Police Officer, Acting Sergeant Aaron Webster, from the Forensic Crash Unit, conducted with D11 on 29 July

2023. D11 gave evidence to the Inquiry on 18 November last year. He was one of the aircrewman in Bushman 84.

5 The footage is nine minutes and 10 seconds long and shows Acting Sergeant Webster interviewing D11 in the corridor at Proserpine Airport. The Inquiry does not intend to play the footage or the audio of this interview as it does depict D11's face. However, I will tender a USB with a copy of the footage on it and then summarise what D11 states in the interview.

10

MS McMURDO: All right. The video footage of D11 will be Exhibit 144.

15 **#EXHIBIT 144 - VIDEO FOOTAGE OF D11**

FLTLT ROSE: D11 states in the interview that he was on Bushman 84 in the back left. They were travelling in formation with 84 at the rear. 20 They were flying towards Lindeman Island in a scenario, but it was not a direct path to the island. D11 said there were some showers out the right of the aircraft, but none to the left. He states they were entering a slight left-hand turn when Bushman 83 had to flare a little to slow it down, which he says was not unusual

25

He also heard the boss state that Bushman 83 had to flare. Then he heard the boss say, "Come up. Come up. Come up", and "Knock it off", to terminate the training serial. The boss then said, "Fallen Angel", which means an aircraft has gone down. D11 then moved to the right side of the aircraft and saw 83 in the water, but he did not see 83 enter the water

30

Bushman 81 and 82 went to Lindeman Island and 84 stayed over the crash site to look for survivors. And then D9 and D10 started coordinating assets to help with the search for survivors. D11 and D12 continued to look for survivors in the water

35

The debris started spreading with the current. They were on station for an hour and a lot of the debris had sunk in that time, but part of the cabin and the tail section remained on top of the water. There were a lot of strobes in the water, which he later learned were from life vests

40

Some Defence vessels showed up to help with the search and 84 used its search light to help them search. And then Acting Sergeant Webster stated that the Army would get a statement off him

45

The Inquiry also tenders records received from Optus Mobile Pty Ltd in response to a section 23 Notice. Now, these are on a USB as well. They contain CAPT Lyon's mobile phone records.

5 The files include call charge records, data usage, network switch records, SMS records and subscriber information for CAPT Lyon's mobile between 22 July and 29 July 2023.

10 MS McMURDO: The Optus phone records of CAPT Lyon, 22 to 29 July 2023, will be Exhibit 145.

#EXHIBIT 145 - OPTUS PHONE RECORDS OF CAPT LYON

15 FLTLT ROSE: Now, Counsel representing will recall that I tendered the mobile phone records for LT Nugent, WO2 Laycock and CPL Naggs on 14 October last year. And Counsel Assisting is now satisfied that the mobile phone records for all four aircrew have been obtained and
20 tendered.

MS McMURDO: Thank you

25 FLTLT ROSE: Ms McMurdo, you will recall that Dr Adrian Smith, the principal advisor on aeromedical analysis and decision support flight at the RAAF Institute of Aviation Medicine, last gave evidence to the Inquiry on 15 and 16 October last year. On 15 October 2024 COL Streit tendered some additional resources that Dr Smith used to inform his report which was dated 12 October 2024 and those additional resources are
30 Exhibits 77A to D.

One of the resources that Dr Smith relied on, which was not tendered on that date, which can be tendered now as the Inquiry has received some further evidence from Dr Smith about that research – it's a copy of the
35 Whitsunday Coast Airport flight schedules from 23 September 2024. So I tender a copy of that document and suggest that it could perhaps be Exhibit 77E.

40 MS McMURDO: Yes. What's the date of that?

FLTLT ROSE: 23 September '24.

MS McMURDO: Yes, all right then. We'll make that 77E. That is the
45 Whitsunday Coast flight schedules on 23 September '24.

#EXHIBIT 77E - WHITSUNDAY COAST FLIGHT SCHEDULES FOR 23/09/24

5

MS McMURDO: The Inquiry then sent Dr Smith a request for an addendum expert report on 6 December 2024 asking him to explain how he used the flight schedules. The Inquiry also sent Dr Smith some updated evidence about CAPT Lyon's sleep/rest/work and wake timings between 21 to 28 July 2023 that did include evidence from CAPT Lyon's Optus phone records. And Dr Smith was asked to explain if the new information affected any of the results or conclusions that he had included in his report, that was the 12 October report.

10

15

FLTLT ROSE: And, indeed, if it affected the oral evidence that he had provided to the Inquiry on 15 and 16 October. So I tender a copy of the letter of instruction to Dr Smith and the annexures he was provided, and I also tender the addendum report that Dr Smith prepared for the Inquiry which is dated 31 January 2025, in one bundle.

20

MS McMURDO: The letter of instruction will be 146A. And the addendum statement of Dr Adrian Smith will be 146B.

25

#EXHIBIT 146A - LETTER OF INSTRUCTION TO DR SMITH

#EXHIBIT 146B - ADDENDUM STATEMENT OF DR SMITH

30

FLTLT ROSE: Now, the Inquiry does not intend to recall Dr Smith, but I will summarise his report briefly. Dr Smith states that the new phone data did alter his assessment of CAPT Lyon's sleep and wake times between 22 to 28 July 2023. And he inserted those revised sleep and wake times into SAFTE-FAST, which is the biomathematical model that he used to inform his earlier report.

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So he was able to generate an updated model of fatigue associated with CAPT Lyon's sleep/wake pattern over that period. He states that there was a marginal improvement in CAPT Lyon's fatigue-related cognitive performance compared to his initial modelling, but he concluded that it does not represent an operationally significant improvement in his fatigued state. So the model level of fatigue remains within the amber band associated with increased risk to Aviation safety, and his mean

cognitive performance remains at a level equivalent to what would be expected with a blood alcohol level between 0.05 and 0.08

5 So his report of 12 October 2024 must now be read in conjunction with this addendum report

10 And in respect of the flight schedules, Dr Smith explained where he obtained the information from, how he used it in his analysis to characterise the typical pattern of aircraft movements at Proserpine Airport during TALISMAN SABRE 2023, and how that noise might have impacted the aircrew's sleep.

MS McMURDO: Thank you

15 FLTLT ROSE: There's one final item for today. That is to play a nine-minute video of a flyover that was filmed on 21 October 2024, which occurred on the same day that the Inquiry conducted its view at Proserpine Airport. The flyover was conducted in a civilian helicopter who was given the same waypoints depicting the route that the formation took on
20 28 July 2023.

Now, there is a longer version of this flyover which starts from take-off at Proserpine Airport following the waypoints and up until the impact, but we will only be showing the last nine minutes of that flight. It's filmed by
25 day, so you will see the terrain that is around the area they were flying

And the vision that we're watching shows the route as the formation flew towards the racetrack and then it shows the helicopter in the holding pattern, conducting the first turn and then the second turn. And you'll
30 have to imagine that there was rain out to the right and that it was at night-time. And it will give an indication of what they may have been able to see as they were flying straight, compared to when they were banking.

35 MS McMURDO: Yes. But obviously in much better visual conditions.

FLTLT ROSE: Correct.

40 MS McMURDO: So you want to tender that?

FLTLT ROSE: It's not evidence in a sense, the same way - - -

MS McMURDO: No. Yes, but we have been tendering records of views as information.
45

FLTLT ROSE: Understood. Then I'll tender that.

MS McMURDO: So the exhibit is actually 135 minutes, it's just that we're only playing the last nine minutes. Is that right?

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FLTLT ROSE: Not 135, just 35 minutes.

MS McMURDO: 35 minutes, I'm sorry.

10 FLTLT ROSE: But we're playing the last nine minutes because it doesn't have any audio. It'll be a long 35 minutes.

MS McMURDO: This is the most relevant section, the last nine minutes?

15

FLTLT ROSE: Yes.

MS McMURDO: All right. The video of the flyover flight on the same route as that taken during the exercise will be Exhibit 147. Thank you.

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#EXHIBIT 147 - VIDEO OF FLYOVER FLIGHT

25 FLTLT ROSE: Thank you.

VIDEO PLAYBACK IN COURT

30

MS McMURDO: Yes, thank you.

FLTLT ROSE: That concludes the evidence for today.

35 MS McMURDO: Yes, thank you. Now, tomorrow we're going to hear from?

FLTLT ROSE: AIRCDRE Medved is the first witness and then COL Martin Levey. There may possibly be some other witnesses in the afternoon.

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MS McMURDO: And you're wanting to start early tomorrow; is that right?

45 FLTLT ROSE: If possible, at 9 o'clock?

5 MS McMURDO: Yes. I think that's sensible. That way if we do finish early, people can get away. So, at this stage, at least at the state of the cyclone at lunchtime, it's probably unlikely that the Inquiry will be sitting on Thursday and Friday, but we'll remain fluid on that. And I think we're still working on the likelihood of us sitting and hearing witnesses remotely, with only Brisbane-based people attending the hearing on Wednesday. But we'll review that when we know more about tomorrow

10 But we can certainly rest assured that we won't be having any live witnesses giving evidence after tomorrow; it will all be on video, if we're able to proceed at all. And it will be livestreamed for those who have returned home. So if anybody has any problems with that, they should let Counsel Assisting know and it can be raised with me tomorrow morning.

15 All right. Thank you, we'll adjourn until 9 o'clock tomorrow morning. Thank you.

20 **PUBLIC INQUIRY ADJOURNED UNTIL
TUESDAY, 4 MARCH 2025 AT 0900**