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TRANSCRIPT OF PROCEEDINGS TRANSCRIPT-IN-CONFIDENCE

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

PUBLIC INQUIRY

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COL N GABBEDY, representing MAJGEN Jobson
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MAJ M BARNES, representing D146 and LTCOL A Norton
LEUT R CLUTTERBUCK, representing D147
MR G O'MAHONEY, with MR N HUMPHREY, representing Airbus
MS K MUSGROVE, representing the Commonwealth

0930, MONDAY, 24 MARCH 2025

DAY 39

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	29/03/25	(Transcription)

.MRH-90 Inquiry 24/03/25

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MS McMURDO: I welcome everyone back to this Inquiry hearing after our last hearing block ended so prematurely thanks to what was then Tropic Cyclone Alfred. I hope all those following and involved in the Inquiry, and their families, remain safe and have recovered from the storm and its aftermath. For those significantly affected, including some Inquiry staff, the Inquiry extends our support and best wishes.

I warmly and respectfully acknowledge the traditional custodians of this land, once known as Meanjin, the Turrbal and Yuggera peoples. For tens of thousands of years before European contact they prospered here on the bountiful banks of the River Maiwar. No doubt, they dealt with adverse weather events of the kind we've recently experienced. And they held meetings here to work out ways to do things better in their communities, in essence, as we will continue to do over the next two weeks.

This is the eighth block of hearings of this IGADF Inquiry into the crash of the MRH-90 helicopter off Lindeman Island on 28 July 2023 in which CAPT Danniell Lyon, LT Maxwell Nugent, WO2 Joseph Laycock and CPL Alexander Naggs were killed during service to their nation.

Over the next two weeks, as we explore the circumstances preceding and surrounding the crash, its causes and how it was dealt with, we're uniquely privileged as Australians to be able to reflect on that ancient indigenous heritage.

The Inquiry has now received 71 submissions. All submissions, including those received anonymously, have been read, seriously considered and, where possible and appropriate, investigated further.

As I said at the commencement of the last hearing block, the Inquiry does not consider it's appropriate to publicly read out anonymous submissions even where this is requested by the submitter. That would be irregular.

Many submissions, particularly where we have been able to engage with the submitter, have greatly assisted our investigation. The Inquiry seriously thanks all those who have made submissions.

As in previous hearings, some witnesses giving evidence to the Inquiry, because of the nature of their work, will do so using pseudonyms and with a direction that no images of them be broadcast. For that reason, I have issued Non-publication Direction Number 4 of 2025, which will now be published on our website.

That brings the number of people benefiting from these orders to 148.

During the testimony of these pseudonymised witnesses, the video will be paused and only audio will be streamed. It is an offence to breach those directions. If the media has any concerns, doubts or queries, they should contact the Inquiry's highly capable Media Officer, WGCDR Deanna Nott.

The Inquiry has endeavoured, wherever possible, to conduct hearings in public. During this hearing block, unusually, I have directed that an Inquiry viewing and hearing will be held in private session. This is necessary because of the sensitive and personal nature of the information being received and its security classification.

The families of the deceased were given the opportunity to privately view that material on Wednesday and Thursday last week and many family members and their support people took up that opportunity. Counsel representing were also given an opportunity yesterday to view that material. Given the nature of that material and its classification, all people who have viewed that material are bound by non-publication directions.

There may also be other instances over the coming hearings where this Inquiry will have to be conducted in private because of the security classification of the information to be received. Where this occurs, the streaming will, of course, stop and I will issue non-publication directions to those permitted to attend the hearings. Again, it's an offence for anyone to breach those directions.

As those involved in this Inquiry already appreciate, it is being conducted in as trauma-informed a manner as possible. But it is an inquiry and must, therefore, be inquisitorial where necessary. Commonsense and procedural fairness must allow Counsel representing to ask questions either to assist the Inquiry or where the interests of their clients require it. This questioning may be unpleasant for the witness.

As Inquiry Chair, I must deal with the inevitably arising tensions between ensuring procedural fairness and conducting the Inquiry in as trauma-informed a way as possible. I cannot know what information or instructions Counsel representing may have or what they are seeking to achieve in their line of questions.

For that reason, I'm reluctant to stop the examination of a witness and do so only where I consider this is clearly necessary. I, nevertheless, remind all Counsel that this Inquiry is being conducted in as trauma-informed a way as possible and para 35 of the Inquiry Practice Note requires that questioning be courteous. Counsel should, therefore, frame their questions

and adjust the tone of their questioning with that in mind, as far as that is possible, in carrying out their duty to their clients.

5 I have given LEUT Russ Clutterbuck leave to appear for witness D147 and SQNLDR Casha leave to appear for LT Nugent's interests in this hearing block.

10 The time lost through Cyclone Alfred and other matters now requires a ninth, and we hope final, Inquiry hearing block. This will commence for two weeks from 28 April until 9 May 2025 and will be held here, at the Brisbane Convention and Exhibition Centre.

15 Finally, I remind anyone who is distressed by anything arising from these hearings that help is always available through the organisations whose contact details appear regularly on the live stream and on the Inquiry website. Members of the ADF have the additional option of contacting their Chain of Command for assistance or reference on to support services.

20 I now invite Ms Musgrove, on behalf of the Commonwealth, to provide the latest information on the long anticipated DFSB final report.

25 MS MUSGROVE: Thank you, Ms McMurdo. As previously indicated on Monday, 31 March, the ASIR will be finalised by DFSB and provided to Defence Aviation Authority. On Tuesday, 1 April the Defence Aviation Authority will review the report. On Thursday there will be briefings that will be taking place in relation to the report. They are the details that I have at this time.

30 MS McMURDO: Well, I understand the briefings that will take place in relation to the report include briefings to the families. And the Commonwealth has requested, so that the families are not prevented from hearing Inquiry evidence, that the Inquiry hearings on Thursday not commence until – what time was suggested, Ms Musgrove?

35 MS MUSGROVE: 1 pm.

40 MS McMURDO: 1 pm. Not until 1 pm on Thursday. So that's the position for Thursday. The hearings of this Inquiry, to allow for family briefings, will not occur until 1 pm, Thursday. And can you tell us when the Inquiry is to receive the report?

MS MUSGROVE: On Thursday, in the morning.

45 MS McMURDO: Do we have an approximate time yet?

MS MUSGROVE: I don't have an approximate time that I can say in this forum. There's an anticipated time – I understand that was indicated to Counsel Assisting – but it will be subsequent to the family briefing.

5 MS McMURDO: All right then. And is there to be a media release about this?

MS MUSGROVE: Yes, there will be.

10 MS McMURDO: When will that occur?

MS MUSGROVE: That will be on Thursday.

15 MS McMURDO: And how does that relate to the timing of the Inquiry receiving the report and the media briefing?

MS MUSGROVE: It's anticipated that the media briefing would occur after the provision of the report to the Inquiry.

20 MS McMURDO: Thank you very much for that update, Ms Musgrove.

LCDR GRACIE: Ma'am, could I ask a question of the Commonwealth just in relation to that?

25 MS McMURDO: Well, you can ask. We'll see what happens.

LCDR GRACIE: Yes, thank you. Under the Chicago Convention there is a difference between the reports – preliminary, final, interim – being released and published. And I was going to ask if aspects of the report will

30 be published or only released in the way mentioned.

MS MUSGROVE: I'll need to take some instructions on that, and I'll revert back to my friend in due course.

35 MS McMURDO: Thank you. If you could revert back to the Inquiry, that would be useful – not just to LCDR Gracie.

MS MUSGROVE: Certainly.

40 MS McMURDO: That would be useful. Thank you, Ms Musgrove. COL Streit.

COL STREIT: Good morning, Ms McMurdo, and AVM Harland. There's a two-pronged attack here by these microphones, I have to say. Can

45 I just probably assist LCDR Gracie and the Commonwealth? The issue in

relation to disclose and release is determined by a lot of things. First of which is security classification. So that will answer that particular issue, subject to whatever the security classification is of a particular report before turning to matters concerning the Chicago Convention.

5

With the Inquiry's permission, can I remind all assembled here today, and those who are joining us for the first time, of some important matters. I repeat these matters each hearing because they are important and they frame why we are here and the basis upon which we're here and the basis upon which evidence is led.

10

First, Bushman 83 is the call-sign of the MRH-90 Taipan aircraft in which CAPT Lyon, LT Nugent, WO2 Laycock, CPL Naggs were flying in at night on 28 July 2023. Second, the Inquiry is required to examine issues before the crash of Bushman 83 to find out what happened at the time of the crash and what happened after the crash. The Inquiry's Directions describe these broad areas as pre-incident issues, the incident, post-incident issues, and other issues.

15

The term "incident" refers to the crash of Bushman 83 on 28 July 2023, continuing the Inquiry's examination of those matters. This sitting we'll be calling evidence from the following witnesses. First, today, Mr Ray Hadley OAM, who is a friend of the Nugent family, who will give some evidence concerning his conversations with LT Max Nugent in relation to flying the MRH-90 and TopOwl.

20

25

Next, will be MAJGEN David Hafner AM CSC, who is the Commander of Aviation Command, and in 2022/2023 was the Deputy Commander of Aviation Command. Next, CMDR Dominic Cooper of the Royal Australian Navy. CMDR Cooper was, for some time, the Officer in Charge of the Defence Flight Safety Bureau, Aviation Safety Crash Investigation into the impact with water of Bushman 83.

30

CMDR Cooper is being called for the limited purpose of this only; that is, to give evidence in relation to the DFSB's engagement, namely his engagement with various other investigative agencies in the early stages of the DFSB investigation into the crash of Bushman 83. He will not, and cannot be, asked questions in relation to the DFSB investigation in detail for preliminary report, or draft report, or final report.

35

40

I can indicate that in hearing phase 9 the Director of the DFSB, GPCAPT Smith, will be called on 28 April 2025 to give evidence and produce, and be tendered through him, a copy of the final Aviation Safety investigation report.

45

I move to tomorrow, Tuesday, 25 March 2025. The first witness is Ms Tessa Berry, who is the head of the Aeronautical Life Support Logistics Management Unit within the Defence Science and Technology Group. She is the MRH-90 accident team lead and has prepared some reports. Some of Ms Berry's evidence will be, and need to be, conducted in a private hearing due to their classification.

Next, on the Tuesday, will be D147, who, at the relevant time, was a member of the 6 Aviation Regiment Aeronautical Life Support deployed on Exercise TALISMAN SABRE in 2023.

Wednesday, the first witness is D146. Equally, was a member at the relevant time of the 6 Aviation Regiment of the Aeronautical Life Support Unit deployed on Exercise TALISMAN SABRE. That person's evidence will be followed by MAJ Gavin Lewis, who is presently a senior instructor at the UH Wing, Army Aviation Training Centre.

Thursday, will be the evidence Mr Michael Grant, senior Research Platform Systems, Defence Science and Technology Group. Mr Grant's evidence, the initial aspects will be in public. And a large aspect of his evidence, necessarily, because of security classification and other sensitivities will need to be in a private hearing.

On Friday, Counsel Assisting will call COL Martin Levey AM, who, at relevant times, was an adviser on the human dimension and organisational performance to Army Aviation Command.

I might briefly deal with week 2. On Monday, 31 March the first witness will be COL/Dr Geoff Brock AM. Previously, the Staff Officer Grade 1 Aviation Medicine, Headquarters Aviation Command in the period 2022/2023. He will give evidence in relation to his role as the senior Medical Officer within Aviation Command, and including the engagement with Queensland Police Service in the initial stages of the investigation into the crash of Bushman 83. The next witness will be MAJ David Lamb, who is being recalled. The Inquiry will remember that he is an MRH-90 test pilot, relevantly concerning the matters of TopOwl and he, at that relevant time, was posted to the Army Test and Evaluation Cell – Section, sorry.

Tuesday, 1 April 2025, we'll see CAPT Greg Davidson RAN who will give evidence in relation to MRH-90 TopOwl version 5.1. Next will be BRIG John Fenwick. The Brigadier's evidence will continue from his earlier evidence and his evidence is largely centred in and around MRH-90 TopOwl version 5.1.

On Wednesday will be GPCAPT/Dr Keith Joiner, currently Technical

Adviser to the Director, Defence Test and Evaluation. His evidence will be followed by Ms Pip Spence, the Director of Aviation Safety, Civil Aviation Authority.

5 Witnesses for Thursday, 3 April are to be confirmed, noting that the Inquiry, at this stage, will not be commencing earlier than 1 pm, at the request of the Commonwealth.

10 On Friday, 4 April the witness to be recalled is Dr Adrian Smith, who was an expert witness called before the Inquiry now on two previous occasions. His recall is requested by two Counsel representing in relation to matters concerning his second report.

15 I remind, respectfully, Counsel representing of the assistance that Counsel Assisting can provide if they have questions concerning security matters. And if they consider they need to enter into a private hearing to ask a witness questions, that they give Counsel Assisting advance notice of that particular matter. Also, if they consider they don't have a particular document, or wonder whether they should have a particular document, to
20 raise that at the earliest opportunity with Counsel Assisting, and we will seek to facilitate those matters.

I otherwise note and recall the Inquiry Chair's guidance concerning security matters.

25 Thank you, Ms McMurdo.

MS McMURDO: Thank you, COL Streit. FLTLT Rose?

30 FLTLT ROSE: Good morning, Ms McMurdo. Good morning, AVM Harland. The first witness I call is Raymond Hadley.

LCDR GRACIE: Ma'am, while Mr Hadley is being called, I believe it appropriate to acknowledge and thank Counsel Assisting, in particular
35 COL Streit, for the work he did and the role he played on behalf of the families, in so much as I can speak on their behalf, but also Counsel representing in delivering the DSTG material in the private hearings. It's greatly appreciated, and it could not have been a very easy task, but we thank him for it.

40 MS McMURDO: Thank you for that acknowledgement.

<MR RAYMOND MORRIS HADLEY, Sworn

<EXAMINATION-IN-CHIEF BY FLTLT ROSE

5

MS McMURDO: Mr Hadley, if you need a break at any time, just tell me.

MR HADLEY: Thank you very much, ma'am. Thank you.

10

FLTLT ROSE: Can you please state your full name?

MR HADLEY: Raymond Morris Hadley.

15

FLTLT ROSE: Can you confirm that you received the following documents from the Inquiry? A section 23 Notice requiring your appearance today to give evidence?

MR HADLEY: I did.

20

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

MR HADLEY: I did.

25

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

MR HADLEY: I did.

FLTLT ROSE: A Frequently Asked Questions Guide for Witnesses?

30

MR HADLEY: I did.

FLTLT ROSE: And a Privacy Notice?

35

MR HADLEY: Yes.

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

MR HADLEY: Yes, I did.

40

FLTLT ROSE: I'll hand you a document. Could you just look through that document and confirm whether this is your statement dated 18 December 2024?

45

MR HADLEY: Yes, that's correct.

FLTLT ROSE: It's eight pages with two annexures.

MR HADLEY: Correct.

5

FLTLT ROSE: I tender the statement.

MS McMURDO: That will be Exhibit 151.

10

**#EXHIBIT 151 - STATEMENT OF MR HADLEY
AND ANNEXURES**

15 FLTLT ROSE: If you could turn to paragraph 3 of your statement. You are a radio broadcaster by profession?

MR HADLEY: I was, yes.

20 FLTLT ROSE: Up until 13 December 2024 you hosted The Ray Hadley Morning Show at 2GB?

MR HADLEY: I did.

25 FLTLT ROSE: On that show you discussed, from time to time, issues associated with the crash of Bushman 83?

MR HADLEY: I did.

30 FLTLT ROSE: We'll come back to that in a moment. But just turn you to paragraph 6. You're family friends with Dan and Marianna Nugent?

MR HADLEY: I am.

35 FLTLT ROSE: They're Max Nugent's parents?

MR HADLEY: Yes, that's correct.

40 FLTLT ROSE: You met the Nugent family through your wife, whose son, your stepson, went to school with Max Nugent?

MR HADLEY: That's correct as well.

45 FLTLT ROSE: At paragraph 8, you first met Marianna and Dan Nugent in 2018?

MR HADLEY: Yes, correct.

5 FLTLT ROSE: You and your wife and her ex-husband all socialised together from time to time.

MR HADLEY: We do.

10 FLTLT ROSE: I want to turn to questions about your relationship with Max Nugent. From paragraph 10, you first met Max Nugent in 2019?

MR HADLEY: Yes.

15 FLTLT ROSE: And he was about 19 or 20 years old?

MR HADLEY: Yes.

FLTLT ROSE: Paragraph 11, you said you only met him four times in Total, and of those occasions, you spoke to him properly twice?

20 MR HADLEY: Correct.

FLTLT ROSE: By the third time you met him, Max had joined the Army and was pursuing his career as a pilot?

25 MR HADLEY: Yes, that's correct.

FLTLT ROSE: At paragraph 14 you state in January 2022 you attended a social function at Marianna and Dan Nugent's house?

30 MR HADLEY: That is correct.

FLTLT ROSE: And you spoke to Max there?

35 MR HADLEY: Yes, I did.

FLTLT ROSE: You mentioned that he was six foot five tall?

40 MR HADLEY: Yes, he was quite a big young man. And I'd spent some time in helicopters as a much younger man, as a traffic reporter, back in the 1980s and I said to him that, "You're a big fella. How do you fit in the front of that thing?"

45 FLTLT ROSE: And Max politely answered your questions?

MR HADLEY: Yes, he was always polite. He said, "Pilots aren't normally as big as me, but I'm there".

5 FLTLT ROSE: At paragraph 16, you then attended a Christmas Eve party at Marianna and Dan's apartment in Sydney on 24 December 2022?

MR HADLEY: That's correct.

10 FLTLT ROSE: By that time, Max had posted to Townsville; is that correct?

MR HADLEY: That's also correct.

15 FLTLT ROSE: But he was at this party because he was visiting his parents for Christmas?

MR HADLEY: Yes, he was. He'd come down.

20 FLTLT ROSE: From paragraph 17, at this party you spoke to Max again about his career as a pilot.

MR HADLEY: Yes, he was very obliging, and a very polite young man. And I think he catered to me to a certain extent because I was fairly inquisitorial about what happens in flying a helicopter. He'd progressed from fixed-wing aircraft to choppers and the conversation was about the difference between fixed-wing and choppers. And he was exuberant, he was enthusiastic and he loved being in the service of his nation.

25 FLTLT ROSE: You also asked him some specific questions about flying at night and you had a conversation to the following effect.

30 *YOU: How can pilots fly at night in the dark in a helicopter at low altitude?*

35 *MAX: I wear night goggles. These are the things that you'll see in movies when snipers are wearing night goggles and they can see people in the distance. It makes everything green, but you can still see.*

40 MR HADLEY: That's correct.

FLTLT ROSE:

45 *YOU: So you can see everything?*

MAX: Yeah.

YOU: All right. Okay. What about the instruments?

5 MAX: Well, you can look down at the instruments and even though they're a different colour, the instruments, you can see your horizontal and your vertical and your speed and all the rest of it.

10 YOU: So it's good?

MAX: Well, it's like anything else. When it's dark outside, it is dark through the goggles. And when it's raining, it's raining through the goggles. But I can see things through the goggles. It's a bit like being blindfolded and then getting instructions. Not
15 audio instructions, but visual instructions inside the blindfold on what you're supposed to do.

YOU: Max, buggered if I know, mate. How do you guys do it?

20 MAX: It's just ingrained in us. We trust the equipment. We trust it implicitly that it's going to tell us where we are, what we're doing, without having actual visuals. It's just like flying in daylight because when you have the goggles on, instead of your eyes telling you where you are and where you're going, the info on your visor
25 tells you where you are and what you're doing. You just have to trust that.

Is that correct?

30 MR HADLEY: That's correct, yes.

FLTLT ROSE: Paragraph 25. On 15 April 2023 you played golf with Dan Nugent?

35 MR HADLEY: I did.

FLTLT ROSE: Then Max joined you for dinner at Dan and Marianna's house after that?

40 MR HADLEY: Yes, that's correct.

FLTLT ROSE: By that time, Max had posted to Holsworthy Barracks in Sydney?

45 MR HADLEY: Yes.

FLTLT ROSE: At paragraph 26 you state that you spoke to Max about the incident in Jervis Bay where the MRH-90 ditched into water during an exercise in March 2023?

5

MR HADLEY: That's correct.

FLTLT ROSE: At paragraph 18 you were aware of the incident because you'd covered it in your radio show on 2GB; is that correct?

10

MR HADLEY: Yes. Obviously it was of great interest to everyone, and fortunately no one was injured or killed. And I became aware from Dan Nugent, Max's father, that he was part of the operation and in fact had performed rescues successfully of his comrades who were, thankfully, in shallow water, apparently.

15

FLTLT ROSE: At paragraph 23, when you spoke to Max, you didn't know why the aircraft had ditched. This is the ditching in March 2023?

20

MR HADLEY: Yes. No, I'd received a phone call from a Green's Senator about it, David Shoebridge. Because at this particular stage, shortly after it, there had been an Inquiry launched and, from information I'd garnered from various sources, the Inquiry would not be completed until October/November that year. Mr Shoebridge, Senator Shoebridge, knew of my interest in the matter because I had discussed it, and it was the nature of an interview I did with him that it seemed that the choppers were going to go back in the air before the Inquiry was completed. Which, given my scant knowledge of the way things operate in the Armed Forces, that I thought it was unusual to put the choppers back up without knowing exactly what went wrong. But at that stage I didn't know that it had ditched because of engine failure, which I later found out.

25

30

FLTLT ROSE: At paragraph 24, when you spoke to Max about this Incident, you weren't interviewing him in your role as a broadcaster?

35

MR HADLEY: No, no. Look, my relationship with Max was one where his father is a senior police officer, who I'd obviously known for quite a number of years. We had private conversations, Dan and I, about a whole range of things, and he trusted me not to report things that he may have told me about operational matters. In the same way the Police Commissioner trusted me as well, Karen Webb, or Mick Fuller before her; that if they told me things that were private and would impact on things that would happen later, that they knew that I could be trusted not to share that information.

40

And I would imagine that Dan may have said to Max at some stage – I don't know this to be a fact – that, "You can trust Ray. He won't use it on the radio or make an issue of it".

5 FLTLT ROSE: So you were talking to him in your role as a family friend and as someone who has this ongoing fascination with helicopters?

MR HADLEY: And admiration of what he was doing, serving our nation. A young man just absolutely – it was a very difficult path for him, according to my wife. He always wanted to do it and he did odd jobs and worked in all sorts of different things to realise his ambitions. I have a fervour and an admiration of people who make their dreams come true, and I thought Max was making his dream come true and I was full of admiration for him because of that.

15 FLTLT ROSE: At paragraph 26 you didn't explicitly ask Max about the Jervis Bay incident, but he was forthcoming with you about it. And you had a conversation to the following effect.

20 *YOU: So you were part of the crew. What happened?*

MAX: Well, thankfully it came down in shallow water and it deployed pontoons around it and no one was in any real danger. But it was an opportunity to test ourselves under those sorts of conditions to rescue people.

YOU: Max, they shouldn't be in the air, mate, really, until we know what happened.

30 *MAX: Oh, things happen. Accidents happen. There are a million things that could have gone wrong. It could be just one of those things that happens.*

YOU: I still think they shouldn't, they should be grounded.

MR HADLEY: That's exactly an account of our discussions. I perhaps overstepped the mark a little bit because I was concerned for his safety and the safety of his fellow fliers, that perhaps there should have been a pause until we found out exactly what the problem was. But he was like a lot of young men and women in the Armed Services. He accepted that these things that they were doing were dangerous and, as such, that they be guided by their peers as to what should happen. He wasn't being confrontational, he wasn't blaming anyone.

45

I think to a certain extent, as I've said in my statement, that he was a young bloke who loved his job, talking to an old bloke who didn't know as much about his job as he did and was, as always, kind without being condescending, but appreciative of my concern, but not to the extent that he
5 knew what I was talking about – and I probably didn't, really.

FLTLT ROSE: Just to be clear, when you say, “they should be grounded”, you're referring to the MRH-90s fleet?

10 MR HADLEY: Yes. After the incident in Jervis Bay. There seemed to be some haste to get back in the air as if, you know – and I made mention to other people on air at the time that my understanding, having been a broadcaster for 40 years of civil aviation matters is when something goes wrong, the fleet gets grounded. When they find out what went wrong, then
15 the fleet goes back in the air, or they make modifications and things like that. But there seemed to be some haste.

That concern was shared by Senator Shoebridge, and we had a number of discussions on air about that in relation to that. I also sought Counsel with
20 the former Defence Minister, Peter Dutton, who by this time was in opposition, I think, about that. He had complete confidence in the Army and the investigations and pacified me by saying perhaps I didn't know as much as I thought I knew about it.

25 FLTLT ROSE: So just turning back to the conversation you're having with Max. This is 15 April 2023. At paragraph 29 you started talking about his night-vision devices again and you had a conversation to the following effect.

30 *MAX: We've got this TopOwl thing.*

YOU: What's TopOwl?

MAX: Well, it's a visor that comes down over your face.

35 *YOU: Oh, yeah. And is it better or worse than the goggles?*

*MAX: Well, it's better to the extent that we don't need to look at the main panel because printed on the TopOwl are all the coordinates, all the speeds, all the things that we need. It's like
40 artificial intelligence. Your line of sight is not distracted by looking down at the instruments because all the information you need is straight in front of you on the visor.*

45 *YOU: Really? How does that work?*

MAX: We plug it into our helmet and TopOwl reproduces all the stuff in front of us.

5 *YOU: Well, how does that work?*

MAX: It works pretty well in daylight hours. It's really good because we're not diverted away from where we're going because we're looking ahead and we can still see what's on the outside, but
10 *in front of us is a replica of what's on the main panel.*

YOU: Oh yeah, okay. What about at night?

MAX: You can't see as clearly on TopOwl at night as you can with the goggles. If I had a choice between the goggles and TopOwl, I
15 *would prefer to use the goggles.*

Is that correct?

20 MR HADLEY: That's all correct. And I think people here understand that perhaps Max was being very patient with me, given my level of misunderstanding. The TopOwl had been mentioned, I think, previously to me, but it just glazed over; it didn't mean anything to me. Then when he mentioned this in detail of what it does, he offered the opinions that he
25 offered there. And it never activated any interest by me until I heard the evidence of Mr Wilson much later in the Inquiry. And then I remembered the conversation about TopOwl, having heard the audio from the hearing from Mr Wilson, which I actually played on my radio program.

30 FLTLT ROSE: Just to clarify, when you're referring to "goggles" here, is it your understanding that at some stage between when you first spoke to Max about flying a night and this conversation at in April 2023, that he had transitioned from using some night-vision goggles to the TopOwl system?

35 MR HADLEY: That was my understanding. But on reflection, they may have been trialling them before our initial conversation back in 2022. I don't know, but we didn't have this detailed conversation about TopOwl, and even at the end of the conversation, I must admit that I was trying to envisage what he was talking about with this visor coming down and all the
40 information being displayed whilst still having night vision. It was a bit hard for me to understand what he was trying to convey to me. But again, I had faith in him, that he was a very competent airman and knew exactly what he was doing.

Obviously, even though he did say that he'd prefer the night goggles, I think, in adverse weather conditions or the like, he didn't imply that they were malfunctioning or not working properly in any way, shape or form to me.

5

FLTLT ROSE: So Max never told you that there were issues with any of the information that was being displayed on the visor when – that became inverted when the pilot turned off-axis?

10 MR HADLEY: No. He never, ever mentioned that to me. He never mentioned anything like that. It was only when Mr Wilson offered evidence about the head tilt, where things became inverted, that my memory was pricked to the reference to TopOwl, and that's when I got a bit more interested in what TopOwl was all about.

15

FLTLT ROSE: Did Max ever talk to you about Exercise TALISMAN SABRE 2023?

20 MR HADLEY: No. He never spoke about operational matters to me at all. Like I say, he was catering to an old bloke who was interested in helicopters and had a fascination for helicopters, having flown in them for a couple of years as a young bloke – as a passenger, not as a pilot, obviously. And I was talking to him as an older person who had a dream myself when I was about his age and fulfilled that dream. And I was just enraptured by the fact that he was living his dream. I thought it was just
25 fantastic that a young bloke could do what he'd done in a short space of time just through pure hard work. He was a young man to be greatly admired.

30 FLTLT ROSE: At paragraph 34 you said Max was very matter of fact about flying helicopters and, although you thought his job was dangerous, he simply said to you words to the following effect, "Well, that's just what we do".

35 MR HADLEY: I think that's a sentiment that would be expressed by most men and women who serve our nation, those who do dangerous things, to layman, except that it's part of their life, it's part of their vocation. And that's what he conveyed to me, "It's just what we do, Ray. It's just what we do".

40

FLTLT ROSE: I want to turn now to some questions after the accident on 28 July 2023. Paragraph 35, your wife told you on 29 July 2023 that Max's helicopter had crashed near Lindeman Island?

MR HADLEY: I got a phone call from my wife. I think I may have been on the Gold Coast, if memory serves me correctly, and she was in Sydney. She said that a chopper had come down up near Lindeman Island/Hamilton Island, and that there was a fear that it may have been a chopper that was in an operation that Max was involved in.

FLTLT ROSE: Paragraph 36, you and your wife then went to Max's funeral at Barker College in Sydney?

MR HADLEY: Yes. It's a day that will live in my memory; a day when I saw a mother and father farewell their only son. With plenty of pomp and ceremony, the three Forces were represented at his school and a gun carriage escorted a coffin from the Chapel to another part of the school. And I couldn't imagine what Marianna and Dan were thinking or what they were going through at that particular time. It beggared belief, as it did with the other three young men who lost their lives.

FLTLT ROSE: Your wife was supporting Marianna throughout that period?

MR HADLEY: They're very close. There was three of them that basically were together from when their children started school. There was Hope, a beautiful Irish lady who passed away a number of years ago after a battle with cancer, Marianna and Sophia. And they were always close, but I think after Hope passed, Sophia and Marianna became even closer, and I would think there wouldn't be a day go by when they don't talk to each other on the phone or personally.

Marianna is a person I love dearly. She's been through this and she's been stoic and she's been brave, and she's a person I greatly admire.

FLTLT ROSE: When you're referring to the Military funeral, you state that it was conducted beautifully, and that Max's colleagues were fantastic that day.

MR HADLEY: Yes, the eulogy was fantastic from his Commanding Officer at Holsworthy. The young men who were in his unit, I spoke to many of them at the wake, fantastic young fellas. And there was an air of, I guess, what Max had conveyed to me from these young men, and women, that what they do is dangerous, inherently dangerous and from time to time tragedies occur, as this one occurred.

FLTLT ROSE: Paragraph 38, you said later on you became aware of Andrew Probyn's reporting on the crash of Bushman 83?

MR HADLEY: That's correct. And that would have been after the evidence of Ian Wilson. And Andrew – I work for Nine Radio, which is a subsidiary of Nine Entertainment. Andrew Probyn, who I didn't know personally, but he'd presented a program on the Friday night, I think, after
5 the evidence was presented by Ian Wilson, and this TopOwl copped quite a bit of a mention.

So I spoke to Andrew over the course of the weekend and he agreed to come on the program on the Monday, from memory, to talk to me about the
10 evidence that was presented by Mr Wilson on the Friday.

FLTLT ROSE: Just to clarify, Andrew Probyn's a journalist?

MR HADLEY: Sorry, yes. I think he's called National Affairs Editor at
15 the Nine Newspapers. He deals with political matters, mainly Federal political matters, and other matters pertaining to stories like this one.

FLTLT ROSE: At paragraph 38 you state that you watched some of the evidence or heard some of the evidence of Ian Wilson, who gave evidence
20 to this Inquiry on 18 October 2024. And then you called Mr Probyn, after watching this evidence, because you wanted Mr Probyn to appear on your show?

MR HADLEY: Yes, because he was the one that reported on it. And until
25 the weekend – he said to me that because we shared interests in Channel 9 TV and radio, he'd get me the audio. But I had some very astute young producers who actually got me the audio well before Andrew and I was able to listen to it. I went to the studio on the Saturday and the Sunday and listened to all the evidence and then, with the aid of editors, I cut it up for
30 what was, I thought, the most pertinent evidence offered by Ian Wilson. Then I'd played that when I interviewed Andrew Probyn. I think I played it first, then interviewed Andrew Probyn after I played the audio, the various excerpts.

FLTLT ROSE: You mentioned earlier that it was listening to
35 Mr Wilson's evidence that sparked this memory of yours of these conversations you'd had with Max about flying helicopters and using TopOwl, and specifically the differences he recounted to you about the quality of his night-vision goggles versus the TopOwl?
40

MR HADLEY: Well, as I mentioned, he never mentioned anything
Mr Wilson offered in evidence about head tilts and inversion. But he did say that in certain circumstances he'd prefer the old-fashioned night goggles to TopOwl. But then when I listened to and read the evidence of Mr Wilson
45 and how it was allegedly ignored by others leading up to that incident, I

guess to a certain extent it made me angry. It made me more inquisitorial, I wanted to find out more about it, to discuss it.

5 I went back to David Shoebridge and I played him the audio, which he'd already heard anyway. We were both conscious of the fact that maybe there was a – if you'll pardon the expression – an arse-covering expedition unless there was an Inquiry. Which is what we're here today about, and have been for quite some time. I have complete confidence in the Inquiry, I might mention. I'm not asserting anything other than independence here.

10 But there was a fear that until this was instituted, that maybe, as history would dictate since Federation in 1901, some people in the Army of high ranks have an ability to blame others down the food chain when things go wrong. And I wanted to make sure that wasn't the case in this particular case, because it's not just about Max, it's about the other three young men and their families as well.

15 FLTLT ROSE: So you spoke to Andrew Probyn on your morning show on 21 October – that's in paragraph 40 – that's last year?

20 MR HADLEY: Yes.

FLTLT ROSE: The transcripts of the two different discussions you had with him, they're annexed to your statement at Annex A and Annex B?

25 MR HADLEY: Yes. And that's actually a direct copy of what I'd said on air and then the audio, and then the audio from Mr Probyn as well.

FLTLT ROSE: And those transcripts were created by staff at 2GB?

30 MR HADLEY: Yes. We have a system whereas for any reason, be it defamation or in this particular case for an Inquiry that wants it, it's kept for a long period of time and forwarded to the relevant Inquiry, as it was here.

35 FLTLT ROSE: Those are my questions.

MS McMURDO: Thanks, FLTLT Rose. Applications to cross-examine?
COL Gabbedy.

40

<CROSS-EXAMINATION BY COL GABBEDY

45 COL GABBEDY: Good morning, Mr Hadley. I'm COL Nigel Gabbedy.

I'm here for MAJGEN Jobson.

MR HADLEY: Thank you, Counsel.

5 COL GABBEDY: Thank you for coming, Mr Hadley. But why is it that you're here today?

MR HADLEY: I was asked to come.

10 COL GABBEDY: By whom?

MR HADLEY: By Counsel Assisting.

15 COL GABBEDY: What is it you're seeking to convey with your evidence?

MR HADLEY: A factual account of what happened between me and one of the deceased aircrew.

20 COL GABBEDY: That's fine. Attached to your evidence is the statement or the transcripts from your radio show.

MR HADLEY: Yes, correct.

25 COL GABBEDY: At the end of your evidence to Counsel Assisting you said that you "wanted to find out more about it", referring to this issue with TopOwl.

MR HADLEY: Yes.

30 COL GABBEDY: What did you do about that?

MR HADLEY: I beg your pardon?

35 COL GABBEDY: What did you do to find out more about it?

MR HADLEY: Well, I actually had a conversation, after he gave evidence, with Ian Wilson.

40 COL GABBEDY: Yes.

MR HADLEY: He emailed me. Now you've raised the spectre of it, I'll reveal it to the Inquiry. He contacted me via email and asked me to call him, so I did. He repeated the allegations he made here. He also said what
45 he could do about intimidation of him by senior members of the Army. And

I said, "What do you mean?" He said, "[REDACTED]".

5 FLTLT ROSE: I think at this point we may need to consider the privacy of Mr Ian Wilson.

MS McMURDO: So what are you asking for? Are you asking that the - - -

10 FLTLT ROSE: The relevance of the question that was asked by my friend. It was a very open-ended question and it was inviting, I think, answers he wasn't prepared for or didn't know about. I think if we could stick to the information which he said he's here for, which is to recount discussions that he had with Max Nugent about the TopOwl night-vision
15 goggles, night-vision devices.

COL GABBEDY: I can ask a different question. I mean, the question was very open because the evidence that Mr Hadley had given was that he wanted to find out more. So the obvious question is, "What did you do?"
20 Mr Hadley has taken us down a path. I can tighten it a bit with a different question. So perhaps if I ask you this, Mr Hadley. Did you speak to anyone other than Mr Wilson?

MR HADLEY: No.
25

COL GABBEDY: Was there a reason for that?

MR HADLEY: Well, I suppose we were waiting for the Inquiry and the evidence presented at the Inquiry, which was gratefully delivered by
30 Mr Wilson.

COL GABBEDY: Is it your understanding that Mr Wilson is the only person, up to the point in time where he gave evidence, that gave evidence about the TopOwl system?
35

MR HADLEY: No, there are two other former Army pilots, as I understand it, whose names elude me, who also gave similar evidence; I don't know whether it was in Canberra or not. But it was conveyed to me that two other men supported the evidence offered by Ian Wilson.
40

COL GABBEDY: So again, I'm looking at your understanding here. It's your understanding that there were three pilots or three people who gave evidence, and they all supported the line by Mr Wilson?

45 MR HADLEY: That's what I'm told, yes.

COL GABBEDY: Are you aware of any contrary evidence?

MR HADLEY: No, I'm not.

5 COL GABBEDY: Did you look for any contrary evidence?

MR HADLEY: No. I thought this wasn't to be adversarial, but obviously you take a different view. No, I didn't.

10 COL GABBEDY: I'm not trying - - -

MR HADLEY: No, no. I was told I was coming here, I was requested and subpoenaed to come here to document a conversation between me and a

15 deceased young man. And if I'm getting emotional, you'll have to understand why. I know and love his parents, and I'm concerned that the truth must be told. And I have complete confidence in the Chair and the Deputy Chair, despite your protestations that the truth eventually will be told.

20 COL GABBEDY: All right, Mr Hadley, let me separate those two issues. There's no doubt that a terrible tragedy has happened.

MR HADLEY: Mm-hm.

25 COL GABBEDY: There's no doubt that the Nugent family and the family of all the other members who died, and their colleagues, have suffered a great loss. That's one thing. What I'm asking you questions about is the evidence of Mr Wilson, which I think is an entirely different thing.

30 MR HADLEY: Is there a question there?

COL GABBEDY: Yes, there is. My question was this: as far as I understand your evidence, you believe that there were three people that

35 gave evidence largely consistent with - - -

MR HADLEY: No, that's not in my evidence.

COL GABBEDY: Okay, sorry.

40 MR HADLEY: You just asked me a question and I told you I believe there are two others. My evidence is that Ian Wilson gave the evidence. I became aware later of two other people in support of Mr Wilson. It's not in that document. You obviously haven't read my statement, otherwise you

45 wouldn't ask that question.

COL GABBEDY: Yes. I've read your statement, Mr Hadley. And I'm back to the thing that you wanted to find out more about it. Did you then look for other information?

5 MR HADLEY: No, because there's an Inquiry into it. And these conversations took place about a month, on air, before I retired. Now, if I've got to come out of retirement, I possibly will, in the future in relation to this matter. That's if someone wants to employ me, but anyway.

10 COL GABBEDY: Tell me if I'm wrong, Mr Hadley. You - - -

MR HADLEY: I certainly will.

15 COL GABBEDY: You did nothing to investigate this?

MR HADLEY: Look, as I've just said. I don't – who are you representing?

20 COL GABBEDY: MAJGEN Jobson.

MR HADLEY: And what's MAJGEN Jobson's job?

COL GABBEDY: Mr Hadley, you're here to answer questions.

25 MR HADLEY: Well, apparently so. But you're asking questions I can't answer.

COL GABBEDY: Then let me put another question to you.

30 MR HADLEY: Please do.

COL GABBEDY: You went on air, on the basis of the evidence of Mr Wilson and you indicated that the TopOwl system was the cause of this accident. Is that correct?

35 MR HADLEY: That was the evidence offered by Mr Wilson, and allegedly two others. Yes, correct.

40 COL GABBEDY: And you've just said that you did nothing to clarify whether there was any evidence to the contrary; is that right?

MR HADLEY: Yes.

45 COL GABBEDY: Don't you think that's irresponsible?

FLTLT ROSE: Yes, I object to that.

MR HADLEY: So much for non-adversarial. Fair dinkum.

5 FLTLT ROSE: Counsel - - -

MR HADLEY: Madam Chair, I've come here in good faith.

10 MS McMURDO: Yes. Yes, I understand. But, you see, COL Gabbedy also has a job to look after the best interests of his client.

MR HADLEY: I understand that too, but - - -

15 MS McMURDO: So turning his attention - - -

MR HADLEY: - - - I just think that he's, in some way, trying to provoke me, and he's been successful so far. I've spent a lot of time in witness boxes over the years, being interviewed by Senior Counsel and cross-examined over defamation matters, but I thought I was coming here today to offer simply a statement of what happened in a discussion with a deceased young man and myself.

20

MS McMURDO: Yes. Yes, but - - -

25 MR HADLEY: I didn't know I was going to be put under the griller by Senior Counsel.

MS McMURDO: Well, Mr Hadley, the Inquiry does really appreciate your - - -

30 MR HADLEY: I appreciate that too.

MS McMURDO: - - - coming in and your assistance.

35 FLTLT ROSE: My objection is on the basis of relevance. This witness here is a witness of fact. He is not a Defence member. He is not involved in any processes that would require him to take certain steps. The timeline has been explored within the evidence that's already been given.

40 He had this conversation on the radio show on 21 October 2024. He was then sent a section 23 Notice by the Inquiry about a month later and he signed a statement a few weeks after that. It's a short time period.

45 MS McMURDO: COL Gabbedy, it does seem as though it's a comment

rather than a legitimate question.

COL GABBEDY: Take that on board, Chair. But Counsel Assisting have called this witness. They've annexed two annexures to his statement that makes various - - -

MS McMURDO: Well, just for completeness, because that's how the witness came to the attention of the Inquiry, because of the public comments that he made in his radio - - -

COL GABBEDY: Well, if it's just for completeness - - -

MS McMURDO: So it's there for completeness, so that the full picture and the background is there for the Inquiry and for the assistance of those hearing the evidence today.

COL GABBEDY: If that's the way those annexures are viewed, then I have no further questions. Thank you, ma'am. And I thank you for your time, Mr Hadley.

MR HADLEY: Thank you, Counsel.

MS McMURDO: Yes.

<CROSS-EXAMINATION BY LCDR GRACIE

LCDR GRACIE: Mr Hadley, my name's LCDR Malcom Gracie. I represent the interests of CAPT Danniel Lyon, the Captain of Bushman 83.

MR HADLEY: I offer my condolences to his widow and family.

LCDR GRACIE: And just to lighten the mood a little bit, I'd like to say that he was a great fan of yours. His wife, not so much, but she loves your country and western music.

MR HADLEY: Well, I find that quite often with households, Counsel – even my own household or family from time to time.

LCDR GRACIE: No, she loves the music.

MR HADLEY: Even Judicial Officers, Madam Chair, from time to time, but never a Supreme Court Justice – never.

LCDR GRACIE: But Mrs Lyon does like the country and western music,
so - - -

5 MR HADLEY: Well, that's lovely too.

LCDR GRACIE: I've only got one question.

MR HADLEY: Certainly.

10 LCDR GRACIE: Did Mr Wilson say to you, in the conversation that
you've just recounted, that he felt that someone in Army Aviation or Senior
Army Command was seeking to impugn his credibility or his evidence?

15 MR HADLEY: If I can extrapolate on that conversation and - - -

FLTLT ROSE: Sorry, I understand – and I hate to interrupt if my friend
has a particular line – but I think we've discussed this a number of times
today. This witness is called here for a particular purpose; it's to discuss
20 his conversations with LT Max Nugent. I don't see the relevance of
pursuing this line to assist the Inquiry with its investigations and what we
need to look at in terms of the Terms of Reference.

LCDR GRACIE: If Counsel Assisting cannot see that the integrity of the
25 evidence before this Inquiry is an important matter, then I don't know what
they will ever see as being relevant. That is fundamental.

MS McMURDO: Yes. Well, what's the question?

30 LCDR GRACIE: It was only one question, and I asked it.

But the question was, did Mr Wilson say to you in the conversation that you
had with him, Mr Hadley, that he felt that someone in Army Aviation or in
Senior Army Command was seeking to impugn his credibility or his
35 evidence?

MR HADLEY: Yes, Counsel, he said that.

LCDR GRACIE: Thank you, nothing further. Thank you, Mr Hadley.

40 MR HADLEY: Thank you, Counsel.

MS McMURDO: Any other applications to cross-examine? Any
re-examination?

45

FLTLT ROSE: No.

MS McMURDO: Thank you very much, Mr Hadley.

5 MR HADLEY: Thanks, Chair. Thanks, Deputy Chair.

MS McMURDO: Obviously, we really appreciate the assistance you've given us.

10 MR HADLEY: I appreciate your courtesy. Thank you.

MS McMURDO: Now, I would say that even experienced people like you, giving evidence to an Inquiry like this about such disturbing matters, can find this challenging. So don't be afraid – I'm not suggesting you
15 would be afraid – but don't hesitate to accept the assistance of counselling that's available if you think you might require it.

MR HADLEY: That's very kind of you but, compared what others here are dealing with, my concerns are insignificant. Thank you.

20 MS McMURDO: No, but a little bit of self-care doesn't do any harm at this point - - -

MR HADLEY: Thank you very much. I appreciate your courtesy. Thank
25 you.

MS McMURDO: Yes, thank you, Mr Hadley.

MR HADLEY: Thanks, Deputy Chair.

30

<WITNESS WITHDREW

35 MS McMURDO: Yes, FLTLT Rose.

FLTLT ROSE: Chair, I have two items to tender, which are on this USB. They are the audio of the two segments of the Ray Hadley Morning Show on 2GB on 28 October 2024, which correspond to the transcripts in
40 Annex A and B of his statement.

MS McMURDO: So they can be tendered as one exhibit.

FLTLT ROSE: Yes.

45

MS McMURDO: That'll be Exhibit 152, the audios of Annexures 1 and 2 to Mr Hadley's statement.

5 **#EXHIBIT 152 - TWO AUDIO SEGMENTS OF THE RAY HADLEY MORNING SHOW, 2GB**

10 FLTLT ROSE: Now, I'll hand over to COL Streit.

MS McMURDO: Thank you. Yes, COL Streit.

COL STREIT: Thank you, Ms McMurdo. I call MAJGEN David Hafner.

15 **<MAJGEN DAVID HAFNER, Sworn**

20 **<EXAMINATION-IN-CHIEF BY COL STREIT**

MS McMURDO: Major General, if you need a break at any time, just let me know.

25 MAJGEN HAFNER: Thank you, ma'am.

MS McMURDO: Yes, COL Streit.

30 COL STREIT: Thank you, Ms McMurdo. Sir, just to orientate you, in front of you are two A3 laminated documents. They are pseudonym lists. One of the lists is in order of pseudonym numbers 1, 2, 3, et cetera. The other list is in alphabetical order of surname. If, during the course of your evidence, you're aware that somebody has a pseudonym, can I ask that you just confirm that by reference to either of those two documents?

35 Alternatively, if you're uncertain as to whether a member may have a pseudonym – and you would certainly have a better idea than most – can I just ask you to check whether that person's name is on the pseudonym list, and if it is, then use the pseudonym number. Thank you, sir.

40 Sir, just some preliminary matters, please. You received a section 23 Notice to be here today?

45 MAJGEN HAFNER: I did.

COL STREIT: And that section 23 Notice contained some questions requiring you to answer in the form of a statement; is that correct?

5 MAJGEN HAFNER: That's correct.

COL STREIT: And you also received a copy of my Instrument of Appointment?

10 MAJGEN HAFNER: I did.

COL STREIT: A copy of a Privacy Notice?

MAJGEN HAFNER: I did.

15 COL STREIT: A Frequently Asked Questions Guide for Witnesses?

MAJGEN HAFNER: I did.

COL STREIT: And a copy of the Inquiry's Directions?

20 MAJGEN HAFNER: I did.

COL STREIT: Thank you, sir. Now, sir, before I show you a bundle of documents which I understand comprises your statement and a number of annexures, I understand you wish to say something?

25 MAJGEN HAFNER: If I could firstly just acknowledge the families that are here today and those family members that couldn't be here, they're dialled in online, just for their participation and their presence in these proceedings. Thank you.

30 COL STREIT: Thank you. Sir, I'm going to show you a bundle of materials. Can I just ask you to take your time and just confirm, first, that the document on top of that bundle is your statement; and then just confirming the annexures underneath are the annexures referred to, the 26 annexures referred to, in your statement?

35 Whilst I do that, I will provide a working copy for the Inquiry Chair and Deputy Chair, which contains all annexures.

40 MS McMURDO: Thank you. So there's 26 annexures, is it?

COL STREIT: That's right.

45 MAJGEN HAFNER: That's a correct version of my witness statement

and all 26 enclosures.

COL STREIT: Thank you, sir. Sir, can I just confirm with you that your statement comprises 33 pages?

5

MAJGEN HAFNER: It does.

COL STREIT: And it comprises 122 paragraphs, on page 31?

10

MAJGEN HAFNER: It does.

COL STREIT: It lists on pages – the balance of 31 and 32 and 33, it lists 26 annexures to your statement?

15

MAJGEN HAFNER: It does.

COL STREIT: A number of those annexures are at the “Official: Sensitive” security classification?

20

MAJGEN HAFNER: That’s correct.

COL STREIT: I will not be asking you any questions in relation to the contents of those documents in a public hearing. Sir, can I just confirm that you signed your statement on 17 March 2025?

25

MAJGEN HAFNER: I did.

COL STREIT: Are there any amendments or additions you wish to make to your statement at this time?

30

MAJGEN HAFNER: No.

COL STREIT: Thank you. Ms McMurdo, I tender the statement of MAJGEN David Hafner of 17 March 2025 with 26 annexures.

35

MS McMURDO: That will be Exhibit 152. Thank you. 153, I’m sorry, yes.

40

**#EXHIBIT 153 - STATEMENT OF MAJGEN HAFNER
AND ANNEXURES**

COL STREIT: Thank you. Sir, you will have your statement and

annexures. That will remain before you throughout the duration of your evidence. What I propose to do is to lead you through your statement in a narrative form. I'll take you to the particular area or section or paragraph, identify its contents and then I'll ask you some questions.

5

Can I begin first, briefly, with your background, which commences at paragraph 4 on page 1. You joined the Australian Army in 1991 and commissioned in 1994 into the Australian Army Aviation Corps; is that correct?

10

MAJGEN HAFNER: That's correct.

COL STREIT: And you've been a member of the Australian Army since that time; is that right?

15

MAJGEN HAFNER: That's correct.

COL STREIT: Now, sir, you completed pilot training in 1997 and you were subsequently posted to the 5th Aviation Regiment where you fulfilled a variety of staff and flying appointments.

20

MAJGEN HAFNER: That's correct.

COL STREIT: 2001, you were posted to Royal Military College of Australia before returning to the 5th Aviation Regiment in 2004, where you performed the appointment of Regiment Operations Officer, followed by Officer Commanding B Squadron. Is that correct?

25

MAJGEN HAFNER: That's correct.

30

COL STREIT: And B Squadron at that time was a Black Hawk Squadron.

MAJGEN HAFNER: That's correct.

COL STREIT: Now, after posting to Headquarters 16 Aviation Brigade in 2009 as the Staff Officer Grade 1 Operations, in 2012 you returned to the 5th Aviation Regiment as the Commanding Officer.

35

MAJGEN HAFNER: Correct.

40

COL STREIT: And again, at that time, was the 5th Aviation Regiment comprised of Black Hawk and Chinook aircraft?

MAJGEN HAFNER: That's correct.

45

COL STREIT: In 2015 you were promoted to Colonel. You were appointed as the Commandant of the Land Warfare Centre; is that correct?

MAJGEN HAFNER: That is correct.

5

COL STREIT: And that's based in Canungra, here in Queensland?

MAJGEN HAFNER: That's true.

10 COL STREIT: In October 2019 you were promoted to Brigadier, and you assumed the command of 16 Aviation Brigade, followed by the role of Deputy Commander of Army's Aviation Command from February 2022. Is that right?

15 MAJGEN HAFNER: That's correct.

COL STREIT: And then in November 2024 you assumed your current appointment as the Commander of Aviation Command?

20 MAJGEN HAFNER: That's correct. Sorry, can I also just add when I was the Commanding Officer in the 5th Aviation Regiment was when the MRH-90 Taipan was beginning to be introduced to that unit.

25 COL STREIT: I see. And so during your tenure as the CO, were flying operations conducted at 5 Avn with MRH-90?

MAJGEN HAFNER: They were.

30 COL STREIT: And at the time, sir, when you left 5 Aviation Regiment, what was the status of the capability? So, in other words, was it fully embedded and operational at that time or was there still a period of transition?

35 MAJGEN HAFNER: It was still very much in the introduction in the service.

40 COL STREIT: One question perhaps arises in relation to that, sir, is we – that is, the Inquiry's received evidence that there was an MRH-90 simulator at the 5th Aviation Regiment. Just accept that from me, that that's the evidence before the Inquiry. During your tenure as the Commanding Officer, was a simulator established for the MRH-90 at 5 Aviation Regiment?

45 MAJGEN HAFNER: I don't recall.

COL STREIT: Did you subsequently – well, can I take it in your role as the Deputy Commander of Aviation Command you were aware, were you, that there was a simulator at the 5th Aviation Regiment for MRH-90?

5 MAJGEN HAFNER: I was.

COL STREIT: Well, the Inquiry understands that there was no simulator for MRH-90 at 6 Aviation Regiment.

10 MAJGEN HAFNER: That's correct.

COL STREIT: Sir, you might not be able to assist the Inquiry on this matter, but if you can, could you please do so? Are you able to assist the Inquiry understand the broad position as to why no simulator was at
15 6 Aviation Regiment for MRH-90?

MAJGEN HAFNER: I don't know the exact nature of the introduction there. What I could say is that the MRH had been introduced to the 5th Aviation Regiment. At that point in time, the 6th Aviation Regiment
20 was a unit that was formed at a later point in our history as a capability, and so originally the capability of the 6th Aviation Regiment was all combined in the 5th Aviation Regiment.

But as to the exact nature of where the simulators were positioned and
25 formed, I wasn't part of the decision-making within that project's introduction.

COL STREIT: When you were the CO of the 5th Aviation Regiment, was there a Black Hawk simulator at 5 Avn?
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MAJGEN HAFNER: I believe the Black Hawk simulator was in Oakey.

COL STREIT: Sir, you have given some evidence in your statement – I refer to it as “given some evidence” because your statement is now tendered
35 as evidence before the Inquiry. So at paragraph 7 you say the preponderance – predominance, I'm sorry – the predominance of your career flying has been on the S-70A-9 Black Hawk following ab initio training on the CT-4B air trainer fixed-wing aircraft, and the AS350B Squirrel helicopter. Is that correct?
40

MAJGEN HAFNER: That's correct.

COL STREIT: More recently, you qualified on the Tiger Armed

Reconnaissance Helicopter before assuming your appointment as Commander 16 Aviation Brigade, and that your total flying experience across all platforms is 1200 hours.

5 MAJGEN HAFNER: That's correct.

COL STREIT: And does that include time as Aircraft Captain?

10 MAJGEN HAFNER: It does.

COL STREIT: And that was on the Black Hawk, previous version?

MAJGEN HAFNER: Predominately.

15 COL STREIT: And, sir, at paragraph 8 you have set out your operational experience, including deployments to East Timor in 1999, Solomon Islands in 2000, Timor again in 2000/2001, where you served as a Black Hawk Troop Commander.

20 MAJGEN HAFNER: Correct.

COL STREIT: I pause there. Sir, just in relation to your recall – and I appreciate it's a little while ago now – but in relation to your recall as a Troop Commander and the administrative tasks required as a Troop
25 Commander, how would you compare those tasks at that time in 2001 to the administrative tasks a Troop Commander would now have within 6 Avn, 1 Avn or 5 Avn?

MAJGEN HAFNER: I think if I was to try to compare what a Troop
30 Commander does now, I'd be speculating.

COL STREIT: Sure. Would you accept that there is an increase in governance requirements for Troop Commanders now as compared to may
35 be when you were a Troop Commander?

MAJGEN HAFNER: So I think we've naturally seen over time, you know, knowing that this spans a couple of decades, that there has been obviously an increase in the oversight, the governance that we apply to how our system operates. Equally, I'd say but there has been the introduction of
40 a number of tools that are designed to help people in that liability.

COL STREIT: The reason I ask these questions is because there's some evidence that's been received through the Inquiry by pilots that have sat in the chair, much like you, who have given evidence, when they're in their
45 role as Troop Commander, of having to deal with a lot of governance

requirements impacting on their ability to engage in flying operations. Has anything like that ever come to your attention?

5 MAJGEN HAFNER: I think there's always a dialogue about the proportionality of where your effort is applied. I suppose what I'd offer is, as a Troop Commander, you have a range of responsibilities which all contribute to the safe execution of flying operations. So while you might see them through the lens of governance or administration, often they're about the welfare and the administration of the people in your Troop.

10 It could be leave arrangements. It could be on to courses. It could be the readiness of your equipment. They're all necessary parts of how we generate the capability and how you understand the people that you're employing in the flying role.

15 COL STREIT: So in the circumstances of an increased workload and expectations of the capability to engage in things such as Defence aid to the civilian community, for example, there's a need for Command to prioritise governance requirements against completing whatever operational tasks are required. So, in other words, they have to make a choice about what they can and can't do.

25 MAJGEN HAFNER: Well, I think there's a constant balance between capacity and demand. That has been my experience since I was a Troop Commander. I would say again, proportionality changes. So you used the example of increasing Defence assistance to the civil community. I would say for many years we had lengthy deployments for areas like Timor-Leste, et cetera. So, again, there's always a balance of capacity and demand in the obligations of the organisation, and what we strive to do is keep that in balance.

30 COL STREIT: Just returning, sir, to your operational experience. In 2005 you participated in Operation PAKISTAN ASSIST before again deploying to Timor in 2006. You were commanding a composite Black Hawk and Kiowa Aviation Squadron at that time, for which you were awarded a Conspicuous Service Cross. Correct?

MAJGEN HAFNER: Correct.

40 COL STREIT: And in 2011 you served as the adviser to the Operations Officer at the 205th Corps Afghan National Army during Operation SLIPPER. And in 2017 you deployed to Iraq as the Director of Plans for the Combined Joint Forces Land Component Command for Operation INHERENT RESOLVE, for which you were awarded a Commendation for

Distinguished Service and a United States Meritorious Service Medal. Is that right?

MAJGEN HAFNER: That's correct.

5

COL STREIT: And in terms of aid to the civilian community, you record in paragraph 8 that you were also involved in several domestic relief efforts, including Operation Larry Assist in 2006, Operation Queensland Flood Assist in 2011, and Operation BUSHFIRE ASSIST 2019/2020. Correct?

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MAJGEN HAFNER: That's correct.

15

COL STREIT: And in 2024 you were appointed as a member of the Order of Australia for exceptional service in the field of Army Aviation operations and capability.

MAJGEN HAFNER: Correct.

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COL STREIT: In terms of your qualifications, tertiary qualifications in particular, you're a graduate of the Australian Defence Force Academy, the Royal Military College and the Defence Services Staff College-India, and a distinguished graduate of the United States Army War College. You hold a Bachelor of Electrical Engineering with honours from the University of New South Wales, a Master of Science in Defence and Strategic Studies from the University of Madras, and a Master of Strategic Studies from the University of United States Army War College.

25

MAJGEN HAFNER: That's correct.

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COL STREIT: Sir, before I turn to ask you questions in relation to your experiences as the Deputy Commander of Aviation Command in 2022/2023, can I just take you to the back of your statement first, and to paragraph 122? At paragraph 122, sir, you outline some concurrent events that were occurring in 2022 to July 2023. I'll just read a part of that evidence and then I'll ask you some questions. You say:

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During the period January 2022 to July 2023 various events placed demand on the Army Aviation capability. During this period, Aviation Command was raising the command, including: the consolidation of all personnel to Canberra, ACT; effecting the transition of contracts and support arrangements from Forces Command; establishing a quality management system; addressing historical challenges in safety incident closure; undertaking several Defence assistance to civilian community and humanitarian assistance disaster relief deployments; responding

5 *to the Coronial Inquiry in Orroral Valley fire; Comcare Inquiries related to MRH-90 Taipan systems; and managing the Jervis Bay ditching incident; informing the Defence Strategic Review; and commencing a capability review in order to secure key issues to improve organisational disposition and resilience; rapidly introducing the UH-60M Black Hawk to eliminate the risk generated by underperforming the MRH-90 Taipan system.*

10 You say:

This requested that the significant demand of important activity be taken into account when considering the timeliness and prioritisation of actions.

15 So just, sir, in relation to that, I draw your attention to this aspect of your evidence before we deal with matters when you were the Deputy Commander, to ask you this question: is it the case that when the Inquiry considers your evidence, the Inquiry needs to look at your evidence through the lens of a very busy time in January '22 to July 2023 with various events placing demand on Aviation capability?

20 MAJGEN HAFNER: So what I would say is that's designed to give context because I think when you're talking about prioritisation, you've got to look across the suite of activities that's going on. So the intent there is to recognise that there is quite a range of activities that were occurring in that 18 months leading up to the tragic accident, all designed to either deliver support to our nation or to make improvements both for capability and for safety purposes. So looking at any one thing without the context of all the concurrent events going on may not give you the context on how prioritisation is being afforded.

25 COL STREIT: And that context is important because, as you say in the last sentence, that what was occurring to Aviation Command in that period, January '22 to July '23, was a significant demand of important activity. Correct?

30 MAJGEN HAFNER: That's correct.

35 COL STREIT: That should be taken into account by this Inquiry when considering the timeliness of prioritisation of actions.

40 MAJGEN HAFNER: Correct.

COL STREIT: So, in other words, timeliness is where an activity action

or outcome is required by a set time. And if that time is not met, for whatever reason, the Inquiry should consider not meeting that time is as a consequence of other competing priorities and tasks and demands?

5 MAJGEN HAFNER: That's correct. Because I think not all demands are known in advance. Things will always come up.

COL STREIT: Sure.

10 MAJGEN HAFNER: We continue to re-assess, re-prioritise, and so what you might have originally envisaged for completing an action might get re-assessed based on the context of priorities changing.

15 COL STREIT: You've dealt with some of this in your statement and we'll come to it shortly, particularly in relation to the November 2020 near miss and the implementation of the outcomes of the DFSB investigation. But the bottom line is, there's only so many plates you can keep in the air with whatever resources you have available at the time. Correct?

20 MAJGEN HAFNER: Yes. So I usually refer, there's three pillars: quality, quantity, and timeliness. You can typically have two, not all three. And I suppose that's the challenge in the conduct of Aviation activities. Sometimes when there is quantity, you need to make sure quality is maintained, because that's fundamental to our system. And sometimes that
25 means you might need to just take a little bit longer, in terms of the time, to make sure that you deliver the quality in the outcome.

COL STREIT: The other aspect you've identified as a matter impacting – or can I suggest as impacting determination of prioritisation of actions and
30 impacting the significant demand placed on the Command, you set out at paragraph 120, where you give some evidence about the underperformance of the MRH-90 Taipan.

35 MAJGEN HAFNER: That's correct.

COL STREIT: You say:

40 *The context of the MRH-90 Taipan as an enduring underperforming system is important in the consideration of the 2023 incidents. Several reviews and successive Airworthiness Board submissions over several years reflected that the MRH-90 Taipan system continued to require disproportionate effort and represented a destabilising burden on the Army Aviation enterprise, resulting in an aggregate MEDIUM risk to personnel*
45 *safety.*

I pause there. Can you assist the Inquiry understand, when you say “aggregate MEDIUM risk” – and “MEDIUM” in capitals – what does that mean?

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MAJGEN HAFNER: So obviously a system being a system. So I think often people confuse the language of an aircraft versus an aircraft system. So when you look at the impacts of the whole of system across all of our fundamental inputs to capability, that is where you’ve got to consider what is the aggregated effect here. And it had been reported successively over a number of years that that aggregated risk was assessed to be medium based on the impacts of the challenges of the MRH system. And I think that’s well captured through other public lines of enquiry, such as Senate Estimates, where it’s been clear that the MRH-90 did not meet the Australian Defence Force’s requirements, and there was a demand of that system on the organisation.

COL STREIT: Well, just to assist you, sir, I won’t ask you any questions about evidence at Senate Estimates, principally because the concept of parliamentary privilege applies. But what I will ask you is, in that last sentence on paragraph 120 you say:

A key strategic treatment for the risk posed by the MRH-90 Taipan system was elimination through rapid replacement with UH-60M Black Hawk under Project LAND 4507.

Which was initiated prior to the 2023 incidents; is that correct?

MAJGEN HAFNER: That’s correct.

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COL STREIT: So prior to the 2023 incidents, is the Inquiry on safe ground to infer that the ADF had already taken steps to replace the MRH-90 Taipan with the UH-60M Black Hawk?

MAJGEN HAFNER: That’s correct. So as is the case for acquisition projects, consideration had been presented to government and then in January of ‘23 Defence had announced government’s decision that the MRH-90 Taipan would be replaced with the UH-60M Black Hawk.

COL STREIT: So in considering your evidence, and perhaps the Inquiry formulating its questions as they listen to your evidence, your evidence is given on the basis of what’s set out at paragraph 122, detailing the significant demands placed on Aviation Command in the period January 2022 to July 2023, and your evidence in relation to and the impact of the MRH-90 Taipan underperformance of that aircraft system?

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MAJGEN HAFNER: That's correct. I specifically put those elements in part of my witness statement because, again, they are the context of the environment within which the accident happened.

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COL STREIT: Sir, what I'll do now - - -

AVM HARLAND: Excuse me. Just before we move on, COL Streit, could I just ask a question? Just going back to para 120, maybe I missed it but did we get a definition on what "an aggregated MEDIUM risk to personnel safety" was?

MAJGEN HAFNER: So, Deputy Chair, the aggregated risk is reflected in a document called our MRH-90 System Level Risk Assessment. It was a document that we had created in 2022 to do an assessment of what were all the elements of the system and how did we overall assess or come to an assessment of risk. And that brought us to a medium level of risk. So obviously it's quite an extensive document that breaks down all the components of the system. I think it would be best to refer to the MRH-90 System Level Risk Assessment, which we could provide.

AVM HARLAND: Just in layman's terms, what does a "MEDIUM risk to personnel safety" mean though? Does that mean you're expecting something to happen? If you understand what I'm trying to get to here?

25

MAJGEN HAFNER: Yes, I do. So our other aircraft systems are typically at a low level of risk. So this being medium, it was elevated above the other aircraft systems that we were operating.

AVM HARLAND: So what does "medium level risk" mean? Are we expecting an accident/an incident where somebody is hurt or dies as a result of being exposed to this risk during a life of type of an aircraft, or is it once a year, twice a year? I'm just understanding, because we've got the words there and we've got the background, but what does it really mean?

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MAJGEN HAFNER: So like I say, you are at an elevated level of risk. It is partly quantitative, it is partly subjective in its nature, but it does recognise that you are at an elevated level of likelihood; probability and consequence being those combinations that help you come to what your risk assessment is. But this system was at a level that was elevated above those other systems for the likelihood that there would be a safety occurrence that could cause injury to personnel.

AVM HARLAND: So in the broadest of terms, a medium risk is elevated to what you would normally expect because other platforms, as you said,

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are typically operated at low risk, and that's really where the MRH-90 platform was operating at.

MAJGEN HAFNER: As a system.

5

AVM HARLAND: Yes. So you would anticipate that there would be injury or otherwise as a result of the MRH-90 service, statistically speaking?

10 MAJGEN HAFNER: So it would have a greater likelihood, and so thus this is where you get disproportionate demand coming in where you've got everyone focusing and working hard to treat what is a medium level of risk, which obviously requires greater effort than what you might have on a system that's functioning with a low level of risk.

15

AVM HARLAND: So going back to your previous comment, greater effort, better quality, and how would you manage the timeliness of that?

20 MAJGEN HAFNER: So like I say in those paragraphs, ultimately, that what we were working through was an elimination strategy. How do you treat that risk? Rather than just managing it, our obligation is to try to eliminate and, if not, then minimise so far as is reasonably practicable.

25 In this case, the method by which we were seeking to eliminate that risk was through the replacement of the MRH-90 with the UH-60M Black Hawk helicopter and trying to introduce that helicopter at a rapid rate that was going forward. So, really, that was the method by which we were primarily trying to treat. That doesn't mean that you weren't then investing effort in managing the MRH system.

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35 So there were other activities like stabilisation. There was a stabilisation plan for the MRH fleet. So how could we better aggregate our personnel, aircraft to make sure that all the capacity of the system was matched to what its capacity of output was, so that you were doing everything that we could to make sure the system was in balance to safely deliver the output that we required of it?

40 AVM HARLAND: If I was to kind of summarise that – and correct me if I'm wrong – notwithstanding that the idea was that the termination of MRH-90 service was the best outcome, and replacement with a Black Hawk – and that's really what Army were pursuing – but notwithstanding that, you still had an obligation to manage the risks with the tools that you had available while conducting the MRH-90 operation?

MAJGEN HAFNER: That's correct. And that's obviously any time that there is the operational one of the aircraft occurring, we still have our responsibilities in managing the risk of those operations.

5 AVM HARLAND: Thank you.

MS McMURDO: COL Streit, does the Inquiry have the 2022 MRH-90 risk assessment, the system that the Major General's referred to? It's a big question; you might not be able to answer that.

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COL STREIT: Just bear with me a moment, Chair.

If you were to turn to page 18 of the statement. I won't ask, sir, you questions for the moment about those matters, but just to assist the Inquiry. You'll see at the top, Ms McMurdo, is the identification of three risk tools, and they're in the enclosures. Those enclosures are at an "Official: Sensitive" level.

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MS McMURDO: But we do have them; that's what I wanted to know.

20

AVM HARLAND: Are they what you were referring to?

MAJGEN HAFNER: No.

25 MS McMURDO: No. They're something else. Yes?

MAJGEN HAFNER: No. There is a document, the Multi-Role Helicopter System Level Risk Assessment. That again is a holistic assessment of the system's risk level.

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MS McMURDO: Excellent. So that's the document that I wanted to know whether the Inquiry has in its material. And as far as you - - -

COL STREIT: I could probably safely say no.

35

MS McMURDO: You don't think so. So we'll obviously need to get that.

COL STREIT: Thank you.

40 Sir, can I take you to page 3, paragraph 14 of your statement. I'm now going to ask you some questions in relation to your role as the Deputy Commander of Aviation Command in the period 2022 to 2023. So you say as at 28 July 2023 you were performing the appointment of Deputy Commander of Aviation Command, posted to Canberra. Your appointment
45 included the duties of the Director-General of Army's Battlefield Aviation

Program, and the Hazard Tracking Authority within the Army Military Air Operator Organisation. Correct?

MAJGEN HAFNER: That's correct.

5

COL STREIT: In relation to the Director-General of Army's Battlefield Aviation Program, can you just explain in broad compass what that role is?

MAJGEN HAFNER: So that's the key proponent for looking at the modernisation activities that were occurring in Army Aviation. So it was activities focused around the proposals to government and then the capability realisation plans for the acquisition of the UH-60M Black Hawk helicopter, the AH-64E Apache helicopter, various uncrewed aerial systems and then other support systems that would come in to support those aircraft.

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COL STREIT: "Same-same Hazard Tracking Authority", what does that mean?

MAJGEN HAFNER: So that is a role where I have a part to play in looking at what are the risks within our system, what are those risk trends, and then what actions are we conducting to treat those risks. So as I've listed, there's three, effectively, parts to the job. Deputy Commander is one, which is very much more the here and now functioning of the organisation and its operational commitments. The Director-General of the Battlefield Aviation Program is very much looking towards our future capability, noting that typically when you are modernising, you're taking from now in order to invest in your future. So very important in balancing. And then in the Hazard Tracking Authority, it's looking at the risk across the system because, again, many of our modernisation activities were actually treatments for risk in our system – both a capability improvement as well as safety improvement in our system.

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COL STREIT: In terms of the hazards and the risks identified, as the Hazard Tracking Authority, who owns, ultimately, the risk?

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MAJGEN HAFNER: I believe I get to that in a later question that specifically refers to that topic.

COL STREIT: Just for now, does that sit with you as the Hazard Tracking Authority or does it sit with the then Commander of Aviation Command?

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MAJGEN HAFNER: So Commander Aviation Command is also the Army Military Air Operator Accountable Manager, as appointed by the Chief of Army, and that's appointed through a Chief of Army Directive. In this case that was Directive 17 of 2021. It is one of the enclosures and I

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articulate that in question 4 as to that. The directive to the Commander Aviation Command to be the Army Military Air Operator Accountable Manager says that that appointment has obviously a commitment to the Chief of Army to establish a safe operating system.

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COL STREIT: So at the relevant time, as a consequence of MAJGEN Jobson's appointment as the Commander of Aviation Command and the Air Mobility Operator, the risk sat with him?

10 MAJGEN HAFNER: So he is appointed by the Chief to establish that safe operating system. I think risk is one of those areas where it's like security, the organisation has got layers in how it functions and meets its obligations. So you might see the Military Air Operator as at the top of that system, but there's obviously obligations for everyone at all of the layers of the system
15 in terms of the identification and management of risk.

COL STREIT: But the ultimate responsibility – putting aside perhaps individual accountabilities up the chain – the ultimate responsibility sits with the Air Mobility Operator, doesn't it?

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MAJGEN HAFNER: The Military Air Operator?

COL STREIT: The Military Air Operator. Is that right?

25 MAJGEN HAFNER: Yes.

MS McMURDO: Who at the time of the accident was MAJGEN Jobson?

MAJGEN HAFNER: That's correct.

30

MS McMURDO: Thank you.

COL STREIT: So, sir, just in relation to question 4, you were asked to describe your current role as the Commander Aviation Command, including
35 when you posted into the position, and some other matters. You say:

With effect 29 November 2024, I assumed the appointment of Commander of Aviation Command.

40 Command expectations expressed to you by the Chief of the Defence Force are contained in enclosure 1 to your statement?

MAJGEN HAFNER: That's correct.

COL STREIT: With your command appointment from the Chief of Army, contained in enclosure 2 to your statement, in your capacity as the Commander Aviation Command, you report direct to the Chief of Army?

5 MAJGEN HAFNER: That's correct.

COL STREIT: In relation to your role as the Military Air Operator, do you report to the Defence Aviation Authority in that role?

10 MAJGEN HAFNER: I do.

COL STREIT: At paragraph 16 you say as Commander Aviation Command you're given the authority to direct, coordinate and control assigned Forces. You're to ensure Forces under Command perform their
15 designated role as part of the ADF's primary mission for applying Military power in order to defend Australia and its national interests. Correct?

MAJGEN HAFNER: That's correct.

20 COL STREIT: You are also responsible for the welfare, morale and discipline of assigned personnel.

MAJGEN HAFNER: Correct.

25 COL STREIT: At paragraph 17 you set out the duties – well, you say this:

My position as Commander Aviation Command also includes the duties of the Army Military Air Operator Accountable Manager as appointed through the Chief of Army Directive 17 of 2021.
30

And:

This appointment also requires reporting to Chief of Air Force in his capacity as the Defence Aviation Authority, again as an appointment through the Joint Directive 21 of 2021 by the Secretary and the Chief of the Defence Force.
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MAJGEN HAFNER: That's correct. So clearly the roles are inter-connected and so both an obligation reporting to both the Chief of
40 Army and the Defence Aviation Authority.

COL STREIT: You say at paragraph 18 now:

The appointed Army Military Air Operator Accountable Manager is accountable to Chief of Army for the creation and management
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of a safe Aviation operating system in Army that complies with regulatory requirements and meets statutory obligations.

MAJGEN HAFNER: Correct.

5

COL STREIT: Do you, in your capacity as the Army Military Air Operator Accountable Manager, have any reporting requirements to the Director-General Defence Aviation Safety Authority?

10 MAJGEN HAFNER: So to demonstrate compliance, I submit an operations compliance statement which I signed when I assumed the Army Military Air Operator Accountable Manager role on 29 November last year. I signed the compliance statement and submitted, and it's attached as one of the enclosures.

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COL STREIT: I take it prior to signing that compliance statement you undertook steps to satisfy yourself of various matters?

MAJGEN HAFNER: That's correct.

20

COL STREIT: Did that also require you to consider whatever outstanding actions might still be in existence from implementing previous report outcomes from the DFSB?

25 MAJGEN HAFNER: It did.

COL STREIT: Did any of those matters give you pause to consider whether you were in a position to sign the document to go off to DASA?

30 MAJGEN HAFNER: So in submitting the compliance statement, there are – wherever there are areas where we may have further work to be done, those are typically registered with the Defence Aviation Safety Authority in findings on the organisation and we have agreed remediation plans with the Defence Aviation Safety Authority in achieving those remediations.

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COL STREIT: To be clear, sir, to assist you in fulfilling and discharging these functions and duties as Commander Aviation Command and the Army Military Air Operator Accountable Manager, you have a number of staff in your Headquarters?

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MAJGEN HAFNER: That's correct. So the Headquarters is effectively broken into five Directorates. One is our Chief of Staff Directorate, that looks after all of our current operations, personnel management, et cetera. We have an Operational Airworthiness Directorate, we have a

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Continuing Airworthiness Directorate, we have a Directorate for our

Battlefield Aviation Program, so our futures, and then we have a Directorate of Capability Management, which is very much executing our modernisation.

5 COL STREIT: Sir, just for completeness, if I could just ask you briefly to
turn back to paragraph 3 of your statement, on the first page? In relation to
the staff that assist you in discharging your functions, you identify two
individuals. I won't mention their names. One of them has a pseudonym
known to me. But nonetheless, you mention two individuals variously
10 holding the positions Director Continuing Airworthiness-Army over the
period 2022 to 2024, and the Staff Officer Grade 1 Standards over the
period 2022 to mid-2024, and now Director Operational Airworthiness
from mid-24 to present.

15 You have obtained the assistance of those two persons in providing
information to you to answer questions in this 23 Notice generating your
statement?

MAJGEN HAFNER: That's correct.

20 COL STREIT: Sir, can I take you back to paragraph 20 now. You were
asked at question 5, paragraph 20 as to whether you knew or ever flew with
CAPT Lyon, LT Max Nugent, WO2 Joseph Laycock and CPL Naggs. You
say:

25 *I served with WO2 Joseph Laycock whilst posted to the
5th Aviation Regiment during 2004 to 2006.*

30 You had not had recent contact with WO2 Laycock and uncertain as to any
occasion where you may have flown with him. You don't recall any
engagements or flying activities with CAPT Danniel Lyon, LT Max Nugent
or CPL Naggs. Is that correct?

MAJGEN HAFNER: That's correct.

35 COL STREIT: Ms McMurdo, I note the time. Is it convenient for a short
comfort break?

40 MS McMURDO: Yes, all right. Thank you, we'll have a 10-minute
break.

HEARING ADJOURNED

45

HEARING RESUMED

5 MS McMURDO: If we could have the witness back?

COL STREIT: Yes.

10 MS McMURDO: I'm just trying to save time because I know that this witness would prefer to finish his evidence today, if possible. So every moment counts. Yes, COL Streit.

COL STREIT: Thank you, Ms McMurdo.

15 Sir, can I just take you to question 6, and your evidence under question 6 commencing at paragraph 23. At question 6 you were asked to outline your role, if any, in the implementation of the recommendations arising from the Defence Flight Safety Bureau's investigation into the MRH-90 formation near collision in the Townsville field training area on 11 November 2020. Correct?

20 MAJGEN HAFNER: Correct.

COL STREIT: At that time, sir, what role did you have? As in, what was your posting?

25 MAJGEN HAFNER: I was posted – sorry - - -

COL STREIT: In November 2020, what was your role?

30 MAJGEN HAFNER: Yes. In November 2020, I was the Commander of the 16th Aviation Brigade posted to Brisbane.

COL STREIT: And in relation to the implementation – sorry, the determination of the Defence, DFSB Aviation Safety Investigation Report and its implementation, what role did you have in that?

35 MAJGEN HAFNER: In the context of the implementation?

COL STREIT: Yes.

40 MAJGEN HAFNER: Reviewing the report. It was in my capacity as the Deputy Commander of the Aviation Command.

45 COL STREIT: Thank you. And so the bottom line is between the time of the event, the near miss November 2020 and the time of considering the

DFSB report into that event and the implementation of its recommendations, you had changed postings.

MAJGEN HAFNER: That's correct.

5 COL STREIT: Now at paragraph 23 and onwards you set out some factual matters concerning the near miss investigation. So, the Aviation Safety Investigation Report into the MRH-90 formation near collision in Townsville field training area on 11 November 2020 was delivered by the
10 DFSB on 9 December 2021. Correct?

MAJGEN HAFNER: Correct.

15 COL STREIT: So, in terms of timeline, just over 12 months from the event.

MAJGEN HAFNER: Correct.

20 COL STREIT: You say at paragraph 23 there was a period of analysis. After a period of analysis, on 25 May the Colonel you identified there, who was the then Director Operational Airworthiness and the Command Aviation Safety Officer, provided a brief to you, which you've attached to your statement.

25 MAJGEN HAFNER: That's correct.

COL STREIT: Now, the brief to you included, did it, a draft implementation directive to address the recommendations and findings contained in the DFSB report?
30

MAJGEN HAFNER: It did.

COL STREIT: And a draft Minute to authorise the disbandment of the Aviation Safety Investigation Team; is that right?
35

MAJGEN HAFNER: That's correct.

COL STREIT: Just in relation to the latter matter, why was it necessary for there to be a Minute to authorise the disbandment of the Aviation Safety Investigation Team?
40

MAJGEN HAFNER: So the normal process after one of the significant events would be that we would appoint a Safety Investigation Team. That is done by an appropriate appointing authority. Once that Safety Investigation Team delivers their final report, then there is a process by
45

which we would accept the report, disband the Safety Investigation Team on acceptance of the report, and then obviously take the content of the safety investigation and translate the recommendations into actions.

5 And so there is obviously a process of a specialist review of the report and then translation into an implementing directive. But that Minute that you refer to is accepting of the investigation and, therefore, advising that the Safety Investigation Team could therefore be disbanded.

10 COL STREIT: And, sir, just very briefly, and in broad compass only, can you just assist the Inquiry understand what the actual event was; that is, the near collision at Townsville field training area on 11 November 2020 between two MRH-90s?

15 MAJGEN HAFNER: It was a training event of differing aircraft types. That was a night formation mission that was being executed in which two of the MRHs in the MRH part of the formation came in close proximity to each other during the conduct of the mission.

20 COL STREIT: And when you say “close proximity”, it was a matter of metres; is that right?

MAJGEN HAFNER: So the exact distances are within the safety report, but you are inside of one rotor diameter. So, typically, our formation
25 spacing is judged based on a rotor diameter. It would be normal that formation flight is conducted no closer than two rotor diameters. In this case, the two aircraft came within one rotor diameter – just under one rotor diameter of each other.

30 COL STREIT: Now, one rotor diameter of an MRH-90 aircraft?

MAJGEN HAFNER: That’s correct.

MS McMURDO: Which is what distance?
35

MAJGEN HAFNER: I would need to refer back to the safety investigation report for the exact distance. It does contain a - - -

MS McMURDO: Sure, thank you.
40

AVM HARLAND: On a scale of “Close to”, “Not really a worry”, where does that lie?

MAJGEN HAFNER: Yes, like I said, it would be – normal flying is at
45 two rotor diameters. Getting within one rotor diameter is not normal.

AVM HARLAND: The event classification of that safety report, where did that start out at?

5 MAJGEN HAFNER: It started out as a Class C safety investigation report.

AVM HARLAND: Yes.

10 MAJGEN HAFNER: There were a range of indications about the severity of the event. Based on there being some uncertainty, we sought some analysis of the aircraft data recorders to get a better understanding of the separation of the aircraft. And based on that, we escalated it to a Class B event.

15 AVM HARLAND: So you don't go the other way around, where if you've got some question marks, you start high and then bring it down low? You started low and then brought it up high?

20 MAJGEN HAFNER: So I think you can go either way. In this case, the unit had classified the event as a Class C, but based on, like I said, some uncertainty that was coming, we sought some further analysis. And that was sufficient then to say that the severity of the event was greater than what had originally been indicated, and it warranted a more substantive investigation as you find with a Class B event.

25

AVM HARLAND: Is it fair to say that that missed distance is as close as you can get without actually colliding? It's a pretty - - -

30 MAJGEN HAFNER: I wouldn't say that. I think you either collide or you don't. But inside one rotor diameter, from my experience of flying in formation, it would be very uncomfortable. That is getting extremely close for a helicopter.

35 AVM HARLAND: Yes. Okay, thank you.

COL STREIT: Sir, can I just assist you, and just take you quickly to tab 8 – tab 9, I apologise. I'm not asking you to tell me what's at tab 9. If I can just draw your attention to paragraph 2, last sentence? Would you accept one rotor diameter is very close?

40

MAJGEN HAFNER: That's correct.

MS McMURDO: Is there any problem with us mentioning the distance?

45

COL STREIT: Well, only that the top and bottom of the classification of the document.

5 MAJGEN HAFNER: I don't believe it would be of issue, from a security classification point of view.

MS McMURDO: Thank you. So it's 12 metres was the separation between the two helicopters.

10 MAGEN HAFNER: That's what's reflected, Chair.

LCDR GRACIE: Ma'am, we have already had evidence about this. I think it was LTCOL Cameron or CAPT Balaam.

15 MS McMURDO: Yes. Thank you.

LCDR GRACIE: In Exhibit 2.

MS McMURDO: Yes. Thank you. Thank you for that.

20 COL STREIT: There is always an overlap of evidence over a period of an Inquiry as to what's in the public domain and what's not, so the exercise of caution is always important. But, sir, can I just ask you this. I just want to now break the timings for the event: the consideration of the DFSB report and then the implementation. So, sir, the event was 11 November 2020

25 with the DFSB report was December 2021. Correct?

MAJGEN HAFNER: Correct.

30 COL STREIT: The consideration by Aviation Command after its analysis of the DFSB report led to a determination on 31 May 2022 by you progressing the draft implementation directive to the then Commander Aviation Commander, MAJGEN Jobson.

35 MAJGEN HAFNER: That's correct.

COL STREIT: So, that's a period of just under about 18 months, just under 18 months from point of the event?

40 MAJGEN HAFNER: Correct.

COL STREIT: Then in paragraph 24, sir, you identify the Military Air Operator Directive 4/2022 – Implementation of Recommendations from Aviation Safety Investigation Report into the MRH-90 Formation Near

Collision, Townsville Field Training Area, 11 November 2020, was released 9 June 2022.

MAJGEN HAFNER: Correct.

5

COL STREIT: That Directive was for certain parts of Aviation Command to give effect to the findings and recommendations accepted by GEN Jobson?

10 MAJGEN HAFNER: That's correct. So the recommendations that are contained within the investigation report are translated into a range of tasks which are allocated and directed through the implementing directive.

15 COL STREIT: Some of those tasks related to matters concerning the conduct of night operations?

MAJGEN HAFNER: Correct.

20 COL STREIT: Including in formation.

MAJGEN HAFNER: Correct.

COL STREIT: And included matters concerning fatigue management.

25 MAJGEN HAFNER: Correct.

30 COL STREIT: Now, in the ordinary Military context, when a Commander accepts the findings of a report and then has an implementation program for the findings of that report, there's a requirement, is there, for subordinate organisations to come back to that Commander with updates as to how they're progressing the implementation of those matters?

MAJGEN HAFNER: That's correct.

35 COL STREIT: Can I take you to page 6 of your statement, please, paragraph 27. Now, you were responding there to a question in these terms:

40 *State which action items, if any, from the Implementation Plan arising from the above incident remained outstanding as at 28 July 2023.*

45 You say at paragraph 27, "On 27 July 2023, Colonel" – the member identified there, then the Director Operational Airworthiness and Command Aviation Safety Officer provided you with a decision brief, which you've enclosed to your statement, on the status of action items contained within

the directive that GEN Jobson had issued. That's correct?

MAJGEN HAFNER: That's correct.

5 COL STREIT: And the brief detailed that 18 action items had been completed with an extension sought for 10 action items that required further work.

MAJGEN HAFNER: That's correct.

10

COL STREIT: So were there a total of, therefore, 28 action items?

MAJGEN HAFNER: That's correct.

15 COL STREIT: 18 completed, 10 requiring further work.

MAJGEN HAFNER: Correct.

20 COL STREIT: On 28 July 2023 you progressed the decision brief to MAJGEN Jobson, the then Commander Aviation Command, and recommended approval of the extension requests.

MAJGEN HAFNER: Correct.

25 COL STREIT: You set out at paragraph 28, as at 28 July 2023, the action items that remained outstanding. Correct?

MAJGEN HAFNER: Correct.

30 COL STREIT: At 28(a) you say this:

Action item 1(e), incorporate formation flying proficiency requirements into the unit Training and Assessment Plan, task lead unit Commanding Officers.

35

Then you have:

Confusion as to requirement delayed progressing the extension request sought to afford additional time without distraction from Exercise TALISMAN SABRE obligations.

40

Just pausing there, sir, so that action item resulted from a finding and/or recommendation from the DFSB report?

45 MAJGEN HAFNER: Correct.

COL STREIT: Which had been accepted by MAJGEN Jobson?

MAJGEN HAFNER: The DFSB report was accepted by me.

5 COL STREIT: Sorry, yes.

MAJGEN HAFNER: But the implementing directive had been issued by MAJGEN Jobson.

10 COL STREIT: Sure. And the implementing directive was to implement those findings and recommendations of the DFSB report comprising 18 action items?

15 MAJGEN HAFNER: A total of 28 action items.

COL STREIT: 28 action items, sorry. Can't add up. 28, thank you. But as at 28 July 2023 – and this is in relation to the brief that you progressed to MAJGEN Jobson – which just happened to be the tragic day of this

20 accident that we're examining, you identify action item 1(e) which is:

To incorporate formation flying proficiency requirements into the unit Training and Assessment Plan.

25 What was, in broad terms, that task? What did that task require?

MAJGEN HAFNER: So task 1 had a number of elements on how we could make sure that formation flight training were the areas where we could do enhancement. This particular sub-element of the task – so each

30 unit has a unit training and assessment program, which really details how they do the in-unit development of their personnel. So, really, how is someone progressed and developed in their flight training within the unit? This task was for the units to go and re-assess. You know, even though it was an MRH accident, we typically make sure that we can take

35 that learning and apply it across all of the units, in all of the aircraft types.

And so it was asking, or directing, all of the units to review their development programs to make sure that their formation flying proficiency development was appropriately captured.

40 COL STREIT: You then say, "Task lead unit Commanding Officers", and you then say, "confusion as to requirement delayed progression". When you say "confusion as to requirement delayed progression", what did you mean?

45

MAJGEN HAFNER: So we found that there was a belief in a couple of the units that the other parts of the task and implementing tasks in the directive, would achieve this outcome by stipulating recency and proficiency requirements in other areas of our orders, instructions and publications which may not then require the action being applied into the unit training and assessment programs.

But that was clarified again. We sought to have action at multiple layers of the system and the unit training and assessment programs remained one of those layers where we sought work to be done, and so that was clarified.

COL STREIT: “The extensions request was sought to afford additional time without distraction from Exercise TALISMAN SABRE obligations.” Can you just explain what you mean by that?

MAJGEN HAFNER: So at this point in time, the units were involved in Exercise TALISMAN SABRE. So to have them conduct that review task while they were on the exercise – and, again, it was a matter of their ability to do multiple events at the same time – but making sure that we didn’t distract them from the exercise focus of the exercise they were on, but still allowing time for the tasks to be properly completed.

MS McMURDO: But it was a recommendation that was directly relevant to the sort of flying that was going to be done in the exercise, wasn’t it?

MAJGEN HAFNER: Yes, ma’am. So many of these items are always about continuous improvement. You know, we are always trying to improve the organisation. Formation flight is really a core skill, a core activity, that’s done by Army Aviation.

AVM HARLAND: Just in terms of timing, could you just confirm, would you agree that at 28 July ‘23 is about two and a half years after the incident itself and that it’s about one and a half years after the report was delivered for DFSB. That seems like a fairly healthy amount of time to be able to get some of these action items done, and you were comfortable in giving an extension? Because I guess I’m trying to get to the idea of priorities and where they fall.

MAJGEN HAFNER: Yes. So I think at that point the task needed to be completed. But again, when you have – the unit is on an exercise at that point in time and just taking their effort and their focus away from the exercise at the time. Noting that this is not the only part of making sure that we have people who are trained for formation flight. There’s many parts to checking the training system, the syllabuses that we had that people were training under were appropriate.

5 So this was an opportunity for enhancement of making sure that we had further proficiency ongoing within each of the units for their formation flight. So, yes, there is a length of time here.

10 AVM HARLAND: So would it be routine, acceptable, expected, that it would take two and a half years to implement a safety recommendation after an incident – like, a fairly significant incident? We almost had two aircraft collide here and missed by a matter of metres. Is that what you'd expect to be normal in Army Aviation?

15 MAJGEN HAFNER: So two and a half years since the incident.

AVM HARLAND: Mm-hm.

20 MAJGEN HAFNER: No, we would seek to do it much faster than that.

AVM HARLAND: Okay, thank you.

25 COL STREIT: Just to be clear, sir, the DFSB report took just over 12 months, which was December 2021, a directive issued by GEN Jobson in mid-2022. That's about six months after receipt of the DFSB report. Correct?

30 MAJGEN HAFNER: Correct.

COL STREIT: So GEN Jobson required, in that directive, certain things to be undertaken, the implementation of findings and recommendations. Yes?

35 MAJGEN HAFNER: Correct.

COL STREIT: But, as at 28 July 2023, you were having to staff a brief to GEN Jobson setting out to him those tasks that had not been completed as at 28 July 2023.

40 MAJGEN HAFNER: That's correct.

COL STREIT: So the units or the persons given the responsibility of implementing those tasks have had since about mid-2022 to July 2023 to implement those matters. Correct?

45 MAJGEN HAFNER: That's correct.

COL STREIT: So just over 12 months?

MAJGEN HAFNER: Correct.

5 COL STREIT: So TALISMAN SABRE was an exercise that impacted the units, even being generous, let's say from March 2023. Correct? Would you accept that?

10 MAJGEN HAFNER: So I think their development pathway that leads into those exercises starts from the beginning of the year to complete.

COL STREIT: Sure. Can I suggest, is it a fair proposition to put to you that from the start of 2023 up until the exercise, there's an increase in the number of personnel that become involved in the preparation of TALISMAN SABRE?

15 MAJGEN HAFNER: There is greater focus on the exercise as it moves forward. There's a series of events that lead up to the major event. I wouldn't necessarily say that it's increasing participation. You have a building of the training level and standard as you move through the year for all the participants.

20 COL STREIT: Sure. I put it clumsily. Perhaps I could do it this way. The actual aircrews – so if you're flying missions on Exercise TALISMAN SABRE, they're not really worried about those missions in January, February or March, because they're doing other things. Correct?

MAJGEN HAFNER: They wouldn't know what the missions on the exercise were at that point.

30 COL STREIT: But as we move closer to the exercise, they have to engage in pre-deployment preparation and training. That's right?

MAJGEN HAFNER: Correct.

35 COL STREIT: And so, over time, more people start to be dragged into the TALISMAN SABRE exercise activity, don't they?

MAJGEN HAFNER: Yes, they do.

40 COL STREIT: So is there any other reason as to why, putting aside TALISMAN SABRE, an action item in relation to incorporating formation flying proficiencies into a unit Training and Assessment Plan was delayed and didn't occur as at 28 July 2023, 12 months after GEN Jobson had tasked it to be done.

45

MAJGEN HAFNER: I think that question would be best placed to the task lead as to the competing priorities that were on them at that point.

5 COL STREIT: Sure. I only ask you, sir, because you're seeking the extension of time to GEN Jobson by facilitating a brief.

MAJGEN HAFNER: Yes.

10 COL STREIT: Therefore, I take it you yourself conducted your own assessment as to whether what was occurring on the ground was a reasonable explanation for the delay before you staffed it to the General.

15 MAJGEN HAFNER: The reason why I sought the extension was because the task remained a valid task. It was important that the task was completed. The fact is that at that point it had not yet been completed. You know, again, it's a matter of getting the task done, but recognising at that point the unit was on the exercise and so making sure that they were given some additional time to conduct the analysis of their training assessment program and completely implement the requirements of the directive.

20 COL STREIT: The Colonel you identify at paragraph 27, did that person offer any explanation to you as to why some unit Commanding Officers had not actioned that item; that is, incorporated formation flying proficient requirements into the unit Training and Assessment Plan?

25 MAJGEN HAFNER: I don't recall any information beyond that which is contained within the brief.

30 COL STREIT: And do you know whether action item 1(e) incorporated the fact that – or do you know whether 6 Aviation Regiment at that time had incorporated formation flying proficient requirements into the unit Training and Assessment Plan?

35 MAJGEN HAFNER: No, they had not.

COL STREIT: There are other items you've identified, sir, at paragraphs 28(b), (c), (d) and (e) relating to the other outstanding action items. That's correct?

40 MAJGEN HAFNER: Sorry, can I just - - -

COL STREIT: Sure.

45 MAJGEN HAFNER: On the last answer, noting that unit training assessment programs have always had a development continuum within

them. So this was for them to go back and review what was already existing and then look for the enhancements within that in terms of further recency and proficiency in formation flying.

5 So I would need to go back and have a look at the existing unit training and assessment program at that time, but the unit training and assessment program existed. This was a review to enhance what was in and confirm what they had within their existing programs was suitable.

10 COL STREIT: So action item 1(e), and I'm just looking at your words:

incorporate formation flying proficiency requirements into the unit Training and Assessment Plan.

15 So that was the outcome of a finding and recommendation from the DFSB report. Correct?

MAJGEN HAFNER: Correct.

20 COL STREIT: The DFSB report was into an incident involving two aircraft, in formation, at 5 Aviation Regiment. Yes?

MAJGEN HAFNER: Correct.

25 COL STREIT: So the limitation is not limiting the action item to 5 Avn; it's into all units, isn't it?

MAJGEN HAFNER: That's correct.

30 COL STREIT: And the reason an extension was sought – perhaps I'll put it this way. Can you recall whether the extension was sought in relation to all units: 1 Aviation, 5 and 6?

35 MAJGEN HAFNER: The extension did not stipulate, from my recollection, a particular unit, just that the task would not be closed until all units had completed it, and additional time was required.

COL STREIT: Now, action item 28(b) required:

40 *to develop a system to characterise illumination that planners and Authorising Officers can use to assess night-vision imaging system performance and manage risk during night flying.*

Correct?

45

MAJGEN HAFNER: Correct.

COL STREIT: The task lead was the Staff Officer Grade 1 Standards. This action item required additional effort associated with the Defence
5 Aviation Safety Regulation, Special Purpose Approval 0.55, Night-Vision Imaging System implementation and was incorporated within a broader review of the Army Military Air Operator orders, instructions and publications through the In-Progress Standing Instructions Modernisation Projects. Correct?

10 MAJGEN HAFNER: That's correct.

COL STREIT: 28(c), action item 6(b) was:

15 *an update to the Learning Management Plans to incorporate outputs from action item 6(a), and that related to Core Risk Profiles for night-vision image systems and degraded visual environments.*

20 Sorry:

A Core Risk Profile for night-vision imaging systems and degraded visual environments had been completed and was being progressed for approval but poor risk profile was a precursor for the
25 *completion of this action.*

Is that right?

MAJGEN HAFNER: That's correct.

30 COL STREIT: Now, (d), action item 7 to 12 concerned this:

Developed policy for the Army Military Air Operator to implement Defence Aviation Safety Regulation Aviation Fatigue Management that considers the Aviation Safety Investigation Report
35 *recommendations 8, 9, 10, 11 and 12.*

Is that correct?

40 MAJGEN HAFNER: Correct.

COL STREIT: So the DFSB report into the near miss in November 2020 made recommendations 8 to 12 concerning fatigue matters?

45 MAJGEN HAFNER: Correct.

COL STREIT: And so there was an action item – I'll withdraw that. And fatigue matters impacting aircrew?

5 MAJGEN HAFNER: Correct.

COL STREIT: And there was an action item to develop a policy for Army Military Air Operator to implement the DASR Aviation Fatigue Management considering those recommendations made by the DFSB report. Correct?

10

MAJGEN HAFNER: Correct.

COL STREIT: And that remained, as at 28 July 2023, an outstanding action item.

15

MAJGEN HAFNER: That's correct. There is further evidence within my witness statement, later items, that speaks to the assessment of the documentary suite that we had in place at that time, and its sufficiency to meet our obligations to the Regulation.

20

COL STREIT: The final item, 28(e), is action item 15. At 28(e) of your statement, you identify action item 15(a) was to:

25 *Develop orders, instructions and publications that clarify the roles and responsibilities of the Air Mission Commander and flight lead during planning, authorisation and flying.*

That's correct?

30

MAJGEN HAFNER: That's correct.

MS McMURDO: Could I just ask you, taking you back to 28(b) and action item 3(a), could you explain what was involved with this one:

35

Developing a system to characterise illumination that planners and Authorising Officers can use to assess night-vision imaging systems performance and manage risks during night flying.

40 Could you explain that in lay terms?

MAJGEN HAFNER: Yes, ma'am. So there was a new Regulation that had a compliancy period that was later in 2023. From recollection, that was around November 2023, to have implementation by. What we needed to do was go back and have a look at how we defined different illumination

45

levels. So you might set criteria below a certain illumination level of certain millilux.

5 MS McMURDO: Yes, two millilux. We've heard a lot about two millilux.

10 MAJGEN HAFNER: Two millilux was where we define, below that two millilux, whether you would have increased proficiency requirements for personnel to fly in what were lower periods of illumination. And so that was, again, part of the review of the implementation of how we would meet this new regulation within its compliancy period.

15 Where possible, we try to minimise changes to our orders, instructions and publications through the issue of lots of Special Flying Instructions, which are a supplementary mechanism. Where possible, if we can include the update within a broader update of our baseline instructions, then it's easier for the aircrew because there's less documents for them to have to access.

20 And that's why, in this case, we sought to include that information within what was a broader review under our Standing Instruction Modernisation Project which was a fundamental go back and relook at the mapping of all of our instructions to what the Regulations were.

25 MS McMURDO: So it was, nevertheless, an issue about night-vision imaging systems performance, and that obviously was recognised as a risk during night flying?

30 MAJGEN HAFNER: So it was making sure that we had matched the appropriate recency and currency requirements for different levels of illumination.

MS McMURDO: Then the next one, 28(c), action item 6(b) relates to 6(a), which was:

35 *Review training qualification and recency requirements for flying at night at all illumination levels.*

So action item 6(b) was to:

40 *Update Learning Management Plans to incorporate the outputs from that action item –*

that is, the review of the training qualifications and recency requirements for flying at night at all illumination levels.

45

So all these recommendations, as we're going through them, as it turns out, were all relevant to the circumstances in which the fatal flight was being conducted on 28 July.

5 MAJGEN HAFNER: I think that each of these areas is relevant to that mission profile that was being flown. I would say that as you look through each of these areas, they're opportunities for safety improvement and there was action being taken. But in some cases, for these particular items, it had not progressed at the rate that we had originally envisaged, and there was
10 further work being done.

MS McMURDO: Thank you.

AVM HARLAND: Just a question. Given the seriousness of the incident
15 that happened back in 2020, the near miss that we're talking about and the progress of these action items and the ones that are outstanding – and they seem to me to be fairly important actions that still require follow-up – two questions. The first one is, was there any interim action taken in terms of, like, an instruction put out that would limit the crews to be able to reduce
20 their exposure to the risks that we saw come to pass in that near miss?

And then the second question is, was there any consideration given to cancelling particular activities that were related to these risks until this had been actually delivered?
25

MAJGEN HAFNER: Yes. So I think just the first part, going back and having a look at the training that was being delivered to our individuals through the learning management packages and having a review of our Standards Manual as to how the flight activities should have been
30 conducted on that sortie of 11 November 2020, it reaffirmed that the procedures that we had in place, the training that we had in place, was appropriate but, in this instance, had not been followed.

So that was our baseline for the beginning. We then, in May 2023 – so prior
35 to this brief going forward and looking at those action items – there had been further enhancements within our Standing Instructions, particularly in our flight authorisation and our supervision instructions. And they greatly expanded looking at areas of recency, proficiency, the suitability of the crew in the conduct of the flight authorisation brief as well.
40

AVM HARLAND: So you're saying that actions that have been taken since the near miss would have contributed to better management in relation to these outstanding recommendations.

45 MAJGEN HAFNER: The actions that had already been taken were

confirming that the baseline of training and procedures that we had was appropriate, and that the way in which we were confirming the recency and proficiency of personnel through our flight authorisation process that had been updated – but these actions we still needed to progress.

5

And that's why, because they were not complete at this point, I personally recommended to MAJGEN Jobson on this brief, in accordance with the recommendation that was put to me, that we afford extra time to make sure that they were completed to the required level to achieve that further improvement.

10

AVM HARLAND: When you got to that point, was this a surprise? Had you been seeing this through your routine Safety Committees that these recommendations were not being implemented?

15

MAJGEN HAFNER: I think we had seen, since we established the command, that there had been challenges on the organisation enclosing some of the historic events and we were absolutely focused on making sure that any historical action item that remained was being addressed, and it was appropriately being closed.

20

AVM HARLAND: And my second question was whether there was any consideration given to cancelling activities because these things hadn't been done.

25

MAJGEN HAFNER: I don't recall us looking at cancelling an activity. Again, making sure that our baseline training, our procedures were, and still remained, appropriate, and that we were making sure through our flight authorisation process that the personnel that would go and fly missions would meet those criteria was some of the immediate actions that we took.

30

AVM HARLAND: Okay, thank you.

COL STREIT: Sir, can I take you to paragraph 29? You say that:

35

In addition to the above items as at 28 July 2023, Standards Section Aviation Command had developed Core Risk Profiles.

I pause there. Can you just assist the Inquiry understand what's a Core Risk Profile?

40

MAJGEN HAFNER: Yes. So typically – and we articulate this in our Instructions – we consider core risk and new risk. A core risk will be a risk that really is enduring and inherent within the conduct of an activity or within a given platform that you're running. So they're very much

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enduring risks that you've got within your system.

5 A new risk is clearly something that might be based on a new piece of equipment, a new profile, a new circumstance. It might start as a new risk and then could become a core risk if it is going to be something that is adopted in a more enduring nature. A Core Risk Profile is really bringing together a number of core risks.

10 What I would say is, our orders, instructions and publications as they relate either to a given aircraft system or they relate to more broadly how we conduct Army Aviation operations, all of those publications, instructions, procedures, orders are effectively an encapsulation of hazard identification, core risk and treatment that's been built over decades.

15 The Core Risk Profiles help focus on areas in given flight regimes of where those core risks exist and the treatments to be applied.

COL STREIT: A Core Risk Profile, as you refer to in paragraph 29 of your statement, you say, and I continue your evidence:

20 *Core risk profiles in response to action items 1(b), 2, 3(b), 5 and 6(a) covering operations, flight overwater, low level flight, night-vision imagining systems and degraded visual environment –*

25 I pause there. So the Core Risk Profiles, do we understand your evidence, sir, to be that as at 28 July 2023 Standards Section had developed Core Risk Profiles in response to the action items arising out of the DFSB report and the acceptance of its findings and recommendations by GEN Jobson?

30 MAJGEN HAFNER: That's correct. But noting that these core risk profiles really articulated across multiple aircraft types, and across multiple units. So they were encompassing more than just the recommendations related to MRH.

35 COL STREIT: And that leads to my next question of you, sir. So a Core Risk Profile is a profile issued at the – I'm just focussing on Aviation Command – is issued at the Command level?

40 MAJGEN HAFNER: It can be. It can be issued at subordinate levels as well.

COL STREIT: But these Core Risk Profiles are going to be issued at the Command level that you've identified at paragraph 29?

45 MAJGEN HAFNER: Correct.

COL STREIT: And, therefore, every unit under Aviation Command is required to comply with those Core Risk Profiles?

5 MAJGEN HAFNER: That's correct.

COL STREIT: They can restrict even further the operation of those Core Risk Profiles to even mitigate further risk that might be identified in a Core Risk Profile. Correct?

10

MAJGEN HAFNER: So the Core Risk Profile would identify hazards.

COL STREIT: Yes.

15 MAJGEN HAFNER: It would define treatments. And typically, those treatments would be issued via an instruction.

COL STREIT: But a unit Commander, OC, Aircraft Captain, pilot, co-pilot knowing what the Core Risk Profile says about something, they're not empowered just to ignore the application of that Core Risk Profile, are they?

20

MAJGEN HAFNER: No, they're not.

25 COL STREIT: So the Core Risk Profile is what guides them in their own planning of the risks that might be relevant or contextually driven by a particular operation or an exercise they're engaging in?

MAJGEN HAFNER: Yes. So in this case rather than if you had, for example, ARH Tiger aircraft from the 1st Aviation Regiment that were going to fly a mission with MRH-90 aircraft from the 5th Aviation Regiment, rather than trying to authorise and look at that flight through the lens of multiple risk assessments, then the Core Risk Profiles actually aggregated so that it would encapsulate your consideration and view of the aggregated risk across, like I say, the multiple units involved and the multiple aircraft types involved.

35

So you had a better wholistic assessment of the risk. So it was an improvement over just individual unit Risk Management Plans.

40

COL STREIT: You say in paragraph 29, second-last line – or third-last:

These whole Aviation Command multi-aircraft type core risk profiles were being progressed for approval at the time of the incident with 6 Aviation Regiment, MRH-90 Taipan operations

45

covered by the approved unit level Risk Management Plans.

Is that correct?

5 MAJGEN HAFNER: That's correct.

COL STREIT: So bottom line is, the Core Risk Profiles that were being developed by Standards Section in response to implementation of recommendations from the DFSB report, near miss 2020, were effectively
10 in draft and not approved at the time of the accident on 28 July 2023.

MAJGEN HAFNER: That's correct. But noting that there were existing approved Risk Management Plans for 6th Aviation Regiment, multi-role helicopter operations.
15

COL STREIT: Sure. No, I understand that. I'm not suggesting there weren't approved unit level Risk Management Plans. What I am suggesting to you though is, is that the improvements the organisation was undertaking in relation to Core Risk Profiles – to pick up on those things that had been
20 identified by the DFSB, the near miss in 2020, in relation to formation flying, night flying, those improvements were not in effect at the time of the accident on 28 July 2023.

MAJGEN HAFNER: Those Core Risk Profiles had not been approved at
25 that time.

COL STREIT: Now, at paragraph 30, in short compass, you indicate or give evidence to the effect that the advancement of several action items contained within the Military Air Operator Directive 4/2022 – this is in
30 relation to the near miss – those action items were delayed due to concurrent demands, including the impacts of the incident at Jervis Bay in March 2023, and the subsequent incident in the vicinity of the Whitsunday Islands on 28 July 2023 during Exercise TALISMAN SABRE. All action items are now complete. Is that correct?

35 MAJGEN HAFNER: That's correct.

COL STREIT: Sir, can I turn to the Jervis Bay incident which you've addressed at paragraph 31 of your statement. You were asked to outline
40 your role, if any, in the Military Air Operator Accountability Manager's decision-making process in 2021, or at any other time to modify the defective HP1 turbine blades on Army's MRH-90s when they were returned for deeper maintenance rather than to modify them at a faster rate.

45 You say you don't recall performing any role within the decision-making

process regarding the selected approach to engine modification being applied to the Army's MRH-90 Taipan fleet. That's correct?

MAJGEN HAFNER: That's correct.

5

COL STREIT: You go on to respond to question 9 with some evidence about your involvement subsequently concerning the outcome of the Jervis Bay incident. So you were asked to state whether:

10

Are you aware that the aircrew were flying MRH-90s with unmodified engines, i.e. with a defective HP1 turbine blade in 2023.

And if you were aware:

15

outline who else was aware that the engines were unmodified in 2023.

And whether that included the aircrew in 6 Avn Regiment.

20

At paragraph 34 you say that during your tenure as the Deputy Commander Aviation Command you were involved in the consideration of various MRH-90 Taipan critical repairable items, role equipment and aircraft modifications that were pending incorporation and prioritisation decisions.

25

You do not, however, recall the High Pressure 1 turbine blade issue being specifically discussed until following the incident at Jervis Bay, New South Wales, on 22 March 2023. That's correct?

30

MAJGEN HAFNER: That's correct.

COL STREIT: You attach to your statement two enclosures, enclosure 11 and 12, in relation to matters concerning Army's decision to upgrade the engines?

35

MAJGEN HAFNER: Correct.

COL STREIT: You say, also in 34, you don't recall any directives or other orders issued to the unit Commanding Officers to inform, or not inform, aircrews to the modification status of the engines in Army's MRH-90 Taipan fleet. That's correct?

40

MAJGEN HAFNER: Correct.

45

COL STREIT: You say at 35 that you were aware that members within

5 the Army Military Air Operation organisation, Capability, Acquisition and Sustainment Group, Airbus Australia Pacific and the Defence Aviation Authority were informed of the status of the engines in the MRH-90 Taipan fleet throughout forms such as the Configuration Control Board and Fleet Planning Working Groups.

10 The aircraft configuration and serviceability information is also contained in Computer-Aided Maintenance Management version CAMM2, the Defence Aircraft Maintenance Management System. Is that correct?

MAJGEN HAFNER: That's correct.

COL STREIT: You say at 36:

15 *MRH-90 Taipan aircrew were provided with information and training in order to plan for, and respond to, engine in-flight shutdown events during flights.*

Correct?

20 MAJGEN HAFNER: That's correct.

AVM HARLAND: Could I just ask a question? Was that just a general or routine information they were provided, like, just as part of normal – or
25 was that a specific, "Hey, we've got this problem with HP1. You might want to have a look and refresh these areas"?

30 MAJGEN HAFNER: No, so it was what is the normal across all of the aircraft types, so all of the helicopters, being multi-engine aircraft, then conducting training for and making sure that people were always prepared for that particular circumstance should you experience a single-engine failure, or a dual-engine failure, is part of normal training.

35 AVM HARLAND: So this is standard background as part of the structure of orders, instructions, publications and training.

40 MAJGEN HAFNER: That's correct, yes, contained within the Aircraft Flight Manual, or the Operator's Manual, and within the Standardisation Manual for the procedures, considerations in planning, performance planning, of the performance of the aircraft should it lose or have an engine failure. And then, obviously, your actions on – and in this case the MRH-90 Standardisation Manual had a particular chapter targeted towards a one-engine inoperative consideration.

45 AVM HARLAND: Yes, so not specific to this HP1 issue.

MAJGEN HAFNER: No.

AVM HARLAND: A general – okay. Thank you.

5 MAJGEN HAFNER: That’s correct.

COL STREIT: Paragraph 36(a), (b), (c) and (d), you set out matters in relation to training for pilots to plan for and respond to engine in-flight shutdown events during flights. Correct?

10 MAJGEN HAFNER: Correct.

COL STREIT: Now, the event concerning the Jervis Bay Territory, do you understand it to be an event occurring in March 2023 where 6 Aviation Regiment were conducting an exercise with Special Forces’ personnel, where they were overwater? Do you understand that?

15 MAJGEN HAFNER: That’s correct.

COL STREIT: And that required picking people up from the water.

20 MAJGEN HAFNER: Correct.

COL STREIT: And it was in the course of that, whilst there were soldiers suspended from the aircraft on an item, that the engine of one of the MRH-90s suffered a HP1 turbine blade issue, which shut down the engine.

25 MAJGEN HAFNER: Correct.

COL STREIT: And the evidence before the Inquiry is the aircraft was not very high off the water. Do you accept that?

30 MAJGEN HAFNER: That would be an accurate description.

COL STREIT: And, at least initially, it lost height and ultimately impacted the water. Do you accept that?

35 MAJGEN HAFNER: Correct.

COL STREIT: You say at paragraph 37:

40 *It is possible that aircrew were not specifically informed that the engines in the aircraft they were flying were unmodified as the High Pressure 1 turbine blade failure rate was determined to be*

45

within the existing aircraft type certification basis, and in an Airbus Australia-specific engineering report –

which you have identified there –

5

and in accordance with the Military Air Operator Accountable Manager Decision Brief –

which you have identified there –

10

the residual risk associated with the modification option selected by Army, being Option 3, was assessed as low, with no failures expected to occur while operating outside of one engine inoperative performance.

15

Correct?

MAJGEN HAFNER: That's correct.

20

AVM HARLAND: How did we end up in a situation where we had a ditching if no failures were expected?

25

MAJGEN HAFNER: Yes. So my recollection within there is the advice that was provided within the brief that is attached as an enclosure, but effectively the assessment of a low risk was the assessment that was provided at that time.

30

AVM HARLAND: For that profile for the Jervis Bay exercise, what performance category were they operating under?

MAJGEN HAFNER: You, typically for that situation, would require Performance Category 3.

35

AVM HARLAND: With Troops suspended below the aircraft?

MAJGEN HAFNER: Correct.

40

AVM HARLAND: So Performance Category 3, just by my understanding, is that one engine inoperative is likely to result in a forced landing. Is that your understanding as well?

MAJGEN HAFNER: That's an accurate description, yes.

45

AVM HARLAND: So while we have a HP1 blade failure, acknowledging that it's inside the aircraft type certification basis, but it is something which

requires changing, that with Troops slung below the aircraft, the risk level that was accepted while operating under Performance Category 3 meant that if they lost an engine, they would be ditching.

5 MAJGEN HAFNER: That's correct, noting the HP1 was a recommended, not mandatory modification to the aircraft. The assessed option – like I say, the brief that's contained as one of the enclosures to my statement goes through and articulates the risk parameters around each of the options that were presented, and recognised that it would be assessed as a low risk,
10 noting that it remained within the certification basis of the aircraft, the failure rate that could potentially happen.

AVM HARLAND: So while it remained within the certification basis, did HP1 present an elevated risk of losing an engine?

15 MAJGEN HAFNER: It was a level of risk that remained within what were the parameters of the certification basis, and the safety case for the aircraft.

20 AVM HARLAND: But it was elevated in comparison to an aircraft that had been modified to take out that HP1 failure?

MAJGEN HAFNER: That would be correct.

25 AVM HARLAND: Thank you.

COL STREIT: Sir, just in relation to paragraph 36(a), (b) and (c), those are all references, are they not, to standard training in order to plan, prepare, and respond to engine in-flight shutdown events?

30 MAJGEN HAFNER: That's correct.

COL STREIT: So not specific to what 6 Aviation Regiment might be tasked to do?

35 MAJGEN HAFNER: It is circumstance that account for differing flight profiles where you might experience an engine failure. So it could be, like I say, if you experience an engine failure in normal forward flight, it could be if you experience an engine failure in other flight regimes, similar to the activities of the 6th Aviation Regiment at the time of the incident.
40

COL STREIT: In 36(b), the second sentence, it says:

It also defined the performance class system be applied to manage

risk associated with one engine inoperative, and required operators to use the most conservative performance class that meets operational requirements.

5 Sir, what does it mean for operators to use the most conservative performance class that meets operational requirements?

MAJGEN HAFNER: So through the course of a mission your performance class requirements will change. So if you think about where I
10 will have the highest power demand of the aircraft, that would be the most conservative that's there. But really what this articulates is different ways in which you consider how you might manage a circumstance. Do you look at is there an opportunity to reduce the weight of the aircraft, so therefore have more power available? Do I consider the height at which I'm
15 conducting an activity, which might give me then options in terms of how I might recover if I have an engine failure.

So there are all of those considerations. But look at it, take into consideration what is your worst-case scenario is effectively where you take
20 the most conservative, and then plan for that.

COL STREIT: Just accept from me the evidence before the Inquiry is that the Aircraft Captain of the MRH-90 that ditched in the Jervis Bay Territory had no awareness of the HP1 turbine issue risk. In circumstances where
25 you're conducting planning of risk for a mission in the context you've just given evidence about, would it not have been of assistance for that Aircraft Captain, and those operating aircraft in that exercise, to have known of this risk even though it was categorised as low? Would that have not assisted them?

30 MAJGEN HAFNER: Absolutely. I think, clearly, wherever possible, we're trying to keep people as well informed as we can of things that are relevant to the conduct of the operations that we're doing.

35 COL STREIT: I can indicate to you that D2 gave evidence. He was the Aircraft Captain. He was a bit angry about the fact that he didn't know of the risk, and he learnt of it after the ditching. So, in those circumstances, are you able to assist the Inquiry understand why it may not have been information briefed to the pilots?

40 MAJGEN HAFNER: Yes, I think I've covered that in paragraph 37, where it could be possible that where the risk profile was not viewed as having changed and it remained within what was the basis for the aircraft's performance, it's type certification basis, that it was – you know, engine
45 failure is an activity that you are trained for – if that risk profile had not

changed, in that it remained a low risk profile, then I could understand where perhaps the information was not communicated at that time.

5 MS McMURDO: But in terms of managing the risk, surely if you've got, for example, helicopters that have had the modification done, that could be used in the exercise, and others that haven't, surely knowing which ones have or haven't had the modification is pretty essential to best managing the risk.

10 MAJGEN HAFNER: I'd say, ma'am, that again, being informed of the configuration of your aircraft is important. That information is within the Maintenance Management System. I can absolutely understand that in a circumstance like this, where you may have something that can contribute to an engine failure, having awareness is absolutely – you know, we try to
15 keep people as informed as we can of the configuration and the status of their aircraft.

With the risk profile that was assessed still as a low risk that was there, there was obviously a range of orders, instructions and publications that helped
20 consider what might be the actions that you need to consider and take into account in your planning for an engine failure, that were already in place.

COL STREIT: Sir, can I briefly take you to tab 12, which is an Official document. It's the MAO-AM decision brief MRH-90, HP1 turbine blade
25 modification, C3135. Sir, can I take you to the second page, paragraph 3. In the body of that paragraph, it says this sentence:

The loss of a HP1 turbine blade itself will not result in a catastrophic event.
30

What do you understand that to be referring to?

MAJGEN HAFNER: I believe it refers to if the blade failure happens, that the blade would be contained within the engine, and I believe that's actually
35 captured further within the brief as to the nature of the failure. The failure would be contained within the engine itself.

COL STREIT: That sentence would seem to indicate, would it not, that the loss of a HP1 turbine blade in itself – "loss" is not specified – but that
40 the loss of the blade itself will not result in a catastrophic event? That sentence would seem to indicate that the loss of a turbine blade in a helicopter that's operating with two engines will not result in a catastrophic event. Would you accept that that seems to be what it's saying?

45 MAJGEN HAFNER: So that's the words that obviously they've got

within the brief. That's correct.

COL STREIT: Yes. Sir, by way of background, this is not a brief that was given to you, and you were not involved in the decision, as you've given evidence. That's correct?

MAJGEN HAFNER: That's correct.

COL STREIT: So it's not a brief that was given to you. You didn't make a decision in relation to which option should be accepted as to the modification of the MRH-90 engines. So, for context, but simply at paragraph 3 I suggest it innocuously and surprisingly says:

The loss of a HP1 turbine blade itself will not result in a catastrophic event –

in circumstances where we have the ditching of an MRH-90 occurring in March 2023 in the Jervis Bay Territory, which might be regarded as a catastrophic event.

MAJGEN HAFNER: Yes, aligned with my statement, if I could refer to enclosure 11, and if I go to Table 1 and the following paragraph, paragraph 27. It's on page 9 of the brief. This is the basis for my witness statement where I say, "The risk was assessed as low", and you can see the varying options that were presented in terms of modifying the aircraft. The risk remained low, the residual risk, regardless.

COL STREIT: I am referring to – so the Commonwealth has just identified the classification is "Official Use Only", which it is to be treated as "Official: Sensitive", but what I understood you to be doing is taking the Inquiry to the material without identifying its content, and then expressing an opinion in relation to the evidence you have given earlier. Is that correct?

MAJGEN HAFNER: That's correct, but noting, without going through the detail of the complete brief, the assessment of a low risk was the assessment that was provided, as I've reflected in my statement that was there.

COL STREIT: Thank you, sir. I understand that. And you have identified in your statement that the risk was assessed as low, which is not a risk that you've assessed as low; it's been assessed by somebody else. Correct?

MAJGEN HAFNER: That's correct.

COL STREIT: My question really was in relation to the Official document, which is the decision brief submitted to the Military Air Operator Accountability Manager, DG AVN, at the relevant time concerning the MRH-90 turbine blade modification, which lists a series of three options as to when the engines might be modified, and in what quantity, and in what timings. But at paragraph 3 the brief seems to indicate and advise the decision-maker that the loss of a HP1 turbine blade itself will not result in a catastrophic event. That would seem to be at odds, would it not, with the risk of impact into water with the 6 Avn aircraft conducting operations in the Jervis Bay territory with soldiers suspended off the side of it? That would be catastrophic, wouldn't it?

MAJGEN HAFNER: So, typically, catastrophic will talk about loss of life. That's there. You know, this incident fortunately did not result in loss of life, but you are correct in that it had the potential to, but I think the indications through a variety of the briefs gave an assessment of risk and a failure rate which, like I say, was consistent within what was already the certification basis for the aircraft.

You know, when you put in combination that it was a recommended but not mandatory, then you have this gathering of circumstance which is part of the consideration that I expect was taken at the time as to which method of modification was being applied.

But as we've reflected, these are decisions and implementation directions that are being given before I was in this appointment.

COL STREIT: I understand, and that qualification is important. Sir, you came into the matter – that is, decision-making relating to what should happen now with the remediation of engines that needed to be upgraded – you came into that picture post the Jervis Bay ditching in 2023. Correct?

MAJGEN HAFNER: That's correct.

COL STREIT: And you were provided, and you've set out in your statement, various decision briefs identifying particular options to upgrade the MRH-90 fleet to deal with the upgrade of the MRH-90 fleet engines, so they were all modified. That's correct?

MAJGEN HAFNER: That's correct, for specific units, for specific flight regimes.

COL STREIT: Yes, and your statement sets out where you accepted a particular option with a particular timeline. Correct?

MAJGEN HAFNER: I did not. I recommended to the Military Air Operator a given option. So, in sequence, following the incident there was an immediate action to instigate an operational pause, so again, stop MRH flight operations while the circumstances could be reviewed as to what has happened.

Before the resumption of flight, I was absolutely involved, along with other staff within the Headquarters, where we looked at what would be the response to this, which was to make the recommendation of an incorporation of the modification in the 6th Aviation Regiment aircraft, which would be necessary before they resumed flight operations, and for the conduct of operations that would be in Performance Class 3.

COL STREIT: In circumstances where the risk of controlled flight into terrain as a consequence of an engine failure from a HP1 turbine blade had already been assessed as low, and a remediation process had already been planned and was on foot to upgrade the engines across the MRH-90 fleet, you then had the manifestation of the low-level risk actually occur in the Jervis Bay Territory involving the MRH-90, and then a process of upgrading the engines occurred. What really changed though, because the risk profile would remain the same, wouldn't it?

MAJGEN HAFNER: Based on having the failure?

COL STREIT: Yes.

MAJGEN HAFNER: Yes.

COL STREIT: The risk of failure was identified as low, or assessed as low, by DG AVN, which means it's possible to happen, but it's low. But then it happens; that is, the risk manifests and there's a ditching. So what's changed in the risk profile that necessitated the change to the upgrading of the engines?

MAJGEN HAFNER: Yes, so I think, just to be correct, the original risk assessment of low was provided through engineering analysis, so it was engineering advice and assessment that was provided to the Director-General Aviation at the time. But I think having the incident occur, and with a modification that was available, and the consequences of Performance Class 3 operations, that when we looked at the assessment, and we looked at what was available to us had the risk been minimised so far as is reasonably practicable; was there an opportunity for us to seek to reduce or eliminate that risk through the modification? And that was the action that we directed.

It was recommended to the Army Military Air Operator, and it was the decision that he took to modify the aircraft before those PC-3 operations would be conducted, eliminating that hazard.

5

AVM HARLAND: But that logic could equally have applied before the incident. I mean, what you described there was a risk management process which was available to you before the incident, but it was only taken after the incident, at which time the maths had never changed, the statistical maths hadn't changed.

10

Just one following question. Did the aircraft still remain within certification basis with the HP1 failure embodied in one of their engines?

15

MAJGEN HAFNER: That's my understanding, and what we saw is after we had implemented the requirements through Special Flying Instruction, with an associated Risk Management Plan for the incident, that the Defence Aviation Safety Authority issued an Airworthiness Directive which also mandated the controls that we had already put in place at that time. But you're correct, in that those actions and assessment were available prior.

20

AVM HARLAND: Thank you.

25

COL STREIT: You set out at paragraph 43(b) the option that you selected, which was the establishment of a High Pressure 1 turbine blade modified subfleet at 6 Avn, which would involve six aircraft swaps and two engine changes. The option was assessed to take four to six weeks to complete from decision, with the burden on 6 Aviation Regiment Maintenance Organisation of 50 maintenance man hours, which was assessed would minimise error-producing conditions. Correct?

30

MAJGEN HAFNER: It wasn't the option that I selected, it was the option I recommended. But that's correct, because in enacting the modification, we're very conscious that we don't introduce other hazards into the system. So there was the alternate option which could have been implemented through another means, but would have put more demand on the maintenance workforce and potentially would have introduced error-producing conditions. So we recommended to the Army Military Air Operator option 2, which was the recommended option.

35

40

COL STREIT: Ms McMurdo, I am about to move to a different area concerning fatigue management now. I note the time. Would 45 minutes for lunch be - - -

MS McMURDO: Yes, we will have a break for lunch now and resume at 1.45. Thank you.

5 **HEARING ADJOURNED**

HEARING RESUMED

5 MS McMURDO: COL Streit, just in terms of what time we'll sit to this afternoon, can you assist us with the Major General's commitments? I know he can't stay beyond today. He has to fly out of Brisbane today.

10 COL STREIT: We have received some information through the General's aide-de-camp to indicate that he is available to give evidence, if recalled, next week, on the Monday, Tuesday, or Wednesday.

MS McMURDO: I see.

15 MS McMURDO: And so we'll make some arrangements to ensure that there's capacity for that to occur, anticipating that – subject to my friends, Counsel representing, how long they might take, it might be necessary to recall GEN Hafner next week.

20 MS McMURDO: Yes, if it's necessary. And what time can we sit until today?

25 COL STREIT: In circumstances where we can recall GEN Hafner next week, and anticipating Counsel representing won't be able to conclude their questions, and rather than have an overly long day today, we could sit up to 5.30 if you wished.

MS McMURDO: Is that convenient for your flight? I know you've got a flight out today.

30 MAJGEN HAFNER: Yes, that's fine, ma'am.

35 MS McMURDO: 5.30, all right. Well, then we can sit until 5.30. So if we have a mid-afternoon break, we can sit until 5.30 today. See how we go.

COL STREIT: Is that workable, sir, for you?

MAJGEN HAFNER: Yes, that's appreciated. Thank you.

40 MS McMURDO: Thank you.

COL STREIT: Sir, can I take you to paragraph 48, page 12 of your statement dealing with fatigue management. It's a question I asked you:

Describe your responsibilities, if any, when you were the Deputy Commander of Aviation Command, now that you are the Commander of Aviation Command, in respect of issuing directions, instructions or other policies in respect of aircrew fatigue management, reporting any concerns raised at the Unit, Regiment, Bridge and Command levels about aircrew fatigue, and to which authorities responding to any concerns raised at the Unit, Regiment, Bridge and Command level about aircrew fatigue and overseeing the implementation of any Defence Aviation Safety Regulations and guidance regarding fatigue management.

So, sir, in broad compass, before we hone in on some specific matters, can you just explain, as the Deputy Commander for Aviation Command 2022/2023, what your role was in relation to fatigue management?

MAJGEN HAFNER: So clearly a role in supporting the Command, really, and co-ordinating Headquarters' staff effort to deliver on the requirements.

20 COL STREIT: Now, you've identified – and I'm not going to repeat – or read out, rather, what you have written – but you've identified at paragraph 50 matters concerning Force generation, Force Modernisation and personnel management and airworthiness components correlating to fatigue management within Aviation Command. Is that right?

MAJGEN HAFNER: That's correct.

COL STREIT: Now, in relation to one aspect, which is 50(c), which is personnel management, you say:

35 *Headland Capability Directive 07/2022, Army Aviation Capability, Review Terms of Reference at enclosure 16, directed a fundamental review of Aviation trade structures, capability disposition and organisation to ensure Army Aviation was structured and organised to best support Army's generation of land power to the Joint Force.*

First question, if you're able to assist, why did review occur? Why did it come about?

MAJGEN HAFNER: Yes. So I think that review – you know, if I can just answer a little bit more holistically. When you are looking at the organisation and how it can best deliver both the capability and it can deliver within the organisation's capacity, there was a number of efforts underway. And so when I talk about Force generation, I'm really talking

about looking at the tasking and the Troops that are available, and making sure there's alignment there.

5 And we do that through our operations order. So that's dealing with the here and now. Force Modernisation, while in many cases we focus – or people tend to focus on the platform change, it's much more than that. It's what the system change can bring. If you introduce an aircraft that might have higher reliability or less maintenance, again, that has an effect on the workforce as well. So the modernisation was not just about platforms, it was tied into then the third area, so 50(c) that you're enquiring.

10 It required, also, an opportunity for us to look at organisational structures. We were also looking at the disposition, so where elements of the organisation were positioned. So, holistically, how do you best set the Army Aviation enterprise to deliver the capability in the best way that is possible? And part of that was a review of our organisational design to make sure that we were structured to the best way that we could to deliver this capability.

20 COL STREIT: The Inquiry has received evidence to the effect that in about October 2021 the Defence Aviation Safety Regulation Fatigue Management came into existence and that it had a two-year implementation period which gave the air mobility operators across the three services two years to implement the Fatigue Management Regulation and adjust their existing processes. Are you aware of that?

MAJGEN HAFNER: I am.

30 COL STREIT: Now, paragraph 52 and onwards deals with question 52, which is:

35 *Describe how Aviation Command sought to comply with DASR Aviation Fatigue Management, which was issued in October 2021. Outline when, if ever, Aviation Command considered it had fully complied with the DASR Aviation Fatigue Management.*

You say at 53:

40 *It is believed that Aviation Command has maintained fatigue management compliance throughout. On 30 November 2023 –*

the Colonel that you identified there –

45 *then Director, Operational Airworthiness and Command Aviation Safety Officer, provided me with a decision brief –*

which is enclosure 17 –

5 *which sought to approve updated fatigue management policy in the Army Military Air Operator with a draft Special Flying Instruction, SFI 12/2023, Aviation Fatigue Management.*

10 *The decision brief identified that the Army Military Air Operator had a comprehensive suite of existing policy achieving broad compliance with Defence Aviation Regulation Fatigue Management. However, SFI 12/2023 would provide both holistic and targeted updated and improved management policy and compliance.*

15 All correct?

MAJGEN HAFNER: That is correct.

20 COL STREIT: Now, Military speak, “broad compliance”, what does that really mean?

25 MAJGEN HAFNER: So what we had was a range of instructions that the assessment was it met the requirements of the Regulation set. That was the assessment. But, again, with elements of that distributed across a number of instructions. In some cases, referring to tools available in other aids, et cetera.

30 You know, clearly, there was an opportunity for us to better consolidate, to aggregate and look where we could potentially improve that policy as part of the review.

35 COL STREIT: So was the establishment of SFI 12/2023, where you say was to provide a holistic and targeted update and improve fatigue management policy and compliance, was that brought into existence to ensure, rather than broad compliance, but to ensure there was actual compliance with the Fatigue Management Regulation?

40 MAJGEN HAFNER: The SFI was released – we were originally intending to conduct this as part of the broader Standing Instruction Modernisation Project that was occurring.

COL STREIT: Yes.

45 MAJGEN HAFNER: So, again, fundamental review on how does our policy clearly map to the Regulations and how do we make sure that it’s

easier in its use by our personnel, because there's – obviously when you have extensive instructions and policy, you want to make sure that it is easier for people to access.

5 Like I said, here's a perfect example where you have different elements of fatigue management occurring across a number of instructions, bringing it into a more consolidated form. But noting the instance, including the Jervis Bay ditching, including the tragic accident of July had delayed our work on the SI Modernisation.

10 So the SFI was a way in which we could achieve the outcome as expediently as possible. It, like I said, gave us an opportunity to consolidate and make sure that where there was opportunity for improvement, things like a Fatigue Risk Awareness Tool that existed in some of the reference
15 publications could be brought more to the fore through our instructions.

COL STREIT: And in fact, the SFI 12/2023 mandated the use of the Fatigue Risk Awareness Tool; is that correct?

20 MAJGEN HAFNER: That's correct.

COL STREIT: Prior to that though, there was no mandated requirement to use the Fatigue Risk Awareness Tool.

25 MAJGEN HAFNER: Not that specific tool, no.

MS McMURDO: Just while we're on paragraph 53, you've used the passive voice there in the first sentence:

30 *It is believed that Aviation Command has maintained fatigue management compliance throughout.*

Is that your view?

35 MAJGEN HAFNER: I do believe that, based on the information that was presented in that decision brief, that we had that range of policy that gave us compliance. But, like I say, it was disaggregated and there was opportunity for us to improve in. Particularly for the useability of our personnel.

40 MS McMURDO: And you've mentioned the fatal crash as being something that slowed down implementation, but similarly, did the fatal crash also then provide an impetus to do something about it?

45 MAJGEN HAFNER: I agree. It's both sides of that coin. I suppose when

5 you have an accident of this nature, responding to the accident, that comes
in many forms. So, in this case, we would have a number – you know, the
Australian Government announced on 29 September that the MRH would
not return to flying before its withdrawal. You know, there was obviously
a range of work done to accelerate the introduction of the Black Hawk, to
obtain commercial aircraft as another form of giving aircrew a means of
maintaining a degree of flying proficiency. Because thinking about the
consequences of these decisions, when you typically have personnel not
flying, not performing recency and proficiency in flying, their skills are
degrading and you're actually building risk for a later point. So it was a
10 balance of actions being approached holistically.

MS McMURDO: Okay, thank you.

15 COL STREIT: Now, just for context, insofar as Aviation Command
moving through a process of developing SFI 12/2023 Fatigue Management
– which came into effect on 15 December 2023. That's correct?

20 MAJGEN HAFNER: It was approved and then it had a subsequent
implementation date. Noting that that was, as you'd appreciate,
immediately before the Christmas period and making sure that there was an
opportunity for the units to then implement. So I believe the
implementation was then early in the new year.

25 COL STREIT: Can I just show you a document? I'll just ask you to look
at the front page, sir, and then I'll just ask you a direct question.
Thanks. Can I have that returned to me now, thank you? Thank you,
sir. Putting aside if there might have been some caveat about when the SFI
was to be utilised by units, it's correct, isn't it, that SFI 12/2023 Aviation
30 Fatigue Management was brought into existence by MAJGEN Jobson on
15 December 2023?

MAJGEN HAFNER: That's correct.

35 COL STREIT: And your evidence earlier was that notwithstanding that
there was – was there a delay of a short period of time before the Commands
were required to implement it?

40 MAJGEN HAFNER: There was a period of time afforded for the units to
enact, like I said, based on the Christmas period and making sure that they
had the opportunity to do any adjustments and brief their personnel.

45 COL STREIT: And you've got your statement there, sir, and I take you to
tab 16 – sorry, tab 17. I apologise. That's an "Official: Sensitive"
document, but after having reviewed the top right-hand corner of that

document, would you accept from me that in relation to SFI 12/2023, GEN Jobson's intent was for it not to be released before 15 January 2024 due to the low tempo period?

5 MAJGEN HAFNER: That's correct.

COL STREIT: Now, sir, just also in terms of context, and just harking back to some evidence you gave earlier in relation to the outstanding action items for the November 2020 near miss, as at 28 July 2023, by reference to
10 paragraph 28(d) of your statement, there were action items 7 to 12 that were outstanding in relation to the development of policy for Army Military Air Operator to implement the Defence Aviation Safety Regulation Aviation Fatigue Management. That considers the Aviation Safety Investigation Report recommendations 8, 9, 10, 11 and 12.

15 Sir, just a clarifying question. So in circumstances where you have indicated that the decision brief you were provided referenced at paragraph 53 of your statement that:

20 *The current comprehensive suite of existing policy achieved broad compliance with the Defence Aviation Safety Regulation Aviation Fatigue Management –*

that would seem to be – and I'm just clarifying the point – somewhat at
25 odds with what you've said at paragraph 28(d), where you've identified that:

30 *The Army Military Air Operator is to implement the DASR Fatigue Management Regulation that considers four recommendations from the Aviation Safety Investigation Report for the near miss.*

So I'm just wondering, in that context, is it not the case, therefore, that there might have been some gaps in the suite of existing policy that Aviation Command had prior to bringing in SFI 12/2023?

35 MAJGEN HAFNER: As I indicated, the task provided us the opportunity to consolidate across multiple instructions into a single instruction. It also gave us the opportunity to improve the materials that we had, but it was assessed that we had complied with the Regulation. But again, through
40 those tasks that were at para 28(d), so those action items 7 to 12, the output of that was the decision brief that I refer to in para 53, which is where it's indicated that we had that broad compliance.

45 But there was an opportunity. You know, what the SFI did was it consolidated and it made sure that we had an improved product for our

personnel.

COL STREIT: And it's the case, isn't it, that DASA did not conduct an
5 audit of Aviation Command's compliance with the new Aviation Fatigue
Management Regulation until April 2024?

MAJGEN HAFNER: That's correct.

COL STREIT: And at that time, when the audit was conducted,
10 SFI 12/2023 Aviation Fatigue Management, that was in existence and
operating.

MAJGEN HAFNER: That's correct.

COL STREIT: So there's been no – and correct me if I have this wrong –
15 there was no assessment by DASA in 2022 or 2023 of Aviation Fatigue
Management policy as against the new Aviation Fatigue Management
Regulation.

MAJGEN HAFNER: That's correct. And so their assessment that's
20 conducted in April 2024 takes into account the existing suite of policies that
exist at that time, as well SFI 12/2023.

MAJGEN HAFNER: That's correct.
25

COL STREIT: Now, just in relation to that, do you understand that when
DASA did the audit of Aviation Command in April 2024, they identified a
level 3 finding that Aviation Command was not compliant with an aspect
of the Fatigue Management Regulation and must use fatigue-related
30 principles, operational knowledge and/or experience to define the normal
and extended duty time? Would you have an awareness of that?

MAJGEN HAFNER: I do.

COL STREIT: That the DASA Oversight Assessment Report, it detailed
35 no level 1 or level 2 findings against the Aviation Fatigue Management
compliance, just at the single level 3?

MAJGEN HAFNER: That's correct.
40

COL STREIT: And one level 3, and two opportunities for improvement?

MAJGEN HAFNER: That's correct.

COL STREIT: And that no formal response was required for the level 3
45

finding or the opportunity for improvement?

5 MAJGEN HAFNER: That's correct. I would say that within our Standing Instructions, in the planning of activities, it does talk about the considerations of duty periods. And so again, we will address the DASA finding. But in our assessment of compliance, our assessment was that we had direction within our instructions that covered the normal and extended duty periods albeit articulated in a consideration of planning.

10 COL STREIT: You may not be able to assist the Inquiry in this matter, but I'll ask the question. But if you can't assist, just indicate that it might not be within your knowledge. But there's some evidence before the Inquiry that DASA did not conduct a formal oversight activity in Aviation Command concerning the Fatigue Management Regulation in 2023 due to
15 DASA and the Army Military Air Operator capacity?

MAJGEN HAFNER: It's correct, in that there was no activity conducted in 2023.

20 COL STREIT: But is it your understanding that if DASA wanted to conduct that activity, the Military Air Operator had capacity for that to occur?

25 MAJGEN HAFNER: It would have been obviously in the context of the other activities that were going on. But, as always, if there's a directed oversight activity no different to Airworthiness Boards or other mechanisms, then obviously we look at that in terms of the capacity of the organisation and the prioritisation of resource to it.

30 COL STREIT: At least the Inquiry understands from your earlier evidence that 2022 and 2023 were pretty busy years.

35 MAJGEN HAFNER: That's correct. You know, as I've reflected, the reason why I've said 2022 and through to July 2023 is because that represents the creation of Aviation Command through its tenure through to the time of the accident. But I wouldn't say that that 18 months is – you know, there's obviously a range of activity that's going there, but I would suggest it's not the only time that the organisation has been busy. And January 22 is not a start point of the organisation being busy either.

40 COL STREIT: And, indeed, the organisation was dealing with an incident in November 2020 and getting a report in December 2021. So there's legacy issues, is it not, that the organisation is dealing with in '22 and '23?

45 MAJGEN HAFNER: Absolutely. So I think when you look at the

5 history, particularly of cessation or pauses of flight, the number of different reviews into the MRH system – you know, there’s multiple reviews. You have a history over many years of the challenges that were going in the – you know, as I’ve reflected, what was a system that was requiring disproportionate effect compared to other platforms in its management.

10 COL STREIT: Sir, can I just take you now to paragraph 59, dealing with question 17. You were asked to describe if, and if so, how, Aviation Command currently monitors, identifies and manages fatigue in 6 Aviation Regiment. You identify Standing Instruction for medical and dental fitness for aviation-related duties and Standing Instruction for Aviation fatigue management provides direction to Army Aviation Commanders, Supervisors, Authorising Officers and individuals for managing fatigue and fatigue-related risk, inclusive of reporting requirements.

15 Just in relation to that, you then go on to give some evidence about the annual snapshot survey. Can you just explain what a snapshot survey is and if it’s important?

20 MAJGEN HAFNER: Yes. So, firstly, the Standing Instructions I’ve indicated there, that is within our Standing Instructions Aviation Operations Edition 6, now up to Amendment List 1, which was issued in February this year. That is effectively the translation of content that was in the Special Flying Instruction now in its permanent sense within the baseline Standing Instructions.

30 In terms of the snapshot report and Standing Instruction Aviation Operations 3 to 131 in safety performance, monitoring, measurement and continuous improvement, it specifically refers to the snapshot. It’s a survey that’s conducted on an annual basis. It’s facilitated through the Defence Flight Safety Bureau where individuals across the capability are provided a survey and then they respond based on a number of questions.

35 That data is aggregated and presented back at Unit level, at Brigade level, at Aviation Command level, across a range of work factors which are inclusive, and I think I’ve listed those within - - -

COL STREIT: 66, top of page 17.

40 MAJGEN HAFNER: Yes, within paragraph 66, that’s correct. Thank you. Where you get a number of strategic indicators across that – job hinderances, communications, fatigue, workload, education and training, psychological strain, motivation and performance – where members respond and provide assessments and commentary on those indicators.

45

COL STREIT: Now, do you recall reading, at some point in time the contents of the snapshot surveys for Aviation Command for 2022/2023?

5 MAJGEN HAFNER: I do recall having reviewed those, and the snapshot report in 2024 gives you as well, historical comparison in its data, so that you can see where your trending is occurring across those indicators as well.

10 COL STREIT: And in broad compass, are you able to explain to the Inquiry if you identified any themes from 2022 forward?

MAJGEN HAFNER: Yes. So, I think, we do see fatigue feature in the reporting. As I've reflected in the 2024 report, you see all of those strategic snapshot indicators that I listed had improved over the previous years, and they all were within the range which was noted as the five-year Air Force average.

20 You know, obviously, the Army Aviation data is put in the context of the broader Defence Aviation enterprise, and it was within those normal ranges. I would say one of the areas that we're exploring with the language of "fatigue" is just making sure that it is correctly articulated as well. Making sure that when people say "fatigue", they mean fatigue or do they mean frustration. I think if I went back to the questions earlier about Troop Commanders and additional responsibilities, that sometimes I think people get the language mixed.

25 But, again, it's worthy for us, if we've got those indications, to further explore and make sure that all the actions that I'd listed in terms of Force generation, Force Modernisation, organisational design and airworthiness, how are they actually helping us? And the indications were that they were, because we were seeing improvement across all factors in 2024's report.

30 AVM HARLAND: How do Commanders monitor fatigue or work rate within the unit? Do they have, like, a log of working hours that's worked each week? How do they manage that? How do they achieve the outcomes directed to them in your instructions?

35 MAJGEN HAFNER: So I think there's a combination of obviously our duty limits and the programming and scheduling of individuals on the Board. There are our critical information requirements. So there are reporting requirements. So, for example, if an individual was to work in excess of 55 hours for two consecutive weeks, then that's triggered. There are fatigue reports, obviously, that individuals can submit within the system, and fatigue reports are reviewed.

45 So it's through that combination. And they are all reflected within the

Standing Instructions as to not only what the bounds that we set of duty periods and endurance is. The reporting requirements are also articulated in terms of where we are seeing that potential for fatigue occurring.

5 AVM HARLAND: So the onus is on the individual to report that they're working excessive hours, whether they're in a flying – obviously, you've got the flying piece which has got duty times related to it, but then you've got your other – you know, we've heard characterised by previous witnesses as that kind of long-term chronic fatigue contributors. So I guess what I'm
10 hearing is that you're saying that it's up to the individual to report it.

MAJGEN HAFNER: No, there is an element of individual agency in this. You know, I earlier referred to it's like security, we have Security Police, we have Unit Security Officers, but there is an individual obligation in
15 terms of maintaining security, as is on me right now.

Fatigue is no different, in that we have our policy settings. We, through the planning of the annual calendar of events, through changes that occur, making sure that you've got that right combination of preparation,
20 execution, re-constitution. You're also monitoring through reports of annual leave balances across your people so that you can see, clearly, if you've got escalating leave balances across the organisation. You are doing it in the context of planning reduced tempo periods. And preserving those periods of time for the organisations to reset between activities.

25 So it's not just an individual, although that is part of it. It's important because someone's fatigue, everyone will be different, and their circumstances – whether they slept well or not – but we are looking at more holistically in how we are setting a framework of tempo of activity, opportunities for respite and then the use of those opportunities through
30 things like their leave balances as well.

AVM HARLAND: Yes. And, yes, we've heard from other witnesses where they say getting given downtime and leave is all very well and good,
35 but it doesn't mean the job goes away. And in often case, they come back to a worse situation.

MAJGEN HAFNER: Yes. So I think, again, there's annual leave entitlements that we all have. Those are set and they factor and allow for
40 personnel that might have flight duties, et cetera, where they have additional entitlements and looking to make sure that people are consuming what is their annual entitlement. That's a start point.

A lot of this goes down to that supervision as well. Particularly, be it Troop
45 Commanders, be it Squadron Commanders, knowing their people and

making sure that we're adjusting as we go.

COL STREIT: Sorry, sir. The matter has arisen, like there's – not relating to this witness, but we'll need to take a short adjournment.

5

MS McMURDO: Yes, all right. We'll adjourn until this issue is sorted.

COL STREIT: Everyone just remain in here for the moment.

10

Sir, if you could return to the witness room and we'll deal with the matter unrelated to you, yes, and then we'll come back and get you. Thanks.

HEARING ADJOURNED

15

HEARING RESUMED

20

MS McMURDO: Yes, I've just made a non-publication direction in respect of a brief portion of Mr Hadley's evidence that was given earlier today.

25

COL STREIT: Okay.

MS McMURDO: That related to Mr Wilson's alleged medical information and condition.

30

COL STREIT: Are you content for me to continue, Ms McMurdo?

MS McMURDO: Yes, please continue.

35

AVM HARLAND: Just that question I was partway through when we had – sorry, yes, COL Streit – just regarding leave and allowing people some respite from leave. We've had information from other witnesses that talked about when they're on leave, particularly during the Christmas period, known as the high-risk weather season, that while they're on leave they also have obligations to remain on standby, which results in restrictions in what they can do and where they can be. Is that a correct statement, or is that how you see it as Commander Aviation Command?

40

MAJGEN HAFNER: We obviously have preparedness requirements across a range of different obligations as a capability. In some cases that means that while people are afforded leave, that they are still subject to a recall notice to move to meet some of those obligations.

45

AVM HARLAND: Are they shortened recall notices to move? I guess what I'm trying to understand here is whether it's true respite and they can actually use that time to regenerate and rest?

5

MAJGEN HAFNER: Yes. So, look, the notices to move vary, that's there. Yes, it depends on the part of the capability as to what that notice is and be based on the task that they're allocated to. But it is correct in that there are – you know, while individuals are on leave, they are still subject to recall for some of the obligations that we have.

10

AVM HARLAND: Specific recall? Not just a general notice of recall, but specific?

15

MAJGEN HAFNER: No, for specific obligations that we have.

AVM HARLAND: Okay, thank you. COL Streit.

20

COL STREIT: Thank you, sir. Just in relation to policy framework now concerning the management of fatigue, could the witness please be shown Exhibit 39?

25

Sir, what I'm going to ask you be shown is the Aviation Fatigue Management Guidebook version 1, which was the version in existence at the time of the crash of Bushman 83. There is an updated version which is now in existence. But first, can I take you to page 17, sir, of the Fatigue Management Guidebook which you now have. You'll see down the bottom of page 17, at 4.2, it's titled, "Shared Responsibility Between the Organisation and Individuals", and it says:

30

Primary responsibility for fatigue management rests with the Organisation; that is, Commanders and Majors who control the activities of operational personnel, and the distribution of resources in the organisation.

35

Then it goes on, and if you were to continue down on page 18, partway through, immediately under the first lot of dot points, you'll see this:

40

Fatigue management is just as much an individual responsibility as a Command management function. Shared responsibility under fatigue management requires that personnel should not commence any tasks if they are likely to be unfit to perform the task due to fatigue.

Then it provides a series of dot points. Can I just ask you now to go to page 32, to the top right? I'm just providing you the context information, then I'll ask you a question. Page 32, top right, has the heading, "Self-identification of Fatigue Risks":

5

Individuals are not good judges of their own level of fatigue-affected performance. Research has demonstrated that without training, humans are quite poor at determining their actual level of fatigue. However, valid tools such as the Samn-Perelli Scale increase the reliability of self-assessment.

10

The DFSB Fatigue Risk Awareness Tool, which incorporates the Samn-Perelli Scale, is an example of a decision-making aid when determining fitness for duty. The tool is designed to enhance the individual awareness, and to promote supervision engagement.

15

In all instances, self-identification should promote the development of appropriate risk management that takes into consideration the nature of scheduled tasks and available control measures.

20

Sir, just in relation to those guidance matters, do you accept those? Do you agree with them?

25

MAJGEN HAFNER: I accept what's written there, in terms of it's absolutely all layers of the organisation, from the individual to the organisational level, have a responsibility. I can appreciate that individuals may have some difficulty in their own fatigue self-assessment. I do recognise, but that that is also quite common in civil aviation, where self-assessment is one of the primary means of fatigue assessment.

30

COL STREIT: But do you accept the guidance information that I've just read out to you?

35

MAJGEN HAFNER: Yes.

40

COL STREIT: Now, sir, we've had some evidence before the Inquiry in relation to the process of FACEing out, which, as the evidence seems to indicate, is an individual assessment where you're assessing a number of things as an individual and if you come up with a result that things are not good, then you should be pulling out of going on a mission. Do you understand the FACE out concept?

MAJGEN HAFNER: I do.

COL STREIT: And that would have been, I take it, something that was a concept you would have utilised when you were a pilot, Troop Commander, Squadron Commander?

5 MAJGEN HAFNER: That's correct. So it's one part of the process.

COL STREIT: Some evidence that the Inquiry has received is to the effect that in circumstances where aircrew might not want to FACE out or not participate in a mission because it would result in mission failure or the training exercise failing, that they can be inclined to continue into an
10 exercise or a mission when perhaps they shouldn't be. Have you got any insight into that from your own experience in Aviation?

MAJGEN HAFNER: I think we have individuals that are trying to deliver the capability that we've been trained to do. People are very proud of what they do, and demonstrating that, demonstrating their level of proficiency in an exercise, et cetera. So I can understand that there is a natural bias towards wanting to go and do the mission.

But, equally, be that individual assessment, the Aircraft Captain's assessment of their crew, the Flight Authorising Officer's assessment through our flight authorisation process, which articulates fatigue as one of the human factors that needs to be considered, they're all layers of this. And if there was an instance where someone is found to be such that they would have their flying duties impaired, the environment that I've
25 experienced, and I believe that we've got, is if they were unable to fly because of that and they put up their hand, they would be absolutely supported in that decision.

COL STREIT: In circumstances where, though, they've been told there might be a mission or an exercise that needs to be achieved, or circumstances of a no-fail task, might that be a barrier to them sticking their hand up if they're on the edge of pulling out because of fatigue?

MAJGEN HAFNER: Yes, I think typically the exercises are, again, adjusting an activity within an exercise. You know, it's an exercise, it's designed usually with a given battle rhythm to it, a given tempo of activity, which is trying to anticipate fatigue and manage the demands on the individual to give them sufficient time to plan, execute, get ready for the next mission. So it's all part of the considerations that go in.
40

Typically, there will always be redundant measures as well. So you could have the aircraft go unserviceable, so it might not happen for those reasons. So always having an alternate way in which it can be achieved is normally built into the exercise activity design as well.
45

Again, I think even in an operational context where people feel compelled because they are potentially saving life, we have seen this on many examples, be it in flood events or fire events, and people are getting to the limits of their duty and there's that conversation that happens of, "What is the risk of you continuing to be given an extension?" In some cases, those decisions are the risk is at such a stage that unfortunately there would be greater loss of life in the loss of the aircraft and the crew than there would be sometimes in achieving the mission.

So, again, always done through a lens of assessing the risk, making deliberate, informed decisions as to whether you are fit to continue or you need to stop operations if you are fatigued.

COL STREIT: And certainly, having regard to what I just read out to you on page 32, an individual is not a good judge of their own level of fatigue. That, if that's accepted, then, by implication, means there needs to be objective tools within the Chain of Command to assess an individual's level of fatigue. Correct?

MAJGEN HAFNER: That's correct. It can be done through many ways.

COL STREIT: Can I turn, if I may, to the Exercise TALISMAN SABRE, which you've dealt with at question 20 onwards of your statement? Can I ask you first, at any time in Exercise TALISMAN SABRE 2023, or shortly thereafter, had you become aware that one of the two Troop Commanders – who has the pseudonym D20, if you would like to look – left Proserpine Airport on 28 July '23?

MAJGEN HAFNER: I was not aware.

COL STREIT: You say at paragraph 68 you did not perform any role within the scope of Exercise TALISMAN SABRE 2023; is that correct?

MAJGEN HAFNER: That's correct.

COL STREIT: You have, at paragraphs 70 and 71, attached the Aviation Integrated and Aggregated Risk Tool entries, which are listed at 71(a), (b), and (c), relevant to the conduct of operations or the Exercise TALISMAN SABRE. That's right?

MAJGEN HAFNER: I believe those risk entries in the Aviation Integrated and Aggregated Risk Tool were relevant to the sortie in question.

COL STREIT: So they were the Core Risk Profiles?

5 MAJGEN HAFNER: They were the 6th Aviation Regiment risk profiles for the listed events: the long overwater flight, the overwater operations, and the Special Operations Aviation.

COL STREIT: Is it the case that none of those enclosures deal with spatial disorientation?

10 MAJGEN HAFNER: I don't believe that's correct. I believe that you'll find the entry 051/22, the Special Operations Aviation, which has a specific hazard about controlled flight into terrain and low contrast environments. If I might just refer to that?

15 COL STREIT: Perhaps, sir, if I can assist this way? And certainly have an opportunity to have a look, but what I wanted to ask you is, it would appear that none of those AVIART entries deal with a hazard of spatial disorientation brought about by fatigue.

20 MAJGEN HAFNER: Not correlated to fatigue, but it does talk about spatial disorientation.

25 COL STREIT: Yes, in relation to another matter, it's contained on page 7 of tab 20. No need to refer to it; I'm just taking you to it for an example. That's correct, that tab 20, page 7, second serial, deals with spatial disorientation in a different context?

MAJGEN HAFNER: That's correct.

30 COL STREIT: So just coming back to my principal question, and that is none of the AVIART entries you've listed at (a), (b) and (c) at the top of page 18 deal with the hazard of spatial disorientation brought about by fatigue. Is that correct?

35 MAJGEN HAFNER: I would say that fatigue is a contributing factor to spatial disorientation.

COL STREIT: Sure.

40 MAJGEN HAFNER: As opposed to the words of "spatial disorientation being brought about by fatigue". There is a difference there.

COL STREIT: There is. I will return to the issue of fatigue and spatial disorientation because I know that, having regard to your statement, that Command is developing an instruction concerning spatial disorientation.

But perhaps if I could ask you these preliminary questions? At question 22 on page 18 you were asked - - -

5 MS McMURDO: Just before you move on to that, a couple of matters in question 21.

At paragraph 71 you talk about entries within the Aviation Integrated and Aggravated Risk Tool, and you say that:

10 *The approved AVIART entries most relevant to the incident sortie leading to the crash include –*

so you've used the term "include", and then you've given three that are at enclosures 18 to 20. I just wanted to check whether they are the ones that
15 you consider most relevant; that it's not that there aren't others there that you also consider relevant?

MAJGEN HAFNER: Yes. So, ma'am, I think it goes to an earlier comment I made, and as I've reflected in the statement in paragraph 70, the
20 foundation of the view of our risk really sits within our orders, instructions and procedures. So the Risk Management Plans, those I've listed, are the ones that I consider relevant from the risk management database.

But if you want to holistically consider of where we identify risk and treat risk relevant to the profile that was being flown, you've actually also got to consider then what is within our baseline orders, instructions and
25 procedures where you might see elements highlighted as cautions, warnings, or different procedures where we highlight to treat risk in that low-level overwater formation environment.

30 MS McMURDO: Thanks for that.

AVM HARLAND: So would that be related to Core Risk Profiles which are applicable to all flights or platforms?

35 MAJGEN HAFNER: So it is, but I suppose, as I've indicated before, Core Risk Profiles, your orders, instructions and publications, as I'm sure you appreciate, are something that is built over many decades of experience and really are the foundation on which we've captured lessons learnt by the
40 organisation over an extended period.

The Core Risk Profiles help flag specific areas of core risk, help flag where we have existing treatments for that risk, to reinforce those controls being considered in those Core Risk Profiles.

45

5 MS McMURDO: Could I just check then, that of the approved AVIART entries most relevant to the incident sortie, you've said – as I say, you used the expression “include” and you've set out (a), (b) and (c). Were there any others that also were relevant to the incident sortie?

MAJGEN HAFNER: Those three risk management entries were the ones that were relevant to that sortie.

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

COL STREIT: Thank you, Ms McMurdo.

Just in relation to post-accident matters, you did not deploy to Proserpine Airport during Exercise TALISMAN SABRE. That's correct?

15 MAJGEN HAFNER: That's correct.

AVM HARLAND: Could I just – my apologies, COL Streit.

20 I just had another question regarding the risk management for TALISMAN SABRE. Is Army in the habit of doing, like, a Risk Management Plan for a particular activity, before that activity occurs, to identify hazards which would include things like the terrain of the area, the seasonal weather, the qualification currency and recency status of the crews, how you might do

25 maintenance in a particular deployed operation, how you might manage fatigue in that particular deployed operation; you know, all those elements which, in the case of Bushman 83, would have addressed the kind of macro risks that would be associated with carrying out TALISMAN SABRE '23? Because I feel like there's a gap in the overall risk.

30 You've got all your core risks, you've got the AVIART expressed risks, but there seems to be a long gap between that and the Aircraft Captain or formation lead doing an immediate risk management as to what's going on. Because there's a whole bunch of exercise-specific stuff that I haven't been

35 able to find addressed anywhere.

MAJGEN HAFNER: So I think, again, the risk profiles that are listed are the nominal risk profiles that you've got for those nature of activities. You've always got to contextualise what that nominal risk profile is: to the

40 crew that's flying the mission; to the environmental conditions that are available at the time; to the exercise conditions in the exercise planning. And where required, then further risk would incorporate that consideration of is there something within the exercise design that is not captured already, that needs to be considered? And then put that into a Risk

45 Management Plan.

AVM HARLAND: So where in your suite of risk documents is that addressed; you know, including things, for example, operating with foreign forces that's an unknown? There's potentially hazards and risks that are associated with that.

MAJGEN HAFNER: Yes.

AVM HARLAND: And I can't find anywhere in your suite of risk documents where that is actually covered.

MAJGEN HAFNER: Yes. So I believe it's been previously indicated that there was a Risk Management Plan that was drafted for Exercise TALISMAN SABRE. That's typically occurring at the Brigade level as the Operational Headquarters. But in the process that that's undertaken, the Battleworthiness Board is typically the process executed at the Brigade level, which looks at all those areas that you've indicated, Deputy Chair: the suitability of individuals for the exercise; have we got everything set, ready? It's a conditions check to make sure that you're good to go.

That's where the risk would be reviewed, and if it was assessed by the Operational Commander that they needed a further risk plan, then they would review that at that time as well.

AVM HARLAND: How can I see that, because I can't find any artefacts that actually take me through that process?

MAJGEN HAFNER: Yes. So there would be the materials from the Battleworthiness Board that was conducted for the organisation to go on Exercise TALISMAN SABRE. That's an activity, like I said, and it's conducted by the 16th Aviation Brigade.

AVM HARLAND: We might have to just see if we've got that, or if we can get that. Thank you.

COL STREIT: I think I'll need to review BRIG Thompson's evidence, and the multiple annexures. I'm not sure it's there, but we'll do that review, and we'll get that information. Sir, can I turn to some brief matters. You did not perform any role within the search and rescue or search and recovery missions for Bushman 83 during Exercise TALISMAN SABRE. Correct?

MAJGEN HAFNER: That's correct.

COL STREIT: You weren't involved in the decision-making process to move from search and rescue activity to a search and recovery activity.

MAJGEN HAFNER: That's correct.

5 COL STREIT: You have given some evidence commencing at page 20, answering question 27, which concerns matters relating to risk management. I don't propose to ask you any questions in relation to that information.

10 Can I turn to post-incident, which is on page 22 of your statement? Very briefly, sir, you did not attend the funerals for the aircrew of Bushman 83. You did not attend the Anzac Day service conducted by 2 Commando Regiment in Holsworthy Barracks on 25 April 2024. Is that correct?

15 MAJGEN HAFNER: Both of those are correct.

COL STREIT: In answer to question 34, you have set out at paragraphs 107 through to 109 a number of matters concerning Flying Instructions and Special Flying Instructions that have been issued in 2024 or 2025. Correct?

20 MAJGEN HAFNER: That's correct.

COL STREIT: So all of those matters are post the accident in July 2023; is that correct?

25 MAJGEN HAFNER: That is correct, but noting that some of the Special Flying Instructions had an initial raising date of preceding 2024. They've been included because in the period 2024 or 2025 an amendment to those was released.

30 COL STREIT: Are you able to indicate to the Inquiry whether any of the Special Flying Instructions that you have identified at paragraph 108 onwards, or instructions generally in that paragraph, have come about specifically because of the 28 July '23 crash?

35 MAJGEN HAFNER: So there was an update to SFI9 of '23, which, as is indicated, is about the night-vision imaging system policy alignment. So that was to meet the requirements of the Defence Aviation Safety Regulations, Special Purpose Approval 55. Again, initial release of that
40 SFI was in response to some of the areas from previous incidents, and we have continued to update that based on feedback from people, but it was not specifically in response to the July accident, noting that we were already actioning this at the time.

I would also just highlight that SFI3 of '24 about approved flying clothing, I know that within the incident there was conversations about the suitability of cold weather flying clothing, and so again work was taken to address that through the trial of additional equipment. And the Special Flying Instruction 6 of '24 is again in response to the ditching of the MRH in Jervis Bay, so not the July incident, but it was further work in terms of further looking at our procedures for overwater operations.

COL STREIT: Paragraph 109, sir, on page 28 of your statement you say:

An SFI on maintenance of spatial orientation is in the final stages of review. This SFI is an output of the Army Military Air Operator Accountable Manager Directive 5 of '24, Army Aviation Safety Campaign, further detailed in response to question 36. The SFI is being used as part of the continuous improvement in treating the hazards of spatial disorientation.

First, before I ask you questions in relation to your evidence about spatial disorientation, can you be shown Exhibit 33, please, which is a report prepared by Dr Adrian Smith, Principal Adviser, Aeromedical Analysis and Decision Support Flight for the Royal Australian Air Force Institute of Aviation Medicine? The report is 3 June 2024. And, sir, just for your understanding, Dr Smith was called and gave evidence before the Inquiry as a subject matter expert in his field. I am just going to show you some information contained in his report concerning fatigue – concerning spatial disorientation, thank you. That's it.

If you go to page 12, paragraph 58? There Dr Smith says:

"Spatial disorientation" refers to the inability to correctly sense the position, motion or attitude of the aircraft relative to the surface of the earth or other points of reference. Spatial disorientation remains the most common cause of fatal accidents in Military rotary-wing Aviation in partner and Allied militaries, and has received much attention to mitigate this hazard.

59:

The common contributing factors for spatial disorientation are:

- (a) degraded visual cues;*
- (b) night-vision devices;*
- (c) high workload;*
- (d) fatigue;*
- (e) distraction.*

At paragraph 60 he then goes on to describe Type 1, Type 2, and Type 3 spatial disorientation. Insofar as your understanding is concerned, sir, do you agree with the observations by Dr Smith at paragraphs 58 and 59?

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MAJGEN HAFNER: I do.

COL STREIT: If I just put that to one side for the moment, sir, and returning to your statement at paragraph 109, and in relation to the creation of the SFI on maintenance of spatial orientation, which is being issued as part of a continuous improvement in treating the hazard of spatial disorientation, to your knowledge is that SFI close to being finalised?

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MAJGEN HAFNER: Yes, it's just undergoing senior review at the moment before it will be presented to me. But as reflected, it's very deliberately titled, "Maintenance of Spatial Orientation", so obviously being quite a large body of work we've been engaged with some of our international military partners as well. As Dr Smith has reflected, this is something not unique in Australia. This is prevalent in rotary-wing, particularly Military rotary-wing, over the world. So we've really tried to get inputs and make sure that we have correctly gone through a process with a training needs analysis to really make sure that the solution that we're delivering through this SFI will help mitigate that risk by helping us maintain orientation to avoid you getting disoriented.

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AVM HARLAND: Is there any work being done on diagnosing disorientation, or responding to it? We've heard evidence about how many times a year people are tested on this, which is, I think, once was the answer there, and during their RIT. It would appear to me – and correct me if you don't agree – that the diagnosis and response to a disorientation episode needs to be done in a very short period of time to be able to successfully respond and recover. Is there any work being done on that diagnosis and response, as well as the maintenance of spatial orientation?

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MAJGEN HAFNER: Yes, I think, yes, the commentary – if I could perhaps just refer back to this paper. So in the evidence and the paper provided by Dr Smith, paragraph 60, in talking to the types of spatial disorientation, and really that Type 1 disorientation being the most dangerous because they're unaware of the unusual attitude and maybe unwittingly fly into terrain under controlled flight, or attempt to recover after the aircraft is unrecoverable. So again, as I said, the work that we have been progressing is really about how do you try to prevent getting into a state of spatial disorientation in the first place, because the information that we have received is if you end up in Type 1, then the chances that you will

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be able to recognise and recover from it are obviously quite low. I think there is a human factors component to this.

5 There's also, again through engagement with some of our international counterparts, is looking at are there technologies available that could help you in maintaining orientation as well. You know, particularly noting that many of the things that we tend to focus on is through visual sense, and if you can try to harness the potential of all senses, then again it might benefit in terms of how you maintain orientation, based on proprioceptor, based on
10 spatial audio, a variety of other things that can help you maintain orientation beyond just the visual.

AVM HARLAND: Yes, but sometimes just those physiological factors that actually lead to the disorientation. Given the nature of Army Aviation flying, often the case low to the ground, close to obstacles, in challenging
15 environments which may be night-degraded visual environment, are you reconsidering your currency requirement in terms of people practising the spatial disorientation recognition and recovery? You know, effectively looking at how many times a year they're required to go ahead and do that. It just seems to me that once a year is pretty light, given the
20 environment you operate in.

MAJGEN HAFNER: So one of the changes that we did make was where we do our Aviation Medicine refresher training, making sure that we are
25 leveraging the aids available at the Institute of Aviation Medicine. That obviously means our personnel rather than conducting historically Aviation Medicine refresher training in their units, will now travel to Adelaide, and they're doing that now to do refresher. So we're trying to leverage the best aids available, but I need to review the Special Flying Instruction that's
30 coming to me first, and make sure that we've captured all considerations.

AVM HARLAND: I guess I'm probably talking more about practising unusual attitude recoveries.

35 MAJGEN HAFNER: Yes. So obviously that's part of our normal flight checks for things like instrument flight, et cetera, but again, looking at rather than recovery techniques, we've really focussed on how do we prevent getting disoriented in the first place. That's been the real focus here.

40 AVM HARLAND: I think that's valid in terms of a bowtie prevention, but you also have to have the recovery side of it. So is there any consideration of sharpening up the requirement to practice more UA recoveries during the yearly process of learning?
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MAJGEN HAFNER: Yes, so absolutely looking at how we do everything from – you know, is what we have been doing sufficient in terms of someone recovering from unusual attitudes, but it's also making sure that we reinforce the drills we execute within our Standardisation Manual for things like – you know, if I refer back to the commentary around the near miss in Townsville. So if you execute a rejoin procedure correctly, then it obviously gives you escape options, and it's designed to maintain separation, even in those low contrast environments. So how we go back and make sure that's done.

If you, in formation, lose visibility with other aircraft, then what's referred to as the blind drills of lost contact, which usually is similar to the drills that you would execute if you went inadvertently into cloud, making sure that you've got those. And they're all procedures that are trained, taught and practised, which are all about, first and foremost, safety. It's about getting yourself away from the ground and other aircraft, and re-establishing where your point of orientation is.

So reinforcing the conduct of those procedures, and the practice of those procedures, is definitely an area of focus for us.

AVM HARLAND: Thank you.

MS McMURDO: When do you expect the SFI on maintenance of spatial orientation to be finalised and released?

MAJGEN HAFNER: Yes. So I wouldn't like to give you a timeline, ma'am, but it will be imminent. We're talking weeks, not months, here.

MS McMURDO: Thank you. We would be very interested to get a copy when it's available. Thank you.

COL STREIT: Sir, can I ask you – and if you can assist the Inquiry – which organisations have been engaged in the preparation of the SFI on maintenance of spatial orientation?

MAJGEN HAFNER: Look, I would need to refer that to the Commandant of our Aviation Training Centre; he'd be better informed. But it has included input from test and evaluation personnel, training personnel, a range of experts that we've got, as well as, obviously Aviation Medicine input that's come into that as well. But he would be in a better position – you know, if we could take that on notice and I could provide that.

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

MS McMURDO: Thank you. Could I ask you about the report that you mentioned in paragraph 113, Benchmark Review?

MAJGEN HAFNER: Yes, ma'am.

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MS McMURDO: Could I just ask you a very general question? Is there anything in that report and the recommendations, and the information that the recommendations are based on, with which you disagree? It's a big, broad question.

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MAJGEN HAFNER: There are some of the recommendations that are in the report – I think it is worthy where the recommendations might seek for us to implement certain adjustments. I think the first part is we need to conduct a review and analyse to determine whether implementation is the correct activity to do. So there are elements within that report, like I say, where generally I believe the report reflects areas that we need to go back and have a look at, but I wouldn't necessarily take the recommendations as written. I believe they need further analysis in some areas.

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MS McMURDO: But there's nothing there that you would point to as an error that you would want to correct, you would want this Inquiry to understand should be corrected?

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MAJGEN HAFNER: No.

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MS McMURDO: Thank you. Any applications to cross-examine? Who wants to go first? COL Gabbedy?

COL GABBEDY: Ma'am, would it be possible to have a short break before we commence cross-examination?

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MS McMURDO: Yes, we will have a 10-minute break because we might be sitting a little bit later tonight. So if we have a 10-minute break.

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HEARING ADJOURNED

HEARING RESUMED

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MS McMURDO: COL Streit, you are back again.

COL STREIT: I am, Ms McMurdo, albeit briefly. Can I just ask Counsel representing to be mindful in relation to paragraph 3, the second name that

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appears there, which is the Staff Officer Grade 1 Standards for the period 2023 to mid-24. That second name is the pseudonym D144 – it's 145.

5 MS McMURDO: Yes, that was in the specific context though, that pseudonym. I don't know that it needed to apply generally to that person.

COL STREIT: We might need to revisit the direction that has been made.

10 MS McMURDO: Yes. Well, there is currently a direction that there be no publication, but in fact it was in a specific context.

COL STREIT: I see.

15 MS McMURDO: It wasn't that he, as a right, came into that category of people who had a pseudonym. I think it was because his name was mentioned in a particular context, and it was a reputational issue in that context.

20 COL STREIT: Well, just at the point in time I think a direction has been made that incorporates that.

MS McMURDO: It does, yes.

25 COL STREIT: So Counsel representing should be mindful.

MS McMURDO: So it's D146; is that right?

COL STREIT: 145.

30 MS McMURDO: D145. Okay, thank you. Thanks for that.

COL STREIT: Thanks.

35 MS McMURDO: Yes, applications to cross-examine. You have sorted it out as to who is going first? Excellent, thank you.

<CROSS-EXAMINATION BY LCDR HAY

40 LCDR HAY: Good afternoon, sir. My name is LCDR Mark Hay. I appear representing the interests of D19. If you would just like to familiarise yourself there with D19. Sir, I would just like to begin, if I might, just taking you back to some of the evidence you gave about the
45 outstanding items. Paragraph 28 of your statement, in particular, 28(a).

5 You deal there with item 1(e), and my question relates, really, to the statement that is made about confusion as to the requirement delayed progression. Can you just give the Inquiry, if you would, just a little bit more context about what that confusion was, how it was communicated, and when it was communicated?

10 MAJGEN HAFNER: Yes. So the nature of the task was obviously communicated through the implementing directive, which was the Military Air Operator Directive 4 of 2022 that was released on 9 June 2022. Within the implementing directive you have dates that are stipulated, so there is a date where the action should be complete, and then there is a date where the Safety Compliance Team will audit to see whether that is complete. There are provisions within the Military Air Operator Directive for the Director of Operational Airworthiness, where tasks can't be completed within the given time, where that timeframe could be adjusted.

20 Clearly, in this instance, the brief on the status update that was provided on 27 July is because at that point it is absolutely appropriate that a further update be provided to the Military Air Operator. In terms of that specific task, like I say, that task, having not been completed at that point, the information that was obtained and provided to me was that the unit Commanding Officer believed that the issue of Special Flying Instructions regarding formation flying proficiency would supersede this requirement, and so, like I said, other layers of our orders, instructions and procedures would meet the need, and therefore not requiring the review of the Unit Training and Assessment Program.

30 But direction was given, and I clarified, and said again, "We need a multi-layer approach", and whilst at the Military Air Operator level, further reinforcement of recency requirements was provided. It was also appropriate that this task continue to be actioned through the review of the Unit Training Assessment Program.

35 LCDR HAY: Can I just ask you then, the confusion, was that confusion communicated by a single unit Commander, or by multiple unit Commanders? Where was the confusion generated from?

40 MAJGEN HAFNER: So communicated up and validating the status of the actions from the Aviation Command, down through the Brigade Headquarters to the units. The commentary that was provided to me was that there was, I believe, two of the unit Commanding Officers thought that the update of the Special Flying Instruction, the recency requirements, would meet the need. That was passed through the Brigade Headquarters to us, and like I say, I reviewed what was portrayed, and I reiterated that the task needed closure.

5 LCDR HAY: At paragraph 27 of your statement you talk about the 18 actions that have been completed, and then the 10 that had yet to be completed. Could I ask you, sir, could you turn to enclosure 10 of your statement for a moment, and just to ensure that we are literally on the same page, could you just confirm that what you're looking at is a decision brief for Aviation Command through D Command on status of MAO Directive 04/22, Action Items?

10 MAJGEN HAFNER: That's correct.

LCDR HAY: And is it the case that attached to that brief was a table?

15 MAJGEN HAFNER: It was.

LCDR HAY: And the table is essentially colour coded, is it. So green items are the completed items and pink are the yet to be completed items?

20 MAJGEN HAFNER: That's correct.

LCDR HAY: Could I ask you, would you please turn to item 1(e)? Can you confirm that it's on the page A-2?

25 MAJGEN HAFNER: That's correct.

LCDR HAY: It's the first item in the box on that table; is that right?

MAJGEN HAFNER: Sorry, say again?

30 LCDR HAY: Sorry, it's the first row in that table on that page?

MAJGEN HAFNER: Yes, that's correct.

35 LCDR HAY: Could I ask you, sir, if you would, could you look at the "Response – Evidence" column and do you see that what's recorded there, at least, is that it – sorry, I can't lead the - - -

MS McMURDO: It's Official: Sensitive.

40 LCDR HAY: I can't lead the content of it.

MS McMURDO: No, that's right. Just be careful. Yes.

45 LCDR HAY: Do you agree that what is captured within that column, sir, is that there is a relationship between this action item and action item 1(c)?

MAJGEN HAFNER: The commentary does stipulate an interrelationship.

5 LCDR HAY: And could I then ask you, would you go back to page – I assume it's A-1, it was the first page of the table. And can you confirm that action item 1(c) is in green?

MAJGEN HAFNER: That's correct.

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LCDR HAY: And that indicates it's already indicated that that is a completed item?

MAJGEN HAFNER: 1(c) was complete.

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LCDR HAY: Yes. And so is it a fair reading of those two rows of the table that action item 1(e), although not completed, was interrelated with action item 1(c) which was completed?

20 MAJGEN HAFNER: What I would say is action item 1 had six tasks that were all interrelated in addressing a recommendation. So they're all parts of addressing a given issue. But like I've said, in terms of the specific task of 1(e), it was making sure that we had all aspects complete. And so not relying on one change in the system; making sure that we had changed at
25 all layers of the system.

And in this case, there was the element to do with the unit versus the element at 1(c) which was at the higher level of orders and instructions of the Military Air Operator.

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LCDR HAY: Yes.

MAJGEN HAFNER: And it was, as I said, clarified that both actions needed to be conducted.

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LCDR HAY: Yes. Now, just so that, I suppose, the Inquiry understands, when you say that "all of the action items in item 1 were interrelated", not all of the commentary within the table indicates that unactioned items were interrelated with action items. Do you understand my meaning of that
40 question?

MAJGEN HAFNER: No. If you can - - -

LCDR HAY: The commentary in item 1(e) specifically makes reference to the interrelationship with item 1(c). That is not true of all of the items within item 1. Do you agree with that?

5 MAJGEN HAFNER: I'd agree that what is written there is a clear stipulation in here of an interrelationship that is not written the same in other areas.

10 LCDR HAY: And is that because to some extent the intention of 1(e) was captured by 1(c)?

MAJGEN HAFNER: The task as they're written relate to amendments to different orders and instructions at different organisational levels.

15 LCDR HAY: I next want to take you, if I could, to paragraph 62 and 63 of your statement. These are the two paragraphs that deal with your own experience with fatigue and fatigue management. Now, 62 seems to be you relaying your experience as flight crew. That is, where you've experienced fatigue or where you thought that your fatigue levels represented a risk,
20 you've taken certain action. Is that a fair assessment of 62?

MAJGEN HAFNER: That's correct.

25 LCDR HAY: 63 is more about where you, as a Commander, are dealing with others who are experiencing those fatigue issues. Is that a fair assessment?

30 MAJGEN HAFNER: In a variety of roles. So, as you'd appreciate in the Aviation context, it may not be in a Command appointment, it might be in another flying supervisory appointment. But that was the intent, in that 62 was very much my self-assessment of fatigue as an individual aircrew member versus my obligations that I had as a flying supervisor and a Commander was what paragraph 63 was articulated.

35 LCDR HAY: Dealing with those in reverse order, as a Commander, were you ever in a situation where somebody had fronted you or come to you with concerns about their own fatigue levels where you made an informed decision to push through, as it were, to insist upon that person flying even though they raised those concerns with you?
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MAJGEN HAFNER: I can't recall any instance where I personally have done that.

LCDR HAY: Have you heard, anecdotally, of any other senior

Commanders taking that position when it comes to fatigue and fatigue management?

5 MAJGEN HAFNER: Yes. So there have been instances on operations where, again, individuals are at the end of their duty period, an operational imperative arises and there is absolutely, as I've described, a deliberate then approach to how would that risk be assessed and what did that mean in terms of any form of duty extension accepting that those activities would come now with an elevated level of risk because the individuals are at a
10 greater level of fatigue. So I've absolutely observed that in an operational environment.

LCDR HAY: Thinking about that though, could you envisage any reason why, or have you heard of any similar approach being taken in a training
15 environment?

MAJGEN HAFNER: So an extension of crew duty or duty within an exercise environment would be unusual. I can't say that I can recall an instance where I've observed that.
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LCDR HAY: Going then to more your own personal experience with fatigue and fatigue management, paragraph 62 of your statement, you talk about occasions where you've felt that your flying performance could be impaired. You've removed yourself from flight duties, identified your
25 circumstances to peers and the Chain of Command. In your experience as a pilot, have you ever experienced any push-back, as it were, from Commanders when you've taken that course?

MAJGEN HAFNER: No. No, as I've stated earlier in the day, my
30 experience has been, and I would hope that that is the environment we have now, is that when someone puts up their hand and says, "I need to stop", then they are fully supported.

LCDR HAY: Yes. You were taken by Counsel Assisting to Exhibit 39, which is the guidebook. You don't have it with you at the moment, I don't think. I'm not going to take you to the individual entries that Counsel Assisting took you to, but do you remember being asked the question or being taken to the portion of the document that says that, "The individual is often a poor judge of their own fatigue levels"?
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MAJGEN HAFNER: I do recall.

LCDR HAY: Going back to, then, the contents of your paragraph 62, those circumstances where you identified your own limitations as a result
45 of fatigue, can you, just in the broad, if you would, just describe some of

the circumstances, your own effects that caused you to come to that conclusion, or those conclusions?

5 MAJGEN HAFNER: Yes. So I think, to be honest, the self-assessment that we perform in many ways is not different to what you do when you get in your car. You know, for me, you are taking into account all of the considerations when you go drive. If you're a red P-plater who has had a long day, you're getting into the car, it's a dark night. The road that you're going to drive on is poorly lit and it's pouring rain. That's an appreciation
10 that you conduct as an individual.

And for me, while we might be poor judges of fatigue self-assessment, it's absolutely something that you need to do because I don't know what the quality of your sleep was like, in some cases. I might not know exactly
15 what's going on at home for you. We try to absolutely – that's why we invest so much time in the responsibilities of a Troop Commander.

Now, I say it's very hard to separate out when we talk about it's an additional burden. But it's fundamental to how we exercise our supervisory requirements because I've got to know you and what's happening in your life in order to apply these areas. And for me, my instances of where I have removed myself from flying mainly were in instances where I was in Command appointments, like being a squadron commander where, with the other demands that were on me, I believed that my flying could be impaired.
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You know, long days I would be at the end of my duty period and when I've made that assessment it was important to me as well to make sure I demonstrated to the other members of the organisation that I can, like everyone else, make that self-assessment, and that it's okay to remove yourself from flying if you weren't up to the task.
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LCDR HAY: Now, part of the Command responsibility with fatigue management is to keep track of your duties, including your non-flying duties. So, as you've explained, the further up the food chain you go, the extra duties that you take on. Well, would you agree with this proposition that those other factors, the personal factors that you've described, the quality of your sleep, what's going on in your home life, whether you've got financial stressors, those sorts of things, they are fundamentally things within the knowledge of the individual. Do you agree with that?
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MAJGEN HAFNER: That's correct. The individual knows and while we will do our utmost to try to understand our teammates, sometimes it's up to how much they wish to disclose in that information.

45 LCDR HAY: Yes, thank you. Those are my questions.

MS McMURDO: Thank you. Yes, who's next? LCDR Gracie.

5 <CROSS-EXAMINATION BY LCDR GRACIE

10 LCDR GRACIE: Thank you. Major General, as ma'am just said, my name is LCDR Malcolm Gracie. I represent the interests of CAPT Danniel Lyon. There are only two areas I want to cover in your witness statement. And the first is if I could please ask you to have a look at paragraph 22? And I just want to see if we can perhaps roll it up a little bit; between paragraphs 22 and 29 you talk about the matters under the heading, "Question 6".

15 And can I just put this proposition to you and see whether or not it accurately reflects the summation of that series of paragraphs? So, in fairly direct and simple terms, I want to put the proposition that Army was aware of shortcomings with respect to flight safety involving formation flying. That's at 28(a). At night, that's 28(b). Based on the DFSB report delivered to Army Aviation on 9 December '21, that's paragraph 23.

20 And those shortcomings were not rectified at the time of Exercise TALISMAN SABRE '23 and, in particular, on the night of 28 July '23 when Bushman 83 was lost. Do you agree with that?

25 MAJGEN HAFNER: No, I don't.

30 LCDR GRACIE: How were they addressed then?

35 MAJGEN HAFNER: So I would not use the word "shortcomings". What I would say is like any accident investigation, it identified a range of areas where we could do further improvement. And so holistically, like I say, it's going back and confirming that the foundation levels of training, the procedures that we have are all appropriate and where we can enhance the requirements. Again, I'll go back to an earlier comment I made in that the incident that's referred to here, there are procedures that existed at this point in time which, if followed, are designed to allow the aircraft to maintain the appropriate separation.

40 So, again, I talk about there is a range through here of where we sought safety improvement, but I wouldn't necessarily categorise it as shortcomings.

LCDR GRACIE: Well, it's an enhancement or an improvement of an identified risk, isn't it?

5 MAJGEN HAFNER: It is an enhancement to the way in which we can manage a hazard, correct.

LCDR GRACIE: So the risk has been identified and the recommendation is to improve on it.

10 MAJGEN HAFNER: That's correct.

LCDR GRACIE: So we may not be agreed on the word "shortcoming", but there was an identified risk that needed treatment. I think that was your word, "treatment".

15 MAJGEN HAFNER: That's right.

LCDR GRACIE: What I want to know then, is between that time of December '21, when the DFSB report is done and those identified risks, what interim measures were taken to deal with those matters by way of enhancement or improvement? Anything at all?

20 MAJGEN HAFNER: Yes. So I think if you review through the 18 items that had been completed and one of the key elements was in May '23 you had the release of Standing Instructions Aviation Operations, Edition 5, Amendment List No 10. And that made a couple of – you know, had a couple of significant updates within that as well.

30 One of those was the Standing Instruction directly relating to flight authorisation. And it provided an annex to that Standing Instruction which went into quite some detail how, through the flight authorisation process, you, again, looked at currency, competency, recency, the appropriateness of the crew for the mission they were undertaking.

35 It also looked at a range of human factors. Everything from temporarily medically unfit through to fatigue; obviously a range of about six different items that was there as well. And so while there was still further work being done in strengthening other areas of the orders and instructions, there was absolutely further prescription placed on the flight authorisation process, so that those that were going to be making sure that the people who were executing the mission were checking these areas to make sure that they were suitable to perform the mission at the time.

40 Lcdr GRACIE: And forgive, because I did not make the question

clearer and I should have, what I was trying to focus on was what interim measures or treatments were undertaken after December '21, prior to July '23, specifically in relation to action item 1(e) dealing with flying proficiency, and action item 3(a) in relation to managing performance-related matters for risk during night flying to those two. Anything at all?

MAJGEN HAFNER: So what I just described in terms of updates to the Standing Instructions, that is action that was conducted in that period of time - - -

LCDR GRACIE: Who did that?

MAJGEN HAFNER: In fact, there was two updates in that period of time. Amendment List 9 to Standing Instruction Aviation Operations, Edition 5, was released in 2022, and then, as I said, Amendment List 10 was further released in May '23. As I was reflecting just before, many of these tasks though, when you have an incident like this, if you have a look at the number of recommendations that were in the Aviation Safety Investigation Report, there are more tasks than there were recommendations. And that's an example of us conducting analysis of the recommendations, translating that into tasks.

And you actually ended up with a greater number of tasks that we had placed on ourselves as an organisation than the recommendations. And action item 1(e) is a perfect example where 1(e) is one task amongst six that were captured under action item 1.

LCDR GRACIE: Just to come back to that, though, in what respect then were they still outstanding? You've talked about the amendments, but you've identified them as being outstanding as at July '23, and you mentioned Amendment 10 in May '23.

MAJGEN HAFNER: Yes.

LCDR GRACIE: But it sounds like it's still outstanding.

MAJGEN HAFNER: As I reflected, the Unit Training and Assessment Program, that's the element of the task. Until we could confirm that it's fully complete, then we're not going to close the action item. So in this case, action item 1(e) as we'd said, there was some confusion on that task but it remained open until it had been completely addressed but there had been actions that was occurring at other layers of the orders and the instructions reflective in the other tasks in action item 1.

LCDR GRACIE: And I take it though, these are prioritised in terms of importance and relative to safety?

5 MAJGEN HAFNER: Absolutely. Everything's prioritised and again, I suppose I'll go right back to the beginning when we started and we spoke about my response to question 39; in particular, paras 120 and 122. You know, prioritisation has got to be contextualised. And when you're looking at a range of different treatments being applied, like I say, there's five other parts of action item 1 that had been completed.

10 That's what the matrix reflects in where you're referring. It's contextualising that there's still action to be done. We're not going to close it off until it's done to the appropriate standard and confirmed, but there are other events going on that draw effort. And you can appreciate when you were being called perhaps to flood relief in a part of the country or we need to do response to another incident.

20 It could be the Orroral Valley Fire Coronial Inquest. They're all typically demands. They're competing along the same resource of people to satisfy these. And there's a constant reassessment that's going on in those two. You know, where do we apply that effort, and what is risk that we are managing at any point in time?

25 LCDR GRACIE: And I don't want to put this in too much of a pejorative way, but if I look at action item 1(e), it's looking at incorporating formation flying proficiency requirements into a Unit Training and Assessment Plan. So at present, as Air Vice-Marshal has said, and from the evidence before the Inquiry, I'm not even so sure it can be put as a requirement. It's a desirable thing to have annual training in relation to formation flying, once 30 a year. Is that correct?

MAJGEN HAFNER: So when you look at a task like 1(e) - - -

35 LCDR GRACIE: Sorry, sir, I was just going to ask, is that correct though?

MAJGEN HAFNER: Sorry, restate your question, please?

40 LCDR GRACIE: That the only requirement in relation to training with respect to formation flying at night is once a year as at 28 July '23 to maintain currency.

MAJGEN HAFNER: To maintain currency in - - -

45 LCDR GRACIE: Night formation flying.

MAJGEN HAFNER: And where do you draw that from?

LCDR GRACIE: It's some evidence before the Inquiry, and it's something that Air Vice-Marshal mentioned it to you earlier today.

5

MAJGEN HAFNER: I'd need to go and have a look in the exact requirements at the moment for the different checks that we are conducting for each flight regime. But what I would say is, as I indicated, when someone is authorised to conduct a given flight regime, part of the consideration is not only their qualification, but currency, competency and recency. And all of that's considered and was relevant at the time of the accident.

10

LCDR GRACIE: Because an extension was required at the time of the accident to enable those proficiency requirements to be put into the Unit Training and Assessment Plan. It wasn't yet in place.

15

MAJGEN HAFNER: I would need to go back and refer to the earlier – or the version of the Unit Training and Assessment Plan that was in place at that point in time to identify – I wouldn't want to answer without referring to that document as to what was already existing at that time in terms of formation flying proficiency. So, yes.

20

LCDR GRACIE: Well, we do know one thing, that flying proficiency requirements into the UTAP, the Unit Training and Assessment Plan, was not yet fully addressed and more time was sought to enable the time to bring about that action without distracting from Operation TALISMAN SABRE '23.

25

MAJGEN HAFNER: I would not recommend closure of the action until the action had been fully addressed. But again, I would not, without referring to the version of the Unit Training and Assessment Program, make any assertion as to what it included and what it did not at that point in time.

30

LCDR GRACIE: One thing we do know, if you look at paragraph 29, is that Standards did not develop a Core Risk Profile in relation to action items 1(e) in relation to flying proficiency in formation, or 3(a) in relation to managing NVDs for night flying. They're addressing the other items. So my question is, what was done that you can tell the Inquiry about now, sir, in relation to those matters that were still outstanding in relation to item 1(e) and 3(a) as at 28 July '23?

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40

MAJGEN HAFNER: Yes. So I'll - - -

LCDR GRACIE: If you don't know, please just say you don't know.

45

5 MAJGEN HAFNER: No. So I'll reiterate my comments that 18 action items had been completed. There was other activities that had been done. Those items remained open. As I indicated, 3(a) was part of integrating with the updated Regulation which had a compliancy period at the end of 2023. So the work was incorporated to make sure that any updates that were actioned were done in alignment with the policy, the new Regulation, that was being implemented as well.

10 So we didn't come up with any orders, instructions and publications that then were misaligned with what the new Regulation requirement was. So that was being actioned, as I've indicated, in alignment with the implementation of that Regulation. Action item 1(e), as I've said, you've got to start by having a look at what was the foundation of the Unit Training and Assessment Plan that was in existence. Noting that each unit has their own plan and this task was for the units to go and review to make sure that that layer was appropriate. But it builds on and is part of many other layers that look at recency and proficiency in formation, and somewhat the updates that had occurred with things like the requirements for checking during the flight authorisation process.

LCDR GRACIE: Let me move to that second point. Sorry, the first took so long.

25 MAJGEN HAFNER: That's okay.

30 LCDR GRACIE: Sir, can I ask you to look at enclosure 13, which was dealt with under question 11 of your statement. And most of your evidence relates to the period after the Jervis Bay incident in March '23, and I appreciate that. But I just want to go back a little bit, if I may, now that my laptop has shut down and we'll – technology. Could I ask you to turn to, I think it's page 33 of this document, if yours is paginated. It's not? No, it's on the PDF then. Sir, could I ask you to go to – and bearing in mind it's sensitive in nature. It's FOUO.

35 It's the MAO-AM decision brief. It might help if I tell you that it was signed by CDRE Smallhorn. It's about, if I had a guess, probably 25 pages in, including duplex. And if I could assist, sir, it's got two blue lines through it. Sorry, ma'am. Could you, Kevin, give and show this to ma'am before it goes to sir, so that they can find it. It's that page. It's not paginated. Yes, that one. That's what we're looking for.

45 MS McMURDO: Yes, we've got it. We've found it. Thank you, the Air Vice-Marshal has found it.

5 LCDR GRACIE: Thank you, ma'am. I see, sir, that in paragraph 43 you identify two options and this is after the Jervis Bay incident. And that there was a decision to take up option 2. That's in para 44. What I want to go back to, though, is this decision brief, back in 2018 and show you that – bear in mind we can't disclose its contents. But I just want you to have a look, please, at the options that are in this document at page 8. And you'll see that there's the three options there. Are they the options that you were talking about in paragraph 43?

10 MAJGEN HAFNER: No.

LCDR GRACIE: No, okay. So you'll see those three options there. Just if you have a look.

15 MAJGEN HAFNER: Yes.

20 LCDR GRACIE: And you'll see what option 1 is talking about in terms of timeframe. And you'll see what options 2 and 3 are talking about in terms of timeframe. And, if you jump back to page 2, you will see that CDRE Smallhorn – and I believe it is the case that he was then the Commander of the Navy's Fleet Air Arm, FAA. Is that correct?

MAJGEN HAFNER: I believe so.

25 LCDR GRACIE: And you'll see that he's identified option 1 for the proposal in dealing with the HP-1 turbine blade modification. And you'll see that – I think you will see it's DG AVN that selected option 3. Am I reading that correctly?

30 MAJGEN HAFNER: That appears correct.

LCDR GRACIE: And were you involved at all in reviewing this document prior to it being disseminated to DG AVN? I take it not.

35 MAJGEN HAFNER: No. Based on the signatory that I can see on the front page and the signatories at the back of the brief are around 2018, which is the appointment time where I was actually posted overseas.

40 LCDR GRACIE: Right. And I appreciate this, but when I look at paragraph 43 and when I look at the context of this document back in 2018 which you were provided with, I understand, to make your decision – that's correct, isn't it?

45 MAJGEN HAFNER: Post the incident?

LCDR GRACIE: Yes.

MAJGEN HAFNER: Correct.

5 LCDR GRACIE: I think 5 April '23 you received this?

MAJGEN HAFNER: We reviewed the previous decision briefs in considering the options and the decisions that are in my response to question 11, yes.

10

LCDR GRACIE: And, sir, back in 2018 Commander of FAA went for option 1, which was not pursued. And after the incident, when you received this in April 2023, you still didn't elect option 1, which was an estimate of two weeks to complete that task, and instead elected for option 2. My question is, did you have regard to what CDRE Smallhorn preferred as the appropriate option back in 2018 in forming your decision in 2023?

15

MAJGEN HAFNER: Yes, we did. And the essence of the decision that was made by CDRE Smallhorn was an elimination approach of modified engines to the Navy's fleet of helicopters based on the risk exposure during overwater operations. The decision that was taken following the Jervis Bay incident was a similar approach in that where the aircraft is susceptible to that elevated level of risk when you are conducting performance category three operations, to have that conducted with aircraft with both engines modified, which is very similar to the approach that was adopted by Navy 2018.

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25

LCDR GRACIE: So why not adopt that same option 1 instead of option 2?

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MAJGEN HAFNER: You're talking about the two options that we've got in paragraph 43 of my response?

LCDR GRACIE: Yes. Because both - - -

35

MAJGEN HAFNER: Well, yes - - -

LCDR GRACIE: Both those options have this immediate establishment of the modification. That's what they have in common. Why not have that in place if it was only going to take two weeks?

40

MAJGEN HAFNER: The option 1 and option 2 that are within paragraph 43 of my response effectively are intended to achieve the same outcome; it's the speed at which it's executed. And, as is reflected, in one case it would require an increased level of maintenance which, in itself, we

45

assessed would introduce risk because of error-producing conditions based on the maintenance work to do it.

5 Option 2 was to take a slightly different approach with it taking longer, but the constraint around not performing Performance Class 3 operations without both the engines modified was in place.

LCDR GRACIE: So it's a balancing of time and cost and risk.

10 MAJGEN HAFNER: Absolutely. And you know, as risk always is, it's a matter of balancing, and if you're – in treating risk you're actually introducing risk, you need to do that in an informed way, and in this case it was determined that we would have a slower return to Performance
15 Category 3 operations based on a slower process to modify the aircraft. But, in doing so, that we wouldn't introduce risk in maintenance operations to achieve that outcome.

LCDR GRACIE: One final thing. It's only short, but it's an important matter. You've now been in the position to be able to oversee Army
20 Aviation. You've had great experience in it. You're embarked on reviews, improvements and reform. When you became involved in the incident on 28 July and overseeing some of the Army Aviation reforms since then that we've talked about, did you have a concern that prior to 28 July 2023 Army Aviation had a culture of normalising risk in terms of flying safety that
25 needed to be improved?

MAJGEN HAFNER: No, I believe that we had a culture of assessing risk and absolutely seeking to treat risk. You know, the introduction of tools like the Aviation Integrated and Aggregated Risk Tool was an example of
30 us trying to do system improvement by introducing a tool where we could have better visibility of risk and better understanding of aggregated risk.

So I think the organisation has always sought to improve how it sees risk, how it understands risk and how it treats it. Again, I'll reflect back to my
35 very early comments. You know, through that combination of Force generation activities, modernisation activities, organisational change, airworthiness activities, there is a whole enterprise of trying to deliver better capability, and better capability that can have an improved safety outcome as well. And many of those actions were initiated and occurring before the
40 tragic accident.

LCDR GRACIE: All right. Thank you, sir.

MAJGEN HAFNER: Thank you.
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LCDR GRACIE: Sir, ma'am.

MS McMURDO: Yes, LCDR Tyson.

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<CROSS-EXAMINATION BY LCDR TYSON

10 LCDR TYSON: Sir, my name's LCDR Matthew Tyson. I appear for the interests of CPL Alex Naggs. Sir, I'd like to ask you to go back, if you could, to the period of the last week of March 2023, and just to understand the context at that time. So as at that time – and of course you were the Deputy Commander Army Aviation Command at that time; is that right, sir?

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MAJGEN HAFNER: That's correct.

20 LCDR TYSON: So as at that time, there was a recognition within Army Aviation Command that the Taipan platform was an enduring underperforming platform; is that correct?

MAJGEN HAFNER: That's correct.

25 LCDR TYSON: There was a recognition within Army Aviation Command at that point that the Taipan platform was associated with an aggregated medium risk to personal safety. Correct?

MAJGEN HAFNER: That's correct.

30 LCDR TYSON: There was a recognition within Army Aviation Command that there were still action items outstanding arising from the November 2020 Townsville near collision. Correct?

35 MAJGEN HAFNER: Correct.

40 LCDR TYSON: And, of course, Army Aviation Command would have been well aware in the last week of March 2023 that an MRH-90 had crashed into the waters of Jervis Bay, associated with minor injuries to some ADF personnel. Correct?

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MAJGEN HAFNER: Correct.

LCDR TYSON: In that context, sir, can you explain why it was that – following a short operational pause and before the aircraft safety investigation report was completed into the Jervis Bay incident, why it was

in that context that the decision was made to resume flying MRH-90 Taipans.

5 MAJGEN HAFNER: So you convey that as a short period, but really it's about the analysis was done following the event. As I reflected immediately following the Jervis Bay incident, there was an operational pause – again, a common practice – in order to gather facts and be able to assess the circumstance. There was a very deliberate process that was undertaken to then look at the system, look at the problem that resulted in
10 the accident, and then come to the point of recommending the method by which we would return to flying operations, with a particular focus on treating what was the engine issue that was causal in that event.

15 Like I said, through the course of 2022 there was many aspects done in looking at assessing the risk of the MRH system. I earlier referred to an MRH system level risk assessment. It was a process that we initiated with the MRH as our primary focus. We've subsequently conducted it for our Chinook helicopters, for our ARH – our Armed Renaissance Helicopters – as well. Because I think one of the challenges is always "How do you see
20 aggregated risk?" Because you have lots of little risks in a system – often it could be operational, it could be technical, but "How do you view them in an aggregated sense?"

25 And that's what we did with the MRH system to begin with, as our primary focus, was assess what that risk was. And again, it came out as a medium level of risk that was accepted.

30 LCDR TYSON: But wouldn't it have been better if an organisation such as DFSB assessed that aggregated risk fully and completely before Army Aviation Command did so?

35 MAJGEN HAFNER: I think that probably confuses the roles between the organisations. So an operational organisation needs to be continually assessing the risk that it has. That differs from the Defence Flight Safety Bureau as an independent investigatory authority. I think in terms of validating our assessments of risk and the actions that we're taking, the Defence Aviation Safety Authority does that through its oversight role.

40 LCDR TYSON: But you'd accept, wouldn't you, sir, that the Jervis Bay incident involved not merely the turbine blade issue with the engines, but it also showed up issues about, for example, [REDACTED]

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The analysis of the full incident showed issues apart from simply the engine turbine blade issue, didn't it, sir?

5 MAJGEN HAFNER: So a normal Aviation Safety Investigation looks at many facets to make sure that we get every learning that we can out of an incident. So the final report, when it was delivered in 2024, did cover a range of other areas that then we go through the similar process of making sure that we've analysed the report, directing actions that come from the recommendations to conduct safety improvement.

10 LCDR TYSON: Were you aware, sir, prior to – I think it was 27 April 2023 when the recommendation came – or the decision came to resume flying operations. Were you aware at that point about [REDACTED]

15 [REDACTED]

MAJGEN HAFNER: So I can't recall the exact circumstances of that incident.

20 MS McMURDO: I think there's an objection.

MS MUSGROVE: Just pause for a moment. If we could cut the feed, please?

25 MS McMURDO: Yes, all right then.

MS MUSGROVE: That final report has not been made public and it's not appropriate to be discussed in this forum. So if I can ask for that to be struck from the - - -

30 MS McMURDO: So that's, what, at an "Official: Sensitive" or higher classification?

35 MS MUSGROVE: Well, I think there's a couple of issues. I have not seen the report, so I don't know what its classification is, but my understanding is that it has not been made public at this point in time. I understand it may have been provided to the Inquiry pursuant to a section 23 Notice. I haven't seen it, so I can't address you on what the classification is, but it's not published and so it's not appropriate for it to be discussed in an open forum.

40 COL STREIT: I can advise, ma'am, the Aviation Safety Investigation Report is "Official: Sensitive".

45 MS McMURDO: Yes, all right. Thank you.

MS MUSGROVE: Thank you.

MS McMURDO: Well, that certainly clarifies it. All right, we will have to cut out any reference to the contents of that report.

5

LCDR TYSON: Ma'am, I am not in any way referring to the report. I haven't seen it. The witness has made it clear in his statement that he was involved in an analysis of the incident. He has also said that today, and I think the Defence Minister released publicly available information in
10 September 2024 about it, so my question is only informed by what is already out in the public, and in no way have I seen the report, or are aware of it.

MS McMURDO: That's fine.
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COL STREIT: For clarity, we haven't disclosed the report to any of the Counsel representing.

LCDR TYSON: Could the feed be recommenced, ma'am?
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MS McMURDO: Absolutely. In fact, the only part that needs to be cut is the reference to the DFSB report – any references to that DFSB report, which is "Official: Sensitive".

LCDR TYSON: Sir, just in relation to that decision as at late April 2023 to resume flying with the MRH-90, can you explain, please, who was the decision-maker? Was it MAJGEN Jobson? Or did it also involve, for example, DG AVN and DASA? Could you just explain who was the decision-maker on that?
25

MAJGEN HAFNER: So the decision to resume flying operations – so I'll just refer back to my statement. It's in response to question 11.
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LCDR TYSON: Is that in paragraph 44, sir?
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MAJGEN HAFNER: Stand by, please. So you can see through paras 42 through to 44 – and, sorry, inclusive of 45 as well, the process that was undertaken. So 5 April 2023 a decision brief being provided which had the risk assessment and the draft Special Flying Instruction for the return to flying operations. It provided the options for maintenance. It also, in the
40 Special Flying Instruction, articulated controls that would be in place for the flight operations. I reviewed that the same day, on 5 April, and made the recommendation to the Army Military Air Operator Accountable Major, who was MAJGEN Jobson at that point in time, with those documents.
45

LCDR TYSON: But just to understand your language, sir, you talk about your review. You see in 44 you talk about your review.

MAJGEN HAFNER: Correct.

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LCDR TYSON: Then you say you progressed the decision brief to MAJGEN Jobson supporting the recommended option?

MAJGEN HAFNER: Yes.

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LCDR TYSON: So the decision-maker is MAJGEN Jobson; is that correct?

MAJGEN HAFNER: That's correct.

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LCDR TYSON: And when he makes that decision, to what extent, if any, does he involve DG AVN or DASA? In any extent, or not at all?

MAJGEN HAFNER: So the Director-General Aviation is a role which the Deputy Commander performs, so in providing the recommendation to MAJGEN Jobson, I am doing that wearing the hat of both the Deputy Commander and of the Director-General Aviation. But noting the Director-General Aviation role is more associated with running of our Battlefield Aviation Program, which is focussed towards our acquisition of future capabilities that's there. So the advice goes forward. When those decisions are made – and, look, I just need to refer to the decision brief.

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MS McMURDO: That's enclosure 13, is it?

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MAJGEN HAFNER: Enclosure 13, ma'am, that's correct.

MS McMURDO: Thank you.

MAJGEN HAFNER: In enclosure 13, at paragraph 15, it actually identifies those who were consulted in that decision-making process, and the recommendation, and that included a range of organisations. I'm conscious of the classification of this brief, but you can see it spans engineering organisations, training organisations. It also includes representatives from the Defence Aviation Safety Authority. That was all part of the consultation before it was presented for my review, and then recommendation to MAJGEN Jobson.

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LCDR TYSON: You would agree, sir, that was a very significant decision to make in some of that context I took you through at the start of my

questions, for example, that associated with the Taipan platform there was an aggregated medium risk to personal safety known about at the time?

5 MAJGEN HAFNER: I would say any return to flight operations following an incident is a significant decision. You know, there have been a number of instances, not only with MRH, but other platforms over the years, where you have a similar circumstance. So there is always a very deliberate process by which you go through to pause, which may move into a cessation of flight operations, and in all cases you want to be very clear
10 as to what is the criteria by which you would return to flight operations.

And as is reflected in the brief, there was a clear path there of analysis, risk assessment that was presented, and then controls being implemented through a Special Flying Instruction before return to flight was considered.
15

LCDR TYSON: Would you agree with this proposition, sir, that as at July 2023 Army Aviation should not have been flying the MRH-90 in flights which involved flight profile with these elements: (a) formation flying, (b) overwater, and (c) in a degraded visual environment?
20

MAJGEN HAFNER: I do not agree with that.

LCDR TYSON: No further questions, ma'am.

25 MS McMURDO: Thank you, LCDR Tyson. Yes, next. COL Gabbedy, all right, then.

<CROSS-EXAMINATION BY COL GABBEDY
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COL GABBEDY: Sir, I am COL Nigel Gabbedy. I appear for MAJGEN Jobson. I appreciate you've had a long day. I'll try and keep this as quick as possible. I want to start towards the end of your statement, at
35 paragraph 122, which I understand was the start for Aviation Command. It's the case, is it not, that when Aviation Command was stood up there was a great body of work that needed to be done in order to make the Command functioning and responsive to the needs of government.

40 MAJGEN HAFNER: That's correct.

COL GABBEDY: And you have outlined a number of those lines of effort in paragraph 122. Was the establishment of a quality management system a key part of those requirements?
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MAJGEN HAFNER: Yes, it was, and I've obviously listed that within paragraph 122. You know, that's an example of an action that came from the 2021 Defence Aviation Safety Authority oversight, and needed to be addressed. So that was one of the activities very early in 2022 that we
5 actioned.

COL GABBEDY: With all of that, at the same time you were implementing the DFSB guidance in relation to fatigue management, so that's another one of the tasks that you're doing in conjunction with
10 everything else.

MAJGEN HAFNER: I've tried to depict a range of activities that we were doing, but again, when you are fundamentally trying to enact change for betterment, like I say, sometimes it's viewed purely through the lens of
15 changing aircraft and the work that's being done to put forward submissions for government, but that's such a small piece of the equation. It was a holistic approach to look at the organisational design. You know, how do we best structure ourselves so that we've got our people in the right groupings? Look at disposition. How do you get the best out of your combined Military and industry workforce? How do we look at the support
20 systems underpinning our aircraft? The aircraft systems themselves, how do we look at the tasking assignment that we had? The SI Modernisation Project, how do we look at the mapping of all of our compliance to the Regulations?

25 So you can enact a quality management system, but it needs to quality assure against a baseline, and so that was the importance of enacting the Standing Instruction Modernisation Project, was let's go back and fundamentally look at our orders, instructions and publications which all go
30 through annual review. We wanted to go right back to first principles and be able to re-map everything against all of the Regulations again – work that was commenced in 2022. They're all things of assurance and system improvement. And, again, trying to depict that that's a significant body of work to improve the system. No one was sitting around idle through this
35 period.

COL GABBEDY: If I call it baseline work, that work was already fully occupying your people before you add anything extra to it.

40 MAJGEN HAFNER: That's correct.

COL GABBEDY: Would it be fair to say that the greatest challenge for Aviation Command through those years from 22/23 was managing the MRH-90 and its capability?
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MAJGEN HAFNER: I would say that's an accurate statement, and I believe that's been reflected previously; that it was effectively what was consuming a disproportionate effort of the organisation.

5 COL GABBEDY: That was what was described by some as, "an enduring, underperforming system". It was a project of concern.

MAJGEN HAFNER: Yes, it obviously was both a project of concern and a product of interest for many years.

10

COL GABBEDY: There has been a lot of talk about this medium level of risk. That medium level of risk was assessed in relation to the airframe and the parameters within which it was required to operate, wasn't it?

15 MAJGEN HAFNER: So that was a view of the system, the system of the aircraft. It takes into account many facets, everything from engineering advice, repairable items, and it's a very holistic view of the risk of the system.

20 COL GABBEDY: And that level of risk was not something that stopped at DG Aviation Command, was it? That level of risk was known right throughout Defence.

25 MAJGEN HAFNER: Yes. So it was routinely reported through Airworthiness Board submissions. And, as I've reflected, the System Level Risk Assessment, when you look at the signatories on that document as well. So it was understood.

30 COL GABBEDY: As I understand it – and tell me if I'm wrong about this – that level of risk had to be tolerated in order for Aviation Command to provide the Defence Force with a functioning capability in this particular helicopter.

35 MAJGEN HAFNER: That was the assessed and accepted level of risk in this platform. Like I say, there was – ultimately, the strategic treatment that we embarked on was the replacement of the aircraft. That naturally involves a process of putting proposals to government. That was done at a rate which is quite exceptional, I've got to say. When you think about the acquisition process, it normally takes you a number of years for something
40 of this significance. And that was achieved, effectively, in under 12 months because there were constraints in timeline, and obviously there was an imperative in terms of addressing that medium level of risk, and we sought to do that through an elimination strategy of replacement.

COL GABBEDY: That strategy was identified as the best strategy to eliminate or remediate that risk, was it not?

MAJGEN HAFNER: That's correct.

5

COL GABBEDY: Obviously, introducing the new airframe, the UH-60M, quickly, or as quickly as it was, creates risks of its own, but those risks were seen as being either manageable or acceptable, given the risks associated with the MRH-90.

10

MAJGEN HAFNER: So any rapid introduction has got demand. That's why it's rapid, because you're working at a rate faster than normal. But one of the – there is risk in going fast, but in this case there was risk in not going fast as well. We had only ceased operating our previous variant of the Black Hawk, the S-70A-9, in December '21. Every day that you were further away from that you were losing Black Hawk operating experience in the organisation, so moving at a rapid rate was again about how we could introduce and treat the risks through elimination, as rapidly as we could, while managing the risk in doing so.

20

COL GABBEDY: You were asked a number of questions about the Military Air Operator's roles and responsibilities. Do you recall those?

MAJGEN HAFNER: I do.

25

COL GABBEDY: My understanding – and again, correct me if I'm wrong – the responsibilities are to establish and maintain a safe operating system; is that right?

30

MAJGEN HAFNER: That's as it's reflected in the Chief of Army's Directive 17 of 2021, which is the Directive that the Chief appoints the Army Air Operator – Military Air Operator Accountable Manager through.

35

COL GABBEDY: And there's a structured process to identify hazards and manage risks; is that right?

MAJGEN HAFNER: Yes, there is.

40

COL GABBEDY: Then those risks are reported through the DASA Safety Boards.

45

MAJGEN HAFNER: So we report risk through a number of forums. Like, say, the Aviation Integrated and Aggregated Risk Tool is a risk database, so one of the great benefits of that is visibility. In the past you might have found Risk Management Plans of units being really focussed

within their unit structure, and they're done on templates and they're stored within the document management system.

5 The beauty of the Aviation Integrated and Aggregated Risk Tool is everyone has collective awareness. It's actually helping us better view where one unit might have a risk treatment, why doesn't another unit have that? And so that's where you see this aggregation into Core Risk Profiles, because it's drawing the relevant elements from across the enterprise. But there is also reporting through the Defence Aviation Safety Board. There is the Defence Aviation Safety Annual Report. There are a number of forums in which risks across the organisation are reported.

15 COL GABBEDY: Thank you, sir. During your period as the Deputy, do you recall an Army Aviation Safety Management Program? It was a program that endorsed Command safety priorities.

20 MAJGEN HAFNER: The Army Aviation Safety Program Conference is our bi-annual safety program where we review risks, trends of risks. We do that based on weapons systems, so aircraft type. We also look through different organisations, so you look at trends from organisations. It's attended by every unit. It's attended by our counterparts within Capability Acquisition and Sustainment Group. So we've got delivery agency, we've got engineering. All attend. And that is our primary Military Air Operator review mechanism looking at hazards, and one of the outputs is our Command Safety Priority List, which really is how we focus the organisation on those top-level hazards that we need to treat.

COL GABBEDY: What was your involvement in that process?

30 MAJGEN HAFNER: So the Army Aviation Safety Program Conference is co-chaired by our Director of Operational Airworthiness, and our Director of Continuing Airworthiness. That's very important because it fuses together the technical aspects with the operational aspects. I would participate in those, but typically my role was once the analysis was done through the forum, then I would review and recommend the Command Safety Priority List to the Military Air Operator.

40 COL GABBEDY: Did that process lead to the cancellation of otherwise planned activities?

MAJGEN HAFNER: Yes, it did.

45 COL GABBEDY: Did it lead to reduction in the rate of effort in relation to otherwise planned activities?

MAJGEN HAFNER: Yes, it did. As it stands right now, there are six priority items on the Command Safety Priority List. Number 1 of those is system imbalance; demand exceeds capacity. And so there was a routine process by which we would continually review activities, we would cancel
5 activities, we would constrain activities, and we would obviously make sure that the balance of the system, the rate of effort available, was married to our force, and where we needed, rate of effort was one of the other items listed on it. It was one of the drivers for some of our commercial supplementation.

10 Like I said, it's really important for aircrew. The longer they spend not flying – even if it might not be a combat aircraft type, they need to be flying an aircraft, otherwise you will introduce risk when you try to re-introduce them down track. So that was one of the drivers for getting commercial
15 supplementation, which we've seen through the use of three Augusta 139 helicopters and, more recently, the introduction of five H135 Juno helicopters as well.

COL GABBEDY: Thank you, sir. I want to move to the issue of fatigue, which starts on page 14 of your statement. I don't want to spend too much time on this because you talked about it extensively, but in paragraph 53 you refer to your belief that Aviation Command has maintained fatigue management compliance throughout. What was it you meant by that?

25 MAJGEN HAFNER: So the decision brief that I refer to obviously conducted the analysis, and had a matrix attached to the decision brief, but it was very much a view that while we could improve coherency of our fatigue management policy, we could make it simpler for individuals by bringing it into one instruction rather than multiple instructions. And like I
30 said, some of the materials that were available in linked associated products, like the Fatigue Management Guide, the Professional Aviator's Reference Manual, we could bring some of that material forward to make it easier for people to access as well, but very much an assessment that we maintained compliance throughout this period of improvement.

35 COL GABBEDY: In paragraph 51, sir, you refer to the fact that fatigue management requires actions at all layers. Does that blend into the culture you were seeking to drive at Army Aviation?

40 MAJGEN HAFNER: No one person can complete our requirements by themselves. It's fatigue. It's risk management. Everyone has a role within our system to make our system function. It requires individuals to assess risk, assess themselves. It requires Aircraft Captains. It requires Flight Authorising Officers. It requires all levels of Command. But they all have
45 to do their part of the equation for the system to function effectively. If you

5 have complete reliance on centralised action, then that's problematic for us, particularly when you think about what it is that we deliver as a capability, where we will have – you know, in operations you will have aircraft, formations of aircraft, operating environments where they might have difficulty in communicating. They've got to make decisions right there and then. It's reliant on everyone being able to contribute and assess risk, assess fatigue, through the conduct of missions as well.

10 COL GABBEDY: At that coal face, at the individual crew level, Army Aviation works in small teams. Those people generally know each other pretty well. Would that be right?

MAJGEN HAFNER: That's correct.

15 COL GABBEDY: So within those parameters there's the power for a person to FACE out, or for his colleagues to question his or her capacity on that particular evening.

20 MAJGEN HAFNER: That's correct, and as I've reflected through things like our Flight Authorisation Checklist, our aide-mémoire that was part of the Standing Instruction Aviation Operations, we also put this as part of the checklist as we go through different levels of activity.

25 COL GABBEDY: Counsel Assisting took you to Dr Smith's evidence, and the Defence Aviation Fatigue Management Guidebook. The passage he read you – and I'm paraphrasing this, so if I get it wrong, I'll be corrected – said, "Without training, humans are poor at determining their own fatigue". I don't want to make this a memory test, but are you able to outline the training that's provided to ADF Aviation personnel that would
30 assist them in assessing their own fatigue?

MS McMURDO: Are you talking about now, or as of July?

35 COL GABBEDY: As at the time.

MS McMURDO: As at the time.

MAJGEN HAFNER: Yes.

40 MS McMURDO: The time of the crash.

MAJGEN HAFNER: So we obviously have our personnel undergo Aviation Medicine training. They do initial, they do refresher training. Human factors is part of that training. Yes, my personal experience is a

little bit dated on that, I'd have to say, so yes, I wouldn't like to comment - - -

5 COL GABBEDY: No, certainly AVMED training, IETs, non-tech skills – and there's currency training with that – that training is reinforced annually, is it not?

10 MAJGEN HAFNER: So each of those have different currency requirements on them. The currency for Aviation Medicine training, typically you have, like, a three-year currency on those, and we do annual updates. Also, every time you fly, you debrief at the end. We are always – through safety conferences within the units, you're looking at trends. Like I said, the bi-annual Safety Program Conferences, you're looking at where your top themes are. You're reviewing the snapshot report that I've referred to. So there's many forums by which we're constantly going back and looking at the considerations of where areas of risk in our operations are.

20 COL GABBEDY: So broadly speaking, do you think it would be fair to say that your personnel are trained to recognise fatigue in themselves and others?

25 MAJGEN HAFNER: We absolutely, right from the very get-go, look for our personnel to be trained through those various mechanisms – Aviation Medicine, non-technical skills, et cetera – to look for those factors and be able to self-assess.

30 COL GABBEDY: And the culture encourages the reporting of those concerns?

MAJGEN HAFNER: It not only encourages, it actually mandates where there is fatigue issues. Like I say, there's reporting requirements articulated in various instructions.

35 COL GABBEDY: And it's common for redundancies to be built into exercises and operations so that if somebody did need to FACE out, that wouldn't create a no-fail situation.

40 MAJGEN HAFNER: Sometimes redundancy may not exist but, like I say, typically when operations or activities are planned – you know, you could have your aircraft go unserviceable – multiple aircraft – and so having alternate methods by which the movement or extraction of Forces is to occur would be part of normal planning.

COL GABBEDY: As an adjunct to that, sir, at paragraph 64 you make a comment about the deployment to Proserpine, and the conditions in which the Aviation crew were accommodated. Do you believe it is entirely appropriate that they were accommodated in tents?

5

MAJGEN HAFNER: So I've, over the years, had a range of operational experiences. The environment of being under individual shelters, or under canvas, in close proximity to your aircraft, at the aircraft's operating location, my experience has been that is the circumstances when we have initially deployed into theatres. When East Timor commenced in 1999, that was the circumstance. When we returned to East Timor in 2006, that was the circumstance. That was the reality of initial operations, and the initial operating environment, on a number of deployments that I've experienced.

15 MS McMURDO: Just on that point, do you agree that it is still – if it's possible to ensure that the conditions, such as they are, best allow aircrew to have the best sleeping conditions that are possible in the circumstances, that is a significant factor?

20 MAJGEN HAFNER: Yes, so I'd say, ma'am, that you're always trying to provide the best environment that you can for your people, but you also need to make sure that your personnel are trained and experienced for the circumstances that they may encounter. A close analogy that I would draw is working at heights. In the unit environment you can use workstands, but on the deck of a ship you don't have that. And so if you don't, in barracks, train people to climb on an aircraft safely, to conduct their pre-flight inspections or maintenance activities, even though it means that you're assuming some risk, you're actually doing it to treat risk in another operating environment. I think here we absolutely will always try to give personnel the best environment that we can for their sleep conditions.

25 You look at then also other parts of the exercise planning. What time are you doing a mission to achieve the experience of night operations? Have you extended rest periods, et cetera? There's a lot of other factors, but the reality is in some circumstances, and my operational experience has been, under a tent, beside the helicopter at a heliport or an airfield has been our start point on a number of operations.

35 MS McMURDO: I understand that. But my question really was, given the importance of fatigue management for aircrew and the risk to safety if you don't have that, with the conditions that you have to operate under, when you can arrange those circumstances to make them as optimal as possible in the circumstances to maximise aircrew sleeping arrangements to make them as comfortable as possible, would you not do that?

45

MAJGEN HAFNER: Wherever we can improve the conditions for individuals to help their rest - - -

5 MS McMURDO: But I'm talking about aircrew in particular here.
Aircrew over other Army personnel. Giving priority to aircrew, who are going to be flying.

10 MAJGEN HAFNER: Yes. So I'd say, ma'am, we often focus specifically on the aircrew, but very much a maintenance person who is fatigued, a refueller or rearmer who is fatigued. So we very much look at the Aviation Force, appreciating that Aviation operations inherently have risk in them.

MS McMURDO: Yes.

15 MAJGEN HAFNER: So, wherever we can, we're very much trying to provide the best conditions that we can for someone to achieve rest and if you're looking at the environmental conditions, you might make decisions and say, "Right, I'm going to afford a greater rest period. I'm going to reduce a duty period". There's other ways in which you might manage if
20 you can't provide that greater level of – that better environment conducive for rest and sleep conditions that you're speaking to.

MS McMURDO: Right, thank you.

25 COL GABBEDY: Can I just flip the Chair's question around to you and put it this way: do you think it would be best for your aviators to be sleeping under canvas, near an airport for the first time on operations, or is that something they should train for?

30 MAJGEN HAFNER: I think you should have experienced those circumstances under controlled conditions before you perhaps end up there operationally.

35 COL GABBEDY: Thank you, sir. I just want to finish with some questions about spatial disorientation that you were taken through in your evidence. Are you familiar with the changes in the training regime to deal with the issue of spatial disorientation?

40 MAJGEN HAFNER: What particular - - -

COL GABBEDY: The amount of training that's now conducted post the Exercise TALISMAN SABRE as compared to before?

45 MAJGEN HAFNER: In terms of the increased – through the Aviation Medicine Centre or - - -

COL GABBEDY: No, through the training of aircrew and pilots. And if you're not - - -

5 MAJGEN HAFNER: No. Which particular aspects are you talking - - -

COL GABBEDY: My understanding, sir, to be completely upfront, is that before, TALISMAN SABRE pilots were trained in one unusual attitude recovery per year on instruments and that post, there are three training
10 sessions for each pilot: one on instruments, one on ANVIS, and one on recategorisation. Were you familiar with that change?

MAJGEN HAFNER: I can't say I'm tracking the exact details of that, no.

15 COL GABBEDY: Thank you, sir. I've nothing further.

MS McMURDO: Yes. How many more applications to cross-examine? One? Two?

20 COL THOMPSON: I seek leave, ma'am.

MS McMURDO: Yes.

COL THOMPSON: If we have time for that?
25

MS McMURDO: Yes. How long do you think you'll be?

COL THOMPSON: Three minutes, three questions.

30 MS McMURDO: Yes.

MR HUMPHREY: Two minutes, one question.

MS McMURDO: Yes. And do the Commonwealth have anything? No.
35 Excellent, yes. Yes, COL Thompson.

<CROSS-EXAMINATION BY COL THOMPSON

40 COL THOMPSON: Sir, COL Thompson, Legal Officer, for BRIG Dean Thompson. You were shown the Aviation Fatigue Management Guidebook published by DFSB, and I think you still have it in front of you, Exhibit 39, and to be sure, it's the version dating from April 2021. Do you see that on
45 the inside of the first cover?

MAJGEN HAFNER: Yes. So I'm familiar that version 1 is from that period of time. The current version is version 2.

5 COL THOMPSON: Quite so. And part of that guidebook is the Fatigue Risk Awareness Tool, which is also in evidence, commonly known as the FRAT.

MAJGEN HAFNER: Yes.

10 COL THOMPSON: And you're familiar with that diagram.

MAJGEN HAFNER: I am.

15 COL THOMPSON: And your evidence is that the use of the FRAT was not mandated in the Aviation Standing Instructions before the fatalities on 28 July 2023.

MAJGEN HAFNER: (No audible reply).

20 COL THOMPSON: I'm sorry, your verbal answer, sir?

MAJGEN HAFNER: Yes. So that's correct. It was mandated through the release of the Special Flying Instruction towards the end of '23.

25 COL THOMPSON: Thank you. Would you say that the existence of the guidebook and the FRAT was widely known among aircrew in the three flying Regiments before 28 July 2023?

30 MAJGEN HAFNER: So fatigue management information from the Defence Flight Safety Bureau has been referenced and with hyperlinks within our Standing Instructions going back a number of years.

COL THOMPSON: And do you know whether it was widely used by those aircrew – that is, the FRAT – before 28 July '23?

35 MAJGEN HAFNER: I'm not certain.

COL THOMPSON: Now – and this is not a legal test, or I'm not asking you for a legal opinion, but are you aware of the Work Health and Safety duties of care and obligations on the part of Army with regard to publishing instructions for ensuring the safety in the face of risks, including fatigue management. And when I say "Army", I mean the Commonwealth represented by Defence.

40

45

MAJGEN HAFNER: Yes, I am.

COL THOMPSON: And would you say that the Aviation Safety –
correction – the Aviation Standing Instructions Ops published by your
5 Command before 28 July 2023 complied with that obligation of the
WHS Act? And again, I'm not asking for a legal opinion.

MAJGEN HAFNER: Yes.

10 COL THOMPSON: Your opinion as Deputy Commander and now
Commander?

MAJGEN HAFNER: Yes. So I believe it did. And, as is reflected, there
was an extensive suite of documents, but we identified that we could
15 improve the coherency of them and make it easier for people to read and
access.

COL THOMPSON: Thank you, sir. And just finally, Counsel Assisting
asked you about a 16 Aviation Brigade document in relation to risk
20 management for fatigue. The evidence from BRIG Thompson was that the
management of aircrew fatigue was managed through 6 Aviation Brigade
Flight Management System. Are you referring to the same document or a
different document?

25 MAJGEN HAFNER: Yes. The Standing Instructions Aviation
Operations is what really articulates our Flight Management System. And
so you have layers of those instructions. The parent layer is at the Military
Air Operator and then you can issue subordinate clarifying instructions at
Brigade level and at unit level.

30 So if I have an instruction which, at the Command level, we are reflecting
across the entire Command to contextualise it within the Brigade or a
particular unit, they may issue a subordinate instruction which provides
further clarity and context for its application in that particular unit.

35 COL THOMPSON: I'm sorry, sir, it's just that my friend, COL Streit is
likely to set me some homework and go hunting for the document. So
would it be the 16 Aviation Brigade Flight Management System that I'd be
looking for or a different document?

40 MAJGEN HAFNER: So you would look for Standing Instructions
Brigade Operations, that would be the subordinate layer before the Standing
Instructions Aviation Operations.

45 COL THOMPSON: Very good, sir. Thank you. Thank you, ma'am.

MS McMURDO: Thank you. Yes.

5 **<CROSS-EXAMINATION BY MR HUMPHREY**

MR HUMPHREY: Hello, Major General. My name is Nick Humphrey,
and I represent the interests of Airbus. On the theme of homework, I
10 thought we'd – right at the end of the day there was reference to the MRH
System Level Risk Assessment which we, unfortunately, haven't got the
benefit of, and hopefully we can get that in due course.

I just wanted you to help clarify, I guess, a distinguishing feature between
15 risk and safety. Now, we've had evidence at the Inquiry from a pilot with
over 40 years' experience, who's flown on various aircraft systems, who
described the MRH-90 as the safest aircraft he'd ever flown. Now, we've
heard evidence about this aggregate risk level of the MRH system. You're
not suggesting the MRH-90 aircraft was unsafe, were you?

20 MAJGEN HAFNER: No, I haven't said that.

MR HUMPHREY: That's the only question I have, thank you.

25 MS McMURDO: Thank you. I've just got a few questions that I'd like to
ask before I let you go. Taking you to paragraph 122 of your statement,
remember that's the paragraph where you dealt with the concurrent events
that were playing on Army Aviation from January '22 to July 2023. You
spoke also about the MRH system burden and the many issues that you've
30 got there.

So all these demands, they would filter down through the whole
organisation, am I correct? And so that would filter down to Commanding
Officers, Troop Commanders, and aircrew?

35 MAJGEN HAFNER: To differing degrees, ma'am. I think where you'd
probably see a number of these liabilities coming together is definitely at
the Headquarters level.

40 MS McMURDO: You think it was primarily at Headquarters level rather
than filtering down to the tempo of work for aircrew, air maintenance
people, et cetera?

45 MAJGEN HAFNER: Typically for the units. And again, you can't be
called upon to do things like Defence assistance to the civil community,

et cetera, without having an impact to what was the unit's planned schedule of events. So often in those circumstances we are then looking at adjustment to activities. You'll cancel activities, you'll afford reconstitution periods.

5

But many of the things I've listed there, be it addressing the functioning of the Headquarters, be it establishing a quality management system, be it addressing any historical incident closure, be it responding to Orroral Valley Fire Coronial Inquiries or Comcare Inquiries, inputting into the Defence Strategic Review, they're really activities that are being conducted by the Headquarters Army Aviation Command staff and team.

10

MS McMURDO: All right then. So you don't consider that all of those things, in combination, trickle down and have an increased tempo for aircrew at the end of the day?

15

MAJGEN HAFNER: Yes. So there's naturally a demand across the organisation, but again, we try where we can to as best we can filter that from the units. When you're introducing a new aircraft system or you're changing policy, et cetera, there will naturally be some effect cascading down through the organisation that's there.

20

But many of the things that I've listed is a demand, a lot of demand, on the Headquarters staff but you do see the demand filter down.

25

MS McMURDO: What you're talking about there seems to be a tension between the desire to do with the can-do attitude that Army likes to think it has to do what is asked of Army, and its obligations to ensure that Aviation safety obligations are met. Would you agree there's a tension there?

30

MAJGEN HAFNER: Look, I absolutely agree there's a tension. I think for many of these things the reality is to get to a better place in the future you need to take on more liability now. Because again, it's very hard when you're looking at this range of activity and saying, "Well, which of those is it that we don't do?" And so, like I say, if you want to replace an aircraft system, that's a demand that you've got to take on. If you want to address actions that have come from a previous instance, that's a demand that you've got. So you've got to take on more work to get to a better place in the future.

35

40

MS McMURDO: So are you familiar with the Auditor-General Report No. 19 of 2019/20?

MAJGEN HAFNER: I don't know it off the top of my head.

45

5 MS McMURDO: You don't. No, that's okay. I thought you might. I thought you might. So are you aware or do you have a view as to whether Army Aviation had an issue with knowledge asymmetry; that is, a gap between those issuing Safety Directions and those having to implement them?

MAJGEN HAFNER: I'm not familiar with that.

10 MS McMURDO: No, okay. So do you consider that there was, at the time of the crash, a capability shortfall affecting safety and eroding flying skills?

15 MAJGEN HAFNER: The MRH system was originally intended to deliver approximately 10,300 flying hours per year. That was a combination of Army and Air Force – correction – Army and Navy. We have not seen that achieved during its service. Quite often, the amount of flying hours were about half of that in terms of the system's capacity. So when you have that reduction in flying hours over an extended period of time, people are getting less flying experience every year.

20 MS McMURDO: Thank you. And finally, on this issue, we're to hear from Martin Levey later in this fortnight. Are you familiar with the report he did on Army Aviation?

25 MAJGEN HAFNER: I am, ma'am.

MS McMURDO: And is there anything in that report that you would wish to contradict or gainsay in terms of its findings, recommendations?

30 MAJGEN HAFNER: No.

35 MS McMURDO: Thank you. And then if I finally could take you to paragraph 116 where you talk about the DFSB and your opinion that the Aviation Safety Framework is adequate. Could I just ask your views on these things, given your vast experience? Before I go there, there perhaps is one other issue. When Command has these pressures, these cumulative pressures, that you've talked about in paragraph 122, is there an obligation on Command to inform political masters, the public, those who are requesting all these things, that these challenges could have an impact on Aviation safety?

40 MAJGEN HAFNER: So I think there's absolutely examples of where the demands on the organisation were being communicated.

45 MS McMURDO: That you were doing that?

MAJGEN HAFNER: That's correct.

MS McMURDO: So you accept that that is a responsibility you have?

5 MAJGEN HAFNER: Absolutely we do.

MS McMURDO: It's one thing to communicate the demands that seem to have those communications acted upon by the people making the requests. Was that being met?

10 MAJGEN HAFNER: So I think we've always been supported. Like I say, our Command Safety Priority List, the number 1 item since we established the Command was capacity versus demand. I would say my experience through my entire career has been that has always been part of the conversation. Because Army Aviation rotary-wing capability is always in demand and it's got limitations into its capacity, and there's always a dialogue, for as long as I can remember, on how do we try to keep that in balance. That's been my career's experience.

20 MS McMURDO: Yes, thank you. Then back to paragraph 116. Do you see that the present Army Air Safety structure has a potential dilemma in that it is the one that sets safety standards but then also investigates accidents, safety incidents, so that there is a tension there in that there could be the safety standards they've indeed set potentially could be something that is causative or in some way needing reform, and that there is a tension if they both set it and then investigate and make recommendations about it.

25 MAJGEN HAFNER: Yes, so I think, ma'am, this comes down to, you know, question 37 and question 38 where, you know, one refers to the Defence Flight Safety Bureau versus the other, which is about the Defence Aviation Safety Authority. Recognising that those two entities are, in fact, independent of each other. So, really, the Defence Aviation Safety Authority in terms of being the Regulator, versus the Defence Flight Safety Bureau being that independent investigatory authority.

30 So the Defence Flight Safety Bureau, when looking into an incident investigation, may make recommendations against the Defence Aviation Safety Authority in doing so. So they are independent of each other in their actions.

40 MS McMURDO: But, ultimately, I think DASA reports to the Chief of the Defence Force, not the Minister. Is that correct?

MAJGEN HAFNER: So both organisations report to the Defence

Aviation Authority, who is the Chief of Air Force as appointed by the Secretary and Chief of the Defence Force through Joint Directive 21/2021.

5 MS McMURDO: But if you compare that to the civilian air safety organisation, CASA, it has no function or operational interest in the organisation in which it's investigating. Whereas here, there is that functional and operational interest because of the reporting nature of it. These are two issues that seem to me to be arguably flaws in the current system, and I'm just really inviting your comment on them.

10 MAJGEN HAFNER: Yes. So I don't see that they've been of issue for my observations. I actually think it's important – and I've reflected in my comments – it's important that both the Defence Flight Safety Bureau and the Defence Aviation Safety Authority have understanding of the operating context – yes, normal Military operations – because if you end up with a Regulator who writes rules which the operational environment finds it really hard to implement effectively, then that's where you start to get challenges that's there.

20 But so long as they can maintain their independence in their role as a Regulator, I think having them with the Military context, the same as the Defence Flight Safety Bureau, it's beneficial for the execution of their duties so that they can deliver more effective Regulations or investigatory outcomes.

25 It's also then beneficial when those individuals cycle back into our operational units across the Defence Aviation enterprise because they bring a bunch of the subject matter expertise that they've taken from being a part of the Regulator or the safety investigator back into our operational units as well.

30 MS McMURDO: Thank you. Anything arising? Yes.

AVM HARLAND: Can I just add on that?

35 MS McMURDO: Yes.

40 AVM HARLAND: On that, on one hand we've got the Regulator, which is DASA, and they basically set out the Regulations. They set out a framework for assurance. They set out a framework for risk management. And they also set out a framework for promotion of Aviation safety, as it were. The DFSB are an independent investigatory organisation, as you've said. But when we have the DFSB producing a guidebook, the Aviation Fatigue Management Guidebook, which, at its outset, says:

45

The Defence Aviation Fatigue Management Guidebook has been designed to provide guidance on meeting an accountable person's obligations in relation to fatigue management within the Defence Aviation context.

5

That means that the independent investigator is actually setting out guidelines for an operating unit to follow. If that operation unit then falters and fatigue management is an issue, the Defence Flying Safety Bureau has actually issued them with guidance on how to do it. And if that guidance is, in some way, causal or contributory, then we end up in a bit of a knot, by the way I read it, with DFSB having to really assess its own homework.

10

MAJGEN HAFNER: Sorry, I'm just finding a reference, if I can. The guidebook is actually articulated as being a tool to assist Australian Defence Aviation Commanders and Majors to develop compliance solutions for the regulation. However, it, you know, within the regulation it stipulates that the Guidebook is not considered an acceptable means of compliance.

15

And so I think that's where the separation is articulated, in that the guidebook is exactly that, it's a guide. But the guidebook itself is not an acceptable means of compliance. So I appreciate that some things like the guidebook, but an organisation like the Defence Force Flight Safety Bureau, based on their observations across many incidents across the Defence Aviation enterprise, for me the guidebook really captures a whole bunch of lessons learnt, which they're then providing as, like I say, a guide, a tool. But it is not the compliant solution.

20

25

AVM HARLAND: But it's actually a product of an academic endeavour as much as it is just for lessons learnt from incidents and accidents.

30

MAJGEN HAFNER: Yes, that's right.

AVM HARLAND: Yes, to me, it seems like a compromise, but clearly you're comfortable with that.

35

MAJGEN HAFNER: Yes, like I said, I have not seen the independence between the organisations. It has not been of concern for me.

AVM HARLAND: Okay.

40

MS McMURDO: Was there anything arising from Counsel representing? Any re-examination?

COL STREIT: Very briefly.

45

<RE-EXAMINATION BY COL STREIT

5 COL STREIT: Sir, Aviation Command, in July 2023, was required to support Special Operations flights at night in formation overwater and in low light environment. Do you accept that?

10 MAJGEN HAFNER: Correct.

COL STREIT: Now, you've given evidence that the MRH-90 system was an underperforming system; is that correct?

15 MAJGEN HAFNER: That's correct.

COL STREIT: With an assessed aggregated medium risk to personnel safety.

20 MAJGEN HAFNER: That's correct.

COL STREIT: For how long, are you able to say, the medium risk assessment was in existence as at July 2023?

25 MAJGEN HAFNER: I would need to go back and find exactly the start point, but a number of years.

COL STREIT: A number of years. So in those circumstances, sir, to the extent you're able, noting the position you were in in 2022/2023, to the extent your able, was Aviation Command essentially put into a position of having to tolerate a medium level of risk for the operation of an underperforming MRH-90 system for the conduct of Special Operations in circumstances because they had no other aircraft to use?

35 MAJGEN HAFNER: Aviation Command and the Army Aviation enterprise, and with the support of the broader Defence enterprise, has been, I think, managing the system to deliver the operational output as best as we've been able. And like I say, there are many things that we do in Defence operations which are above a low level of risk.

40 You know, it's about being informed and making sure that we were doing everything we could to minimise that risk and, where possible, seeking to eliminate it.

45 COL STREIT: But an aggregate medium level of risk is not an ideal position to be in when you're operating an airframe, is it?

5 MAJGEN HAFNER: You know, if you can have a lower level of risk, then that is absolutely where we want to be. As I indicated, our other aircraft systems, based on their system level risk assessments, are operating at a low level of risk.

10 COL STREIT: And the treatment to dealing with the aggregated medium level of risk was essentially, to bring forward in quick time a new airframe which is namely the new Black Hawk.

MAJGEN HAFNER: That's correct.

COL STREIT: Nothing further. Thank you.

15 MS McMURDO: Yes, thank you very much, Major General. As I say, the Inquiry really appreciates the assistance you've given and the time you've taken to prepare your statement and give your evidence today. So you're free to go.

20 MAJGEN HAFNER: Thanks, ma'am.

MS McMURDO: And you go with our thanks. Although, even you're a Major General, even Major Generals can sometimes be affected by the business of giving evidence to an Inquiry like this, particularly given what it concerns. So please don't hesitate to take advantage of the assistance that I know is available to you if you consider you would find it useful.

25 MAJGEN HAFNER: Thanks, ma'am.

30 MS McMURDO: Thank you very much. Thank you.

MAJGEN HAFNER: I appreciate it.

35 MS McMURDO: Yes, FLTLT Rose.

FLTLT ROSE: Ms McMurdo, I do realise the time. If it's possible just to start five minutes with the next witness, just to get to the point of tendering his statement. He has a need to leave at a certain time tomorrow. If you and others can tolerate five minutes?

40 MS McMURDO: Do you think it's worth it?

FLTLT ROSE: It's worth it.

45 MS McMURDO: All right. Well, if you think it's worth it.

FLTLT ROSE: And then we would start at 9.30 tomorrow morning as well, if possible.

5 MS McMURDO: Thank you.

FLTLT ROSE: Sorry. You can leave.

10 MS McMURDO: Thank you, Major General.

<WITNESS WITHDREW

15 FLTLT ROSE: I call CMDR Dominic Cooper.

LCDR GRACIE: I will put on the record, ma'am, that a Reserve service day is six hours.

20 MS McMURDO: Does that mean you're on overtime now?

LCDR GRACIE: No.

25 MS McMURDO: Well, hopefully we won't have a late finish tomorrow.

<CMDR DOMINIC CHARLES COOPER, Affirmed

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

MS McMURDO: I normally say if you need a break, let me know, but I'm told that it's going to be very short, your evidence today.

35 CMDR COOPER: Thanks, ma'am.

MS McMURDO: And we'll be hearing from you again tomorrow. Thank you CMDR Cooper.

40 FLTLT ROSE: Can you please state your full name?

CMDR COOPER: Dominic Charles Cooper.

45 FLTLT ROSE: And you're a Commander in the Royal Australian Navy.

CMDR COOPER: Yes.

5 FLTLT ROSE: And what unit are you currently posted to?

CMDR COOPER: Posted to Headquarters Fleet Air Arm as SO1 Op Airworthiness.

10 FLTLT ROSE: Can you confirm you received a section 23 Notice requiring your appearance today?

CMDR COOPER: Yes, I did.

15 FLTLT ROSE: And the extract of the Inquiry's Directions?

CMDR COOPER: Yes.

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

20 CMDR COOPER: Yes.

FLTLT ROSE: A Frequently Asked Questions Guide for Witnesses?

CMDR COOPER: Yes, I did.

25 FLTLT ROSE: And a Privacy Notice?

CMDR COOPER: Yes, I did.

30 FLTLT ROSE: Did you prepare a statement for your appearance today?

CMDR COOPER: Yes.

FLTLT ROSE: Can I hand you a document?

35 CMDR COOPER: Thank you.

FLTLT ROSE: Is that your statement dated 5 March 2025?

40 CMDR COOPER: Yes, it is.

FLTLT ROSE: And it's 11 pages with one annexure? Ignore the two tabs – items behind the statement. It shouldn't be with that.

45 CMDR COOPER: Yes, it is.

FLTLT ROSE: You wish to make some amendments, I understand, to your statement? Do you have a pen?

5 CMDR COOPER: Yes, I do.

FLTLT ROSE: Paragraph 19, you wish to change the date in paragraph 19. That is currently, you say, "14 August". You wish to change that to "9 August 2023"?

10 CMDR COOPER: Yes.

FLTLT ROSE: If you could cross out what's there, write the new date and then initial next to it?

15 CMDR COOPER: Yes.

FLTLT ROSE: At paragraph 23, instead of 27 July '23, it's 28 July '23.

20 CMDR COOPER: Yes, correct.

FLTLT ROSE: Paragraph 25, instead of 28 July '23, it's 29 July '23.

CMDR COOPER: Yes.

25 FLTLT ROSE: And you also wish to change where it says "with five other members", you wish to change that "five" to "nine".

CMDR COOPER: I affirm.

30 FLTLT ROSE: And then you wish to add a sentence at the end of paragraph 25 as follows:

One further DFSB ASIT member arrived on 1 August '23.

35 CMDR COOPER: Correct.

FLTLT ROSE: Paragraph 37. At the beginning of that paragraph, you now wish to say, "On 2 August". Is that 2023?

40 CMDR COOPER: It is, yes.

FLTLT ROSE: So, "On 2 August '23", and then it goes into the current wording.

45

CMDR COOPER: Correct.

5 FLTLT ROSE: Paragraph 40, at the end of the second line, where it says, “Crews had left”, you wish to add the following, “during the ASIT’s deployment planning on 29 July”.

MS McMURDO: Was that on 29 July?

10 FLTLT ROSE: Yes.

MS McMURDO: July ‘25 – ‘23 rather?

FLTLT ROSE: So, yes, it should read, “during the ASIT’s deployment planning on 29 July ‘23”.

15 CMDR COOPER: Yes, that’s correct.

FLTLT ROSE: And then on page 13, in the table rows – 1, 2, 3, rows 4 and 5, you just want to remove those two errant commas in the third column. So after “mortuary affairs liaison”, take away the comma. And then after “appointment”, then take away the comma.

20 MS McMURDO: I haven’t got this, please. What - - -

25 FLTLT ROSE: Page 13.

MS McMURDO: Page 13 is in annexure - - -

FLTLT ROSE: It’s within the annexure.

30 MS McMURDO: Yes.

FLTLT ROSE: It’s a table.

35 MS McMURDO: Yes.

FLTLT ROSE: Rows 4 and 5. There are two errant commas, is that correct, that you wish to remove?

40 CMDR COOPER: Yes, that’s it.

MS McMURDO: Yes. Sorry, which about - - -

45 FLTLT ROSE: Column 3 – sorry, third column there’s a dot point and - - -

MS McMURDO: So this is under – it’s only Official – “Dean Thompson”? Is that where it says, “Dean Thompson, BRIG”?

5 FLTLT ROSE: Below that one. That’s the third row. So if you go to the fourth row.

MS McMURDO: Fifth block.

10 FLTLT ROSE: And then you follow across to the final column.

MS McMURDO: Yes.

15 FLTLT ROSE: And there’s wording that says, “mortuary affairs liaison”, and there’s a comma. Is that correct, that you wish to remove that?

CMDR COOPER: Yes, ma’am.

20 MS McMURDO: I’m sorry, I’m just not – those two. Yes, okay, thank you. Right, so the comma at the end of the block on Brock, and the comma on the end of block on Satrapa are removed. Okay, thank you.

FLTLT ROSE: Are there any other amendments you wish to make to the statement?

25 CMDR COOPER: No, there isn’t. Thank you.

FLTLT ROSE: I tender the statement.

30 MS McMURDO: Yes. Statement and annexures, Exhibit 154.

#EXHIBIT 154 - STATEMENT OF CMDR COOPER AND ANNEXURES

35

FLTLT ROSE: That’s my questioning for today.

MS McMURDO: Today, yes, all right. Thank you. Well, we’ve done

40 that, and we’ll come back tomorrow for a 9.30 start.

Thank you very much CMDR Cooper.

CMDR COOPER: Thank you, ma’am.

45

MS McMURDO: We'll adjourn until then. Thank you.

<WITNESS WITHDREW

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**PUBLIC INQUIRY ADJOURNED UNTIL
TUESDAY, 25 MARCH AT 0930**