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

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**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**

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

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

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COL S THOMPSON, representing BRIG D Thompson  
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MAJ M BARNES, representing D146 and LTCOL A Norton  
LEUT R CLUTTERBUCK, representing D147  
MR G O'MAHONEY, representing Airbus  
MS K MUSGROVE, representing the Commonwealth**

**THURSDAY, 3 APRIL 2025**

**DAY 47**

**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**

<b>Signed</b>	.....	<b>Date</b>	.....	(Chair)
<b>Signed</b>	.....	<b>Date</b>	.....	(Recorder)
<b>Signed</b>	Epiq Australia Pty Ltd	<b>Date</b>	06/05/25	(Transcription)

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.MRH-90 Inquiry 03/04/25

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**EXHIBIT LIST**

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**<BRIG JOHN FENWICK (RETD), on former affirmation**

**<CROSS-EXAMINATION BY LCDR GRACIE, continuing**

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MS McMURDO: Now, we've had to start later than the anticipated 1 o'clock because unfortunately, regrettably, the Army briefing to the families on the DFSB Report is still continuing and some of Counsel Assisting were in there with the families and have had to leave at this point. So I've had to make the difficult decision of balancing the need for the Inquiry to continue its organised hearings and finish the witnesses who will be coming up for this week and the needs of the family.

15 So I have decided that balancing those competing interests, the best thing is to proceed this afternoon. I don't know what the reason for the delay is. I expect the family are asking questions, but I have looked at whether we could provide the families with a recording of this afternoon's proceedings, but I'm told that's not possible. But there will, of course, be a transcript, and I'll make sure that that's expedited and made available to the families.

20 I have also, in making that decision, been conscious of the fact that the Brigadier has been giving evidence for over a day, and he has suffered considerable inconvenience in terms of family commitments and other commitments that he has, and he is keen to finish his evidence and return. So, yes, Ms Musgrove you want to be heard on this?

MS MUSGROVE: Thank you, Chair. I just wanted to indicate that because the DFSB briefing is continuing with the families, the crew briefing which was scheduled for after the family briefing, has not yet commenced and the Commonwealth is very mindful of nothing being raised – I understand that some of the Counsel representing were in the part of the family briefing – that nothing that's raised from that family briefing be put in this public forum, so that the crew have an appropriate opportunity to understand the outcomes prior to anything being made public.

35 And I do also note that the report is "Official: Sensitive". It's not been publicly released. So I just wanted to put that on the record. And I understand that my friends won't venture into an area that they know that the rest of Counsel representing don't know. But I just wanted to put that onto the record.

40 MS McMURDO: Thanks, Ms Musgrove. Now, as I mentioned, this witness has been giving evidence for over a day now. I'm grateful that Counsels have, in their questioning, been courteous and respectful, as I

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mentioned at the beginning of this hearing block. And I'd ask that that continue. And could I also remind Counsel that he is giving evidence about events that happened some time ago, that he retired from full-time Army in 2021, that there are a lot of documents which speak for themselves.

5

And could I ask all Counsel who will be questioning the Brigadier into this afternoon to try and be as concise as they can, consistent with their obligations to their clients. Thank you. Yes.

10 LCDR GRACIE: Ma'am, sir, I'll put on the record that I was present at the DFSB briefing this morning and I, of course, accept what the Commonwealth has requested in terms of the sensitivities surrounding that.

15 Sir, I appreciate you've been under a lot of pressure too. I just want to ask you one question in relation to the two Decision Briefs.

BRIG FENWICK: Yes.

20 LCDR GRACIE: If you have them handy, that's fine, but really all it is, is that yesterday we were at paragraph 6 of the March brief.

BRIG FENWICK: Yes.

25 LCDR GRACIE: And one of the matters I was going to ask you about was the Standards OPEVAL conclusion about version 5.10 being satisfactory.

BRIG FENWICK: Yes.

30 LCDR GRACIE: And an overall improvement.

BRIG FENWICK: Yes.

35 LCDR GRACIE: It mentions display layout system reliability and it referred to the off-axis pitch information still rated as undesirable.

BRIG FENWICK: Yes.

40 LCDR GRACIE: And I won't read out the rest because of the FOUO nature of things. But you'll see that in the last sentence there is a control measure that's identified.

BRIG FENWICK: Sorry, you're in the March brief?

45 LCDR GRACIE: The March brief.

BRIG FENWICK: Yes.

5 LCDR GRACIE: And you'll see that there's a control measure identified there.

BRIG FENWICK: Yes.

10 LCDR GRACIE: And you appreciate, don't you, that that was identified as being presenting a high level of risk if that was to be utilised as - - -

BRIG FENWICK: I'd characterise it as unqualified risk at that point. So we weren't sure what the risk was of putting it in service and therefore we didn't.

15 LCDR GRACIE: Well, let's just test that scenario. If you put in that UA recovery mode at 50 feet, what's it going to do? Put you straight into terrain, isn't it?

20 BRIG FENWICK: I don't know.

LCDR GRACIE: Do you know why it was removed?

25 BRIG FENWICK: Well I think the advice was that I received at the time, we were uncertain of what it would do in particular parameters. It was designed for one thing. So when it was presented as a possible control, as we do with all of these things when trying to identify what might be risk mitigators, if we think something might contribute to reducing risk, then we look at it.

30 And so it was a thought initially that that might be a method to reduce risk further. However, on examination, we were unsure, is my recollection, unsure of how it might act in all UA circumstances, and therefore we were not sure of what that risk would be.

35 LCDR GRACIE: But it seems about four weeks later it was articulated to you. If you go to your April Decision Brief?

40 BRIG FENWICK: Yes.

LCDR GRACIE: Para 12. And I don't believe this is "Official".

BRIG FENWICK: Yes, I've got it.

45 LCDR GRACIE: It says that utilising the go-around mode – said that:

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*In some regions of the operational flight envelope, the use of the mode would lead to unsafe flight and likely controlled flight into terrain.*

5

BRIG FENWICK: I agree that's what that says, yes.

LCDR GRACIE: And did you accept that?

10

BRIG FENWICK: On the face of it. But if I can just recall what the – because, again, I'm fishing back into my memory here. But I'm just looking at LTCOL Reinhardt's Minute to me, he said – and I note that this is FOUO. I don't know if you've got that with you.

15

LCDR GRACIE: I did have, about 10 minutes ago.

BRIG FENWICK: I'm sorry about - - -

LCDR GRACIE: It's all right, you go.

20

BRIG FENWICK: I'm just going to say that in some of the circumstances we felt people might find themselves in, there is a use of the word "may", "It may not be sufficient to recover them". And so, in my mind, I think the key thing was there was doubt.

25

LCDR GRACIE: My recollection is that the Decision Brief says "may", but he does not say "may". I'm happy to stand corrected on that, but that's pretty much my recollection.

30

MS McMURDO: This is the Minute that's the response to the AATES – to the OPEVAL?

BRIG FENWICK: Yes, sorry, ma'am. So if you're still with my pack, it's - - -

35

MS McMURDO: Yes, this is JRF 18.

LCDR GRACIE: Sorry, I've put it the wrong way around. It says, "this may be able to be mitigated", but the Decision Brief is a bit more bullish.

40

BRIG FENWICK: I know. So please - - -

LCDR GRACIE: Yes.

BRIG FENWICK: What he says in that response is, “The risk may be able to be mitigated with control measures”, but he then goes on to say about that particular mode and function of the flight control system, that in certain conditions it may not affect the function you think it’s going to. I think, overall, if you package the three of those things up, which is really what I’m doing when I make a decision, we arrive at a point where that no longer made sense if I had taken that it wasn’t an SFARP move.

LCDR GRACIE: But in that brief from LTCOL Reinhardt to you, the 16 March one, he already said – this is before the Decision Brief, so his recharge document, as he called it, of 16 March. This Decision Brief is 20 March. He says AATES does not support the AFCS GA mode. But the Decision Brief says that it may be mitigated by that.

The Decision Brief actually endorses the use of the AFCS go-around mode but the recharge document from AATES four days earlier says they do not support it.

BRIG FENWICK: No, I accept that. Yes.

LCDR GRACIE: Did you know that they did not support it though? You received the document, I take it?

BRIG FENWICK: Yes. I can’t recall that sequence of thinking but the – I mean, the key point is we never put it in place and it was still, in my view, SFARP without it in place.

LCDR GRACIE: And sir, I just want to put this to you to give you the opportunity to explain the professional judgement you applied, AATES has warned, by reference to assessments relying upon or referring to airworthiness codes and Standards of the un-airworthiness feature of this off-axis symbology.

BRIG FENWICK: Well, I don’t accept that it was unairworthy. We applied all our airworthiness – and if you’ve got other airworthiness codes that I should have been referring to, that you think I didn’t, please highlight them. But I went to some length to describe the processes we needed to apply and the airworthiness system and my ability to authorise it, and we did that.

LCDR GRACIE: Annex C to the report, in relation to the symbology, refers to specification compliance. It actually identifies the specifications in which AATES has assessed the - - -

BRIG FENWICK: Is this the June report?



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5 LCDR GRACIE: Yes. Annex C has the system specification that says, “possible non-compliance with system specification” again, given its reclassification – no, it’s always been “Official” – talks about the FAA advisory circular.

10 BRIG FENWICK: To which I was not upheld, I don’t think. So at that point in the June ‘19 report, I accept that AATES were very unsure about whether this was meeting the rules.

LCDR GRACIE: Airworthiness codes?

BRIG FENWICK: I don’t think it uses that word.

15 LCDR GRACIE: Well, specifications.

BRIG FENWICK: Well, they were in doubt about - - -

20 LCDR GRACIE: Or Standards.

BRIG FENWICK: They were in doubt. So the key point is they were in doubt. So that as you read it to me just then. And, look, I haven’t looked it up, but I can. You said it was possible that it was not in accordance with the spec. But - - -

25 LCDR GRACIE: But – sorry, I thought - - -

BRIG FENWICK: - - - what we then went on to do was to make sure that it was.

30 LCDR GRACIE: But that’s really the next part of my line of questioning. The OPEVAL didn’t reference any Standards. It’s a subjective input by 12 pilots saying this was desirable, this was okay, it was a bit bright. It wasn’t measured against any airworthiness Standard, code or specification.

35 BRIG FENWICK: Well, we can go back through and read it. I’m not convinced that that’s true.

40 LCDR GRACIE: All right.

BRIG FENWICK: If you’ve got something to show me that says that’s true?

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LCDR GRACIE: No, I can show you that it's not in there. That's the fact of the matter. But what I want to take you to in terms of these Standards is that you'd be aware of the DASP Policy and Guidance Portal on the DASA – I think it's the DASA website, public website.

5

BRIG FENWICK: Well, I'm not at the moment.

LCDR GRACIE: Well, one of the Standards that's set out under Defence Aircraft Indicating Systems Designs Requirements, 15.3, it says:

10

*Defence Aircraft Indicating Systems must conform to standards appropriate to the functions of the instrument or display will perform. The authority recognises civil and military airworthiness codes prescribe design requirements that provide a sound formation for the safe design of common Defence Aircraft Indicating Systems, including those used as a primary flight reference.*

15

Now, the first thing there is, you'd agree with me that a false horizon is one of the most disconcerting things for a pilot to experience?

20

BRIG FENWICK: Except that this was not presenting a false horizon.

LCDR GRACIE: No, but a false horizon is a disconcerting thing.

25

BRIG FENWICK: Yes.

LCDR GRACIE: Just as a general proposition. And I had a look at MAJ McCall's statement which contains the Standing Instructions and following on from a question from sir of you yesterday, I did not see any statement in the SIs to the effect that the symbology was not to be used as a Primary Flight Display.

30

BRIG FENWICK: No, I think I said that was in the Standardisation Manual.

35

LCDR GRACIE: That's what I think this is. What did I say? Standing Instruction? Sorry, in the Standardisation Manual, which has been an annexure to Exhibit 124A, which is MAJ McCall's statement. Unless you had a look – I don't know – but my review of it does not identify any warning, caution or note to the effect that the HMSD was not to be used as a Primary Flight Display.

40

BRIG FENWICK: So I find that surprising because I also have checked that, and it was my recollection that it's in there.

45

LCDR GRACIE: That it's in there. Okay.

BRIG FENWICK: But I don't have the reference here in front of me.

5

LCDR GRACIE: Well, I suppose the relevant part of it, bearing in mind it's a classification level too, probably – well, that's something – as ma'am said, the document will speak for itself. We can address that later. I won't keep you any longer on that.

10

And 15.7 of the DASP Policy and Guidance portal in relation to – I was just reading, it says:

15

*Where the presentation of misleading information may pose a hazard to safe flight in a novel display system, an additional level of data assurance is required commensurate with the impact of the misleading data on safe operations. In these circumstances, the application of design requirements from the authority-recognised codes for display systems having similar characteristics may be a suitable starting point but is likely to require supplementation to account for the system's novel features or approach to displaying information.*

20

Packing that into lay terms, it's a warning against false attitude information on a Heads-Up Display, isn't it?

25

BRIG FENWICK: Well, I would need to read that in more detail, I'm sorry. To sit here and absorb it as you've read it out, I would need to look at that in more detail.

30

LCDR GRACIE: All right.

AVM HARLAND: Where are you referencing that from, LCDR Gracie?

35

LCDR GRACIE: It's section 3, Chapter 15 of the DASP Policy and Guidance Portal on the DASA website.

AVM HARLAND: Section 3, Chapter 15?

40

LCDR GRACIE: Section 3, Chapter 15.

AVM HARLAND: And of the DASP?

45

LCDR GRACIE: DASA website and it's DASP Policy and Guidance Portal, and it's to do with the Defence Aviation Safety Program.

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AVM HARLAND: Thank you.

5 BRIG FENWICK: I guess my only other point there would be, it is DASA that certified this for use. They approved it for use.

LCDR GRACIE: On your recommendation, you mean?

10 BRIG FENWICK: On the recommendation of the Military Type Certificate Holder.

LCDR GRACIE: For the OPEVAL?

15 BRIG FENWICK: No. No, so the Configuration Control Board went through the process of checking the systems, going through its checklist for Service Release and then sought Service Release from the authority, and the authority issued it.

20 LCDR GRACIE: Right.

BRIG FENWICK: They issued the amendment to the type certificate.

25 LCDR GRACIE: This is predating the AATES report though. You mean the type certification?

BRIG FENWICK: It didn't predate the AATES report. Service Release wasn't achieved until all of this was completed.

30 LCDR GRACIE: And can you tell me when that was? Because I know that your Minute talks about it wanting to be in place by 20 April 2020 for the SO training.

BRIG FENWICK: Mm-hm.

35 LCDR GRACIE: Was it in place by then?

40 BRIG FENWICK: I don't think so. My recollection is it was for the – we missed the April window that we'd hoped for. Notwithstanding pandemics and other things and my recollection is it was October. October of that year, but I would need to check another source.

LCDR GRACIE: I won't be long.

45 BRIG FENWICK: Okay. I'm here.

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LCDR GRACIE: Pardon?

BRIG FENWICK: I'm here.

5 LCDR GRACIE: Thank you, and I appreciate it. It's been a fairly rushed morning, so I didn't have the time that I thought I was going to have. But there was some evidence before the Inquiry and it's the AATES report in relation to the IITs, the Image Intensifier Tubes.

10 BRIG FENWICK: Yes.

LCDR GRACIE: Were you aware of their assessment that notwithstanding the improvement in the – I think it was Harris L3 – notwithstanding the improvement in visual acuity, once it was actually  
15 configured with TopOwl, there was a 50 per cent drop in acuity with that system. Are you aware of that?

BRIG FENWICK: Broadly. My recollection, and I'd need to go back and read it because it has been a few years since I read that report. But, yes, I  
20 think what that's referring to is the quantitative result of those tubes, when put through the TopOwl system, by the nature of loss that occurs on the way through. It did reduce it, the acuity, by that point. Now, I can't recall the amount, but it was still the case that it was better than we had before that, and the best that was available.

25 LCDR GRACIE: But not the best that was used by any other Army aviator because they didn't have that drop in visual acuity with their NVDs.

BRIG FENWICK: I think it was the equivalent of ANVIS-9, if I  
30 remember the report rightly.

LCDR GRACIE: And is ANVIS-9 being used in the ARH?

BRIG FENWICK: No, the ARH has TopOwl.

35 LCDR GRACIE: Right. You're talking about the NVDs - - -

BRIG FENWICK: So I'm talking about - - -

40 LCDR GRACIE: - - - that the loadies use?

BRIG FENWICK: So it was compared in two ways, is my  
45 recollection. One, against all over night-vision goggles. So night-vision goggles which are generally called – one of the variants is an ANVIS variant. The most up-to-date variant of the time, as I understand it, was

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ANVIS-9, if I recall properly. The other way in which it was compared is relative to the extant system.

5 And it was better than the extant system, and the best that was available in the world at the time.

LCDR GRACIE: And I put it badly when I said “aviation”. I meant to exclude those using the ANVIS, the loadies - - -

10 BRIG FENWICK: Right.

LCDR GRACIE: I’m really talking about the pilots. If you were to benchmark the Harris L3 when configured with the TopOwl, it was 50 per cent less than what other pilots in Army Aviation were flying with.

15 BRIG FENWICK: Well, I’m not 100 per cent sure that that’s true. I don’t think that’s a true interpretation of the report. I would need to re-read it. I think what you said earlier was it actually degrades by 50 per cent on the way through. And I’m not sure that’s true either. I would need to check it.

20 LCDR GRACIE: Well, I won’t put you on the spot now, but again, as ma’am said, the report is in evidence, and I won’t need to go there.

25 BRIG FENWICK: I guess the key point is, TopOwl was the system we had. We were making every effort, inclusive of spending more money on getting the very best Image Intensifier Tubes that existed in the world for TopOwl.

30 LCDR GRACIE: I appreciate that, thank you. There was one matter in your 23 or so exhibits that I had an interest in asking you about.

BRIG FENWICK: It looks like you’ve got the December ‘18 report there? Is that what you’re looking at, the SO approach?

35 LCDR GRACIE: Sorry, no, I wasn’t going to go to that. I was just going to go to some other documents in your thing. So just on that SO approach, I think that the AATES report required the SO approach to have no less than 10 millilux, and with the new system, it was reduced to two. Is that, in a very broadbrush way, correct?

40 BRIG FENWICK: I can’t remember what the actual figures were. I’m happy to go back and look at it. But, yes, I think that there was an acknowledgement that we were learning more over time and, with that, we could reduce the controls.

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5 LCDR GRACIE: I'm just conscious of the time. I'm not going to take  
you to everything. There was one other matter I was going to ask you  
about. This will be – it's a presentation. I think it's the MRH-90 PMSG  
21 February 2019 slides, for want of a better term. It's JRF 10.

10 BRIG FENWICK: Thank you. Yes.

LCDR GRACIE: And I'm sorry to jump around, I'm just trying to get  
through this quickly for both of us.

10 BRIG FENWICK: That's all right.

LCDR GRACIE: And if you go into the document, you'll see that there's  
a DACM brief to PMSG 21 Feb '19. How many pages in would it be?

15 BRIG FENWICK: I can see there are different versions. Yes, I've got it.

LCDR GRACIE: Do you see - - -

20 BRIG FENWICK: Yes.

LCDR GRACIE: Thank you. Ma'am, it's - - -

BRIG FENWICK: It's about halfway.

25 MS McMURDO: What's the heading on it, please?

LCDR GRACIE: "DACM Brief to PMSG", with Army logo in the top  
right-hand corner. I'm not allowed to wave it around to show you.

30 MS McMURDO: Okay, I've got it. Thank you.

LCDR GRACIE: Thank you, ma'am.

35 MS McMURDO: And I think the Air Vice-Marshal is not far behind. Got  
it.

LCDR GRACIE: You're normally ahead of me. Could you go to "Key  
Risks, Plan Pegasus? Two more pages in.

40 BRIG FENWICK: Yes.

LCDR GRACIE: Do you see on serial 41 there, it talks about MRH  
performance - - -

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MS McMURDO: Serial which, sorry?

LCDR GRACIE: 41, ma'am.

5 MS McMURDO: Yes, over the page.

LCDR GRACIE: Thank you, ma'am. "Performance and handling characteristics may not be optimal"?

10 BRIG FENWICK: Yes.

LCDR GRACIE: "Which could prevent the use of the aircraft", and then over on the right-hand column there's a reference to "rotor vortex" and "potential to affect aircraft information".

15 BRIG FENWICK: It is on the very front page. It's FOUO, but I can read it. Yes, I can see the one, 41.

20 LCDR GRACIE: Given the limitations on saying too much publicly, was that identified as a safety risk?

BRIG FENWICK: I don't remember what that refers to.

25 LCDR GRACIE: And you'll see that further down, beginning with the words, "As such"?

BRIG FENWICK: Yes, I'll just read it. Just a sec.

30 LCDR GRACIE: Yes, please.

BRIG FENWICK: Yes.

35 LCDR GRACIE: Do you know if those – I won't characterise what they are – but whether those performance margins were standardised anywhere or trained or imposed as risk control measures?

BRIG FENWICK: I'm sorry, I honestly have no recollection.

40 LCDR GRACIE: And then I was just going to go over to JRF 11.

BRIG FENWICK: Yes.

45 LCDR GRACIE: And you'll see that on the second page of that document, para 15, under "Helmet-Mounted Sight and Display", it says:



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*HMSD V5.10 is in contract. Implementation, Service Release on hold pending OT&E activities.*

5 BRIG FENWICK: Yes.

LCDR GRACIE: So was the contractual status to which reference is made there one of the driving forces in pushing this through to Service Release?

10 BRIG FENWICK: No.

LCDR GRACIE: And is your understanding correct, that it was in contract as at 2019?

15 BRIG FENWICK: I don't have a recollection. But I accept that for what it says. Notwithstanding when I last gave evidence, I stated that my recollection of it during this period, the contracts were quite complicated. Some of them were ongoing, some payments were made, and others were held. It was a difficult and complicated period for this contract.  
20 Particularly for all the other pieces of role equipment for Special Operations.

So I accept that as true, but I can assure you that there was nothing in the payment arrangements that made me feel compelled to use 5.10.

25 LCDR GRACIE: And the final matter – and I think it's the last document – it's JRF 22, probably second or third-last document.

BRIG FENWICK: Yes.

30 LCDR GRACIE: "Training Implementation Plan, HMSD V5.10". Again, bear in mind the classification of it.

BRIG FENWICK: Yes.

35 LCDR GRACIE: I noted in paragraph 3 there's a reference to distance to run.

BRIG FENWICK: Yes.

40 LCDR GRACIE: I don't see anything in terms of this Training Implement Plan identifying training with reference to the off-axis symbology. Could you explain why that may not be specified as part of that Training Implementation Plan?

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BRIG FENWICK: I do not know. But I would look at paragraph 4 and I don't know if it's in that. So this document says – so in paragraph 4 it makes reference to another document, that document being - - -

5 LCDR GRACIE: The OPEVAL in Ref B.

BRIG FENWICK: Okay, thank you. And so I think what this document is - - -

10 LCDR GRACIE: No, I might be wrong, sorry. It's Ref B of - - -

BRIG FENWICK: Of Ref A.

15 LCDR GRACIE: Ref A. So it may not be Ref B, the OPEVAL.

BRIG FENWICK: So I have absolute confidence – if your question is, did we teach people about the nature of that symbology, I feel confident we did.

20 LCDR GRACIE: We'll just have a quick look to see that reference number there. I can't identify it as being – if I'm right, that Ref A, "BQ4268528", unfortunately it's dated 2018, but that reference number is to the AATES symbology upgrade report of 14 June '19, but that date doesn't seem to be right if it's 2018.

25 BRIG FENWICK: Well, I'm sorry, I can't speak to that.

LCDR GRACIE: Anyway, the Objective reference, if that's what that is, is correct. But clearly the date is not. I won't trouble you further, sir. That's much appreciated. Thank you. Thank you, ma'am.

30 MS McMURDO: Thank you, LCDR Gracie. Next application to cross-examine? Nothing? No further applications to cross-examine? No. Re-examination?

35 **<RE-EXAMINATION BY LTCOL HEALEY**

40 LTCOL HEALEY: Yes, thank you. Thanks, sir. Sorry, there's a few areas I've got to take the Brigadier to.

Just for the record, I'm LTCOL David Healey, and I appear for BRIG Fenwick. Sir, you were asked some questions in relation to a term that appeared in the Decision Brief, "essential".

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BRIG FENWICK: Yes.

LTCOL HEALEY: Could I just get you to go to that particular reference you were taken to. I'll just give you - - -

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BRIG FENWICK: I think it was the March brief, was it?

LTCOL HEALEY: Yes, I'll just grab you the reference. Yes, I think it's JRF 18, 19.

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BRIG FENWICK: Yes, I can see it. Paragraph 3.

LTCOL HEALEY: And you were taken there by MAJ Chapman, Counsel Assisting. And from my recollection – and please, if the Inquiry needs to correct me, please do so – but I think he categorised that particular term “essential” as being a bit misleading. Do you recall that?

15

BRIG FENWICK: Yes. I think we arrived there in a discussion yesterday.

20

LTCOL HEALEY: And I think your response was you used your expertise and other instruments in terms of coming to your decision?

BRIG FENWICK: Yes.

25

LTCOL HEALEY: And it's particularly about the distance to go information?

BRIG FENWICK: Yes.

30

LTCOL HEALEY: And you couldn't recall where that particular word came from?

BRIG FENWICK: No, I couldn't.

35

LTCOL HEALEY: Now, I just need to call for an exhibit and I want you to have a look at that. I apologise to the Inquiry. It's just that I've got a number of things all over the place. Now, the exhibit that I call for is 129. So it's Exhibit 129 and it's a statement by Andrea House.

40

MS McMURDO: Yes. It's a very large exhibit – a long exhibit.

LTCOL HEALEY: It's a very large – if it helps the Inquiry, Madam Chair, it's her number 7 Annexure.

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BRIG FENWICK: Thanks, mate, good on you.

5 LTCOL HEALEY: Now, sir, whilst you've got that, I'm going to try and juggle quite a few things here. Have you got your statement with you as well?

BRIG FENWICK: Yes.

10 LTCOL HEALEY: Now at paragraph 41, can I take you there?

BRIG FENWICK: Just one second. Yes.

15 LTCOL HEALEY: And you'll recall that at paragraph 41 you said on 29 May 2017 a decision was taken by the then Director-General Aviation. Correct?

BRIG FENWICK: Yes, I did.

20 LTCOL HEALEY: Are you following – yes. And that was through DACM.

BRIG FENWICK: Yes.

25 LTCOL HEALEY: To pursue HMSD 5.10 rather than replace 4.0. Correct?

BRIG FENWICK: Yes.

30 LTCOL HEALEY: Now, putting that to one side, could you take a look at the seventh annexure to House's statement, please?

BRIG FENWICK: Yes, I've got it here.

35 LTCOL HEALEY: And just let me know if you're not following. Now, can I take you to the back page of that document, page 3?

BRIG FENWICK: Yes.

40 LTCOL HEALEY: Can you see the signature block there?

BRIG FENWICK: Yes.

LTCOL HEALEY: And whose name is that?

45 BRIG FENWICK: It's COL Barton.

- LTCOL HEALEY: Yes. And what was his position at the time?
- 5 BRIG FENWICK: He was the then DACM, or Director of Aviation Capability Management.
- LTCOL HEALEY: And can you see the date there? Can you read that out for the Inquiry?
- 10 BRIG FENWICK: Yes, it's 29 May '17.
- LTCOL HEALEY: So is that consistent with paragraph 41 of your statement?
- 15 BRIG FENWICK: Yes.
- LTCOL HEALEY: And if I take you to paragraph 5 of that seventh annexure to Andrea House's statement?
- 20 BRIG FENWICK: Yes.
- LTCOL HEALEY: Could you have a read of that, please, just in your own time, and I'll ask you a question about it.
- 25 BRIG FENWICK: Yes.
- LTCOL HEALEY: So just breaking down that sentence, "A subsequent review by SO1 Standards"?
- 30 BRIG FENWICK: Yes.
- LTCOL HEALEY: Well, I'm not asking you who SO1 Standards was, but where does SO1 Standards sit?
- 35 BRIG FENWICK: So he is answerable to the Director of Operational Airworthiness, and he is the head of the Standards Organisation.
- LTCOL HEALEY: And it goes on to say, "The CTP and SO1". So "CTP" again? Sorry, I'm not very good with acronyms.
- 40 BRIG FENWICK: That's all right. And you are forcing me to work my way through several layers of my own memory.
- LTCOL HEALEY: If you don't remember, that's fine.
- 45

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BRIG FENWICK: I don't remember.

LTCOL HEALEY: It doesn't really impact. But it confirms that the lack of - - -

5

BRIG FENWICK: It looks like it's the – I don't know if it's the same person or at least the other – the SO1 TLH is Troop Lift Helicopters. Yes.

LTCOL HEALEY: Thank you, sir. And it says that it confirms the lack of distance information is unacceptable.

10

BRIG FENWICK: Yes.

LTCOL HEALEY: Do you agree with that?

15

BRIG FENWICK: Yes.

LTCOL HEALEY: And it's referencing the upgrade to 5.10. Do you agree?

20

BRIG FENWICK: Yes. So it's referencing what we want in 5.10.

LTCOL HEALEY: Thank you, sir. That was better articulated than me, thank you.

25

*And, therefore, the requirements to provide this information is essential.*

Can you read that?

30

BRIG FENWICK: Yes.

LTCOL HEALEY: Now, does that provide some insight into why that appeared in that Decision Brief?

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BRIG FENWICK: Yes, that would seem a relatively clear linkage.

LTCOL HEALEY: Thank you. I've got no further questions.

MS McMURDO: Thank you. Re-examination by you, MAJ Chapman?

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**<RE-EXAMINATION BY MAJ CHAPMAN**

5 MAJ CHAPMAN: I will be brief with questions.

Sir, you recall very early on in your evidence, in your exchange with LCDR Gracie, do you recall that you gave some evidence that – I think you said – and this is my record of it – that AATES were involved in the setting of controls that were applied to Service Release. This is my record, and I  
10 just wanted – as a point of clarification - - -

BRIG FENWICK: Sure.

15 MAJ CHAPMAN: - - - were you intending, in that evidence, instead to be saying that AATES were involved in the setting of controls for the OPEVAL testing?

20 BRIG FENWICK: I'm sorry, I don't recall that reference. But I think that sounds like – so it is certainly true that AATES were involved in the control specifications for the OPEVAL, because they sought the MPTF and set the conditions and the test plan.

MAJ CHAPMAN: Indeed.

25 BRIG FENWICK: So that is certainly true. Were they involved in further controls and setting? I think they would have been. It's my intuition that they would've been involved because that is a normal process, along with SO1 Standards who has the overall lead for it. But I can't recall.

30 MAJ CHAPMAN: So your answer is, "Not sure". You can't recall as a fact whether or not they were involved in setting controls or limitations on Service Release to the extent controls and limitations were imposed on Service Release?

35 BRIG FENWICK: Yes, I can't recall.

MAJ CHAPMAN: That's my re-examination, thank you.

40 MS McMURDO: Thank you. Well, thank you very much.

BRIG FENWICK: Ma'am.

45 MS McMURDO: It took a lot less time than we expected. Did you want to ask something more, LTCOL Healey?

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LTCOL HEALEY: No, Madam Chair. I think it's probably the right time to look at going into a private sitting. I don't - - -

5 MS McMURDO: You do want to go into a private sitting?

LTCOL HEALEY: We didn't anticipate it, but I think noting that how things progressed, it's got to the point where I think the Brigadier would like to go to a private setting. And it won't - - -

10 MS McMURDO: No, no.

LTCOL HEALEY: And I don't anticipate it will take long.

15 BRIG FENWICK: It won't take long.

MS McMURDO: That's okay. That's fine. Well, we'll have to adjourn to do that. We'll have to get the names of all of those who want to be present in the private setting, and I'll have to make a direction once I've seen those names. It's going to take a few minutes to do that, so we'll have to adjourn while that happens.

20

LTCOL HEALEY: May it please.

25 <WITNESS WITHDREW

**HEARING ADJOURNED**

30  
**(Continued in Private Hearing Session)**



HEARING RESUMED

5 MS McMURDO: Thank you. Yes, MAJ Chapman.  
Please let me know too if you need a break at any time, LTCOL Norton.

LTCOL NORTON: Yes, ma'am.

10 <LTCOL ANTHONY NORTON, on former oath

15 <EXAMINATION-IN-CHIEF BY MAJ CHAPMAN, continuing

MAJ CHAPMAN: Good afternoon, COL Norton. COL Norton, you  
recall giving evidence in this Inquiry and preparing a statement dated  
2 February 2025?

20 LTCOL NORTON: Yes.

MAJ CHAPMAN: And can I show you a copy of that statement? And,  
sir, do you recognise that to be your statement?

25 LTCOL NORTON: Yes. This time with the pictures.

MAJ CHAPMAN: Yes, thank you.

30 LTCOL NORTON: Yes.

MAJ CHAPMAN: And, COL Norton, that is – or, Chair, that is  
Exhibit 122. Now, before we proceed to Private Hearing, I should ask this  
of COL Norton.

35 COL Norton, your statement contained pictures and also contained video  
on a USB. Is that correct?

40 LTCOL NORTON: Yes, correct. The pictures were embedded, and the  
video was a link.

MAJ CHAPMAN: And in the statement that's been tendered, Chair, in  
paragraph – or Exhibit 122, those pictures and the – well, the pictures have  
been redacted, and the video is also subject of Security, which we'll need  
45 to go to Private Hearing about. So can I tender a copy of COL Norton's

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statement with those pictures which have been unredacted, and also tender with it a copy of the videos on USB stick, proposing that to be Exhibit 122A as the first statement, and the unredacted statement being Exhibit 122B.

5 MS McMURDO: Yes, the unredacted statement will be 122B, and the original statement 122A. The Annexure A, is that Annexure A to the original statement?

10 MAJ CHAPMAN: It is Annexure A to the - - -

MS McMURDO: So there's nothing more to tender there, yes.

MAJ CHAPMAN: And just to be clear, Chair, the USB stick is part of both. So it's part of 122B.

15 MS McMURDO: It's 122B. 122B is the unredacted statement and a USB stick.

MAJ CHAPMAN: And a USB stick.

20

**#EXHIBIT 122A - ORIGINAL STATEMENT OF LTCOL NORTON**

25 **#EXHIBIT 122B - UNREDACTD STATEMENT OF  
LTCOL NORTON AND USB STICK**

MS McMURDO: And it's necessary now to go into Private Hearing.

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MAJ CHAPMAN: To Private Hearing.

**<WITNESS WITHDREW**

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**PUBLIC HEARING SESSION ADJOURNED**

40 **(Continued in Private Hearing Session)**

**HEARING RESUMED**

5 MS McMURDO: Thank you. Yes, we'll adjourn until 10 o'clock tomorrow morning in Public Session.

**PUBLIC INQUIRY ADJOURNED UNTIL  
FRIDAY, 4 APRIL 2025 AT 1000**