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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 TAIPAN  
HELICOPTER IN WATERS NEAR LINDEMAN ISLAND  
ON 28 JULY 2023**

**PUBLIC INQUIRY**

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

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

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SQNLDR T SCHMITT, representing COL D Lynch  
SQNLDR M NICOLSON, with FLTLT S SEEFELD, representing D10  
CMDR B JONES SC, representing D19  
MR G O'MAHONEY, representing Airbus  
MS K MUSGROVE, representing the Commonwealth**

**0900, THURSDAY, 1 MAY 2025**

**DAY 52**

**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> 29/05/25	(Transcription)

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.MRH-90 Inquiry 01/05/25

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MS McMURDO: Yes, COL Streit.

5 COL STREIT: Good morning, Ms McMurdo. Firstly, just in relation to the balance of the day, I anticipate D10's evidence will likely go most of today's hearing time and potentially will conclude perhaps, earliest, mid-afternoon. There will be a need for a short Private Hearing to address some matters that D10 has identified in some aspects of his public evidence where he's indicated that he can provide further detail in a Closed Hearing, and it's important to afford him that opportunity to do that. What I propose  
10 is that I conclude D10's evidence-in-chief in the Public Hearing, then Counsel Assisting and representing be afforded the opportunity to ask their questions in the public forum. Then we would adjourn to set the conditions for a Private Hearing, and then the balance of D10's evidence, including any further questioning by Counsel representing would be in a Private  
15 Hearing.

MS McMURDO: Yes. So all those who wish to be present in the Private Hearing should let Counsel Assisting know during one of the breaks and that can be determined.

20

COL STREIT: Thank you.

25 <D10, on former oath

<CROSS-EXAMINATION BY COL STREIT, continuing

30 COL STREIT: D10, you've got your statement back before you. Okay, thank you. Now, what I propose to do is just ask you some questions about a couple of topics before we move to the pre-deployment for Exercise TALISMAN SABRE, and then the deployment and the mission itself. Can I just take you to page 20 of your statement where you give some evidence  
35 commencing at paragraph 58 in relation to the Squadron tempo and training in 2023. You give some evidence at paragraph 60 that you were asked this question:

40 *Did you have any knowledge about or involvement in the MRH-90 Special Operations Qualification Course undertaken at 6 Aviation Regiment in May 2023? If yes, please describe your knowledge or involvement.*

45 Your answer at 60(a) is this:

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5                    *The May 2023 Special Operations Qualification Course was the first course I was not the Course Manager for. It was the first course planned and executed by the Regiment S7. It was an attempt to remove the training burden from the active Squadron and place it on a separate element within the Regiment. A large number of my staff were detached to the Regiment S7 Cell for the conduct of the course.*

10                  So what I've read out is correct?

D10: Correct.

15                  COL STREIT: First question: prior to this Special Operations Qualification Course, was it the case that your Squadron carried the responsibility of essentially doing its own training for Special Operations Qualification Courses?

D10: Yes.

20                  COL STREIT: You have identified, at least when you posted in, you became the Course Manager for those Special Operations Qualification Courses?

25                  D10: The Course Manager was held within the Squadron generally. I'd have to see the document, but I believe it's usually the QFI, and I held it as the Senior QFI within the Squadron and the Squadron were the planners and executors for it.

30                  COL STREIT: So the consequence of your Squadron having the responsibility to conduct the training for the Special Operations Qualification Course internally within that Squadron had the effect that your staff needed to not only plan for that training, but then also conduct that training for new members of the Squadron coming in?

35                  D10: Yes, but I'll – sorry, I'll just backtrack on my last answer. There is a level of planning that gets conducted at Regiment Headquarters by the Regimental Ops staff. The early planning for the course is over a number of months. The course itself is run over a number of weeks, but the approval process is generally what takes the time. Once the course is at a level of planning for the Squadron to take it, which generally occurs after  
40                  the final planning conference, the Squadron are then responsible for any final planning requirements and the execution phase.

COL STREIT: Was the initiative to attempt to take this training

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responsibility or burden away from the Squadron an attempt to free-up some of the Squadron's time and remove one less impact to the Squadron's overall workload?

5 D10: Yes, it was an attempt to remove or reduce the workload of the Squadron.

COL STREIT: Was this an initiative of the CO of 6 Aviation Regiment?

10 D10: Yes.

COL STREIT: In June of 2023, that was the first time this new approach was attempted?

15 D10: It was the first time in my experience as an OC.

COL STREIT: Was it the case, because it's the first time this is being done in your experience, it meant that, as you say, a large number of your staff were detached to the Regiment S7 Cell to assist in the conduct of the course?  
20

D10: Correct.

COL STREIT: Was it, at least to your observation, the impact on your Squadron collectively in this initiative of running the course in this way, the impact on your Squadron was less than previous courses, even though you had some of your staff detached from your Squadron to the Headquarters to help with the course?  
25

30 D10: I would say the impact on the Squadron was at a reduced level. However, the conduct of the course and the new iteration of doing it in this way was that it was at a level of infancy that when it was mature, would absolutely reduce the burden, yes.

35 COL STREIT: Are you familiar with the concept of the first group in any new course are essentially the guinea pigs as the Course Managers work things out, and based on lessons learnt from the first course, things improve over time?

40 D10: Correct, I thought so.

COL STREIT: Now, this Special Operations Qualification Course occurs the month prior to the accident. Was there another Special Operations Qualification Course that your Squadron conducted prior to you posting out  
45 at the end of 2023 that you can remember?

D10: I might just have to reference the annex, sorry.

COL STREIT: Sure.

5

D10: There was a course planned for November that didn't occur.

COL STREIT: To the extent you can recall, in relation to the planning for that course in November, was it to follow the same line – that is, the same process as the June 2023 course – in other words, it being run by the Headquarters as opposed to your Squadron?

10

D10: I expected it to be the next iteration in the evolution of the course, yes.

15

COL STREIT: Now, you were asked at paragraph 61 whether you became aware that D2 and D6 had submitted a Sentinel Fatigue Report in relation to hours worked on the Special Operations Qualification Course in May 2023. You answer, "Yes". You say:

20

*I became aware of the work hours over a course weekend through overhearing a hallway discussion from D6. I told D6 to submit a Sentinel Fatigue Report for tracking and understood this would inform the development of future Special Operations Qualification Course iterations.*

25

You say at the top of page 2:

*I don't recall receiving the Sentinel Report and understood it went to the Course Manager.*

30

So just in relation to that evidence, what did you understand at that time was the purpose of a Sentinel Fatigue Report?

35

D10: Sorry, to clarify, are you asking what is the purpose within the safety framework or what is the purpose of submitting that exact report?

COL STREIT: Let me rephrase. It might make it a bit easier. Why did you ask D6 to put in a Sentinel Fatigue Report?

40

D10: Right. Going back to previous discussions from yesterday about the safety culture within the Squadron, I saw the Fatigue Sentinel Report as a basis for further evidence to inform future decisions.

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COL STREIT: At that time, in June of '23 when you were saying to D6, "Put in this Fatigue Report", what was your understanding as to where the report would go and to who it would go to?

5 D10: I've listed that in 61(b). I understood it would go to the Course Manager, which was the normal procedure.

COL STREIT: Was your understanding at that time that it may also go to other persons on a distribution list; for example, within the 6 Aviation  
10 Regiment Headquarters, not just the Course Manager?

D10: There is a distribution list that goes with the Sentinel report, or a Sentinel report in general. Where it went exactly, I'm not aware of, no.

15 COL STREIT: A general knowledge question, if you can recall. At that time in June 2023, in terms of submitting a Sentinel report, what did you understand was the purpose of the Sentinel report? In other words, it's information to the Chain of Command, but what could a member who submitted the report expect to receive back?

20 D10: I expected the Sentinel report process in general as a metric for correlating and reporting from a data perspective. I can't comment on what came back specifically from that report. It should start a conversation, in my mind.

25 COL STREIT: The conversation in your mind at that time – this is the encouraging D6 to make the report – was to assist the appreciation for future courses and sequencing of those tasks in those courses to avoid that kind of workload occurring again to the two QFIs?

30 D10: Yes. It shouldn't form future training design, was my expectation.

COL STREIT: Were you aware of the total number of hours that D6 had said he worked over a course week?

35 D10: I would have had that discussion at the time. I can't recall exactly. The purpose of the Sentinel report was, in my expectation, they were going to hit a limit that should have been reportable.

40 COL STREIT: Did the number of hours worked which caused you to encourage D10 to submit a Sentinel report, did that also give rise to a requirement to report any safety issue?

45 MS McMURDO: I think it was D6, was it?

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COL STREIT: D6, sorry.

D10: Sorry, can you clarify the difference between safety issue and Sentinel Report?

5

COL STREIT: Sure. So the evidence before the Inquiry is, and I can't quite remember the number of hours, so I don't want to give you the incorrect information, but it was an excessive number of hours that D6 said he worked. He's submitted a Sentinel report in relation to that particular matter. My question is, in addition to the Sentinel report, because you've given evidence that the Sentinel report was data information to assist for future course planning, did it also give rise, to your knowledge, to any other requirement to report it as a safety issue? So, in other words, a Qualified Flying Instructor working excessive hours on a Special Operations Qualification Course gives rise to a safety issue that needs to be reported?

10

15

D10: For clarity, the Sentinel report was the mechanism I was aware of that was required, and the conversation that should have followed would raise the issue for further management if required.

20

COL STREIT: Do you recall having any subsequent discussion with D6 about whether he received any feedback about the Sentinel report that he submitted?

25

D10: No.

COL STREIT: Did you, as the OC of the Squadron participating in the Special Operation Qualification Course, receive any feedback as to the outcome of that Sentinel report submitted by D6?

30

D10: No, that's potentially a question for the Course Manager.

COL STREIT: The Course Manager. If you could just have a look at the pseudonym list and just let us know which person, by pseudonym, was the Course Manager, if they're listed?

35

D10: They are not listed.

COL STREIT: Can I just ask you to write on this piece of paper the name of that person. Can I see that for a moment, please. Thank you. I tender that.

40

MS McMURDO: It's Exhibit 221. You'd better show that to Counsel representing. There will be a pseudonym issued and a non-publication order in respect of that name.

45

**#EXHIBIT 221 – NAME SUPPLIED BY D10**

5

COL STREIT: If it can just be passed along to Counsel representing and then returned back to me. I just want to ask you very briefly in relation to simulator training. So the Inquiry's received evidence there was no – it's on page 21, so just your responses – but just very broadly, there was no simulator for MRH-90 at 6 Aviation Regiment. That's correct?

10

D10: No pilot simulator, no.

15

COL STREIT: No pilot. So no MRH-90 pilot simulator at 6 Aviation Regiment in Sydney.

D10: Correct.

20

COL STREIT: That meant, as part of your training program in 2022 and 2023, did the members of your Squadron travel to Oakey to use the simulator at Oakey?

D10: Yes, Oakey, and Townsville if required.

25

COL STREIT: Would it have been of assistance to your Squadron to have had an MRH-90 simulator collocated where you were in Sydney?

30

D10: I would state the close proximity of a pilot MRH-90 simulator would always be helpful and I'd follow that with the proximity of a simulator just removes the barrier to entry for some of the pilots. It was still available for use, but it was deliberately planned, funded and allocated simulator sessions.

35

COL STREIT: But putting to one side the money and the reasons why there was no simulator at 6 Aviation Regiment, are all decisions made well in advance of your posting to 6 Aviation Regiment in 2022. But just in circumstances where you've given some evidence about challenges with the serviceability of and availability of MRH-90 aircraft, where you have a simulator collocated as to where you're operating would mean that you can still cover off on training outcomes using the simulator when aircraft weren't available, would you agree?

40

D10: Yes.

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AVM HARLAND: With the simulator, how many times a year would you send each of the pilots up to use it? Was there a program and a specific requirement?

5 D10: A couple of questions in there, sir. The specific requirement is listed  
in Standing Instructions. I can't remember the exact amount or where it's  
located. I recall it was every six months we had to go up and conduct a  
formal check. The program was deliberate – sorry, the simulator program  
10 which was run by the Squadron was a deliberate planning activity that  
utilised a lower period of work requiring aircraft and specific qualifications  
and it was a deliberate QFI-led development or progression weeks. Not to  
mention, in between different exercises throughout the year, most members  
took advantage of the trip to Oakey for not just flying but to also be with  
other peers in the area.

15 AVM HARLAND: So each six months there would be a minimum  
requirement for pilots to engage in the simulator?

20 D10: I believe so, sir. I'd actually need to double-check the wording on  
that.

AVM HARLAND: For those simulators, was that like an emergency  
training simulator to make sure that you had all your actions sorted out, or  
was it just a general simulator where you could choose whatever scenario  
25 you wanted?

D10: Sorry, I'll just reference his number. So I utilised D6 and D2 as the  
Squadron QFIs to develop a – for lack of a better term, it was a sim training  
exercise which had very specific mission parameters and mission profiles  
30 that needed to be flown in the simulator. They focused on some of the more  
dynamic profiles and malfunctions or failures during the critical moments  
of those profiles.

35 AVM HARLAND: That was every six months, by your recollection?

D10: Roughly, sir, yes.

40 AVM HARLAND: I'll frame the question another way. How did you  
assure yourself that the crews were well versed and current and recent in  
practising all of their emergency procedures?

D10: Terrible answer, sir, but that's in the realm of the Standardisation  
remit which sits outside of mine. From a Flying Supervisor - - -

45 AVM HARLAND: You're the Commander?

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5 D10: Correct, sir. From a Flying Supervisor perspective, I'll pick up the individual reports of the crews while they're out and about conducting their normal role. There is a specific reporting culture within the Squadron and the unit which I think is pretty common across Aviation, and because it's a crude environment, any lapses or any areas that need development get reported pretty quickly. I use that as a primary mechanism on top of the Standardisation pilots within the Regiment and their normal regime of tests.

10 AVM HARLAND: So, as a Commander, you would wait for things to come up to you, rather than looking across and making sure that everything was to your satisfaction?

15 D10: For clarity, sir, I flew with the team regularly in the large formations and saw them flying quite regularly as well. So, in my assessment, I had a pretty good idea of my team and their abilities.

AVM HARLAND: Okay, great. Thank you.

20 COL STREIT: D10, can I just ask you one question about D2 and D6. You mentioned they were your Squadron Qualified Flying Instructors; is that correct?

25 D10: Correct.

COL STREIT: Does that mean they were part of your Squadron in the sense of personnel who reported to you in your Squadron?

30 D10: Correct. They were in the hallway less than five metres from me for the most part.

35 COL STREIT: There was obviously another flying Squadron at 6 Aviation Regiment. Did it also have its own internal Qualified Flying Instructors for the MRH-90?

D10: The other Squadron were not qualified on MRH-90. We were the only MRH-90 Squadron.

40 COL STREIT: So what was the other Squadron flying?

D10: In 2022?

COL STREIT: Just prior to the accident in 2023?

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D10: The other Squadron were conducting their transition courses for UH-60M Black Hawk.

5 COL STREIT: I see. So in 2023, first half of 2023, your Squadron was the only Squadron flying MRH-90?

D10: Correct.

10 COL STREIT: In 2022, was it the same situation?

D10: I believe there were still some S-70A-9 pilots that were qualified, but they were in the beginning phase or the early phase of UH-60M transition. In essence, for '22 and '23 we were the only MRH-90 Squadron within 6 Aviation Regiment.

15 COL STREIT: Just while you are on this particular topic, we've heard some evidence that when the deployment to Exercise TALISMAN SABRE '23 occurred, elements of your Squadron deployed. Six aircraft went up; is that right?

20 D10: Correct.

25 COL STREIT: We've heard some evidence that there were other MRH-90s remaining back at the Squadron to be available to undertake flying tasks back at the Squadron. Is that correct, from your recollection?

D10: For clarity, I wouldn't say back at the Squadron. It was at 6 Aviation Regiment. Sorry, I'll let you go.

30 COL STREIT: But your Squadron was the only MRH-90 flying Squadron in 2023?

35 D10: Correct. There were other MRH-90 pilots within the Regiment. They didn't reside within the flying Squadron.

40 COL STREIT: I understand. But just in relation to some evidence the Inquiry's received, when you've deployed, six MRH-90s have deployed on Exercise TALISMAN SABRE, and elements of your Squadron have deployed with you to Proserpine. That's right?

D10: Correct.

45 COL STREIT: At that time, back at 6 Aviation Regiment were there MRH-90 aircraft with pilots to be available to be tasked to fly missions if required?

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5 D10: I might have articulated this poorly but for clarity, the Regimental Headquarters within 6 Aviation Regiment also had MRH-90 pilots and aircrewman. 173 were all deployed. The vast majority were all deployed to Proserpine. It was not our flying being conducted in Sydney, if there was.

10 COL STREIT: An aspect of evidence the Inquiry's received concerns a decision not to take a Hoffman set to TALISMAN SABRE for utilisation by you and your pilots, if you wish, at Proserpine because it was needed, in effect, back at the Regiment to be potentially utilised by aircrew of MRH-90 aircraft for mission tasks. So that's the background. But what I understand from your evidence – and if I have this wrong, tell me – is it the case there were no MRH-90 aircraft back at 6 Aviation Regiment ready to be tasked for missions whilst you're deployed?

20 D10: For absolute clarity, 173 were deployed to Proserpine. We were not conducting any flying in Sydney. For additional clarity, in another forum, the specifics of what that means.

COL STREIT: Just to put it broadly, were there MRH-90 aircraft at 6 Aviation Regiment when you were at Proserpine?

25 D10: Yes.

COL STREIT: Those aircraft were available to be used to fly?

D10: Could have been, yes, but not by me.

30 COL STREIT: No. But by others at 6 Aviation Regiment?

D10: Potentially, yes. Sorry, and for clarity, yes.

35 COL STREIT: Was the primary effort of 6 Aviation Regiment at the time of the deployment to Exercise TALISMAN SABRE, was the primary effort of the Regiment the deployment?

D10: Sorry, can you rephrase that?

40 COL STREIT: So the Regiment no doubt had a number of lines of effort it needed to ensure it can allocate resources to, to meet tasking. You would agree with that?

45 D10: Correct.

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COL STREIT: So I'm simply asking, given that six MRH-90 aircraft, the bulk of your pilots, maintenance staff and you are deploying to Proserpine to conduct and be part of Exercise TALISMAN SABRE, I'm simply asking was, therefore, the deployment to Proserpine and the duration of your deployment there 6 Aviation Regiment's primary effort at that point in time?

D10: I see what you're saying. I'll draw a line in the sand. I can't speculate on the priorities of the Regiment; that's a question for the CO. 173's priority was the conduct of Exercise TALISMAN SABRE, and at one period – sorry, throughout the exercise, the main effort changes. I was in location with the main effort at all times.

COL STREIT: But you are, at that point in time, whilst deployed and in the first half of July 2023, you're the only flying Squadron for MRH-90 in the Regiment. That's correct?

D10: Correct. Yes.

COL STREIT: Because the other Squadron's undertaking transition training to the new Black Hawk?

D10: Correct.

COL STREIT: Your primary effort at the time of the deployment was Exercise TALISMAN SABRE; that is, your Squadron's primary effort?

D10: Correct.

COL STREIT: Can I just quickly turn to aircrew progression. You deal with some aspects of this in your "Official: Sensitive" statement so it will be an area we'll return to briefly in the Private Hearing. You've already given some evidence, if you turn to page 22, concerning subparagraphs (b) and (c), so I don't propose to go back to those aspects because we've already talked about that a little earlier yesterday. What I'm going to ask you to do now is just to cast your mind back to the pre-deployment matters for Exercise TALISMAN SABRE, and we'll move through - - -

MS McMURDO: Just before you go on to that, could I just ask one question about the earlier matters?

COL STREIT: Of course.

MS McMURDO: If you have a look at 64(a), you say there that workload was a constant discussion, and you say towards the end of that paragraph:

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*Any issues were flagged by my team and I assessed as “unreasonable” would be raised with D19 to seek prioritisation or additional resourcing.*

5

Now, D2 and D6, your QFIs, submitted the Sentinel Fatigue Report and they discussed with you – or you overheard a hallway discussion so you were aware of it, that they were concerned about fatigue caused during this May ‘23 Special Operations Qualification Course. So did you raise that with D19?

10

D10: No, ma’am. That was, in my opinion, a Course Manager discussion which I had assessed as going to occur.

15

MS McMURDO: Going to?

D10: It would have occurred, in my expectation.

MS McMURDO: Thank you. Yes, thank you.

20

COL STREIT: Turning to pre-deployment matters for Exercise TALISMAN SABRE, you set out at paragraph 67 matters in response to this question. You were asked to describe the lead-up to deploying on Exercise TALISMAN SABRE, the things you did in preparing the Squadron to participate in the exercise, and you set out your responses under paragraph 67 and onwards over the page. Can I just take you to one matter – and I only propose to address one matter in this area at the moment – and that is at paragraph 67(a)(ii)? You say there:

25

30

*Noting the preceding exercise my team were conducting was Special Operations Qualification Course 1 of 2023, I had deliberately planned a maintenance reset period leading into the Force Integration Weeks for Exercise TALISMAN SABRE. I assessed that my maintenance workforce was over-extended and required a deliberate reset after an excessive workload in the preceding months. It should be noted that after the March 2023 ditching, my maintenance workforce were the primary team who conducted a significant amount of engine changes to comply with the new MRH-90 PC-3 requirements.*

35

40

What I read out is correct?

D10: Correct.

45

COL STREIT: So you and your Squadron were not just managing

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workload and a factor of fatigue within your aircrew, but you were also managing a workload and a risk of fatigue manifesting within your maintenance workforce; is that correct?

5 D10: Correct.

COL STREIT: Because of the MRH-90 ditching, what was compounding the workload of your maintenance workforce was that they had to conduct a significant amount of engine changes to the MRH-90 to comply with the new requirements as a consequence of that resulting from outcomes from the ditching in March 2023?

D10: Correct.

15 COL STREIT: Was it your understanding that the position at that time, following the ditching, is that your Squadron would not fly an MRH-90 until it had had its engines changed, to ensure compliance with the new requirement?

20 D10: I'm sorry, I don't - - -

COL STREIT: Let me put it this way to try to help you. So the ditching in 2023, one of the outcomes of the DFSB investigation of that matter was that a turbine blade had malfunctioned in the engine, giving rise to an engine failure which was a contributory factor to the ditching of the aircraft in the Jervis Bay. Just accept that from me. As a consequence, decisions made far above your level at the Squadron was made to fix the engine turbine issue which was a known issue within the higher levels of Command, to fix that engine turbine issue and remove the risk of it occurring again by upgrading the engines to ensure that that issue had been fixed.

What the Inquiry understands is that 6 Aviation Regiment did not then fly an MRH-90 until the engine issue had been fixed on all the aircraft at 6 Aviation Regiment. What I have set out to you, is that your understanding as an outcome from the Jervis Bay ditching?

D10: For clarity, and I partially disagree with the premise, and I would restate it as there was a specific implementation plan that was released post-March '23 ditching that required engine changes prior to the conduct of PC-3 operations. I can't recall the classification of that document. Sorry about the vagueness. I would state that we could still fly the aircraft outside of PC-3 with the unmodified engines. However, because the same maintenance workforce is the one for general bringing aircraft online and maintenance to keep them online, they're also doing the engine changes. So I recall it was also a measure to reduce the burden on them.

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COL STREIT: Sure, and I'm deliberately limiting my questions to 6 Aviation Regiment. What was occurring at 5 or at Oakey, we're not asking you about that. But from your recollection at 6 Aviation Regiment following the ditching, your Squadron did not fly an MRH-90 aircraft unless it had had the engine upgrade modification completed; is that correct?

D10: No. I would state we didn't fly it in PC-3 until it had two modified engines and potentially – sorry, for context, PC-1 and 2 operations were still permissible with one engine unmodified, which I can't clarify if we did or did not fly without checking PEX. Sorry.

COL STREIT: So just put to one side the missions, PC-3 – 1, 2 or 3. Just as a very broad question based on your recollection. The Inquiry has received evidence to the effect that following the ditching in the Jervis Bay, a decision was made at a high level to upgrade the engines at 6 Aviation Regiment and, as I understand the evidence, your Squadron did not fly an MRH-90 until the engines had been upgraded on that aircraft.

D10: I can't answer that without the reference to PEX.

COL STREIT: Is it your recall, as you sit there today, that your Squadron may have, in fact, returned to flying whatever the mission profile was without both engines having been upgraded following the Jervis Bay ditching?

D10: Once again, I couldn't answer that without confirming with PEX.

COL STREIT: That's okay. Let's move on from that. Can I just take you to paragraph 70(c), which is on page 24 of your statement. Now, page 24 is just the continuation of your evidence in relation to things you did in preparing the Squadron for its deployment to Proserpine. You say at (c) this:

*I was concerned for my maintenance and ground crew mission support workforce who predominantly maintained a high workload for the preceding months because of the climate stemming from the March '23 ditching. This concern led to the directed maintenance reset period immediately preceding the commencement of Exercise TALISMAN SABRE.*

Then you refer to Annex Y. In relation to the maintenance reset period, and in this forum to the extent you can, what does that mean, "reset

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period”? Does that mean you’ve directed them to go on leave, you’ve reduced their hours of work? What does that mean?

5 D10: I am directly referencing the no-fly periods which are generally scheduled during school holidays or some form of break throughout the year. There’s a number of them. It is my understanding and experience that during those periods, whilst they are listed as “no fly”, the maintenance staff are still working quite hard to reset those aircraft to run into the next event which is generally not long after the no-fly period. It was an attempt  
10 – one of many attempts – to manage the workload for that maintenance staff, i.e. removing the requirement and supporting them with additional resources within the Squadron to conduct that maintenance during the no-fly school holiday period.

15 MS McMURDO: Sorry, does that mean that they had that period off as well – the maintenance crew had that period off as well?

D10: Yes, ma’am.

20 MS McMURDO: Whereas usually they’d work. But you were concerned, so they had that period off?

D10: I would substantiate that, ma’am, with something I picked up from the Snapshot surveys the year prior is a complaint from the maintenance workforce of which I was in command of which was found that the no-fly periods are generally still the same or considered the same from a maintenance standpoint, dependent on the workforce, the standard of the aircraft at the time and the events occurring. It was a deliberate attempt to manage that.  
25

30 MS McMURDO: Yes, I understand. But what you did then was you made sure that they had the same period off as the aircrew. Is that what you’re saying?

35 D10: I didn’t force them to take leave, ma’am.

MS McMURDO: You encouraged them to.

40 D10: But I gave them the opportunity to reduce what work they actually needed to do. It forced the supplementary elements of 6 Avn in the maintenance space to provide support. There was a contracted element there.

45 COL STREIT: Can I turn now to - - -

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MS McMURDO: You say you didn't make them do it, so how do you know that it was effective in reducing their fatigue? What actually happened?

5 D10: In essence, ma'am, there is a maintenance schedule that has an allocated Force against it 24/7, and across the entire year. I directed and I assessed that my Maintenance Managers had conducted it and I did not hear anything contrary, that those directed maintenance periods were conducted  
10 by different elements within the unit to allow them the flexibility to take leave.

MS McMURDO: So that did happen?

15 D10: In my understanding, it did, ma'am, yes.

MS McMURDO: Thank you. Yes, COL Streit.

20 AVM HARLAND: Did you routinely engage with your senior maintenance staff to understand their workload and moderate it in conjunction with the aircrew program?

25 D10: My senior maintenance staff are in my corridor with me, so about 10 metres. The daily program for us was generally an operation sync most days of which they were in. So I had a fairly good touchpoint and understanding of those members.

AVM HARLAND: So they were able to represent the issues and challenges that they had as part of that daily ops sync?

30 D10: Yes, sir.

AVM HARLAND: Did you do that in a weekly sense, in a monthly sense, looking forward, or was it all captured in a daily?

35 D10: The syncs themselves, sir?

AVM HARLAND: Yes.

40 D10: So there generally would be a weekly sync if we were outside of an exercise period. If we were inside an exercise period, it was a daily sync. From a Squadron perspective, it involved all of the key functions and their supervisors and that was a point for prioritisation, any management required at my level, or just an update on where we are. That scope generally ran at least – sorry, it ran 24 hours out to 72 and the proceeding  
45 weeks, depending on what we were doing at the time.

AVM HARLAND: So you would be looking forward and making sure that you're actually set up for follow-on evolutions, rather than just dealing with things at a very short horizon?

5

D10: Correct, sir. The Regiment Planner at Annex Y is the live document and the Maintenance Plan for that gets done months in advance, in my understanding. That's from a Regiment level. It's planned to deliberately ensure we can support.

10

AVM HARLAND: Okay, thank you.

COL STREIT: Can I turn now to question 72, please, D10. You say there – or you were asked there this:

15

*Noting the evidence of Mrs Caitland Lyon, D20 and D15 –*

and there's some references to the transcript –

20

*state whether you went to Holsworthy Barracks to work with 173 Squadron aircrew on 22 or 23 July '23 and, if so –*

and then you were asked a series of questions. You indicate at 72(a)(i):

25

*Key operational planning staff days required for aircraft packing, aircraft set-up and aircraft maintenance were required to work to support Exercise TALISMAN SABRE '23 tasking. Key planning staff were required to complete a directed concept of ops brief given to the Squadron. Maintenance members and those deploying via the air self-deploy were required to work on the aircraft and pack their equipment prior to the deployment on Monday morning to reduce the departure burden. Generally, aircraft are not cleared by maintenance and released for allocation until 24 hours prior to departure. Once again, due to staffing constraints, the same officers planning the exercise are the same people conducting the flights.*

30

35

Is what I've read correct?

40

D10: Correct.

COL STREIT: So when you say the same officers planning the exercise are the same people conducting the flights, that was as a consequence of the staffing level in your Squadron?

45

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D10: Probably twofold, sir. In this circumstance, it was the same people. Under normal circumstances in Aviation, from experience, it generally is as well.

5 COL STREIT: There was an issue that arose which was beyond your Squadron's control that required to shift departure times for the time that the Squadron had planned to depart on Monday, 24 July. It had to be moved due to circumstances beyond the Squadron's control; is that correct?

10 D10: Correct.

COL STREIT: You had a discussion with D15 and D20 about that matter; is that right?

15 D10: Correct.

COL STREIT: Now, did the consequence of having to shift the departure time due to a circumstance beyond the Squadron's control, did that have an effect on your plan as to when you arrived at Proserpine Airport, and to transition your workforce into the night shift?

20

D10: It did, and I made a deliberate assessment of what the impact of that change was, which I can go into further detail.

25 COL STREIT: Sure. I'm just talking in the broad here at the moment. But prior to deploying, you had a detailed discussion – if I can use those words – with D20, which is set out at paragraph 73. Is that correct?

30 D10: Correct.

COL STREIT: 73 asks you this, it says:

*Noting the evidence of D20 –*

35 and there's a transcript reference there –

*do you recall having any discussions where D20 raised concerns about the Squadron's deployment to Exercise TALISMAN SABRE, and, if yes, what concerns were raised and what was your response.*

40

You say this:

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*Yes, I agree that the conversations occurred with D20 as she describes in her statement and during her time on the stand. I will clarify my responses as follows.*

5                                   D20: *“Okay, that’s cool, but at the end of the day, that’s training and this is people. We’ve already been working long days, and we are pre-fatiguing people.”*

10                                   YOU: *“That’s the Direction we’ve been given. At the end of the day, we get tasked based on the rules, which require a minimum of 10 hours reset. That is all we can hang our hat on as Commanders. Look, if there are issues in the morning and people can’t fly, they can FACE out and we won’t fly the aircraft up that day.”*

Is what I’ve read out correct?

20                                   D10: Correct.

COL STREIT: You then go on to say:

25                                   *As stated above, I encouraged frank and honest discussion with my Commanders because it enables me to deal with the issues. I can’t manage what I don’t know. I encouraged D20 to have these discussions because, as a future OC, she would need to know how to have them with a CO. I assessed her concern and proceeded as described above in paragraph 30.*

30                                   Is what I’ve read out correct?

D10: The only change is I believe there was a pen amend to the paragraph listed.

35                                   MS McMURDO: 69, yes. It was changed to 69 in his evidence.

40                                   COL STREIT: Sorry. I hadn’t made that on my version. Thank you for clarifying that. I just want to ask you something as to whether you recall this. D20 gave some evidence – sorry, perhaps I’ll do it this way. Is what you have set out at paragraph 73 of the discussion with D20 – two things. First of all, you say that:

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*The conversation occurred with D20 as she describes in her statement and during her time on the stand. I would clarify my responses as follows.*

5 So when you say “the conversation occurred with D20 as she describes in her statement and during the time on the stand”, are you agreeing with the contents of what D20 had said was her recollection of that conversation?

D10: Yes.

10

COL STREIT: Where you’re providing a clarification, so where your recollection might differ a little bit from what D20 says, you’ve set that out in your evidence at paragraph 73(a)?

15

D10: Correct.

COL STREIT: Can I just ask you this? So it’s not two ships passing in the night that don’t engage, to assist the Inquiry. D10 gave evidence that - - -

20

MS McMURDO: D20.

COL STREIT: Sorry, D20 gave some evidence that you, D10, said during the conversation, you say this:

25

*Look, we are in the Military. We could be recalled at any point in time and we need to achieve this mission. It doesn’t matter what time of day it is, and we need to be adaptable.*

30

Do you recall saying those words to D20 in the conversation you’re having with her?

D10: Yes, I agree with that conversation. The intent with the clarification in 73(a) is small changes. It’s, in essence, the same discussion.

35

COL STREIT: Thank you for clarifying that particular aspect. I’ll have a short break in a second but just finishing this off. Is the upshot of the discussion with D20 is that she’s raised a concern, you’ve taken it on board? There’s a tasking mission the Squadron’s been given, but you’re still tracking the issues that D20 has raised and, if circumstances were to change in the morning, then you were prepared to take actions to deal with those circumstances, which might result in not flying up that day. Is that correct?

40

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5 D10: Yes, correct. I would add for further context that a transit, which was actually the first mission for the exercise, is a very deliberate and long planning cycle that includes a large number of contingencies and it is normal practice – not specific to MRH-90; I’ve had it on other aircraft – that you do not leave on the first day for any number of reasons, and that’s deliberately planned in.

10 COL STREIT: Last question. Just on that sort of big red button analogy, you’ve given some evidence before which concerns safety. Did you think that if you needed to, and it’s not a question in hindsight, it’s a question on whether you thought about this at the time you’re having the conversation with D20, did you think that if you needed to at the time, you had the option of just canning the whole deployment to Proserpine? That is, did you have that authority?

15 D10: I always hold the authority as the OC to push the button, as I would colloquially term as the “red button”, for any number of reasons, and it would be supported.

20 COL STREIT: So you’re saying, “I had that authority”, and your view at the time, prior to the deployment, is that if you expressed that to the CO with the reasons as to why you had the view that we shouldn’t go, that he would support you in that position?

25 D10: For clarity, I would push the button, then tell the CO. It would be less of a discussion. Just purely from a safety perspective, I felt supported that I could do that.

30 COL STREIT: Now, you were tracking this particular issue because you had put a book hold in the point that if circumstances changed in the morning, people weren’t good to go, you would then reassess and make adjustments at that time. Is that correct?

35 D10: Correct.

COL STREIT: Ultimately, you were satisfied the next day that things were good to go and the Squadron flew up?

40 D10: Correct, and I cover that in para 63, and I could provide more detail about the specifics of my assessment.

45 COL STREIT: Sure. And we’ll cover that a little bit in the Private Hearing because I know there’s a bit more to this. But in the broad, that was the position. I note the time.

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MS McMURDO: Would you like a break now?

D10: Are we able to take just a five-minute break, ma'am.

5 MS McMURDO: Sure. We'll have a five-minute break.

AVM HARLAND: I'll have a follow-on question, just when we come back, but we'll do that on - - -

10 MS McMURDO: Well, maybe do it now.

AVM HARLAND: Thank you. With the considerations, noting that D20 had brought up some issues there, and it appears you relied very much on the time period of minimum 10-hour reset, did you consider at all whether to split the deployment over two days so you could depart later, on – I think the Monday it was, and then effectively do a short transit on the Tuesday to get into theatre? Was that a consideration you went through or was the idea, “We're just going to push through with a one-day deploy”, to shorten the day, that follow-on day, given the fatigue flag that had been raised to you?

20 D10: Understood, sir. Potentially, an answer for the closed forum but, yes, it was a consideration. It was not within the constraints at the time. It was a contingency if required.

25 AVM HARLAND: That's good. Thank you.

MS McMURDO: Yes, all right. We'll have a five-minute break.

30 **HEARING ADJOURNED**

**HEARING RESUMED**

35 MS McMURDO: Yes, COL Streit.

COL STREIT: Thank you, Ms McMurdo.

40 D10, can I just take you to paragraph 74, please? You were asked there, “Did anyone else raise similar concerns to” – sorry, I'll start again. You were asked there:

45 *Did anyone else raise similar concerns to D20 with you? And if so, who and when?*

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You say:

5                    *The requirement to shift our departure was informed to me by D29 as the Regiment Ops Captain, and I recall discussing what it meant with D15. I recall these discussions were within the hour of discussing it with D20.*

Is that correct?

10                  D10: Correct.

COL STREIT: Now, if we turn the page, please. We come to the subject heading, “The Incident – Exercise TALISMAN SABRE 2023”, and you there set out your answers in response to some particular questions you were  
15                  asked. You also identify some aspects of your evidence that are addressed in various annexures as well. Is that correct?

D10: Correct.

20                  COL STREIT: You’ve also addressed some matters in your “Official: Sensitive” statement concerning the exercise as well. That’s correct?

25                  D10: Correct.

COL STREIT: And we’ll come to those matters a little later. Can I just ask you this briefly. Concerning your time in Proserpine, and the sleeping conditions, you say at paragraph 76 – you were asked to describe the  
30                  sleeping conditions, and you say:

35                                    *I slept in one of the two aircrew tents located roughly central in the area of the tents. I utilised a personal eye mask, issued earbuds and sleep medication. I slept in the communal tent for the first two nights and moved to a Jet Tent from the third night. As a detachment, we had roughly 20 Jet Tents in location available and encouraged for use by aircrew. I found the noise within the tent to be disruptive on the first night while trying to adjust to the new environment.*

40                  First, can you just explain what a Jet Tent is? Sorry, before you do that, is what I’ve read out correct?

D10: Yes.

45                  COL STREIT: And could you just explain what a Jet Tent is?

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D10: A Jet Tent, in essence, is a stretcher that has a built-in mozzie net and canvas cover that allows it to be erected anywhere without any supports required.

5

COL STREIT: Now, you made the decision to ultimately use a Jet Tent; is that right?

D10: Yes.

10

COL STREIT: And what was the reason for that, or reasons?

D10: A few reasons. Predominately, I was one of the last back in the tent on each of the nights, which was – I didn't want to disturb others and there were members who were snoring as well who were slightly disruptive to my rest. However - - -

15

COL STREIT: And earbuds weren't going to save you?

20

D10: They actually worked pretty well; however, some of them were loud at times. The purpose of using the tent itself is also to show the rest of the team there are other options.

COL STREIT: Sure. Can I ask you this? The Inquiry has received some evidence that tents where aircrew were located in the one tent might be a mixture of people on a day shift and a night shift. Was that your observation?

25

D10: I would state that, for the most part, the tents were allocated in a way that should have minimised the disruptions between day and night. I am aware from some of the previous evidence provided that that didn't always occur for each of the members, but it was managed by the team.

30

COL STREIT: And it's not addressed in your statement – and if it's outside your memory please say so – but did you have any authority to make any changes to the set-up of the camp?

35

D10: When you say “set-up”, do you mean where the – sorry, can you just define, like - - -

40

COL STREIT: Sure. So where the aircrew were located – or members of your Squadron were located, if you wanted to move them to another tent, swap people around, did you have that authority or did that sit with somebody else?

45

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D10: It would've been a request from the Squadron to the owner of the FOB. Yes.

5 COL STREIT: And who was that, do you know?

D10: I believe it's already come out, that D13 was managing the FOB but she was managing it on behalf of an external element. The tents themselves were erected physically prior to us arriving.

10 COL STREIT: So, the camp layout tents, et cetera, were prepositioned at Proserpine before your Squadron arrived?

D10: Correct.

15 COL STREIT: And when you arrived, did you simply just receive a brief as to where things were and where you would be sleeping?

20 D10: The distribution of where members were sleeping was done by my team and I was confident in what they had come up with as the first outcome.

25 COL STREIT: When you say the distribution of where people were sleeping was done by your team, was anyone in charge or did they just sort of shake you out and work it out themselves?

D10: I didn't deliberately direct any of my Commanders to do it. It is within the normal remit, and I was told where we were sleeping prior to arrival.

30 COL STREIT: It's not really something that you, as the OC, would get involved in where people are sleeping. You had two Troop Commanders. That's right?

35 D10: I had three Troop Commanders.

COL STREIT: Three Troop Commanders with you. That's correct?

D10: Correct.

40 COL STREIT: Did anyone report any concerns to you, whether it's the Troop Commanders or others, about the sleeping arrangements?

45 D10: I've covered it in my statement. There was at least one incident where members were up early, which resulted in a few different outcomes.

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COL STREIT: Sure. You've given some evidence about that. My question is a bit clumsy. I'm not talking about what D6 may have reported to you. But did anyone come to you and say, "Hey, it's too noisy where I'm sleeping, can I move to another tent"?

5

D10: Not directly, no.

MS McMURDO: Well, did you indirectly hear anything like that?

10

D10: No, ma'am. Just what I've put in my statement about people getting up a little bit earlier.

MS McMURDO: How did you find the sleeping in the Jet Tent? Which was better, sleeping in the communal tent or the Jet Tent?

15

D10: I preferred the Jet Tent, ma'am. Personally.

MS McMURDO: Did anyone else take up the offer of the Jet Tent?

20

D10: They did, yes. D2 and I believe D6, at least. We're supposed to be on one – I helped them set up the tent the day of the 28th.

MS McMURDO: Thank you.

25

AVM HARLAND: So noting you'd arrived, you'd been distributed out to the tents, your team had sorted out the internal 6 Aviation arrangement within those tents. Given that you had, at that stage, just found out that there was no air-conditioning in the tents and you were going to be going into night serials, did you have any discussions or follow-ups with some of your key leadership team to discuss how the sleeping arrangements were going because, effectively, they weren't what you were told they were going to be? So did you follow that up with them in the following days to make sure that what was provided to you was adequate for the purposes of doing night flying?

30

D10: Two parts to the answer, sir. I didn't find out we didn't have air-con – we weren't going to get air-con for – it wasn't the first day, I believe. It was the second or third. My understanding was it was supposed to travel up on one of the TAPS of C-130. So it didn't actually arrive. The discussion around sleeping arrangements, ability to rest was a constant discussion.

35

AVM HARLAND: So you were continually aware of that issue, and how were you managing the associated risks with that?

40

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D10: I cover it in my statement, sir, which I suspect we'll go through. I can provide significant detail on the immediate risk management I was conducting for the daily tasks, if that answers it?

5 AVM HARLAND: Yes. And we can cover it in detail when COL Streit gets back to it. Thank you. Thanks.

COL STREIT: Now, just one quick question. You, at paragraph 77(a), second sentence, say you recall using medication most nights leading up to  
10 the incident. That was medication in relation to assisting you get to sleep. Is that correct?

D10: I can't remember if its purpose was to get to sleep or to stay asleep, but it helped me get to sleep and stay asleep.  
15

COL STREIT: And you say you conducted a ground trial in 2014. So the ground trial, that was a necessary medical requirement that you complete to assess your suitability for those types of sleep medications. Is that correct?

20 D10: Correct. And for clarity, you can take sleep medication without the ground trial, but you were temporarily medically unfit until you've done the ground trial.

COL STREIT: Yes. So you couldn't self-administer the medication if  
25 you hadn't completed the ground trial because it means you then couldn't fly the aircraft.

D10: The doctor could prescribe the medication, but you would be temporarily medically unfit until the ground trial was completed. Yes.  
30

COL STREIT: Yes. So the net effect is, until you complete the ground trial and get a tick on the ground trial if, for whatever reason, the Medical Officer prescribed you sleep medication and you took it, you then become temporarily medically unfit and therefore you can't fly the MRH-90  
35 aircraft?

D10: Correct, sir. I did my ground trial with sleep medication roughly the same time. I did it for the malaria medication required to go to certain locations.  
40

AVM HARLAND: As part of your planning process moving into activities where you know you're going to be on a night cycle and noting that your Squadron personnel turn over routinely, as part of that plan moving into a night cycle exercise, do you set aside some time in the lead  
45 up to that so that people can do those trials and kind of put them on notice,

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link them up with the medical staff and say, “Hey, here’s your window to do the ground trial so that when we go into the night exercise you’ve had the opportunity to go ahead and have been qualified per se on the drug”?

5 D10: I would say, sir, that there are periods throughout the year which are best placed for members to take the medication under a ground trial. I cannot order members to conduct said ground trial or take medication.

10 AVM HARLAND: No, I’m not suggesting that at all. What I’m saying is, is a part of the planning process at 6 Aviation Regiment where, as you’re moving into an exercise where there’s going to be demanding night activity, where you say, “We’re going to be doing this in two weeks’ time, I’d suggest for those who haven’t done a night trial, this is the window that you can do it in”? You make time on the program so that when they were  
15 temporary and medically unfit to fly, they’re able to facilitate that. So rather than it be the individual’s responsibility to sort it out, the organisation creates a window for them so that they can actually achieve it.

20 D10: The organisation creates two windows, at least, per year that members can conduct those activities. Generally, it’s the start of the year for the – it was called Sentry and Overhaul where all the DP1 level administration was completed or, the end of the year when there’s a period of no flying to - - -

25 AVM HARLAND: So do you tell them that that’s the time when they should be doing their ground trials?

30 D10: The ground trial gets notified to the member through the MTS – sorry, the Aviation Medical Training – which is conducted generally around the same time, the start of the year or end of the year with all of the mandatory training. The individuals themselves would be discussing with their immediate Commander. My recollection is I had numerous times that I had discussions with my Command Team numerous times about when it would be a good time to do that. One of them was post the March ditching.

35 AVM HARLAND: I think I’ll take your answer as no, there’s no Command Direction or facilitation of that.

40 D10: I’d disagree, sir. I can provide recommendations, and I provided recommendations, during my time as an OC. I did not facilitate with the medical staff for a large chunk of medical grounding and ground trials to be conducted. It’s also worth noting that Annex A and S of my statement cover the constraints of who and when that can be done.

45 AVM HARLAND: Okay, thank you.

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COL STREIT: Now, you say at paragraph 82:

5 *Outline whether you felt fatigued on Exercise TALISMAN SABRE,  
and if so, who you reported feeling fatigued to?*

D10: Sorry, sir.

10 COL STREIT: Paragraph 82.

D10: Yes.

15 COL STREIT: Yes, so I'm just skipping over some of your evidence.  
Everything in your statement is evidence.

D10: Yes.

20 COL STREIT: And all I'm doing is drawing your attention to some  
matters. So all of your statement will be considered by the Inquiry.

D10: Am I able to just backtrack on one thing for the Air Vice-Marshal,  
sir?

25 COL STREIT: Of course.

D10: It's probably worth noting from a medical perspective, sir, that the  
unit does not have any direct control of the staff at the medical facility. I  
believe that's different between Air Force and Army, from my exposure.

30 AVM HARLAND: Yes. No, that's a good point. And it has been  
brought up by other witnesses, some of the challenges getting access to  
medical help. So, yes, that's a point well taken. Thank you.

35 COL STREIT: The effect of that evidence, D10, is that the medical staff  
will respond to requests to engage in a ground trial, but the medical staff  
are not required, nor proactive, to go to the unit and say, "We're going to  
do a ground trial and you're on it". They don't have that authority. That's  
the evidence before the Inquiry.

40 D10: Yes. So to be clear, I would state there is no Command link, direct  
Command link, between our unit and the medical facility.

COL STREIT: Now, just in relation to question 82:

45 *Outline whether you felt fatigued on Exercise TALISMAN SABRE*

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*and if so, who you reported feeling fatigued to?*

Your answer is:

5                    *I did not feel fatigued.*

That's correct, what I've read?

D10: Correct.

10

COL STREIT: And is your answer in response to the entire time on Exercise TALISMAN SABRE?

15                    D10: Yes. Correct, sir. I had quite young children at that time, and I was not getting woken up every night by the kids. So - - -

COL STREIT: Sure. So the Inquiry understands – I withdraw that. Is your evidence essentially your recollection of how you felt up until events occurring on the mission on the 28th?

20

D10: It is, sir. I provided my watch data as a metric to support that.

25                    COL STREIT: Sure. Because the events of the 28th meant subsequently you were doing search rescue operations and then returning to Proserpine, and you were up in the Ops Tent for a period of time. That's correct?

D10: I would state I did not sleep the night of the 28th.

30                    COL STREIT: And that would mean that on the night of the 28th and into the 29th, you would've been fatigued, would you not?

D10: I felt fatigued on the 29th, but I was running on a considerable amount of adrenaline, and it didn't hit me until we flew home.

35                    COL STREIT: Yes. I'm just trying to position, in time, what your evidence is because the way it's framed at the moment, it's for the entire time.

40                    D10: I see. Yes. For clarity, up until the mission on the 28th and the subsequent efforts until that was completed, I felt like I was good.

COL STREIT: Can I just pause for a moment, please? Could I speak briefly to the Inquiry Secretariat?

45                    MS McMURDO: Yes, certainly.

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COL STREIT: I'll just wait for something to be confirmed, Ms McMurdo, before I proceed. I thank the Secretariat for that matter. If I may, with the Inquiry's permission, continue?

5

MS McMURDO: Yes, of course.

COL STREIT: So I was just positioning in time your evidence as to when you didn't feel fatigued. So that exercise of TALISMAN SABRE until the early hours of the 29th, I take it, that that whole period of time you did not feel fatigued. Is that correct?

10

D10: Correct.

COL STREIT: And you've given a description at paragraph 83 concerning the sortie on 28 July, as to how you felt. And you say you felt fully alert and wide awake. That's correct?

15

D10: Correct.

20

COL STREIT: Now, turning the page, to page 28, please. You there, at paragraph 84, deal with some evidence you gave earlier where D20 and D6 raised concerns with you of some of the aircrew being up quite early on the day for Mission Profile 1 on 26 July 2023. Based on this information, you discussed with the Ground Force Commander your requirement to shift the mission window left for all assets. This was supported. You informed D19 of the issue and solution, which was supported.

25

You were informed by D20 she would handle discussion about rest discipline. And later you informed D6 the discussion had occurred and was satisfied members were aware of their individual responsibilities to either, apparently, rest or inform they were unable to achieve rest. Is that correct?

30

D10: I'll just clarify, I was informed by D6, but yes.

35

COL STREIT: So the nub of it is D20 and D6 raised concerns with you about some of the aircrew being up quite early on 26 July. You made a change to shift the window for the mission that was to be conducted that day to the left?

40

D10: Correct. I would just clarify that the mission in question, we did not own. It was a request to which became a requirement to shift the window.

COL STREIT: So how did it become a requirement? Is that something you initiated?

45

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5 D10: I'm just trying to think about how I can answer this, in this forum. I deliberately started my crews earlier and informed the Ground Force Commander that was going to occur, which forced the change to the mission window, which he supported.

10 COL STREIT: I see. And so the other response to it was to have D20, who was one of your Troop Commanders, discuss with some of the aircrew about rest discipline.

D10: Yes. And I'd clarify, with all of Troop aircrew, that was her remit as the Commander, which I supported.

15 COL STREIT: Now, at 85, briefly, you were asked to:

*State whether anyone in the Squadron, your Chain of Command in 6 Aviation Regiment, discussed sleep and fatigue management with you whilst you were on TALISMAN SABRE.*

20 You say:

25 *I recall discussing with D13, during Exercise TALISMAN SABRE Middle Planning Conference, was there an option for alternate accommodation than the Forward Operating Base Proserpine. I recall her answer was based on the deliberate outcomes planned for by the Exercise Headquarters. I understood why it was planned for, and this was followed up with all exercise participants by including it in Exercise Deployment Orders delivered in the week prior to deploying.*

30 And you attach those orders as annexures. Is what I've read correct?

D10: Correct.

35 COL STREIT: Now, what was the reasoning process for you having a discussion with D13 as to whether there was an option for alternate accommodation than the Forward Operating Base at Proserpine?

40 D10: I had that discussion with D13, I believe it was at the Middle Planning Conference, and I'd had a previous discussion with D15 about that key point. And it was an attempt to understand why the choice was being made for that type of accommodation.

45 COL STREIT: Your evidence is set there, raising with D13 whether there was an option for alternate accommodation. So can I just understand this:

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what alternate accommodation did you have in your mind when you were having a discussion with D13 about this matter?

5 D10: I specifically asked was there funding and logistical planning for, essentially, hotels.

COL STREIT: Hotels?

10 D10: Correct.

COL STREIT: And we'll come to the response from D13 – your recollection of it – shortly. But what had prompted you to raise it at the Planning Conference?

15 D10: I'd seen – sorry, after the discussion with D15, it was brought up as listed in the Middle Planning Conference slides, which we looked at prior to going to the conference.

20 COL STREIT: If I can put it this way? Was your enquiry because you had an understanding that your Squadron was going to be accommodated in tents at the Proserpine Airport and you wanted to seek whether there was better accommodation available – funding, et cetera – for your Squadron to stay in hotels?

25 D10: Yes.

COL STREIT: And was that conversation initiated by you as a means to provide, if funding was available, a more conducive sleeping environment for your aircrew whilst on exercise?

30 D10: For the key elements within the Squadron whilst on exercise, yes.

COL STREIT: And that would include all the pilots and the aircrewman?

35 D10: It would be aircrew and maintenance if there was overflow. I would have attempted to get as many as possible. It's not always possible.

COL STREIT: And aircrew means pilots and aircrewman?

40 D10: Correct.

COL STREIT: In terms of staying in hotels, had that been your previous experience – I'll start again. Had you previously deployed on Exercise TALISMAN SABRE before 2023?

45

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D10: Yes. And I've deployed on the Exercise TALISMAN SABREs between 2014 and 2019 with the unit. And two of those, I recall, were in similar accommodation as Proserpine.

5 COL STREIT: So two of those Exercise TALILSMAN SABRE were you, as a line pilot at 6 Aviation Regiment, sleeping in a tent?

D10: Correct.

10 COL STREIT: What about your other experiences on TALISMAN SABRE, was there any sleeping in a hotel?

D10: I believe it was on Exercise TALISMAN SABRE and we were on barracks in Townsville.

15 COL STREIT: What can you recall was D13's response to you raising this matter about alternate accommodation availability?

20 D10: Exactly as I listed in 85(a). She explained the deliberate outcome of why we were in that location. Sorry, and for clarity, I can provide further details on what that is. I'm just trying to skirt that in this forum.

25 COL STREIT: Sure, yes. I just was considering asking you another question about that matter, but I will deal with it in the Private Session. Now, at 85(b), you say:

*D20 raised with me on one of the first few days into being deployed to Proserpine that some members were being observed to be awake earlier than expected.*

30 What you raise in 85(b), is that the same conversation you're having with D20 that you identify in 84(a), or is this a different conversation?

D10: I believe it's the same conversation.

35 COL STREIT: I just turn now to the next heading, which is titled, "D20's Departure From Exercise TALISMAN SABRE". You were asked this:

*Noting the evidence given by D20 –*

40 and there's a hearing transcript reference there –

*describe the circumstances leading to D20 departing Exercise TALISMAN SABRE on 28 July 2023 and returning to Sydney, including any discussion you had with D20.*

45

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You say this:

5 *I agree with the conversation with D20 occurred as described by  
her in her statement and when she gave evidence in the Inquiry. I  
will clarify that my discussion with D13 to get her a seat home  
occurred while in the presence of D20 and included words to the  
effect, "Hey, D13, what are the chances of getting D20 on a seat  
10 on the next flight home?" Her response was, "Hey, sir, not an  
issue. I've already sorted it".*

Is that correct?

15 D10: Correct.

COL STREIT: At 86(b) you say:

20 *I understood D20 was continuously disappointed with her flying  
progression and was deserving a break and had put her hand up  
requesting help, which I assessed as needing medical intervention.*

That's correct, what I've read out?

25 D10: Correct.

AVM HARLAND: Could I ask a question about flying progression at  
6 Aviation Regiment and your Squadron, in particular? Who's responsible  
for managing flying progression?

30 D10: The Flying Supervisors generally are the ones in charge of that, sir.

AVM HARLAND: So they would program the events that are required by  
individuals to move through their various qualifications?

35 D10: It would be better stated they prioritise the preparation.

AVM HARLAND: So it's the QFIs or - - -

40 D10: No, sorry, they are part of the Flying Supervisors. It's the  
Commanders, so the Troop Commanders. The QFIs are the aid as the  
Standardisation, and the Senior Flying Supervisor is generally the OC.

45 AVM HARLAND: So who manages the Troop Commander's  
advancement then?

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D10: It would be myself and the QFIs.

5 AVM HARLAND: And was there a plan for D20's advancement? Noting that she's in an unusual position and given things like availability of the MRH-90 over time meant that that was the position that D20 was in, so you were managing that. And what was her plan? What did her plan look like?

10 D10: There was a very deliberate plan, sir, that she was supposed to actually, that night, conduct one of the upgrades. Worth nothing for context, the Progression Plan, and the Training Plan that is accompanied with it, had changed, or was changing, which would have further delayed her, in essence.

15 AVM HARLAND: So that really was the essence of her frustration?

20 D10: For clarity, I covered in my statement as well her circumstance was similar to a few others. Being in a position where you transition twice, essentially, the qualifications held within the unit are based on time on type, and the qualifications require quite a large amount of UTAP progression flights to meet that time on type. And she was in a position, generally, where she had missed some of those milestones because of the transitions.

AVM HARLAND: Good, that's answered my question, thank you.

25 D10: Sorry, I would just add, for her specifically, it was not competence or capability, it was general timing, in my assessment.

AVM HARLAND: That's good, thank you.

30 COL STREIT: D20, was she also expressing, in that conversation with you at Proserpine on 28 July, not just frustration about her flying progression but also a level of frustration about the workload that she had been undertaking as a Troop Commander and pilot?

35 D10: I recall her frustrations that I'd assessed as being generally towards the amount of time she'd been in the unit. From the conversation we had, it was about how long she'd been there and the level of progression she'd achieved, comparatively to others in not the same circumstance, but similar.

40 COL STREIT: Ultimately, D20 returned that day to Sydney. That's correct?

45 D10: Correct. The flight we got her on was supposed to leave within a small time window of a couple of hours, at most.

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COL STREIT: She did not return to flying and ultimately posted out of 6 Aviation Regiment. That's correct?

5 D10: Correct. And, sorry, to clarify, I can't comment on whether she returned to flying post the start of November '23, but she did post out, yes.

COL STREIT: Now, at that time, looking at paragraph 87 you informed the Commanding Officer, D19, that D20 had departed Proserpine. You informed him in the early hours of 29 July 2023?

10

D10: Yes, I recall it was after he got there or returned there.

COL STREIT: You say at 87(a) you had planned to have the discussion with him about D20 within the 24 hours of her leaving but obviously it's correct, isn't it, that other events concerning the mission and those matters, were they the reasons you hadn't raised it with him earlier?

15

D10: I recall I discussed it with him after he got back there, the early hours of the 29th, yes.

20

COL STREIT: And following the decision for D20 to depart Proserpine Airport, the actions you took were to have a discussion with – and looking at 88(a) here, to have a discussion with CAPT Lyon and his ability to assume D20's role as the primary Aviation Troop Commander for the exercise. And you noted any outstanding tasks. You did this because:

25

*It was normal practice to have one primary Aviation Troop Commander for each exercise and I knew CAPT Lyon and D20 worked closely together through the entire year, which included aircrew planning for Exercise TALISMAN SABRE '23.*

30

*I had observed CAPT Lyon closely on previous exercises, understood his workload at the time and knew the limited Troop Commander tasks were within his ability to manage. Additionally, there were no objections or issues raised by CAPT Lyon about his ability to conduct this task.*

35

*He was only concerned about the welfare of D20 as D20 was a peer. I did not disclose why D20 was leaving to CAPT Lyon.*

40

Is what I've read out correct?

D10: Correct.

45 COL STREIT: Just a question, was there anyone else within your

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Squadron who you could have temporarily given the Troop Commander, D20's Troop Commander duties to, in addition to CAPT Lyon?

5 D10: Both Troop Commanders have a Second in Charge. I could have went to the Second in Charge. CAPT Lyon was the most appropriate at the time.

10 COL STREIT: Just for the Second in Charge of D20's Troop at that time, can you just tell me who that person was, if they're on the list? If you can recall?

D10: I could find the information on the ESD associated with the exercise, but I can't recall. No, sorry.

15 COL STREIT: That's all right.

AVM HARLAND: Just a question before we move on. Were you the overall detachment Commander for the 6 Aviation Regiment detachment to Proserpine?

20 D10: I was the Squadron Commander for the detachment, yes, sir.

AVM HARLAND: Yes, thank you.

25 D10: Sorry, for clarity. There were other 6 Avn members there but I was the Commander for the ones attached to me.

AVM HARLAND: So ATU or – yes. So you were in charge of the Aviation Operations for 6 Avn out of Proserpine?

30 D10: Probably worth clarifying, sir, I was in charge of the Squadron. The operations for the Regiment, that's the purview of the Regimental OPSO, Regimental Operations Officer. I suppose there's a line in the sand there between the two roles.

35 AVM HARLAND: That's a 6 Aviation Regimental Officer?

D10: Regimental Operations Officer, yes, sir.

40 AVM HARLAND: So who's in charge of Safe Aviation Operations on deployment?

45 D10: From a Squadron – sorry, for the Aviation Operations being conducted in Proserpine, I was the detachment Commander and that would've fallen within my purview.

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AVM HARLAND: And the Regimental Officer was in charge of tasking and interface to the other Headquarters?

5 D10: The Squadron Operations Officer was in charge of any of the ancillary requirements to support the deployed Squadron and manage the other elements being conducted at the time within the Joint Task Group.

AVM HARLAND: Thank you.

10

COL STREIT: I'm just going to turn now to the mission itself. So that means, as I said at the start, we'll go to your Coronial statement. So if you could just turn up, I think it's Annexure DD, which will be at the back of that folder? And if you could just go to page 5 of your Coroner's statement. Now, I'm just going to briefly identify some paragraphs for you and then ask you some questions about some other paragraphs.

15

So on page 5 and onwards, into page 6, you set out, or outline rather, the period leading up to the sortie on 28 July 2023. Is that correct?

20

D10: Correct.

COL STREIT: Now, if you turn to page 6, that continues through all of page 6. Would you agree?

25

D10: Sorry, I'm just quickly reading. Yes.

COL STREIT: So some of the evidence you've given is also addressed on page 26, for example, the paragraph 25, the sleeping conditions?

30

D10: Page 6, yes.

COL STREIT: And if you turn to page 7, and dealing with paragraph 27, I just want to ask you briefly about some matters in 27 and 28. So you say there:

35

*At the start of every exercise, as OC, I plan to practise the safe system. This involves running what is known as a desktop crash exercise. The desktop crash exercise is designed to test the communications and execution mechanisms should an incident occur. I ran the desktop crash exercise for this exercise on 25 July 2023.*

40

So 25 July 2023, that's the Tuesday? That's a Tuesday. You flew up on the Monday, being the 24th?

45

D10: Correct, yes. And it is a requirement, or it was practised for us within the Squadron to do a desktop CRASHEX prior to any flying being conducted in that location.

5

COL STREIT: And could you have done the desktop crash exercise back at Sydney before you flew up, or is it required that you do it in the location in which you're flying?

10 D10: The purpose of a desktop crash exercise for which we conduct them at the Squadron level is to test the exact system and the people in that system in location. And by that, I mean it goes down to the level of what whiteboard has a number, what phone is being used, who is walking or moving and what will occur, holistically, in that location. And the purpose  
15 – sorry, the outcome of the exercise is to ensure we pick up the one percenters for the period that you may need to use them. That provides enough clarity.

20 COL STREIT: Thank you. And my next question is, is the outcomes of the desktop exercise, are they recorded in a document somewhere so people can access those outcomes and see what they need to do if a situation arose?

25 D10: They're recorded by the – sorry. To continue the context, the desktop CRASHEX, I run it as an OC or a detachment Commander utilising the actual staff who will be conducting their roles within the safety system.

COL STREIT: I see.

30 D10: Those members are actually the ones that are writing down anything that has been missed in the initial planning or any changes required. So the person that's sitting on the computer or beside the radio that doesn't have something they need when we run it is making that direct change which involves, for this circumstance – I can recall at least a few things –  
35 additional numbers, tags for phones, sBook locations, et cetera. Lots of small changes that improve the efficiency.

COL STREIT: So it's a bit like wargaming in the Military appreciation processes.

40 D10: I run – well, I ran, this exercise with all of the functional elements in location within the TOC. I planned three deliberate scenarios to test each of those functions in a wargaming fashion, yes.

45 COL STREIT: So, coming to paragraph 28, you say:

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5                    *On 27 July 23 the mission crews were mainly undertaking planning for the next night's mission. By "mission crews", I mean the crew of the four helicopters that were to fly in the mission on 28 July. As of 27 July '23, the proposed mission crews had already been identified. However, mission crews were always subject to change. There were two changes in the mission crews between 27 to 28 July. I describe the first of these changes at paragraphs –*

10                    and then you list the paragraph numbers. And you describe the second of the changes at another set of paragraphs. That, what I have read out, is correct?

D10: Correct.

15                    COL STREIT: And one of those changes to the mission crews for 28 July was as a result of D20 departing Proserpine on 28 July. Is that correct?

D10: I believe so, yes.

20                    COL STREIT: D20 was scheduled to fly in the mission on 28 July. That's right, isn't it?

D10: She was scheduled to fly with me, yes.

25                    COL STREIT: Sorry?

D10: With me in the last aircraft.

30                    COL STREIT: But because she departed Proserpine on 28 July, there needed to be a change in the aircrew teams for the sortie on 28 July. That's correct?

D10: For at least my aircraft, yes.

35                    COL STREIT: Now, you describe at paragraph 29 you had, in fact, three roles in relation to the mission that was planned for 28 July, and you set those out there in paragraph 29(i), (ii), (iii). That's right?

D10: Correct.

40                    COL STREIT: Can I take you to paragraph 35, please? You say there:

45                    *Part of my role in planning the mission in my capacity as OC was to ensure that the mission was achievable within the workforce and equipment constraints. Aircrew are able to work a maximum of*

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5 *14 hours as mission crews, with a 10-hour break between shifts. According to SI, Avn Ops aircrew have a maximum 14-hour crew endurance day. This means that within a given 24-hour period crew can work up to 14 hours and must have at least 10 hours of rest between finishing one shift and commencing the next shift.*

Is that correct?

10 D10: Correct.

COL STREIT: In terms of that maximum 14-hour window, does that include a maximum of – is that a combination of duty in an aircraft flying and the preparation to fly and what’s required once you land the aircraft to conclude your duty?

15 D10: Sorry, I might have lost you. Can you restate that?

20 COL STREIT: So the 14 hours of maximum crew duty means that it can’t be 14 hours of straight flying because you’ve got to do the preparation to fly and then you’ve got to land the aircraft, get out of it and do whatever you need to do to finish that duty. Do you understand what I’m asking here?

25 D10: Correct, yes.

COL STREIT: So in terms of that maximum sort of period of actual flying, and noting you’ve got a maximum of 14 days – 14 hours, I apologise – what rough period of time are you planning for to be in the aircraft that would fit within that 14-hour window?

30 D10: A couple of questions in there, sorry. It’s worth noting for context there is a separately listed – within the Standing Instructions, there is a maximum period of flying.

35 COL STREIT: Sure.

40 D10: That can be conducted on any aircrew day or within your crew endurance. That is broken up into day and NVG. There is subsequently a number of hours that you can fly over an extended period. So it’s 24 hours, seven days, I believe it’s 30 days and then there’s a 12-month period in there.

45 For a crew endurance day of 14 hours, your question was how much do we plan to fly within that period, was it?

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COL STREIT: Yes.

5 D10: The answer is, it depends on the context for the mission. For a general sortie, the aircrew, sorry, within your crew endurance, is physically when you arrive. We ran it as when you arrive at work to when you leave work you need to fit whatever you're doing within that time period, and we had a very specific way of doing that.

10 COL STREIT: Now, you say at paragraph 39:

15 *Under the SO(AVN) RMP, Risk Mission Profile, certain flight modes require area familiarisation flight to a target by day before approaching the target by night. The Mission Plan for 28 July was not one of those flight profiles. This is because it was a relatively simple mission involving a straightforward extraction from Lindeman Island.*

Is that correct?

20 D10: Correct.

COL STREIT: So was the mission on 28 July – you describe it as “a simple mission involving a straightforward extraction from Lindeman Island”, was it therefore a Special Operations mission?

25 D10: I authorised the flight as a Special Operations mission. It's worth noting for clarity, what I'm specifically referring to within the RMP I can provide additional context on, just not in this forum.

30 COL STREIT: Sure. Now, just coming back to some evidence you gave yesterday and your evidence here, noting that it was a relatively simple mission, but the context of you giving that evidence, the Inquiry has to keep in mind your evidence given yesterday that flying at night, in formation, overwater, on NVDs, is difficult, as a minimum. Correct?

35 D10: Correct.

40 COL STREIT: And then on top of that is whatever complexity the mission you're trying to achieve might add to the difficulty of a sortie; is that correct?

D10: Correct.

45 COL STREIT: I just want to clarify this. Although you're saying the mission was relatively simple, that does not detract from your earlier

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evidence that flying at night, overwater, on NVDs, in formation, is difficult, at a minimum.

5 D10: It's probably worth – well, I would state that we're now in the realm of discussing risk management of a specific profile, which relies on the context and the mitigating factors contained within that context.

10 COL STREIT: Let me put it this way. The fact that you considered the mission was relatively simple doesn't detract from your earlier evidence that flying at night, overwater, in formation, on NVDs, is difficult.

D10: Correct.

15 MS McMURDO: Just while there's a break, could I take you to paragraph 44 of your Coroner's statement, which relates back to the reasons why D20 left the exercise. You've said there that she went home for personal reasons. That's not accurate, is it?

20 D10: It is accurate, ma'am. The classification of the statement was "Official" and the contents of why she went home are deemed as "Sensitive" to her, which is why I didn't clarify that.

25 MS McMURDO: Well, she went home for work reasons, not for personal reasons, didn't she?

D10: No, ma'am. She had a confliction and was dealing with personal matters which referred to work, yes.

30 MS McMURDO: She was exhausted, wasn't she?

D10: Not my words, ma'am, no.

MS McMURDO: All right, thank you.

35 AVM HARLAND: Just while we're on para 44, you said, "Before I'd eaten breakfast". What time was that on 28 July?

D10: I'm not sure, sir. My watch data might have a general time.

40 AVM HARLAND: I just note that you said that you had woken up at 9 am, so I'm assuming it was somewhere between 9 am and you were eating breakfast.

45 D10: Sorry, where is that written?

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AVM HARLAND: At para 43, it says:

*On 28 July 23 I woke up at approximately 9 am.*

5 And then if you go down to para 44, it says:

*Before I'd eaten breakfast, one of my Aviation Troop  
Commanders told me - - -*

10 D10: I see. It'd be sometime after 9 am and before we started, sir. Sorry,  
I can't recall.

AVM HARLAND: So between 9 and 1300?

15 D10: Sometime there. It'd be a couple of hours after waking up, or  
within - - -

AVM HARLAND: At that time, did you consider you'd started your duty  
day, given that you were dealing with administration of your Squadron?

20

D10: Not explicitly, sir, no. We were living in very close quarters.

AVM HARLAND: Yes, okay.

25 D10: Duty was a very deliberate Direction given on the first day, which  
is standard practice for us. It's the work location which was the TOC for  
us. That's the location of all of our first duty of the day being  
synchronisation meetings.

30 AVM HARLAND: Yes, okay. So you don't count any work that you do  
outside the TOC as work?

D10: I wouldn't say that, sir. I'd say I'm managing it the best I can, in  
the circumstances we have.

35

AVM HARLAND: Sure, okay. Thank you.

40 COL STREIT: Just one last question before a break, D10. Just at  
paragraph 44, in relation to D20 departing Proserpine, you say, second  
sentence:

*At that stage she –*

being D20 –

45

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*had been selected as one of the mission crews for Bushman 83.*

What I've read out is correct?

5 D10: You've read it correct, yes.

COL STREIT: Thinking back now, is that accurate, like, from your memory?

10 D10: I recall she was actually flying with me for her AMC qualification.

COL STREIT: Sure. That's why I asked that particular question.

D10: Yes.

15

COL STREIT: And I appreciate you've made this Coroner's statement closer in time, so it's 30 November 2023 and that's what you say at 44, but your recollection is, today – well, your recollection is now, some time later, that in fact, she was flying with you in Bushman 84. Is that right?

20

D10: If you give me two seconds, sir, I'll just find my DFSB statement.

COL STREIT: Yes, of course.

25 D10: Which is what I've used as the base document for my Coronial - - -

COL STREIT: Sure. It's actually next to the Coroner's statement.

AVM HARLAND: Is it CC?

30

D10: CC, yes, sir. I don't see it in there, sir. But my recollection now is that it was – she was actually supposed to do an Air Mission Commander qualification which was replaced by D9.

35 AVM HARLAND: Can I take you to – on page 1 of that Annex CC there's a bolded heading, "28 1530-1955 K July '23". And the third bullet point down.

COL STREIT: We - - -

40

MS McMURDO: No, it's "Official".

AVM HARLAND: Yes.

45 We can't discuss the details, but is that an accurate recollection?

D10: That would be an accurate recollection, sir. Yes.

AVM HARLAND: Thank you.

5

COL STREIT: I just might observe, for the assistance of the Inquiry and Counsel representing that obviously the security classification of the document, the witness has attached to his statement. But it is also a statement which was obtained for the purposes of an Aviation Safety Investigation for DFSB and the witness has made a decision to attach it to his statement, which is perfectly fine. But just to be mindful of that particular matter for Counsel representing and asking questions, even though that can't be asked in this particular forum, even if you were contemplating putting a hypothetical.

15

I'm probably going to move to another topic, Ms McMurdo. Is it a convenient time to have a break?

MS McMURDO: Yes, we'll have a 10-minute break now.

20

COL STREIT: Yes.

**HEARING ADJOURNED**

25

**HEARING RESUMED**

MS McMURDO: Yes, COL Streit.

COL STREIT: Thank you, Ms McMurdo.

D10, just prior to the adjournment you were being asked some questions about the contents of paragraph 44. Can I just take you to paragraph 46? So there you say:

35

*One of the Troop Commander's responsibilities in relation to a mission is selecting crew members for the mission. Selecting the crew members for a mission is a shared responsibility of the OC, the Authorising Officer and the Troop Commander.*

40

What I've read is correct?

D10: Sorry.

45

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COL STREIT: Apologies, I wasn't watching you.

D10: That's on the Coronial?

5

COL STREIT: So, yes, just paragraph 46. So it's DD, it's the Coronial statement, and just para 46, and then I'll ask the question. So at paragraph 46, the first sentence, you say:

10 *One of the Troop Commander's responsibilities in relation to a mission is selecting crew members for the mission.*

You say:

15 *Selecting a crew for a mission is a shared responsibility of the OC, the Authorising Officer and the Troop Commander.*

That's correct?

20 D10: Correct.

COL STREIT: Now, you were both the Officer Commanding and the Authorising Officer; is that right?

25 D10: Correct.

COL STREIT: And when there's a reference to Troop Commander, does that mean that prior to D20's departure it would be a shared responsibility between you, the OC, the Authorising Officer, which was also you, and Troop Commanders, plural; that is, CAPT Lyon and D20?

30

D10: It's worth clarifying, when I'm referencing Troop Commander, I'm actually stating Flying Supervisor. So both Troop Commanders.

35 COL STREIT: Sure, okay. But if D20 had remained, that the crewing of the four aircraft would've been a conversation between you, D20 and CAPT Lyon or just D20?

40

D10: Before she left, sorry?

COL STREIT: Yes.

45

D10: Yes, correct. Yes, it would generally come up either at the start of the day during the synchronisation brief or during the Mission Plan.

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COL STREIT: Can we just turn the page, to paragraph 50? You say at paragraph 50:

5 *After my discussion with CAPT Lyon, I had a coffee and spoke with D14, the Standards Officer. D14 had attended the Ground Force Element Orders earlier that morning and was reporting back to me anything arising from those orders that would impact on the Aviation component of the mission. D14 told me that nothing significant had changed in the Ground Force Element's Mission Plan from the plan the night before.*

10

Is what I've read out correct?

15 D10: Correct.

COL STREIT: Para 51, you have a synchronisation meeting with D15, the Operations Officer and supporting elements to confirm what needed to happen to support the mission and subsequent planning priorities. Is that correct?

20 D10: Correct. And I would clarify the synchronisation meeting covers 24, 72 and any other additional considerations.

25 COL STREIT: At paragraph 52 you say this:

*In my estimation, the mission plan for that night was quite basic for our team and a good training opportunity. And as I described above, it was an extraction mission. An extraction mission means a mission to pick up a team from a known or unknown location either at a specified time or on an on-call basis. This was a mission to a known location. These factors made it less complex than other missions might be.*

30

35 Is that correct?

D10: That's correct.

40 COL STREIT: Now, "known location", is there a caveat around that in the sense that that's not you saying that every pilot that was going to be flying on 28 July had been to the known location where the pick-up was to occur?

45 D10: For context, it's worth noting we're still talking about the risk mitigations and the complexity versus simple term is worth clarifying as well.

COL STREIT: Sure.

D10: If I can do in further detail?

5

COL STREIT: Sure. Just in the broad here though. We're just trying to assist the Inquiry understand, when you talk about a known location, who is it known to?

10 D10: There are very specific circumstances that need to be met within the authorisation process, which I can refer to, to cover the definition of "known". And for this circumstance, the crews had seen the location.

COL STREIT: Did that include LT Nugent?

15

D10: To my understanding, yes.

COL STREIT: At paragraph 53 you say:

20 *In my view, there was nothing particularly challenging about the proposed mission. The mission was to be conducted in normal weather conditions, which I describe further below, and the aircrew were to fly standard formation with senior mission crews.*

25 When you say "normal weather conditions", what do you mean?

D10: I'm specifically referring to normal conditions as defined by the Standing Instructions.

30 COL STREIT: Just a moment. Is that a reference to visual meteorological conditions, VMC?

D10: I can't recall the name of the Standing Instruction. I believe it's 3-209. It's specifically listed.

35

COL STREIT: Sure. Sorry, I'm not referring to the name of the Standing Instruction, but when you refer to "normal weather conditions", is that a reference to visual meteorological conditions, VMC?

40 D10: I'd have to refer to the Standing Instructions, but it is clearly defined as "Normal Weather Conditions" – title – followed by a definition, and that's very specific visibility, cloud height, et cetera.

45 COL STREIT: And the normal weather conditions are based on day visual meteorological conditions. Is that your recollection?

D10: I'd need to see the Standing Instructions.

COL STREIT: We'll come to that.

5

D10: All right. I think I actually refer to that in Enclosure 1. Sorry, I - - -

COL STREIT: Well, I can't identify what's in Enclosure 1.

10

D10: Sorry, I define it within Enclosure 1.

COL STREIT: But we'll deal with it in the Private Hearing. That's okay. Now, you give some evidence at 54 that in your experience one of the main factors that makes a mission complex is time pressure.

15

*Time pressure compresses the time available to digest and reflect upon the mission planning, and to talk through the issues or unfamiliar circumstances with the crew. Unlike more challenging missions, in this case we had a very long time to prepare between orders, and a Rehearsal of Concept, and when we planned to be airborne.*

20

What I've read out is correct?

25

D10: Correct.

COL STREIT: Can I take you to paragraph 55, and I'll just read this to you?

30

AVM HARLAND: Just before we move on from that, COL Streit, if I could just ask a question? I'm looking at the timeline here for the day on 28 July. So you commenced your duty day at 1 pm, so 1300.

35

D10: Correct.

AVM HARLAND: You're not planning on getting flying until much later in the evening, and in this case eventually it was 10.20 pm, so some nine-plus hours after you commenced duty. Can you explain the reason for starting so early?

40

D10: In simplistic terms, sir, it was to meet the requirements as listed within that Standing Instruction, and that once again goes into the discussions of the safety architecture, which I'm happy to clarify in further detail. I just can't do it here.

45

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AVM HARLAND: Yes, because I don't see it as being a really jam-packed day. You start at 1 o'clock. You then take orders at 2. Then do a Rehearsal of Concept which goes between 3 and 4, and then you start the aircraft just before 8 pm, and then take off at 10.20 pm. That seems like an awfully long day before you even get anything done.

D10: The context is important, sir. There is a mission occurring around the outside of this, and the safety framework required a certain couple of events to occur with all of the elements in the same location, if that answers it?

AVM HARLAND: Okay. Thank you.

MS McMURDO: In a sense, your workday started even earlier, didn't it, because before breakfast you'd had the conversation with D20, which must have been a very distressing conversation to have, and then you had to speak to CAPT Lyon and organise him to take on her duties?

D10: No, ma'am. The workday was a clear line in the sand as a time and a location, which was 1 o'clock for myself. I believe I put that in my statement.

MS McMURDO: Well, that might be the line in the sand, but that's not the reality, is it, because you did have that conversation before breakfast with D20 that was work-related. You were working then, weren't you?

D10: Ma'am, we were living in close quarters. It would be impossible not to discuss any matters with any of the crews in that environment.

MS McMURDO: Sure, but this was not just a, "How are you feeling? Did you sleep okay?" This was a very heavy conversation, and it involved you having to make decisions about whether you were going to continue, and how you were going to make all this work. So while you might not have clocked on until 1 o'clock, you were actually working earlier than that, weren't you?

D10: Ma'am, the welfare of my team is always my primary concern. The deliberate start time is set in a fashion that it makes it uniform across the workforce. I wouldn't consider - - -

MS McMURDO: I understand that, but the reality is that you were attending to work matters from before breakfast that day. That's the reality. I appreciate your official start time wasn't until 1 o'clock, and that that had been planned for, but the reality was you were actually working earlier on that day.

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D10: I didn't consider that that had started my workday, ma'am.

MS McMURDO: Wow. Well, okay. All right. Thank you.

5

COL STREIT: If that had been the start of your workday, it would've had the effect of blowing out your time and space, wouldn't it, for the mission?

D10: Sorry, to clarify, can you state the time?

10

COL STREIT: So if your plan for that morning was to – if you agree with me, please say so – your plan for that morning was to wake up, rest, attend to personal admin, and then mount duty at 1 pm.

15

D10: Correct.

COL STREIT: Is that fair?

D10: Yes.

20

COL STREIT: But what happened was that routine was interrupted because your Troop Commander, D20, had a work discussion with you which resulted in her becoming upset and ultimately leaving Proserpine on 28 July. That's right?

25

D10: Correct.

COL STREIT: And you, to look after her in that context, made arrangements for her to get on a flight to get back to Sydney. That's right?

30

D10: Correct.

COL STREIT: You then had to have a discussion with CAPT Lyon to sound him out about taking on D20's Troop Commander responsibilities at that time. Correct?

35

D10: Correct.

COL STREIT: And you then have had a discussion, as you've said in your statement, with some other members in and around now needing to change the crew that are going to be flying in that sortie. That's right?

40

D10: No. My recollection is the discussions of crews was post the synchronisation meeting.

45

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COL STREIT: So the discussion about crew changing, who was going to be flying, is something that occurs after you mount duty at 1?

D10: Correct, yes.

5

COL STREIT: But all of those matters I mentioned earlier, they're all work-related matters occurring prior to the mounting of your set time at 1 pm that day for your duty time?

10 D10: I would agree they were work-related matters. I would disagree that those matters would deem me as on duty. It was, in my assessment, a product of the close living, and the proximity to where we were actually mounting duty, and we were managing it in the way I've already described.

15 COL STREIT: Now, I'm not being critical of you at all in this, so just asking you these questions. The reality of being on a deployment is living in close proximity to everyone else on a deployment. In this case, in a tent. Correct?

20 D10: Correct.

COL STREIT: And even doing morning routine, having a bush shower, having a shave, all those things, polishing your boots, cleaning your weapon, whatever it is, is just part of that morning personal routine you attend to. Correct?

25 D10: Correct.

COL STREIT: And you invariably are going to bump into people who are doing the same thing. Yes?

30 D10: Correct.

COL STREIT: You'll have chats about all kinds of things. That's pretty standard, isn't it?

35 D10: Correct.

40 COL STREIT: But what happened to you on the 28th, I suggest, was something different to that in the morning, and quite unusual in the sense that one of your Commanders, for the reasons she's given evidence about – which I understand you accept in your evidence – she has had a conversation with you which has resulted in her removal from exercise and returning back to Sydney. So that is a work-related matter, would you agree?

45

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D10: Are you stating that – sorry, can you rephrase that?

5 COL STREIT: I'll put it in very basic terms. She is your subordinate. She is reporting to you, for the reasons she has given evidence about, she's had enough, can't go on, has culminated, and she wants to go. You facilitate a process, using your authority as the OC, to get her on a plane through another member, the Camp Commandant, to get D20 home. Yes?

10 D10: Correct.

COL STREIT: You, in your authority, as the OC, have a conversation with CAPT Lyon, who was your other Troop Commander, Flying Troop Commander, about assuming D20's Troop Commander responsibilities. Yes?

15 D10: Correct.

COL STREIT: Which means that once CAPT Lyon – you give him that task, and he communicates to you no difficulties in taking that task, on that evidence – means that he now has that responsibility to deal with matters – without your further involvement, deal with matters that D20's Troop members may raise with him about matters concerning their own work circumstances. Would you agree with that?

20 D10: I had a discussion with Dan in the area almost directly in front of our tent during morning routine. I'm not aware that any of the other Troop were aware of D20 leaving until at least the synchronisation meeting, where I confirmed that was the case.

25 COL STREIT: The Commonwealth thinks I've used a name. The Commonwealth – I didn't hear that, but the Commonwealth thinks the witness may have said a name. Can we just pause for a moment, just to confirm that? Somebody better get the Secretary back.

30 MS McMURDO: It's a false alarm; is that correct?

COL STREIT: A false alarm.

35 MS McMURDO: Yes.

COL STREIT: We know the alarm works now, but thank you.

40 MS McMURDO: Relax. It was - - -

45

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COL STREIT: I'm not being critical of the Commonwealth.

D10: I'm sorry if I did. Not deliberate.

5 COL STREIT: These matters are important, and so - - -

MS McMURDO: Not only was it not deliberate, you haven't done anything you shouldn't have done, so that's fine.

10 COL STREIT: I thank the Commonwealth for raising it. I'm glad it's a false alarm, so that's no problem. So I'll just return to where I was, if I may?

The conversation with CAPT Lyon is occurring in the morning. Yes?

15

D10: Correct, yes.

COL STREIT: So would you accept that it's a work conversation you're having with him?

20

D10: I would accept it was work-related, yes, during the morning routine.

COL STREIT: Yes. It may only be brief, but it's nonetheless a work conversation.

25

D10: Yes.

COL STREIT: He's not mounting duty on the roster until 1 pm that day with you. That's right?

30

D10: Correct.

COL STREIT: But he's dealing with a duty matter because you're having a discussion with him about taking command responsibilities for D20's Troop, would you agree?

35

D10: I would agree he is dealing with a work-related matter.

COL STREIT: So is the distinction in your mind – and this is really just trying to understand where the line in the sand is in a difficult environment about being deployed and rubbing shoulders with the people you work with 24/7 – is the line in the sand in relation to not working beyond the 14-hour work window, is really concerning flying and planning to fly responsibilities, or does it also incorporate – sorry, I'll stop there.

45

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5 D10: I would state that, as the Commander, I put a clear line in the sand as to where, as a location and a time, that duty would start as a metric to inform planning. How that is used from an individual perspective, I do not direct, and I rely on the individual to inform as to how they are going with that metric.

10 COL STREIT: Because the difficult situation that you were placed in, in terms of timeline – it's not critical of D20 raising something with you; that's not what my question is – but the consequence of it being raised is you can't say to D20, "Stop. We'll talk about this at 1 pm today when I'm on duty", okay? That would be a bit silly, wouldn't it?

D10: Correct.

15 COL STREIT: So you're dealing with an important matter concerning one of your subordinate Commanders, and it impacts the command chain in your deployed unit. Yes?

20 D10: I would state that - - -

COL STREIT: So her leaving impacts the command chain in your deployed unit.

25 D10: Yes.

COL STREIT: Because you have to give her duties to CAPT Lyon. Correct?

30 D10: Correct. And for clarity, it's worth noting that she was extremely diligent and the tasks had been conducted almost in entirety for the rest of the exercise.

COL STREIT: Yes.

35 D10: I would also note we're discussing the practicalities surrounding management within a deployed location, and importantly how that is directed and monitored, particularly from my position.

40 COL STREIT: This is the issue the Inquiry is grappling with, you see, because trying to understand the orders, instructions and policies which you have to comply with about that 14-hour window for duty, and you've set up a plan to enable people to get sleep and then mount duty at a particular time, which was 1300, or 1 pm, that day on the 28th. Yes?

45 D10: Correct.

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COL STREIT: To make sure you were comfortable, your crew had the opportunity for rest, and all of those things. But the reality on the ground was – and something the policy doesn't provide for – in that deployed environment which you were in, was dealing with work-related, or work matters, that you need to deal with before you actually mount your designated crew start time, and so can I ask you this? In your experience, is it not unusual for you to have to deal with those types of work administrative matters before you even mount duty at your designated duty time?

D10: I would say that it's not unusual for me to deal with welfare concerns within a workforce that works 24 hours a day.

COL STREIT: Yes, because the Inquiry has received evidence from other members of the Squadron and the unit about being contacted whilst on leave to have to deal with particular welfare matters. That would not be unusual, in your experience?

D10: It would depend on the matter and the individual, but from a Military Command perspective you are in that role and are responsible for the welfare of your soldiers and officers.

COL STREIT: Sure. And there's some evidence before the Inquiry from some family members, particularly Mrs Lyon, CAPT Lyon's wife, that he would come home after finishing his day duty and he'd have dinner and play with the kids, and then he'd jump onto the DPN and just work until later in the evening or early hours of the morning. So there's that evidence before the Inquiry. So in terms of the Inquiry coming to grips with the timeline that people are required to work, in one sense in orders, instructions and policy, the reality on the ground seems to be that you're actually mounting duty and doing work, even if it's welfare matters, outside that 14-hour window day or night, as the case may be.

So if you accept the premise upon which I've put these matters to you, is that reflective of your experience when you were the OC, being contacted after you'd already left the work environment to deal with a work matter?

D10: There's a couple of points in there. I can't comment on the time that any of my officers or soldiers are working outside of hours unless I'm directly contacted by them, as the first point. The second point would be I put a very clear line in the sand in a way that was tangibly measurable for when duty should be started, or does start. The use of Defence systems outside of hours is an electronic signature which, in my assessment, would be clarified – I would clarify as duty. Does that answer your question?

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COL STREIT: Not particularly, but that's because perhaps the question is clumsy, so let me ask you this. We'll just focus on you. Your experiences on 28 July in the morning as a consequence of the conversation with D20 and then having to speak to CAPT Lyon are work-related matters. That's right?

D10: I would classify them as work-related. Yes.

COL STREIT: You, on your work plan, were not meant to mount duty until 1 pm that day.

D10: Correct, yes.

COL STREIT: But you're dealing with work matters before that 1 pm as a consequence of the circumstances that arose. That's right?

D10: For clarity, I would specify that I conducted those work-related matters as we've previously discussed. I did not consider them as commensurate for me to start duty prior to my 1300 time due to the level of effort required for those matters, and the systems used. There's probably a number of things I could go into.

COL STREIT: That's okay. So is the nub of it is, it's a work – D20 and the conversation – and D15, CAPT Lyon, in your conversation, were work matters, but they're of short duration, short impact, that you didn't regard it as essentially resetting your duty mount time from 1 pm to earlier?

D10: It was my assessment, as the individual, that it did not equal me starting my duty early, no. It was a measure of the practical – or practicality of being in the same location as my team.

COL STREIT: We'll move away from this topic now. We'll just go to paragraph 55, if I can?

AVM HARLAND: Just before we do, I just had one – it's a follow-up question based on a conversation we had earlier on, and you said that the 1300 start time was driven by your Standing Instructions. What Standing Instructions are they? And can you - - -

D10: I believe I cover this somewhere in my statement, sir, but the specific Standing Instruction I'm referring to is 3-1002, 6 Aviation Regiment Operations.

AVM HARLAND: 3-1?

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D10: 002. There are some operational planning and authorisation requirements listed within that document which we used as our standard planning considerations.

5

AVM HARLAND: So did that nominate a time or was that time reference the mission time?

D10: It provided constraints as to what must be achieved to authorise that level of mission.

10

AVM HARLAND: Okay. Thank you very much.

MS McMURDO: Yes, COL Streit.

15

COL STREIT: Thank you, Ms McMurdo.

Come to paragraph 55 of your Coroner's statement, please, D10. So following the quick synchronisation meeting, you had a discussion with CAPT Lyon. You had seen LT Max Nugent, as a Junior Special Ops co-pilot, had not been selected as part of the mission crew for the mission that evening. So, first, is this conversation with CAPT Lyon occurring – it occurs following the synchronisation meeting. Do you remember what time the synchronisation meeting happened?

20

D10: The synchronisation meeting is covered in the mission pack, which I believe I've annexed to my statement.

COL STREIT: That's okay. It's after 1 pm though, isn't it, on the 28th?

30

D10: My recollection is the start time is the synchronisation meeting, and that's the key heads – or functional heads to cover, as I've previously discussed.

COL STREIT: So after the synchronisation meeting, you had a discussion with CAPT Lyon concerning having LT Nugent included in the aircrew for the mission; is that right?

35

D10: Correct.

40

COL STREIT: In the body of paragraph 55 you say this:

*I was aware that LT Nugent had not had the opportunity to fly the earlier mission on the exercise which had taken place on*

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*the 26th. I knew that LT Nugent was a newly qualified Special Ops aircraft co-pilot.*

5 And then you say, for the reasons outlined in the above paragraphs, you consider the mission to be quite basic and a good training exercise. You formed the view that the proposed mission would be a good exposure flight for LT Nugent as he could learn a lot from flying alongside an experienced and Senior Aircraft Captain.

10 *Further, in my view, the Mission Plan for 28 July was a more suitable flight for him to participate in than the only other flight that was planned for the exercise, which was to be more complex.*

Is what I've read out correct?

15

D10: Correct.

COL STREIT: You say at 56:

20 *In light of these factors, after the quick synchronisation meeting, I suggested to CAPT Lyon that LT Nugent participate in the mission. CAPT Lyon agreed with my suggestion. I decided that the most appropriate role for LT Nugent was to be CAPT Lyon's co-pilot, as CAPT Lyon was the Senior Aircraft Captain, and it's good practice to put a more junior co-pilot alongside a more senior pilot.*

25

That's right?

30

D10: Correct.

COL STREIT: Now, when you refer to CAPT Lyon as the Senior Aircraft Captain, and noting that he had qualified as an Aircraft Captain on four Special Operations missions on the June Special Operations Qualification Course, does that mean when you refer to him as the Senior Aircraft Captain, are you referring to his seniority in missions other than as a Special Ops Aircraft Captain?

35

40 D10: The Special Operations Aircraft Captain is a senior qualification, and for clarity, it goes into the discussion which will cover the mitigating factors and the circumstances for authorisation, but it deems them a B Category pilot.

45 COL STREIT: You then describe, at paragraphs 58 and 59, subsequently what you did, attending an orders at 2 pm, with the other attendees being

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D14, D15, D1, the rest of the mission crews, and key functionality representatives from your detachment. D1 conducted the orders as he was performing the role of flight lead. That's correct, what I've read out?

5 D10: Correct.

COL STREIT: Go to paragraph 62, which is on page 12, please. You say:

10 *After the completion of the orders, and once the Standing safety requirements were met, in my capacity as Authorising Officer, I authorised the flight.*

Is that correct?

15 D10: Correct.

COL STREIT: In terms of another Authorising Officer who was deployed with you, was there another person who held that qualification to authorise the flight?

20

D10: There was one other in location, as I state.

COL STREIT: Can you just have a look at the pseudonym list and just tell me who that person is by reference to pseudonym?

25

D10: D14.

COL STREIT: If you wanted to, was D14 able to be the Authorising Officer for the mission?

30

D10: Sorry, I'm just going to reference my primary statement.

COL STREIT: Sure. Perhaps if I can help you? Was the reality that although D14 was present, he couldn't be the Authorising Officer for the flight because he was out of crew time?

35

D10: Yes. Sorry, I thought I deliberately covered that in a paragraph within one of the three statements. He was at the Ground Force orders early in the morning, which put him outside of crew endurance.

40

COL STREIT: The attendance at the Ground Force orders meant he mounted duty earlier than 1 pm. Correct?

D10: Correct.

45

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COL STREIT: Which meant his 14 hours started earlier than others participating in the sortie and, as a consequence, he couldn't be the Authorising Officer.

5 D10: That was my assessment, yes. He was to be the Safety Officer, I believe, which is listed in orders.

COL STREIT: That does not, though, preclude you from having a discussion with him, at least within his window of available time, about the mission, just to use him as a sounding board. That's correct?  
10

D10: It's important to note for context, firstly, he was involved in the mission planning, he was in the mission orders, and I believe he was still listed as the Safety Officer, so we're in the realm of discussing safety culture. It was the culture that, regardless of his position as one of the senior members, if he noted something that was out of ordinary – sorry, out of the norm, or required additional constraints, he would have made that note well and truly apparent in the group discussion.  
15

COL STREIT: I was going to come to that a little later. I just was dealing with – if we put to one side his participation in orders, and which I understand from your statement occurred – just in relation to the fact that he's somebody who holds the same qualification as you, just because you're making the decision on your own as the Authorising Officer, when you did that, you can use him as a sounding board because he also has the same qualification as you. Correct?  
20  
25

D10: For clarity, I used all of my crews as a sounding board, which is part of (1) the safety culture, and (2) the orders process.  
30

COL STREIT: Sure. So I understand that from your evidence, and we'll come to that in the orders, but just I'm focussing in on D14, who has the same qualification as you, and you could use him as a sounding board, could you not? No?  
35

D10: I did, yes.

COL STREIT: So in addition to that option, D14 was, to a large extent, until he ran out of time, involved in the planning of the mission, providing information to you about the mission, being present when orders were given, and those things. That's right?  
40

D10: Correct.

45 COL STREIT: Therefore, he gave you, by his presence, a level of comfort

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that if something was out of place, he would speak up and bring it to your attention.

5 D10: Correct, but it was not by virtue of his experience or position. The same extends to the most junior crewman or junior pilot within the formation, or the orders in general.

10 COL STREIT: I'm only focussing on D14. The reason for that is the junior crew don't have his experience.

D10: Correct.

15 COL STREIT: So we're just focussing in on him. So he, by his presence and you involving him in the process, is a check for you because you would anticipate if there's something amiss, he would raise it with you. Correct?

D10: He was one of the checks, yes.

20 COL STREIT: The rest of the aircrew were of varying levels of experience, from Qualified Flying Instructors down to quite junior and newly qualified Special Operations co-pilots like LT Nugent and D55 – if you have a look at the list – D55, or D5?

25 D10: D5, yes.

COL STREIT: Yes, D5. So D5 was a newly qualified Special Operations co-pilot doing the same course with LT Nugent. That's right?

30 D10: I believe they did, yes.

COL STREIT: Just accept from me that they did, and in fact D5 was the co-pilot, was he, in Bushman 82?

35 D10: Sorry, I can't actually recall that, but - - -

COL STREIT: No, that's okay. But you remember him being in the sortie in one of the aircraft?

40 D10: Yes.

COL STREIT: As a co-pilot?

D10: Correct.

45 COL STREIT: And he was – if I have that wrong – he's then in

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Bushman 81, but he is assigned with an Aircraft Captain who is a Qualified Flying Instructor, because D2 was flying Bushman 81 as Aircraft Captain, and D6 was in Bushman 82 as Aircraft Captain. Correct?

5 D10: Correct. I don't believe they were assigned as a Qualified Flying Instructor. They were assigned because of their role as a Special Operations Captain.

10 COL STREIT: Sure, I'm talking about assignment. It's not a case that they just wear the hat that they're assigned to and forget that they're QFIs. My question is really that he was a newly qualified Special Operations co-pilot who participated in the sortie on 28 July, and he was matched with an Aircraft Captain, who was a Qualified Flying Instructor.

15 D10: Yes.

COL STREIT: Can I take you to paragraph 79, please – I'm sorry, of your Coroner's statement. At paragraph 79 you say:

20 *FACE check stands for Fatigue, Attitude, Complacency, External Factors. This is a checklist that is conducted by each crew, usually at the aircraft, by the Aircraft Captain. It requires each aircrew to identify any aspects of those four factors that might affect that crew member's ability to perform. Where there are no factors, a crew member will ordinarily say the words to the effect, "I'm good to go". None of the crew members of Bushman 84 identified any issues during the FACE check.*

25

Is that correct?

30

D10: I would just – sorry, it is correct. I would just add I failed to add in there that the initial FACE check is done during orders.

35 COL STREIT: We'll come to mission orders in the Private Session as well, so that will be an opportunity to provide some detail. I just want to now talk briefly about events that occurred immediately prior to departing on mission, which according to paragraph 83 you recorded approximately 10.20 pm Bushman 84 – Bushman formation department Proserpine Airport.

40

Just as a bookmark there, if we look a little bit back in time, how long do you recall being at the aircraft, your aircraft, Bushman 84, before departing on mission?

45 D10: To answer that accurately, I'd have to look at my mission pack, but

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it's specified as the timings within the timeline.

5 COL STREIT: There's some evidence before the Inquiry that other crews arrived at their aircraft about 2030. Would that resonate with your memory?

10 D10: I'd have to look at the mission pack. For context, the crews would've arrived at the aircraft prior to the APU start time, which is listed within that mission pack.

AVM HARLAND: Perhaps if you go to para 74?

D10: Which I list in para 74. Thanks, sir.

15 COL STREIT: So you arrive at approximately 7.55 at Bushman 84. You were the flying pilot in the right-hand seat of 84, with D9 in the front as your co-pilot. D11 and D12 were in the back as your aircrewman. That's correct?

20 D10: Correct.

COL STREIT: At paragraph 77 you say:

25 *The crew of Bushman 84 conducted a crew brief for the mission, and started the Auxiliary Power Unit.*

That's right?

30 D10: Correct.

COL STREIT: And that's where the APU provides electrical power and hydraulics, however the rotors remain stationary. Yes?

35 D10: Correct.

COL STREIT: At 81 you say:

40 *At approximately 9.15 pm the Bushman 84 crew started the engines and were ready to cycle through the forward-aiming and refuelling point for fuel. In the meantime, we discussed over the radio and confirmed with those performing the role of flight lead, being D1 and D2, the amount of fuel required to complete the mission.*

45 That's right?

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D10: Correct.

5 COL STREIT: You became aware that Bushman 81 had an  
unserviceability issue post-refuelling. You do not now recall if the crew of  
Bushman 81 identified over the radio what the unserviceability issue was.  
Bushman 81 was swapped with a spare aircraft. It refuelled prior to the  
earliest planned take-off time for the mission. That's right?

10 D10: It's written correctly, yes.

COL STREIT: So, basically, you're at your aircraft from approximately  
7.55 pm to departing at 10.20 pm. That's right?

15 D10: Correct.

20 COL STREIT: So in that period of time you transition from being at the  
aircraft, starting the Auxiliary Power Unit, starting the engines, and  
refuelling. Those are the things that were practically achieved in that  
window.

D10: They were the things achieved at the Aviation element, which was  
supporting a larger mission, yes – sorry – and, to clarify, the MRH-90  
Aviation element.

25

COL STREIT: Can I take you to paragraph 84? You say:

30 *The doors to Bushman 84 were closed at take-off. So when the  
doors to an MRH-90 aircraft are open, aircrewman have an  
unrestricted field of vision. When the doors are closed, they can  
only see out of a window. And in this case, the plan was for the  
doors to be closed through the flight until the terminal phase of  
flight; that is, landing. Having the doors open during flight would  
have increased aircrewman's visibility, which is an aid to the pilots  
in navigating during flight. However, the trade-off for doing so is  
35 that aircrewman are susceptible to the weather while the doors are  
open. In that circumstance, they may become ineffective. For  
instance, if the lead connecting their helmet gets wet, they may be  
unable to communicate.*

40

Is that correct?

D10: Correct.

45 COL STREIT: Ultimately, when you arrived at the initial point, or the

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hold point, was it the case that the doors to Bushman 84 were opened?

D10: I've had the benefit of listening to my CVR and reading the transcript. I can say they were opened prior to the IP, yes.

5

COL STREIT: I'm just going to talk briefly about the mission, in the sense of when departing Proserpine.

AVM HARLAND: Before we do that, while we're on the doors, was there a reason why you opened the doors before the briefed IP?

10

D10: The orders, sir, covered that the doors were to be opened at the IP.

AVM HARLAND: Yes, and you opened them before the IP?

15

D10: I opened them as I was joining – sorry, for clarity, as I was joining the IP, which was the first turn.

AVM HARLAND: So IP inbound, not IP outbound to the target or to the LZ?

20

D10: Probably, sorry, loose terminology on my part. I'm just making sure I can cover this.

AVM HARLAND: So for clarity, the IP was the anchor point for the holding pattern as well. Is that a correct statement?

25

D10: Correct. It's a physical location, and I opened it prior to reaching the physical location, but at a point I would deem as joining that location.

30

AVM HARLAND: So was the intent that the doors would be open for the Bushman formation at the first transit through that IP, or at the IP, as in the initial point, outbound to the landing zone?

D10: The orders covered they were to be opened at the IP, and my assessment was that's joining the IP, or in location.

35

AVM HARLAND: I guess that could have been somewhat ambiguous for people, whether it's the first part when you enter the holding pattern or whether it's departing the IP for the landing zone.

40

D10: I'm just trying to skirt the boundaries here, sir.

AVM HARLAND: I'm just exploring the fact that it was interpreted

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differently across the formation by my understanding of what happened with doors open and doors closed, where you, as Bushman 84, opened the doors but other aircraft in the formation left the doors closed.

5 D10: I would state, sir, that there is a normal procedure for opening those doors. I acknowledge that I opened mine slightly early, as the individual Aircraft Captain.

10 AVM HARLAND: So from that, I read that the intent would have been that you would open the doors at the initial point, as you're transiting towards the landing zone for pick up for the extraction.

D10: I'm just trying quite hard to skirt the boundaries here, sir.

15 AVM HARLAND: Okay.

D10: I cover that in more detail, just - - -

20 AVM HARLAND: Well, we can do that in a Closed Session. Thank you.

COL STREIT: You say at 86:

25 *Once airborne, I observed there were clouds and showers in our planned route. I formed the view that the showers and cloud were associated with the high terrain. The showers were isolated. After a quick conversation between me and D9, he decided to move the extraction point for the mission so as not to fly over the high terrain due to the cloud. This was a contingency we had planned for in our earlier ROC. During the ROC - - -*

30 "ROC" stands for?

D10: Rehearsal of Concept.

35 COL STREIT: Thank you.

40 *During the Rehearsal of Concept, he also planned to divert the route to go around the high terrain in poor weather. The diverted route was mostly clear of showers. I assessed visibility in the showers of approximately three to five nautical miles, based on the fact I could see Hamilton Island and the high terrain in the vicinity of Cow Island. Whilst transiting through them, I assessed the cloud to be above 1000 feet AMSL.*

45 AMSL is?

D10: Sorry, Above Mean Sea Level.

COL STREIT:

5

*Away from the ridge lines.*

10 So where you say in 86 that D9 had planned for the contingency of moving the extraction point for the mission, that that had been planned for – “This was a contingency we had planned for in our earlier ROC” – it’s gone from my brain. ROC?

D10: Sorry, Rehearsal of Concept.

15 COL STREIT: Thank you. That would seem to indicate that D9’s role as – getting his ticket as the Air Mission Commander was something that had been determined earlier in time than 28 July 2023 because he would need to plan for moving the extraction point if circumstances arose.

20 D10: To clarify, are you stating that to get the qualification you needed to move the point?

25 COL STREIT: No, perhaps clumsily what I’m trying to understand is you gave some evidence earlier that you thought that D20 was to get an Air Mission qualification and fly with you on the 28th.

D10: Correct.

30 COL STREIT: What happened was D9 ultimately flew with you on the 28th. Correct?

D10: Correct.

35 COL STREIT: Earlier in your Coroner’s statement, you had identified in your evidence that D20 was to fly in Bushman 83; is that correct?

D10: In that statement?

40 COL STREIT: Yes.

D10: Yes, the change to that is she couldn’t fly as an Aircraft Captain due to the authorisation, and to fly to get the qualification had to have been with me.

45 COL STREIT: So what I was wondering is if what you’ve said at

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paragraph 86 actually assisted your memory in confirming that in fact it was always D9 that was going to be flying with you in Bushman 84 to get his Air Mission Commander qualification?

5 D10: No, the – sorry, it does further memory. The Air Mission  
Commander qualification was to be flown with me for the interactions that  
occur inside the aircraft. My assessment is if I was doing that with D20,  
which was the plan prior to D9 remaining in location, that would have been  
with me in my aircraft, and she would have been conducting the role, or  
10 acting in the role, as Air Mission Commander.

COL STREIT: So when you say prior to D9 remaining in location, when  
was that decision made for D9 to remain in location?

15 D10: D9 made that decision, to my recollection, the night before.

COL STREIT: So that's the night of the 27th?

D10: The afternoon/night of the 27th. Correct. There was other things  
20 going on for him.

COL STREIT: So D9 remains in location on the night of the 27th. When  
is he told, on your recollection, that, "You'll now be flying with me in  
Bushman 84, and you'll get your Air Mission Command qualification"?

25 D10: That was the discussion on the 27th. The intent of him remaining  
was to get – or conduct that qualification, which was a deliberate move for  
his future role. He took priority over D20.

30 COL STREIT: So was D20 then bumped from being in Bushman 84,  
before she has the conversation with you ultimately leading to her departure  
from Proserpine?

D10: I had bumped her – sorry, "bumped" is a very specific term.

35 COL STREIT: Moved.

D10: I have deliberately chosen D9, or prioritised D9, to do the  
qualification on the 27th, yes.

40 COL STREIT: So on the 27th you make a positive decision for D9 to do  
the qualification for the Air Mission Commander ticket, which meant that  
he flies with you in 84.

45 D10: Correct.

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COL STREIT: That was on the 27th.

D10: Correct, to my recollection.

5

COL STREIT: When is D20 told of that decision by you?

D10: I recall she was there at the time of that discussion, or around the area we were having the discussion, which was the Ops Tent.

10

COL STREIT: Was D20 then positioned to fly in another ship in the formation for the 28th, or was D20 not to fly at all?

D10: The discussion of where she specifically went, I wasn't involved in. The discussion of the qualifications that were to be had is for the Standardisation Team. Sorry, to be specific, D2 and D6 were having a discussion with the Troop Commanders about who was prioritised to conduct those rides.

COL STREIT: If I have this correct, please say so. On 27 July 2023 you make a decision for D9 to replace D20 in your aircraft, Bushman 83, to fly the sortie on the 28th so he can obtain his Air Mission Command qualification. Correct?

D10: Correct.

COL STREIT: And that was necessary because he was to be the next OC of your Squadron. That's right?

D10: Correct, yes.

COL STREIT: As a consequence of D20 no longer being in Bushman 84, on your earlier evidence, was D20 then placed elsewhere on an aircraft in the sortie to fly?

35

D10: Was she placed somewhere else?

COL STREIT: Yes. So that you're telling – on the 27th, D20 is present at the conversation with D9. You're saying, "D9" – my words, right – "you'll fly with me, Bushman 84. You'll get your Air Mission Command ticket. D20, you'll fly in the sortie, but on one of the other Bushman aircraft". Did that happen?

D10: The statement from DFSB, which was written within two or three days after the incident, had her as the Captain of 3. I just can't recall

45

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the specifics of those conversations, and it doesn't add up for me now to be able to authorise her as the Captain of 3 inside of this mission concept – sorry, mission profile. I just don't recall, sorry.

5 COL STREIT: In any event, because D20 departed Proserpine on the 28th, you needed to find somebody else to captain Bushman 83. Correct?

D10: Correct. It would have been a joint discussion.

10 COL STREIT: And that Captain ultimately became CAPT Lyon.

D10: Yes.

15 COL STREIT: So does that mean prior to D20's departure, if she had not had the conversation with you, that D20 would have been the Aircraft Captain of Bushman 83 with LT Nugent?

20 D10: I couldn't have authorised her as an Aircraft Captain with her qualifications.

COL STREIT: You could have authorised her as a co-pilot?

D10: Correct.

25 COL STREIT: So if ultimately CAPT Lyon was to be the Aircraft Captain of Bushman 83 – separate decision – what next had to happen is find somebody to fly with CAPT Lyon.

30 D10: Sorry, can you restate that?

COL STREIT: So ultimately CAPT Lyon was designated the Aircraft Captain of Bushman 83. Was that decision made before LT Nugent was assigned to Bushman 83, to your memory?

35 D10: I don't recall the specifics of when those discussions – sorry, when those decisions were made. I recall that I had put forward that Max should be given the opportunity to be a co-pilot during that sortie.

40 COL STREIT: Sorry to distract you and deal with that issue. Can I return to the flight now? You've departed Proserpine.

MS McMURDO: I'm just looking at the time.

45 COL STREIT: Yes, I note the time. Thank you.

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MS McMURDO: We'll adjourn for the lunch break and resume at 1.45. Thank you.

5

**HEARING ADJOURNED**

HEARING RESUMED

5 MS McMURDO: Yes, COL Streit.

COL STREIT: Thank you, Ms McMurdo. D10, do you have your Coroner's statement there in front of you?

10 D10: Yes.

COL STREIT: We'll just spend a little bit of time, a few more minutes, in this statement, and then we'll return to your Inquiry statement. Now, we were at paragraph 87 – sorry, 86 – and you were giving some evidence there in relation to the weather conditions, including a need to alter the planned – move the extraction point for the mission as a consequence of some weather events. Is that correct?

15 D10: Correct.

20 COL STREIT: Just moving to paragraph 87, you say:

*As we were transiting on our route, I noticed Bushman 83 was having some trouble maintaining its normal formation position. I observed Bushman 83 was sitting high on the plane, and moving forward and aft of its normal formation position. Bushman 83's position at that point in time did not cause me any particular concern.*

25 And then you go on to provide two reasons. What I've read out is correct?

30 D10: Correct.

COL STREIT: Before I deal with the two reasons as to why it didn't cause you concern, it's correct, isn't it, that in relation to what you were observing, it was not of significance that you would jump on the radio and have direct communications to Bushman 83 about that?

35 D10: Correct.

40 COL STREIT: So the two reasons you identify – first, at 88 you say:

*First, the degree of variation is somewhat expected for the third aircraft in a four-ship formation at night. Generally speaking, it is more difficult to maintain positions 3 and 4 in a formation, and then positions 1 and 2. That difficulty is greater*

*when flying at night.*

Is what I've read correct?

5 D10: Correct.

COL STREIT: Next, you say at 89:

10 *Second, the degree of variation for normal formation position that I observed in Bushman 83 at that point in time is consistent with a more junior pilot flying the aircraft in formation.*

Is that right?

15 D10: Correct.

COL STREIT: Why did you have that impression at that time? Perhaps I can frame the question this way. What is it, in your experience, that led you to infer that what was occurring was consistent with a more junior pilot flying the aircraft in formation than the Aircraft Captain?

20 D10: My understanding, from experience, it can take a little while to get in the groove, for lack of a better term, and it's quite usual for the junior pilots to take a little bit longer as well.

25 COL STREIT: It is certainly not, if I can put it this way, a safety concern as to what you were observing? That's right?

30 D10: No.

COL STREIT: At 91 you say:

35 *As we transited, en route we were in showers for a few minutes. I assessed the weather to nonetheless remain above normal conditions.*

I pause there. The reference to "above normal conditions", what does that mean?

40 D10: It's the same reference for normal conditions within Standing Instructions.

COL STREIT:

45 *To nonetheless be above normal conditions, being the minimum*

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*required conditions for night flight. I again observed Bushman 83 was moving around from its normal position; however, again, not to the point that I would consider it to be out of the ordinary for a third aircraft in the formation.*

5

Is that correct?

D10: Correct.

10 COL STREIT: You say at 92:

*The formation was flying 200 to 300 feet overwater.*

15 Does that mean the formation's height varied between 200 and 300 feet overwater as the formation moved to – or flew, rather, to the initial point?

D10: That was my – sorry, it means that I couldn't recall exactly what the height was. The rough height was between two and three hundred.

20 COL STREIT: There is some evidence given in the Inquiry that the authorised height for the mission was 200 feet. Is that something you recall?

D10: Not below 200, yes.

25

COL STREIT: Not below 200 feet. So “not below 200 feet” means that the mission, or the formation, can fly at 200 feet and above?

D10: Correct.

30

COL STREIT: But not go below 200.

D10: Correct.

35 COL STREIT: So when a formation is flying, the window, at least as you understood it, was flying 200 to 300 feet, within that height differential, during the course of its flight path.

D10: Yes.

40

COL STREIT: I'm just going to read these paragraphs out now. You say at 94:

45

*Upon reaching the holding point, the aircraft in the formation engaged in a holding pattern. The holding pattern involved the*

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*formation engaging in a series of coordinated turns so as to maintain speed, height and direction. The flight lead directed that we engage in left-hand turns. Conducting the left-hand turns would allow us to remain in clear sky.*

5

I pause there. Is what I read correct?

D10: Correct.

10 COL STREIT: Was it initially briefed in orders – mission orders, that is – that you would be conducting a right-hand turn at the initial point?

D10: Not briefed, but was one of the procedures.

15 COL STREIT: And that was changed because the flight path that the sortie took was changed in not - - -

D10: It changed due to the clear, relatively clear, air with the turn direction.

20

COL STREIT: And indeed, the initial change, was it because when you initially left Proserpine you initially went feet wet and you were to transition over the peninsula, but because of the weather, instead the sortie basically turned right and went down the coast? Is that correct?

25

D10: Yes.

COL STREIT: And that meant you were approaching the initial point from basically a southerly direction.

30

D10: Yes.

COL STREIT: Instead of from approximately a westerly direction.

35

D10: Yes.

COL STREIT: You say at 95:

40

*The formation made a left-hand turn to proceed to the hold.*

At 96 you say:

45

*During the left-hand turn, I observed Bushman 83 pitch up, climb and plateau level. I saw that it was high on the plane, which I estimate was about 150 feet higher than its expected position. As*

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5 *I saw the aircraft pitch up, I realised that something was not right. As I was having that thought, I saw it pitch down rapidly, followed by a right-hand turn. On observing the aircraft pitch down, I immediately transmitted on the formation safety frequency over the radio words to the effect, "83, pull up. Pull up. Pull up." The time that elapsed from the point I saw Bushman 83 pitch up until the point I transmitted those words over the radio was a matter of seconds.*

10 At 97 you say:

15 *Bushman 83 did not pull up, and it impacted the water. I knew it had impacted the water because I saw a flash of white light on impact through my HMSD about five to 10 seconds elapsed from the time I saw Bushman 83 pitch down to the time it impacted the water.*

At 98 you say:

20 *After Bushman 83 impacted the water, I immediately announced over the internal aircraft communication network that I was taking over AMC duties from D9. Until that point, I had been the flying pilot in Bushman 84. At that time I handed over flying responsibilities to D9. I directed Bushman 81 and 82 to hold to the east, to get them out of the air space. Bushman 84 detached from the formation, then I told D9 to pull up and hover near the crash site.*

At 99 you say:

30 *I said, "Knock it off", three times over three different radio frequencies. I said words to the effect that, "Bushman 83 is a fallen angel". "Knock it off" is the term within a training scenario to identify when a safety incident has occurred and you are no longer proceeding with the planned mission. "Fallen angel" means an aircraft incident has occurred resulting in an aircraft crash or impact with the ground.*

At 100 you say – paragraph 100:

40 *I instructed D9 to approach the wreckage. I pressed a button to engage hover mode at around 300 to 500 feet over the incident site to ensure Bushman 84 was stable and able to recover to safe height and speed should we suffer an engine failure during the hover.*

45

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101, you say:

5 *I recorded the coordinates of our current position and communicated them through the radio to our Ground Force element, asking all Military vessels and an American aircraft to move to our current location and commence a search.*

102, you say:

10 *After that, I assessed our aircraft fuel and directed Bushman 81 and 82 to land, and ground laager at Lindeman Island to conserve fuel. "Ground laager" means to stay on the ground, remaining running, to save fuel.*

15 Is everything I have read out correct?

D10: Correct.

20 COL STREIT: At 104 you say:

25 *I passed the coordinates to our Squadron Operations Cell via radio, and requested they launch the search and rescue aircraft. As part of the safety architecture for the exercise, there is an aircraft dedicated to supporting exercise activities in the area. As I described at para 27 above, we had discussed this approach in the desktop crash exercise on 25 July '23, prior to commencing flying operations.*

30 105, you say:

35 *I then contacted our Regimental Headquarters. I requested they fetch the CO of 6 Avn. The term "fetch" means to find and locate the requested individual and put them on the radio.*

40 At 106 you say:

45 *Shortly thereafter, the CO radioed me, and I passed a situational report to him. I stated Bushman 83 was a fallen angel at grid, and Bushman 81 and 82 were at ground laager at Lindeman Island, and Bushman 84 was on site. As Scene Commander, I also relayed to him that all Military vessels playing part in that night's mission were inbound to our location, and an American aircraft –*

they're my words –

45

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*was overhead, commencing a search.*

107, you say:

5           *At this point, Bushman 84 commenced the search and rescue mission. I observed a debris field where the tail section of Bushman 83 was separated from the main body, and was floating in the water. The tail section was the only part of Bushman 83 that I could see.*

10

108:

15           *After some time, no more than half an hour later, I made an assessment of Bushman 84's fuel. I directed Bushman 82 to return to Proserpine to FARP, and to return to ground laager. I told Bushman 81 to prepare to take over Bushman 84's role as the On-scene Commander when we needed to depart for fuel.*

20           109, you say:

20

25           *Over the next hour or so, we remained hovering over the main debris field, searching for the crew and attempting to get in contact with the Safety Team on board the Military vessels. Though my aircraft did not get in direct contact with the vessels, we were relayed information through the Ground Force element on Lindeman Island, which had contact with all the vessels.*

Is everything I said correct?

30           D10: Correct.

COL STREIT: Subsequently you returned to Proserpine Airport after handing over the search and rescue to Bushman 82. Is that right? I'm looking at paragraph 113.

35

D10: The only amendment is we handed over to Bushman 81. 82 was coming back out of the FARP and transiting to Lindeman.

COL STREIT: Sorry, Bushman 81. Thank you for that correction.

40

AVM HARLAND: Where was the search and rescue aircraft at this stage? Did that end up coming on station at all?

45           D10: I believe it did, sir. It was still in the – the mechanism of enacting it had begun, to my knowledge.

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AVM HARLAND: Was that on a short notice standby?

5 D10: It was located at the same airport as us. I'm not sure of its exact notice. It was available and dedicated, to what I know, inside of the white space – sorry, the exercise safety space.

AVM HARLAND: Okay. Thank you.

10 COL STREIT: At paragraph 114 you say:

15 *Before landing at Proserpine Airport, we talked, as a crew, about what was going to occur next. I said words to the effect of, "It's four to go and one to say no". By this, I mean that I didn't want Bushman 84 to return to assist in the search and rescue mission unless our whole crew was prepared to do so. In saying that, I was aware the entire crew had just been close to the incident and this would affect people in different ways. As the Aircraft Captain, it was my responsibility to ensure all my crew were still fit to*  
20 *continue to fly. In posing this question to the crew, I was conducting a FACE check.*

At 115 you say:

25 *All crew confirmed they were happy to continue. However, after confirming this position, my co-pilot, D9, brought up the fact that I was the OC, I was probably better used at the Tactical Operations Cell running the command and control, which was overseeing the search and rescue mission, rather than flying. I*  
30 *agreed with the suggestion, and upon landing at Proserpine, I moved directly to the Tactical Operations Cell for a handover from the team. I took over command and control for the search.*

Is that correct?

35

D10: Correct.

COL STREIT: Can we just return to your Inquiry statement now?

40 MS McMURDO: What time was it when you landed at Proserpine Airport?

D10: I can't recall at the moment, ma'am. It is listed within my statement somewhere. I can find that.

45

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MS McMURDO: Okay. Thank you.

COL STREIT: If we just go to your Inquiry statement, to page 32, which is paragraph 104? Sorry, wrong. Just a moment, thanks, D10. I just want to deal briefly with matters concerning radio altimeter decision heights on 5 28 July, which is at page 31 of your statement. Commencing at paragraph 97 you say:

10 *The MRH-90 aircraft Standardisation Manual outlines the radar altimeter decision height should be set, and how it is confirmed by the Aircraft Captain.*

You say:

15 *I understand, as a general airmanship consideration for an Aircraft Captain, that the RADALT decision height must be used as an appropriate height, as directed by the Aircraft Captain.*

What I have read out is correct?

20

D10: Correct.

COL STREIT: Do you see a tension between setting a RADALT – sorry, I withdraw that. If we turn to paragraph 98, some evidence received by the Inquiry is to the effect that it was routine at 6 Aviation Regiment for pilots to set two decision height warnings, with the decision height on one side of the cockpit set at 10 per cent below the minimum authorised height for the sortie. Your response to that was you cannot comment on the Standardisation of Regiment pilots as this sits within the remit of Qualified Flying Instructors and Standardisation process. 25 30

35 *In my experience, I generally set one of my RADALT decision heights to either 10 per cent below the authorised height, or my aircraft's current fly away height.*

35

Is that correct?

D10: Correct.

40 AVM HARLAND: So am I to read from that, that you outsource the notion of Standardisation to your QFIs?

D10: Sorry, can you restate that, sir?

45 AVM HARLAND: This says:

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*I cannot comment on the Standardisation of Regimental pilots as this sits within the remit of the QFIs and the Standardisation process.*

5

So am I to read from that, that as the Commander of the Squadron, you don't take on any responsibility or accountability for Standardisation of flying within your unit because that's done by the QFIs?

10

D10: What I'm saying, sir, is my role as the OC holds the Flying Supervisor role. I am the Senior Flying Supervisor within the Squadron. The Standardisation is a very specific part of that flying supervision. I am in the – it is my opinion that I relied on my QFIs for the conduct of that Standardisation.

15

AVM HARLAND: But that doesn't abrogate the responsibility and accountability for you as a Commander to ensure that you do have Standardised crews operating within your unit, does it?

20

D10: No, I'm still required to ensure that, sir. Yes.

AVM HARLAND: And in your experience, when flying with your Squadron's pilots, did you have any cause for concern about Standardisation in the way that people were operating?

25

D10: No, I had no indications that I should have been concerned about the Standardisation of my pilots or aircrew.

30

AVM HARLAND: Were you surprised to find out that the radar altimeter decision height was in no way standard for the Bushman formation on the night of 28 July?

D10: I was surprised. I'm also aware of what mine was set at as well, sir.

35

AVM HARLAND: Thank you.

D10: Sorry, to clarify, I was surprised they were not Standardised, but I am aware of what mine was set at.

40

AVM HARLAND: Okay. Thank you.

45

COL STREIT: I was just going to deal with that particular matter on decision height, so I might just, while we're on that topic, just finish that off. You are aware, aren't you, that none of the radio altimeter decision heights for all Bushman aircraft in the sortie on 28 July – none of them had

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been set at 180 feet?

D10: I am aware, yes.

5 COL STREIT: You, at 103 of your evidence, say, concerning your aircraft:

*If (1) the decision height in Bushman 84 on 28 July was not set at 180 feet – and to the extent you can recall – please explain why.*

10

And your answer is:

*I cannot recall.*

15 Which is at paragraph 103(a). That’s correct, what I’ve read out?

D10: It’s correct. Yes, sir.

20 COL STREIT: So an issue that the Inquiry is seeking to understand is that in circumstances where the Standardisation Manual in particular aspects identifies setting a decision height at 180 feet, at 10 per cent below the authorised height, and it gives a discretion of “may” be set by the Aircraft Captain, and an expectation that Aircraft Captains and flying pilots will then set the decision height at 10 per cent below the authorised height, where  
25 you have a sortie of four ships at 6 Aviation Regiment on 28 July 2023 and none of them are doing that, is that a systemic issue within the training at 6 Aviation Regiment about the application of radio altimeter decision heights?

30 D10: I would say that the use of “may” has been used by the Aircraft Captains, and I can provide clarity on my settings only, sorry, for that formation.

35 COL STREIT: Sure. No, understood. So the exercise of the discretion – we might come to it in the Private Hearing, but the exercise of that discretion, with language such as “may”, really leaves it up to the Aircraft Captain as to what they set the radio altimeter decision height to in the aircraft.

40 D10: Yes.

COL STREIT: And just an important point, the radio altimeter decision height, that is a safety protection, is it not - - -

45 D10: Yes.

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COL STREIT: - - - with the MRH-90? And it's designed in a way that you set a particular height so when your aircraft moves through that particular height, you receive an audible warning through your headset.

5

D10: Correct.

COL STREIT: Indicating the aircraft has moved through that height.

10

D10: Sorry, for clarity, you receive a visual warning as well.

COL STREIT: Yes.

15

D10: A DH, yes.

COL STREIT: And it may be you're entirely comfortable with the fact that you've moved through the decision height because it's part of what you need to do. Do you agree?

20

D10: Correct. It's required to acknowledge.

25

COL STREIT: Sure, but it also may be an audible warning to you, "Well, hang on, I set that height because I'm not wanting to go below that height, but now my aircraft is, so I need to look in and check the primary flight instruments as to what's going on". Correct?

D10: There will be action required, yes.

30

COL STREIT: Coming back to arriving at Proserpine Airport now in the early hours of the morning of 28 July 2023, and you take over as the OC for the search and rescue, you subsequently speak with the Commanding Officer, D19, who arrives on scene in the early hours of the morning at Proserpine. Is that correct?

35

D10: Yes. He was the second Commander to get there.

40

MS McMURDO: Before we get to that point, going back to the Coroner's statement, paragraphs 114 to 115, when you've landed at Proserpine Airport – well, I think you've just agreed it was in the early hours of the morning when that occurred.

D10: I believe so, ma'am, yes. It is documented.

45

MS McMURDO: Somewhere we'll find that. Okay. Now, you asked the team, the crew, of 81, 82 and 84, I take it, to the effect of, "It's four to go,

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and one to say no". Is that right?

D10: Only internal to my aircraft, ma'am, in 84.

5 MS McMURDO: This is internal to your aircraft. Okay. So one said, "No". Was that because they were tired? They felt they'd had enough? What was the reason for the one who said, "No"?

D10: Sorry, ma'am, can you clue me on where is that?

10

MS McMURDO: Paragraph 114.

COL STREIT: I can assist. The evidence at 114 is the witness saying to his crew, "It's four to go, one to say no". That's what he's saying to the crew.

15

D10: Sorry, ma'am.

MS McMURDO: I see. Thank you. I've misinterpreted that. I see. Thank you. Anyway, instead with your crew, you then – Bushman 84 didn't continue because you decided that it was essential for you to take over as Tactical Operations Cell, running the command and control. Correct?

20

D10: Yes, ma'am. It was suggested by my co-pilot and the rest of the crew it would be a better place, which I agreed with.

25

MS McMURDO: At this time, do you recall whether any of the other aircraft, 81 or 82, or any of the crew in 84, were involved in the search and rescue beyond this point?

30

D10: The crew of 84 were not involved in the search and rescue after that point, physically flying. 81 was on station, followed by 82, and then there was a deliberate - - -

35

MS McMURDO: Sorry, "on station"?

D10: Sorry, ma'am. "On station" is reference to being in the search area, conducting the search.

40

MS McMURDO: They were still operating?

D10: Correct, ma'am. So we had positive control of that area with both aircraft conducting deliberate handovers until we ran out of time.

45

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MS McMURDO: When you say “we ran out of time”, what do you mean by that?

5 D10: From a flying hours’ perspective and an endurance perspective, we’d hit our limits, which we had a - - -

MS McMURDO: Okay. Thanks for that. Thanks, COL Streit.

10 COL STREIT: Thank you. At paragraph 87 – I’m just taking you back there because paragraph 87, you briefed - - -

MS McMURDO: Which statement is that?

15 COL STREIT: Of your Inquiry statement, sorry. I’m only drawing your attention to paragraph 87 because that’s where you refer to the Commanding Officer being at Proserpine Airport in the early hours of 29 July 2023. That’s correct?

20 D10: Correct.

COL STREIT: So obviously apart from – you’re briefing him, and he’s there in relation to the search and rescue, and matters concerning Bushman 83. Yes?

25 D10: Correct.

COL STREIT: But you’re also telling him at that point in time about D20. That’s right?

30 D10: To my recollection, yes.

35 COL STREIT: What I want to ask you is, now that we’re at chronologically that point in time on 29 July, in the early hours of the morning, how did the context of D20 come up? Can you recall?

D10: I don’t recall the specifics, but I can recall the gist of the conversation, which was a complete update of the last 24 hours.

40 COL STREIT: Okay.

D10: Or the conduct of the day.

45 COL STREIT: Do you recall whether it arose because D19 asked for the names of the crew on 81, 82, 83 and 84?

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D10: We did have a conversation about the crew names. I don't recall if that's when it came up.

5 COL STREIT: But would it be correct to infer that it came up after discussions about the impact with water of 83?

D10: Yes.

10 COL STREIT: Did he ask about D20 without your prompting, or did you raise D20 with him?

D10: I believe I raised it as part of the update for what had occurred that day. I just don't recall the specifics of it at the time.

15 COL STREIT: Can I take you back to page 32 of your statement – of your Inquiry statement, that is – paragraph 104? You were asked to state what time and date you left Proserpine Airport following the incident. You say you left with all the detachment in the afternoon of 29 July 2023. That's correct?

20

D10: Correct.

COL STREIT: You were asked:

25 *Did you have any involvement in the decision for 6 Avn Regiment members, including you, to leave Proserpine Airport and return to Sydney on 29 July?*

You say:

30

*I absolutely supported the decision. However, I was not the decision-maker for returning our detachment to Sydney.*

That's right?

35

D10: Correct.

COL STREIT: You go on, at paragraph 106, to say:

40 *On the morning of 29 July 2023, around 0800, during the official notification process, I understood my team were no longer combat effective. I understood my team were emotionally compromised after the reality of the incident started to sink in, and they needed to be with their families. I became aware we were going to be*  
45 *moved back to Sydney via a C-130 aircraft around this time. I*

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*recall being told by either D19 or the Brigade Commander, who were both in location at Proserpine.*

Is what I've read out correct?

5

D10: Correct.

COL STREIT: At paragraph 107 you were asked:

10

*The Inquiry has received some evidence that prior to departing Proserpine you spoke with a member of the QPS (Queensland Police) about the crash of Bushman 83, and your discussion was video recorded.*

15

You were asked:

*When, and how, did you become aware that QPS wanted to speak to you?*

20

You say:

*I was directed by D19 for my crew to provide a statement to QPS when we arrived at the air movements area of Proserpine Airport.*

25

Is that right?

D10: Correct.

COL STREIT: Did D19 say why you needed to provide a statement?

30

D10: No, it was a direction at that point, and I didn't ask.

COL STREIT: You just, did you, inferred the obvious because you're the OC, because there was an accident, the police were involved, and somebody needs to speak to them about it?

35

D10: Correct. The Direction was 84's crew.

COL STREIT: At that time, I take it you didn't, at that stage anyway on the 29th, have the opportunity to obtain any legal advice before you spoke with the police?

40

D10: Not for this, no.

45

COL STREIT: At paragraph 107(b)(i) you say:

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5 *I was directed by D19, which I understood was directed from somewhere higher. As an eyewitness, I understood I was required by the ADF to provide a verbal statement to QPS prior to our team departing Proserpine.*

Is that correct?

10 D10: Correct.

COL STREIT: You understood that you were directed to give a verbal statement to a QPS Officer. You did not know the procedure for speaking to QPS. You could not recall any previous briefs or instructions on what your rights and obligations were when dealing with QPS. You assessed you would be professional and forthcoming with any information relevant to QPS questioning. You were only concerned about time awake at the time of questioning, and maintaining security obligations. Is what I have read out correct?

20 D10: Correct.

COL STREIT: Just in relation to speaking with QPS at that time, is it correct that you had not been to sleep since you had woken up on the morning of 28 July 2023?

25 D10: Yes.

COL STREIT: So you had been awake from that time in the morning on 28 July 2023 all the way and beyond a 24-hour period; is that right?

30 D10: Correct.

COL STREIT: When did you get to bed, or get to sleep?

35 D10: I think I got about 15 minutes on the C-130 flight back to Sydney, and then I didn't sleep until later that night – much later.

COL STREIT: Later the night on the 29th?

40 D10: Correct.

45 COL STREIT: Just dealing with other matters, do you recall, prior to departing Proserpine, was the area where the unit was accommodated and where the Operations Tent was, were any directions given about keeping all of the materials and all of the Squadron's equipment in the Operations Tent

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there, and not packed up?

D10: Yes, the team had commenced the post-incident checklist.

5 COL STREIT: When you say “team”, who is that a reference to?

D10: The entire team that I was in command of.

10 COL STREIT: So the direction was to do what?

D10: There’s a specific checklist within Standing Instructions, and there’s an accompanying book. I can’t recall the name of it at the moment, but it lists what the post-incident actions are, which we were well practised in, unfortunately.

15 COL STREIT: So did that mean that everything was cleaned out, or you left certain things for police to look at?

20 D10: Sorry, I’m just trying to recall what the checklist says. But, in essence, any of the mission product, any of the key items remained in that location and things like whiteboards don’t get cleaned, et cetera.

COL STREIT: Whiteboards get cleaned or don’t?

25 D10: Do not get cleaned.

COL STREIT: Don’t get cleaned?

30 D10: No.

AVM HARLAND: Who was responsible for managing the quarantine of all the applicable mission data, the accommodation areas, the fuel, for example?

35 D10: They’re probably two separate things. The mission data and everything to do with the Aviation safety side would have been myself, as the On-Scene Commander.

40 AVM HARLAND: And you satisfied yourself that was being done because you’d directed that people follow a checklist?

D10: No, sir. I was satisfied because when I got the handover after arriving into the TOC, the checklist was well and truly commenced.

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AVM HARLAND: Was there any consideration to leaving the TOC and the accommodation areas as they were until the Defence Flight Safety Bureau arrived?

5 D10: To my knowledge we left the TOC relatively as it was. There was some sensitive items we had to take with us due to the carriage or storage of those items, but accommodation was not a consideration for me at that time. No. No, it wasn't my remit, is what I'm trying to say.

10 AVM HARLAND: So you were comfortable that things were being packed up along the way for their departure on the 29th?

D10: I was confident that my team were doing what we had trained to do, and in accordance with that checklist.

15 AVM HARLAND: Okay. Thank you.

COL STREIT: In terms of other investigations, if I can just ask you these questions, please, which is at paragraph 108? You say for 29 July you were asked whether Queensland Police had interviewed you in respect to the incident on 28 July, and you give evidence that no, other than 29 July you've not been interviewed by Queensland Police. Is that right?

25 D10: Correct.

COL STREIT: You go on to say that no one ever directed you not to speak to QPS.

30 D10: Correct.

COL STREIT: Which is over the page, on page 34. You identify at paragraph 110 that in fact you have been interviewed by DFSB on two occasions; is that right? That is, interviewed as in, on 31 July and 27 October 2023 you were interviewed.

35 D10: I would also add 29 November '23 as well, so three times.

COL STREIT: I was going to come to that and just draw a distinction. I'll just put it this way. On 31 July 2023 you were interviewed by a DFSB team that came to 6 Aviation Regiment. You typed up your account of the incident and you presented these notes to the team. That's correct?

40 D10: Correct.

45 COL STREIT: And on 27 October 2023 you were interviewed again via

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conference call by a similar DFSB team that you have identified there. That's correct?

5 D10: Correct.

COL STREIT: On 29 November '23 you listened to the cockpit voice recording from your aircraft and were formally asked additional questions by some of the DFSB team. Is that right?

10 D10: Correct.

COL STREIT: You were, on 9 October 2024, requested to listen to the cockpit voice recording again to confirm the transcript.

15 D10: Correct.

COL STREIT: Then on 6 December '24 you talked through your draft comments on the final report. That's correct?

20 D10: Correct.

COL STREIT: Just in relation to that final bit, and just for the purposes of – I'm not asking you what your draft comments were, but just that process – so a draft report was provided to you by the DFSB.

25 D10: Correct.

COL STREIT: Their draft report on the Aviation Safety Investigation into the impact with water of Bushman 83.

30 D10: Correct, for the details that were related to me only.

COL STREIT: Yes, so details related to you only, and you were given an opportunity to make some comments about those matters.

35 D10: To confirm the factual accounts, yes.

COL STREIT: So you weren't given an opportunity to express a view as to whether you agreed or disagreed about the contents of the material that you were provided?

40 D10: I was asked to confirm the factual accounts, which was agreeing or disagreeing with those facts.

45 COL STREIT: I see. At paragraph 111 you were asked a question about

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whether you were interviewed by Comcare, and you said, “Yes, on 20 February”. That’s correct?

D10: Correct.

5

COL STREIT: 20 February 2024. Yes?

D10: Correct.

10 COL STREIT: Just dealing quickly with your statement to the Coroner of 30 November 2023, you say that you – you were asked a question about to provide details of any briefing you received from a Defence representative about your legal rights. You say:

15 *Headquarters Forces Command Legal Officer generic brief on our rights and obligations delivered seven days after the incident.*

D10: Correct.

20 COL STREIT: You were asked whether you declined to make a voluntary statement to the Coroner, and if yes, then essentially why. You say:

25 *Yes, I declined to give a further statement on the same day we received the legal brief from the Headquarters FORCOMD Legal Officer, and notified D19. I understood that I had already given an oral statement to QPS on 29 July 2023.*

You were asked whether any Defence representative advised you to decline making a voluntary statement, and you say, “No”. You were asked:

30

*To the extent you can recall, explain the process of providing a statement to the Coroner, including whether you considered at any time any Defence lawyer was providing you with confidential legal advice, the preparation of your witness statement to the Coroner.*

35

You say:

*I agree that the process I followed when compiling my Coroner’s statement is as discussed by LTCOL Lysewycz in his statement.*

40

And you identify the paragraphs. First, Mr Lysewycz, is it, not Lieutenant Colonel? Or did you understand him to be a Lieutenant Colonel?

D10: I might have poorly articulated that, sorry.

45

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COL STREIT: That's all right. I don't think he'll mind. In any event, do you agree that, "The process I followed when compiling my Coroner's statement is as discussed by LTCOL Lysewycz in his statement", that's correct?

5

D10: Correct.

COL STREIT: And you say:

10 *Yes, I considered I was receiving confidential legal advice while preparing my Coroner's statement by my appointed lawyer.*

And you identify that person by name.

15 D10: Correct.

COL STREIT: I just want to now address matters concerning post-incident. You were asked these questions concerning engagement with the family members. You were asked to:

20

*Provide details of any directions you were given not to talk to the families of the crew of Bushman 83 about the incident, who gave you the direction, and what reasons were provided for this direction.*

25

You say:

*I don't recall being told not to talk with the families of Bushman 83.*

30 That's correct?

D10: Correct.

COL STREIT: You were asked some questions concerning evidence given by Mrs Caitland Lyon, and identified the hearing transcript, and you were asked to outline if you attended Mrs Lyon's home following your return from TALISMAN SABRE and, if so, when, what was discussed, and why did you attend. I'll read out these things. I've got a couple of other questions. First of all you say:

40

*Yes, I attended Mrs Lyon's home on the night of 29 July 2023. I went to the house for two reasons. Firstly, my wife and son were still there, after arriving early that morning. I arrived in a car with D15, which travelled directly from RAAF Richmond. Secondly, I was informed by my wife that she wanted to hear what happened,*

45

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5 *and I felt it was my duty to tell her what I saw. I had similar chats with each of the next of kin because I considered my team deserved it, and I deemed it should be expected from all Commanders. I told Mrs Lyon what I had observed during the flight, and answered any questions I could, noting my security requirements.*

Is that correct?

10 D10: Correct.

COL STREIT: I just want to ask you a question about that. Mrs Lyon has given some evidence before the Inquiry, and you have had regard to that in providing your statement. That's right?

15 D10: Yes.

20 COL STREIT: What Mrs Lyon says is this: that you came to her house and told her what you saw. She says that you believed that she deserved to know what you saw because – you explained to her that Dan was in aircraft 3, and that:

25 *He knew this information because he was in aircraft 4, and he saw it happen. He used his hand to explain to me what Dan's aircraft did. He told me the aircraft nosed up, nosed down, and turned to the right.*

What I have said to you, do you recall saying those things?

30 D10: Yes.

COL STREIT: Did you ever use the description that the impact with water was catastrophic to Mrs Lyon, to describe what happened on the 29th?

35 D10: It could be words to the effect of.

COL STREIT: Can I just turn briefly to you dealt with some matters – if you turn the page to page 36 – on welfare support for you, and also that's covered off in the enclosure, which we'll come to in a little while. That's correct?

40 D10: Correct.

45 COL STREIT: At paragraph 120 you deal with matters concerning updates being provided by the DFSB; is that right?

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D10: Correct.

COL STREIT: You deal with – at paragraph 121 you were asked:

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

You say this:

10

*I would note that D19 was an authentic leader we needed during an exceptionally challenging period for 6 Aviation Regiment. As a CO, he led the unit through the difficult aftermath of two aircraft accidents which tragically cost the lives of four teammates, while remaining firmly grounded in his values. Despite his immense pressure to produce additional organisation outputs, including the introduction of the UH-60M and retiring the MRH-90, D19 stayed deeply committed to the team. His leadership was characterised by transparency as he communicated openly and honestly with the team, encouraging input. He fostered a sense of purpose in an environment where individuals felt heard. He would ensure we were informed and involved in critical decisions, especially difficult times. D19 understood that risk was often realised at our level, and he was steadfast in his commitment to not take unnecessary risks for training. His ability to balance the need of the organisation with those of the other people he led, whilst staying true to his values, made a significant and lasting impact on all those who had the privilege of working for him.*

30            Is what I've said correct?

D10: Correct.

35            COL STREIT: I just want to deal with one brief matter, D10. Would you like to have a short break?

D10: Do you mind if we just take five minutes?

40            COL STREIT: Sure.

MS McMURDO: I think it will be 10. We never seem to have a five-minute break, so we'll have a 10-minute break. Yes, thank you.

45            **HEARING ADJOURNED**

**HEARING RESUMED**

5

MS McMURDO: Yes, COL Streit.

10

COL STREIT: Thank you. D10, just the last matter I'd like to ask you about in the Open Session concerns the Safety Day attended by members of Headquarters Aviation Command, including MAJGEN Jobson, in the second half of 2023 at 6 Aviation Regiment. So if you just cast your mind back to then? The Inquiry has received some evidence to the effect that MAJGEN Jobson spoke to the assembled Regiment at the Safety Day. Do you recall him doing that?

15

D10: Yes.

20

COL STREIT: Some matters were suggested by GEN Jobson's Counsel to a witness in relation to what GEN Jobson said on the Safety Day, and I'm just going to put those matters to you and see if you can remember this. This is at transcript page T1488 for Counsel representing. It was suggested by GEN Jobson's Counsel that one of the things GEN Jobson said at the Safety Day to the assembled audience was that in effect the MRH-90 was an immature and unreliable system. Do you remember him saying anything like that at all?

25

D10: I don't recall the specifics of what he provided. I recall the general theme, which was an update of what was happening in the investigation.

30

COL STREIT: Do you remember him saying anything like that the system created a burden for our people?

D10: No.

35

COL STREIT: Do you remember him saying it wasn't cost effective?

D10: No.

40

COL STREIT: Do you remember him saying it wasn't delivering capability?

D10: No.

45

COL STREIT: Do you remember him saying that it was right that the MRH-90 be withdrawn and replaced?

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D10: Sorry, yes, I don't recall the specifics.

5 COL STREIT: Do you remember him saying anything on the lines of that what Army Aviation needed was an aircraft system that restored reliability and good operational outcomes?

D10: Potentially words to the effect of. Yes.

10 COL STREIT: Do you remember him saying anything about endorsing the UH-60M as being the system that would provide good operational outcomes at that day?

D10: No.

15 COL STREIT: Thank you, D10, for your evidence. I understand it has been a long process with me. We will conduct a Private Session in due course with you. I just want to clarify one matter with you. Now, the end of your statement at paragraph 123 contains some remarks for the families. That's correct?

D10: Correct.

25 COL STREIT: I understand, from information I have received from your Counsel, that you would like me to read out that information at a later stage; is that right?

D10: Correct.

30 COL STREIT: And I will undertake that process after you have concluded your evidence and you have been excused. Is that okay?

D10: Okay.

35 COL STREIT: Thank you. That's the evidence-in-chief.

MS McMURDO: Okay. Thank you. Now, we might just get a fresh idea for the witness as to how long cross-examination is going to be.

40 LCDR GRACIE: 45 minutes.

MS McMURDO: 45.

45 LCDR TYSON: Probably 20 minutes plus, ma'am.

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COL THOMPSON: Probably about 10 to 15, ma'am.

SQNLDR GILES: 10 to 15, ma'am.

5 COL GABBEDY: 20 minutes, ma'am.

CMDR JONES: Less than five.

SQNLDR NICOLSON: About half an hour, ma'am.

10

MS McMURDO: In re-examination, yes.

15 SQNLDR NICOLSON: Can I just ask, ma'am, just in terms of the timing today, how long you intend to sit? D10 has been sitting here since 9 o'clock giving evidence, and this is day 3.

MS McMURDO: Well, in the next break, why don't you have a chat to him and find out what time he wants to adjourn today.

20 SQNLDR NICOLSON: Thank you.

MS McMURDO: All right.

SQNLDR NICOLSON: Thank you.

25

MS McMURDO: Of course, the trouble is it then drags on longer the next day, so sooner or later it has to be done, but I understand the position, and I will be guided by what he wants to do.

30 SQNLDR NICOLSON: Thank you.

MS McMURDO: All right then. And then we go into Private Session, which will likely take how long, do you think?

35 COL STREIT: 30 minutes from me.

MS McMURDO: So we are obviously not going to finish the witness today. He is obviously going to have to come back tomorrow. All right then. Yes.

40

LCDR GRACIE: Ma'am, I will try and do as much as I can in the Public Session.

45 MS McMURDO: Yes, well that's the idea, is that we'll do what can be done in Public Session now. We'll then have a Private Session, and then

there'll be an opportunity to cross-examine during the Private Session, if needed.

5 LCDR GRACIE: I'm hoping I won't. All right.

**<CROSS-EXAMINATION BY LCDR GRACIE**

10 LCDR GRACIE: [REDACTED], my name is LCDR Gracie, as you are probably  
aware if you've been following proceedings, and I represent CAPT Danniell  
Lyon. Just before I go into more detailed matters, I just want to touch on  
that last series of questions about MAJGEN Jobson and the Safety Day. Do  
15 you recall MAJGEN Jobson saying anything to the effect of that no one was  
to say anything critical about the MRH-90?

D10: No.

20 LCDR GRACIE: I just wanted to tidy that last bit up before we start.  
We've heard lots of evidence about the bonds, the relationships, the fact  
that 6 Avn, 173 Squadron, is a tight-knit group, even a family. And to  
illustrate that, I just want to ask you if you recall this scenario where I think  
there was an occasion that you might have been flying and CAPT Lyon took  
your wife off to the Emergency Department, and his wife, who I think was  
25 then four weeks' postpartum, babysat your two children. Is that something  
that happened, and illustrative of the closeness of the bonds that you have?

D10: Yes.

30 LCDR GRACIE: That, of course, doesn't mean that there's also not  
tension in the workplace, and do you recall any of that tension on the  
Sunday when – you might have remembered it from Ms Lyon's statement  
– that's Exhibit 12, ma'am – that there was a lot of frustration on the part  
of CAPT Lyon, having to be called into work, thinking it might have been  
35 a couple of hours and it ended up being almost a full day. Did he convey  
that frustration with you?

D10: No.

40 LCDR GRACIE: I take it you've seen the full statement of Ms Lyon,  
have you?

D10: I have.

45 LCDR GRACIE: Do you remember one of the text messages that was to

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the effect – I won't read it out because it's a little bit rude in its terms – but he said, "We're getting" – I'll use the word "mucked around". He said, "I'm off D10." Did anything happen on that day that gave rise to that level of frustration, or were you aware of it?

5

D10: Not outside what's already in my statement, but I would state that Dan was always the professional. I always saw the professional side of him.

10 LCDR GRACIE: On that same day, do you know, or did you see some evidence to the effect that he took D20 in tears to the railway station?

D10: I've become aware of that through the hearing blocks.

15 LCDR GRACIE: So you didn't observe anything between either of them to the extent that I've just conveyed to you?

D10: Only what I've already covered in my statement.

20 LCDR GRACIE: Okay. I understand. Correct me if I don't get the words quite right here, but I think when you were asked a question by Counsel Assisting about the training with the upgrade from version 4 to 5.10 with the symbology, I think you said you were given a mass briefing.

25 D10: Yes.

LCDR GRACIE: And was that the extent of it?

30 D10: There could've been a flight with it as well, but I'd need to confirm that.

LCDR GRACIE: There has – or there will be some evidence – sorry, we're not yet there – to the effect that there was a requirement for a familiarisation flight with the QFI. Do you recall doing that?

35

D10: That would be the flight I was trying to recall, yes.

40 LCDR GRACIE: Did that go through the full range of symbology in terms of distance to run, the off-axis, ambiguity, and other things, or was it not that specific?

D10: Sorry, I'm just trying to recall. I recall I did a flight, and I recall I have conducted the brief. They were done by a QFI. I don't recall the specifics of it, sorry.

45

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LCDR GRACIE: The word “familiarisation flight”, it was really just utilising it in fairly straightforward scenarios or conditions.

5 D10: I’d have to check the - - -

LCDR GRACIE: You can’t recall?

D10: Sorry, yes.

10 LCDR GRACIE: No, that’s all right.

D10: I would say that should be stated somewhere.

15 LCDR GRACIE: Thank you. Was one of the things that CAPT Lyon was having to deal with was – and I think again it’s from Exhibit 12, Ms Lyon’s statement – is a text from CAPT Lyon saying, “There’s some shit going down between D20 and D10”? That was about 1300. Then at about – excuse me a minute. Then I think at about 4 o’clock, 1600, she said that – it might’ve been 1610 – she got a text from her husband saying,  
20 “There’s still shit going down between D10 and D20”. So had she not yet left at that time of about 1600?

D10: Are you referring to the Sunday before we departed?

25 LCDR GRACIE: No, I’m talking about the 28th. Sorry, I should have been clear there. So on Friday the 28th – and I’ll just cross-reference it, not for your purposes but for the Inquiry’s purposes. From about para 122 on, ma’am, sir. He said at 10.53 am, “Shit’s gone down with her”, being D20 and D10. “She’s just left”. Then at 4.19 he said, “Shit’s still going  
30 down. I’ll call you back”, which he did at 4.28. What was still going on after D20 left? Was it the re-crewing? Was it some other issue still happening on that day?

D10: The discussion with D20 was early in the morning. I didn’t have  
35 any significant discussions with her that I can recall after that. I’d suggest that’s probably a question for D20.

LCDR GRACIE: Well, I’m asking when CAPT Lyon said to his wife,  
40 “Shit’s still going down”, what’s your recollection as to what was happening just four, five hours before the mission? What was going on?

D10: I couldn’t speculate on what he’s referring to. I wasn’t aware of what he was talking about.

45 LCDR GRACIE: He said:

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*Now I get to be Troop Commander for her Troop too, again. I'm now doing four people's jobs.*

- 5 Can I just suggest the four jobs would be: his Troop, as Troop Commander; D20's Troop, as Troop Commander; taking over from D20 as command control for mission planning; and Aircraft Captain? Would they be the four roles he was performing that day?
- 10 D10: Troop Commander and mission planner are separate. Aircraft Captain is separate. What was the last one, sorry?
- LCDR GRACIE: Troop Commander, two Troops. He's got her Troop, his Troop, mission planning – because she was command control for mission planning, wasn't she?
- 15 D10: That's a Troop Commander responsibility, that's the same thing.
- LCDR GRACIE: But CAPT Lyon did have that.
- 20 D10: It's probably worth clarifying, from an exercise perspective, there's an active Troop which takes the priority for the command and control, and the other elements are attached. That's the normal procedure for us.
- 25 Lcdr GRACIE: This is one of your exhibits. It's either X, Y or Z, according to this tab. But either way, it identifies – and I appreciate it's a "Protected" document, but I will just identify this. D20 is the Avn Troop Commander, so there's - - -
- 30 D10: Sorry, can you talk me on which page?
- LCDR GRACIE: Well, my tab has an X, Y and Z, so I don't know whether yours is the same.
- 35 D10: It does, yes.
- LCDR GRACIE: If you go to the command and control orders, you'll see there who it identifies in relation to the Avn Troop Commander.
- 40 D10: The top of the page says, "Command control"?
- LCDR GRACIE: Yes, the third block down.
- D10: Yes, that's identifying who is the active Troop Commander for the exercise.
- 45

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LCDR GRACIE: And is that D20?

D10: Yes.

5

LCDR GRACIE: So there are four roles that CAPT Lyon had to fulfil when D20 left. His Troop, D20's Troop, the role as Troop Commander for that mission, and then effectively Aircraft Captain.

10 D10: I see what you're saying. I would – to be clear, Troop Commander encompasses many roles, so in that circumstance it would be three, but yes.

15 Lcdr Gracie: When you say in paragraph 88 of your statement for the Inquiry, Exhibit 209 – just have a look at para 88(a). You refer to discussing with CAPT Lyon his ability to assume D20's role as primary Aviation Troop Commander. That's the command and control position I just mentioned.

D10: Correct.

20

LCDR GRACIE: And noted "any outstanding tasks". What were they? What were the outstanding tasks?

25 D10: The only outstanding tasks that were to be done for the Aviation Troop in general was the next mission and the plan to get home, which D20 had already conducted.

LCDR GRACIE: So CAPT Lyon had to take on the role for planning the mission on the 29th.

30

D10: No, the mission on the 29th was planned – sorry, the 28th was planned. What I'm referring to is the role of Troop Commander itself.

35 Lcdr Gracie: But who is undertaking the mission planning for the mission on the 29th then, to replace D20's role in that planning process?

D10: So to be clear, the mission which was planned for the 28th, the planning for that was conducted the day before the execution phase of the mission itself, is the mission crews – or are the mission crews.

40

LCDR GRACIE: I'm asking about the 29th though. The next day's mission.

45 D10: I see what you're saying. The next mission wasn't planned for the 29th, from my recollection; it was the day after.

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LCDR GRACIE: The 30th, was it?

D10: I think so. Yes.

5

LCDR GRACIE: That's the one that D15 wanted to cancel due to the fatigue levels of - - -

D10: We were both working to come up with a back brief for a subsequent task, to support a subsequent task.

10

LCDR GRACIE: When you say "a subsequent task", it was still envisaged that there would be a further mission or sortie after the 28th.

D10: FMP 3, yes.

15

LCDR GRACIE: That was 3. Did D15 communicate to you at any stage his concerns about fatigue levels, such that he was concerned that the level of fatigue would either render a further operation, or mission, sortie, unsafe, or if that sortie was to be conducted it would impact on the safety of any operations when you returned to Holsworthy? Did he discuss that sort of thing?

20

D10: For clarity, we were working the plan for a subsequent task that was given to us, I think the day before, so the 27th-ish, which involved a tasking from Sydney, and it was a consequence of that task which we were planning.

25

LCDR GRACIE: I just want to ask you about – because you mentioned FMP 3 – the evidence of D20 is to the effect that things were changing on a daily basis in terms of scheduling, crewing, other things. Was that impacted because of the weather?

30

D10: The weather was impacting the mission schedule, but the schedule for the crews was deliberate – sorry, and for clarity, the windows, the mission windows.

35

LCDR GRACIE: I'm going to ask you to go a few pages earlier in this tab X, Y, Z, to the Mission Orders. It's about six pages earlier in that same tab. So if you're still on X, Y, Z?

40

D10: Yes.

LCDR GRACIE: The command and control page that I took you to, if you go back, you will see that in the bottom right-hand corner there's a map

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of the east coast of Australia, and it's the page before that.

D10: Is the top of the page - - -

5 LCDR GRACIE: It says, "Assumptions nil", and then the middle of the page says, "Mission". Have you got that?

D10: Yes, I think so.

10 LCDR GRACIE: Then if you go to the page which has the coastline, the east coastline, you'll see it's got a Concept of Operations.

D10: Yes.

15 LCDR GRACIE: I just want to run through them, bearing in mind this is "Protected" level. You will see that ASD is arrival, I take it? What does it mean? "All stations" – what's ASD?

D10: Air self-deploy.

20 LCDR GRACIE: Air self-deploy.

D10: Self-deploy, yes.

25 LCDR GRACIE: That's flying up to Proserpine from Holsworthy?

D10: Yes.

30 LCDR GRACIE: You'll see that there's a reference to rehearsals on the 25th.

D10: Yes.

35 LCDR GRACIE: That was cancelled, wasn't it? There was no flying on the 25th.

D10: I think we did fly on the 25th. It was for something different, but FMP 1 was delayed.

40 LCDR GRACIE: There's a text in CAPT Lyon's communications with his wife saying, "Cancelled today, 25th. Cancelled". Does that ring any bells?

45 D10: It's probably worth clarifying, there were separate things being conducted from a flying perspective on that day. The FMP 1 was delayed.

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5 LCDR GRACIE: Well, the FMP 1 is meant to be on the 26th. Was that delayed because two ships aborted the flying that day, didn't they, on the 26th?

D10: Sorry, I'm just trying to recall. Yes, during the mission, two of the aircraft conducted their flight and then aborted due to weather.

10 LCDR GRACIE: On the 27th, was it FMP 1 or FMP 2 that was being flown?

D10: The 27th was a planning day.

15 LCDR GRACIE: A plan day?

D10: A planning day. That was the planning day for FMP 2.

LCDR GRACIE: What day then did the recce, or the rehearsal, take place?

20 D10: The 27th.

LCDR GRACIE: On the base.

25 D10: For those crews who hadn't seen the target. Sorry, for clarity, are you talking about FMP 2?

LCDR GRACIE: I'm asking what was flown in terms of the reconnaissance, or the rehearsal, that was meant to have occurred on the 25th?

30 D10: Which FMP are you talking about, sorry?

LCDR GRACIE: The flight on the 28th had to have a recce, didn't it?

35 D10: Yes.

LCDR GRACIE: A daytime recce.

40 D10: Well, sorry, for clarity - - -

LCDR GRACIE: What date did that occur?

45 D10: It did not require it, but we did it. That occurred on the 27th, for the crews that hadn't seen it.

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LCDR GRACIE: When you say “for the crews that hadn’t seen it”, what was the earlier reconnaissance for crews to see it?

5 D10: It’s worth noting what’s written in the Standing Instruction for rehearsal requirements, which I can cover in further detail.

LCDR GRACIE: No, you don’t need to do that. I just want to know what was the earlier reconnaissance than the 27th?

10

D10: 25, 26 and 27 went to the same location.

LCDR GRACIE: Well, 25 cancelled, but you think there was flying that day, do you?

15

D10: There was separate flying that day, yes.

LCDR GRACIE: And the 26th, there was some flying. That was with the US Chinooks, wasn’t it? Two of them.

20

D10: I didn’t think we could reference those.

LCDR GRACIE: I think there’s evidence of it.

25

D10: We conducted FMP 1 on the 26th, to my memory.

LCDR GRACIE: But that wasn’t to replicate the mission on the 28th, was it? That was a different mission because it had inter-service aircraft.

30

D10: It’s worth noting the target is the same, and we’re discussing now the rehearsal requirements.

LCDR GRACIE: Sorry, ma’am. If you just drop down to paragraph 89, going back to your statement, if you can – 89 of your statement?

35

D10: The Inquiry statement, sorry?

LCDR GRACIE: Yes, the one we were on before. We were at 88(a). If you’d just drop down to 89 for me? I want to ask you some questions about the Risk Mission Management, what is it – Risk Management Plan, sorry, RMP?

40

D10: RMPs, yes.

45

LCDR GRACIE: I think your evidence is to the effect that LT Nugent

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hadn't undertaken a reconnaissance in respect of the mission to be conducted on the 28th; is that right?

5 D10: No, that's not right.

LCDR GRACIE: When did he do that then?

D10: I understand from my crews it was done on the 27th.

10 LCDR GRACIE: On the 27th. Perhaps I misunderstood your evidence earlier to Counsel Assisting, I thought you said he didn't undertake that on the 27th.

15 D10: No, I thought I said he did. He flew on the 27th.

LCDR GRACIE: My apologies if I misheard that. In relation to your statement at 89(a), you say you made deliberate actions to reduce the mission complexity. What were they insofar as you can say in this open forum? What actions did you take to reduce the mission complexity?

20 D10: I can cover that in detail, but it needs the context of (1) the RMP, (2) the Standing Instructions, and (3) the – well, a couple of the RMPs.

25 LCDR GRACIE: But in general terms, what did you do? Did you take out one aircraft, add another aircraft? Did you change the height levels? You don't have to give specifics, but what sort of mitigating factors did you put into the RMP?

30 D10: I wouldn't deem it as what did I put into the RMP. It was what tangible measures did I take to add levels of safety – sorry, add into the safety framework additional measures, which as I stated, I will cover in detail in the forum that I can talk through those specific measures.

35 LCDR GRACIE: Additional risk controls, but talk about them in a very general sense.

40 SQNLDR NICOLSON: Well, can I just object? The bottom line is the witness has identified that he can deal with it in a closed forum. That should be dealt with there.

MS McMURDO: He has said he will deal with it in a closed forum, and he doesn't feel comfortable not doing it in a closed forum, so I think we'll move on.

45 LCDR GRACIE: Can you go, please, to the annexures to your statement,

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which is the RMP, and again bear in mind this open forum.

D10: Sorry, which annex?

5 LCDR GRACIE: Sorry, didn't I say? My apologies. I think it's BB. And forgive me if I mischaracterise this, or characterise it unfairly, but this looks like a fairly standard risk assessment.

10 D10: What would you define as "fairly standard"?

LCDR GRACIE: Generic, could be used for any mission.

D10: It's used specifically for the title listed.

15 LCDR GRACIE: If we go over to the page that has "2 of 17" at the bottom, you will see what the hazard title there refers to, and "LP" is landing point?

20 D10: Landing point. Yes.

LCDR GRACIE: So this is dealing with that very specific part of an operation.

25 D10: Correct.

LCDR GRACIE: Take-off and landing, or only landing?

D10: Specific to the hazard title.

30 LCDR GRACIE: You will see that there's reference to the consequence is catastrophic, and the issue of whether or not aircrewman are further restricted in provision of visual information, and those risks identified there. If you then go – you'll see there's civilian targets there, so it's quite generic. If you then run down to page 5 of 17, you will see that there's a  
35 reference there to low contrast terrain? It's not specific to formation though.

D10: Sorry, can you talk me onto the contrast?

40 LCDR GRACIE: Page 5 of 17, under "Hazard title".

D10: Seen.

45 LCDR GRACIE: So that's not specific to formation flying. That's just general issues in relation to lack of visual cues.

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D10: It's specific to the hazard title.

5 LCDR GRACIE: Yes, and the consequences. Then if you go over to 13 of 17 – I'm sorry, I withdraw that – 12 of 17, there's another one that might be relevant, NVD low light. Do you see that? Potential for reduced visual cues. And I just want to suggest there's nothing in that RMP that relates to formation flying, other than the LPs.

10 D10: I would disagree with that statement.

LCDR GRACIE: Where is it then?

15 D10: Can you restate your question?

LCDR GRACIE: Yes.

D10: Specific to formation.

20 LCDR GRACIE: Yes. There's nothing referable to a hazard that is specific to formation flying, or the mission that we are talking about on the 28th, formation flying, low visual cues, at night.

25 D10: There are controls listed within the document that are focussed on formation flying.

LCDR GRACIE: As I asked before, where is that then, other than - - -

30 D10: One example I provide is the second box on page 317, without going into the document in further detail.

LCDR GRACIE: That's civilian targets, is it?

35 D10: No.

LCDR GRACIE: 217?

MS McMURDO: 217.

40 D10: Sorry, page 3 of 17, the second box at the top of the page.

45 LCDR GRACIE: Yes, that's what I said before, other than in relation to landing points. Just general formation flying is what I'm talking about. This is only approaching individual LPs. We're not talking about 200 feet at 80 knots, at night, in a low cue environment, in a four-ship

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formation. Where's the risk assessment for that?

5 D10: I think we're potentially talking about different things here. The risk assessment that this specifically relates to is a profile which is only conducted in formation, sorry, to clear that up, which is generally conducted in formation.

LCDR GRACIE: But it's only dealing with the approach to an LP.

10 D10: I would disagree with that, based on the hazard titles.

LCDR GRACIE: Which says, "Individual LPs".

15 D10: There are multiple hazard titles within this document.

LCDR GRACIE: Okay. Referable to formation, other than that one?

D10: Sorry, can you restate that?

20 LCDR GRACIE: You said there's multiple hazard titles referable to this mission. The only one dealing with formation is that first one at 2 of 17, I suggest.

25 D10: No, I said that there multiple hazard titles within this RMP.

LCDR GRACIE: Yes, I agree.

30 AVM HARLAND: Just while we're there, if I could, LCDR Gracie? On page 5 of 17 under the hazard title of "Low Contrast Terrain Overwater Causing CFIT", the top control description:

*HUD/HMSD symbology must be - - -*

35 UNIDENTIFIED SPEAKER: Excuse me. (Indistinct).

LCDR GRACIE: That's all right.

MS McMURDO: That's "Official: Sensitive".

40 AVM HARLAND: That's all right. Mine isn't. It is, only on one page.

LCDR GRACIE: I don't think it's marked on it, sir. I was going to come to that, but I would rather you do it.

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AVM HARLAND: It's only marked on one page, so my mistake, but I don't think that accords with the classification procedures. I'll ask you that in Closed Session.

5 MS McMURDO: Yes, I think it might be better to deal with this in Closed Session.

LCDR GRACIE: All right, ma'am.

10 MS McMURDO: It will be faster, I think.

LCDR GRACIE: Okay.

15 MS McMURDO: So you tried, but it means you will have to do some – or you may have to do some cross-examination in Closed Session.

LCDR GRACIE: It's not the first failure I've had in this Inquiry, ma'am.

20 D10: Sorry about the vague answers.

LCDR GRACIE: That's all right. We're all doing our best. Just while we're in 89(a), you make some reference there to the Standing Instructions, and I'll just go to them. There's 3-206. That's night flight. Yes? You're nodding. I'm just - - -

25 D10: Sorry, yes. Yes.

LCDR GRACIE: - - - getting it for the record. There's 3-208, which is low flying.

30 D10: Okay.

LCDR GRACIE: Talking about mission crew. There's 3-209, flight overwater.

35 D10: Yes.

LCDR GRACIE: And 3-219, which is carriage of passengers, which isn't really relevant to this scenario, is it?

40 D10: Yes, it is.

LCDR GRACIE: Are the aircrew characterised, or the airman, are they characterised as passengers?

45

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D10: It's the mission context.

MS McMURDO: It was going to happen at the landing point?

5 D10: Sorry, yes.

LCDR GRACIE: Thank you. When you were taken to the evidence in your Coronial statement, you made reference to a relatively simple mission. There was evidence given by D14. I don't know if you saw it, but  
10 he was asked some questions by Counsel Assisting about whether or not this was a benign mission. He said, "Yes, certainly not as complex as the one on the 26th".

15 D10: FMP 3 was going to be more complex.

LCDR GRACIE: But what he said was fairly important. He said that did not take into account the weather. He was talking about the mission as a stand-alone concept, and he agreed that once you factor the weather into it, it could change the complexity very quickly. Do you agree with that?

20 D10: I would agree that weather can make the circumstance, or the mission, more challenging, yes.

LCDR GRACIE: Do you agree that it did in this case?

25 D10: I would agree that it made it more challenging, yes.

LCDR GRACIE: One of the things – just trying to do my best to get the timeline of matters – it looked like the Rehearsal of Concept runs from  
30 about 1500 to 1600, in that time frame, and you discuss several matters, one of which is the weather briefing, in that window. Is that when the weather briefing would be given?

D10: No, so the Rehearsal of Concept follows the mission orders. It's a  
35 very set procedure. I'd raised some points in those mission orders as the Authorising Officer, which were to be covered during the Rehearsal of Concept.

LCDR GRACIE: When is the briefing on the weather provided?

40 D10: It's one of the slides, and a very deliberate brief within the mission orders.

LCDR GRACIE: What time of the day would that be?

45

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D10: The mission orders occurred towards the start of the day. I'd point you towards the timeline slide, which is within the mission pack, that has the entire day set out.

5 LCDR GRACIE: When you're assessing the weather, based on the meteorological data – I think in this case it was from Hamilton Island.

D10: Proserpine and Hamilton Island, yes.

10 LCDR GRACIE: Is that updated, or is it fixed at that time when you get that weather briefing?

D10: Weather is assessed continuously, and it was assessed within the first – well, sorry, once airborne, and utilising all the assets within the area.

15 LCDR GRACIE: That's you assessing it. I'm asking about the meteorological data from Hamilton Island and Proserpine, is that updated?

20 D10: Sorry, for clarity, are you asking if the TAF is updated in those locations? Terminal Area Forecast – I'm sorry, Terminal Forecast.

25 LCDR GRACIE: Yes, because when you get your mission briefing about the weather earlier in the day, other than your subjective assessment of what it's going to be like over at Lindeman Island, what information are you getting to update the forecast conditions for a place that you are yet to go to?

30 D10: So I'm getting the forecasted weather in those aerodromes and the area during the orders process. I check it during the flying – going out to the aircraft, and I get an updated actual weather whilst I'm in the aircraft.

LCDR GRACIE: Were you at all surprised that the weather was different to that which was forecast?

35 D10: I did not assess the weather was different to that which was forecast, which I had confirmed airborne.

40 LCDR GRACIE: There was some evidence in – I think it was D6. I'll get it for you in a second. D1, the flight lead, said that:

*The formation went through showers which the weather brief and the Hamilton Island Avn Plan didn't quite align with what I was seeing outside in the real world.*

45 Does that not accord with your recollection?

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D10: No, the showers and the visibility in those showers, I made an assessment airborne it was better than what was forecast, and I would just note the specifics of the weather are detailed in the final DFSB report.

5

LCDR GRACIE: Look, this isn't in evidence, it's just something that I've found from the Lindeman Island weather station. At 10.20 pm, which is take-off time, there was 3.8 mls of rain on Lindeman Island. Was that in the forecast?

10

D10: Are you referencing the METAR, or the TAF?

LCDR GRACIE: The graph that is provided by the weather at Lindeman Island for 28 July 2023 from the World Meteorological Association.

15

AVM HARLAND: So that was an actual weather report, rather than a forecast?

LCDR GRACIE: Yes, sir. Sorry.

20

D10: Are you able to show me what you're looking at? Sorry, it's - - -

LCDR GRACIE: Sure, if you like. You'll have to excuse my scribble.

25

D10: Probably worth noting aviation relies on the aviation meteorological forecast. This is slightly separate to that item. The weather at - is this Lindeman Island?

LCDR GRACIE: Yes.

30

D10: Yes, Lindeman Island doesn't have an automated weather station.

LCDR GRACIE: Correct.

35

D10: Hamilton Island does, and Proserpine does.

LCDR GRACIE: I'm just saying that the weather, right, which one of the witnesses said did not align with the meteorological data, was different, and perhaps changing at the very time that you were taking off at 10.20.

40

D10: I would disagree. The weather was, in my opinion, which was assessed prior to lifting, during the flight individually in our aircraft, and by an external asset who was higher than us, as what was forecast, or better than forecast, which is also deliberately detailed within that report.

45

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LCDR GRACIE: I'll just have that back, if I may? Thanks.

5 D10: Probably worth clarifying, the amount of rain is not a specific aviation – it details that there would be showers in the area, but from an aviation perspective we're concerned with visibility distance and height of cloud as a primary.

10 LCDR GRACIE: Did the delay of nearly two hours between the planned departure and actual departure at 10.20 have anything to do with the rain at Proserpine?

D10: We're talking very specific mission considerations here, but it was planned inside the timeline to support the mission.

15 LCDR GRACIE: Okay. What about the question? Was there a delay to the departure caused by rain at Proserpine before 10.20 pm?

20 D10: There was no delay in the timeline, and weather was not a consideration for delay – sorry, for the departure time. The departure time was based on the mission, and the conduct of that mission.

LCDR GRACIE: What about the LZ, were there communications from them in relation to the weather delaying the departure?

25 D10: I disagree with your term “delaying the departure”. As I've just stated, we didn't delay the departure due to weather.

30 LCDR GRACIE: Well, let me put it differently, in fairness to you. Was the reason that the flight departed at 10.20 in part due to weather conditions at the LZ?

D10: No, as I've stated, the departure was based on the mission, and for wholeness I can cover certain details of that in a different forum, sir, ma'am.

35 LCDR GRACIE: Again, if you've seen Ms Lyon's statement, there's a text from her husband, sitting on the apron before take-off, saying, “It's pissing down”. So what would be your assessment as to the weather conditions if that was an accurate assessment?

40 D10: The weather forecast, for fullness, is probably worth bringing up as a fact. Clouds and showers were on the forecast. That visibility and cloud height were still forecast, and actually better than normal conditions, which was my concern.

45 MS McMURDO: But was it raining?

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D10: Yes, there were showers around, ma'am.

MS McMURDO: When you were sitting on the tarmac, it was raining?

5

D10: There were showers in the area, ma'am, yes.

LCDR GRACIE: Excuse me, ma'am, I - - -

10 D10: You're right. It's probably worth noting, ma'am, showers are associated with a level of visibility and a cloud height, and from an Aviation perspective, they're the two things that are concerned with those operations.

15 LCDR GRACIE: Again, that meteorological data referred to low cloud on Lindeman Island. What is "low" in that generic sense?

D10: That graph from your paper, I couldn't comment on that. It's not the normal weather forecast we would use.

20 LCDR GRACIE: Let me just go to a slightly different topic.

D10: It's probably worth just noting that there's a METAR – I can't remember what that stands for – but the automated weather station takes incremental observations directly above where that station is.

25

AVM HARLAND: Could you just broadly describe the difference between a terminal or an area forecast, TAF, with the METAR?

30 D10: Sorry, and it might be poorly articulated, but the Terminal Area Forecast forecasts the weather within the certain specified area of that aerodrome.

AVM HARLAND: For a period?

35 D10: For a period of time. Correct. That includes visibility, cloud height, wind, any degradations in the actual – sorry, in the planned forecast that may last periods of up to 30 minutes or 60 minutes, being a tempo or an inter, and the Terminal Area Forecast, if it has an automated weather station, will provide updates of actual observations based on the sensor directly  
40 above where that sensor is.

AVM HARLAND: Is that what consists the METAR, so the METAR is more of an actual, and the Terminal Area Forecast is more of a forecast?

45 D10: Correct, sir. Yes, and the METARs are something that we can see

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and check from the aircraft.

5 AVM HARLAND: So effectively you have a forecast, and you have an update to that forecast, which is an actual observation, and that's called a METAR.

D10: Correct, sir. Yes, and there is a SPECI as well. I just can't remember exactly what the definition for that is.

10 AVM HARLAND: Yes, for specific met conditions that might be of concern?

D10: Correct, yes.

15 AVM HARLAND: Okay. Thank you.

LCDR GRACIE: There was some evidence from D5 in Bushman 82, who said something to this effect. He said:

20 *By the time we got over the ocean, all the cultural lighting would be behind us so there was really nothing in front of us other than if there were gaps in the cloud you might see some sort of illumination from the starlight, but generally it was dark.*

25 He said that:

*There were several rain showers in the area. In those areas, I could not see a visual horizon. It was very hard for me to see where the ocean stopped and the sky started.*

30 If that is a scenario that is accurate, would that be assessed as limited conditions, or would it still be in normal conditions?

35 SQNLDR NICOLSON: Can I just object to the question? Firstly, the proposition of whether or not that scenario was what he saw on that night – that first thing – because it's a reflection of D5. It's what he recalls. This witness might accept that, or reject that proposition.

40 LCDR GRACIE: No, I said "if", if it is correct.

SQNLDR NICOLSON: Well, I'm objecting to that being correct.

45 LCDR GRACIE: D5 gave evidence as to his assessment of those visual conditions. Did that accord with what you experienced in 84?

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D10: No, the visual horizon I could always discern. There were a number of islands surrounding where we were flying that night, which I believe has already been provided through the fly-through. I can't remember what that was. That was a civilian helicopter, that fly-through.

5

LCDR GRACIE: If that is an accurate assessment, now that you've said that it wasn't yours – if that is an accurate assessment, would that constitute a limited condition in terms of meteorological flying with a night-vision device?

10

D10: "Limited conditions" is a very specific term, of which it's worth, for context, defining what that is. There will be a visual distance and a cloud height associated with it, and I disagree that it would define it as limited conditions.

15

LCDR GRACIE: Well, "limited" is defined, as you've said, as less than normal, right. So I won't go into what normal is because, again, it's "Official: Sensitive". But it does require conditions to be clear of cloud. Correct?

20

D10: You're referencing specifically what's within that definition?

LCDR GRACIE: Yes.

25

MS McMURDO: Of normal. Is that right? You're asking him about the definition of "normal"?

LCDR GRACIE: No, "limited", which is - - -

30

MS McMURDO: Of "limited".

LCDR GRACIE: - - - less than normal.

35

D10: Sorry, what was your question?

LCDR GRACIE: A limited condition, right, is less than normal, or equal or better than clear of cloud, right?

40

D10: Sorry, I'd need to see the Standing Instruction again.

LCDR GRACIE: All right. I think - - -

D10: Is that possible?

45

LCDR GRACIE: - - - that was Exhibit 100, if you don't mind? And it is

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– that’s part of the statement, ma’am, of BRIG Thompson. Thank you. Do you mind? I’m running out of hands. That’s the first one. If you just pass it - - -

5 SQNLDR NICOLSON: You should enquire if he wants a break. He’s been going for an hour.

LCDR GRACIE: Have you? Would you like a break, [REDACTED]? If you say “Yes”, I’d be very grateful.

10 D10: Can I just take, yes, a quick bathroom break, if that’s all right?

MS McMURDO: All right, we’ll have a 10-minute break.

15 LCDR GRACIE: Thank you, ma’am.

MS McMURDO: SQNLDR Nicolson, could you also ask about the starting time tomorrow, 9 or 9.30?

20 SQNLDR NICOLSON: Yes.

**HEARING ADJOURNED**

25

**HEARING RESUMED**

LCDR GRACIE: Yes, please. Can I leave that there?

30

COL STREIT: Yes, of course. Ms McMurdo, I spoke briefly with SQNLDR Nicolson and he has indicated to me that perhaps in half an hour’s time would be an appropriate time for the witness to stand down. I then have something to say following the witness being excused, which will probably run for about 10 minutes.

35

MS McMURDO: Thank you.

LCDR GRACIE: You won’t need it now. I’ve got a different approach.

40

UNIDENTIFIED SPEAKER: Okay.

LCDR GRACIE: Ma’am, given the difficulties in dealing with the classification level of the Standing Instructions, could I bank the half hour that I have left to the Private Session, and I will just finish off one matter

45

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now, ma'am. You might need to put that on the transcript, ma'am. The evidence of D12 in his statement, Exhibit 67B, was to the effect that the only time he experienced difficulty seeing an aircraft in formation would be due to the doors being closed, right. And I appreciate your evidence is that the doors were closed. Something that D20 flagged in her evidence was to this effect. She wasn't troubled by the crewing of LT Nugent with CAPT Lyon, but given the experience levels, relative experience levels, she thought it appropriate to put WO2 Laycock as aircrew, and she did that because she thought that he would be able to provide valuable assistance in terms of information during the formation flight, i.e. visual cueing, right. After she left, I understand the decision was made to have the doors closed. She would not have been privy to that. Do you agree?

5  
15 D10: Sorry, I'm just trying to – can you restate that?

LCDR GRACIE: Yes. D20 made an assessment that it was important to have someone with the expertise and experience of WO2 Laycock as aircrew to assist the pilots in information, in respect of formation, distance and other things, during the flight, all right. And that was one of the factors that she took into account when she put LT Nugent in as co-pilot to CAPT Lyon. All right. Now, can I suggest that part of that thinking was probably on the assumption – and you don't have to accept it – but on the assumption that the doors would be open so that he could provide that information.

20  
25 D10: I agreed with the crew composition. I couldn't comment on any assumptions that D20 made.

LCDR GRACIE: Did you see her evidence to that effect though, and her cross-examination?

30 D10: I watched part of her evidence. Yes. I don't recall the specifics.

AVM HARLAND: Just on that, so did D20 reorganise the crew composition in conjunction with you, or did she do that by herself before departing?

D10: Sorry, there was a few things going on there at the time.

40 AVM HARLAND: Just in relation to D20 and the evidence that we've just reviewed, did she do the re-crewing of the Bushman formation when she was – before she departed? In between the time that the decision was made for her to go back home and the time she left, did she do the re-crewing of Bushman, or was that you, or was that in conjunction with anybody else?

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5 D10: I believe it would have been done – sorry, as the active Troop Commander, she was responsible for the initial crewing. I can't exactly recall what happened after she had nominated to go home. Sorry, sir.

AVM HARLAND: So how was it that Bushman 83 crew ended up as it did? Who was in the decision-making process for that?

10 D10: For the final crewing, sir, it was a conversation post the sync the morning of the 28th, or sorry, after lunch on the 28th. And that was – I recall having that – or a discussion with Dan, and I believe the QFIs were in and around it as well.

15 AVM HARLAND: So where did D20 come into this, given what we've just heard about the back-end crewing, with WO2 Laycock being put in there as part of balancing the crew out, given their relative seniority?

20 D10: There was already a base-level crewing done, sir. That gets done by the Troop Commander as far out as they can do it, once the full mission profile planning stage starts to commence.

AVM HARLAND: But I understand today we've heard that the front-end crew pretty well changed on Friday.

25 D10: Correct. I can't comment on the specifics of the full crew composition. I recall the specifics of conversations with Dan about flying Max. I'd have to check, but I think she might've covered it as well when she was on the stand.

30 AVM HARLAND: I'll go back to my original question, just in very straightforward terms. Who decided the crewing for Bushman formation?

D10: The overall say is the Authorising Officer, which was me for that, sir. Yes.

35 AVM HARLAND: What inputs did you have regarding that crewing to satisfy yourself that it was okay?

40 D10: The brief with Dan, as described, and then my understanding of each individual member, their capability, and the experience flying with – as a Flying Supervisor for those members.

AVM HARLAND: Okay. Thank you.

45 LCDR GRACIE: Ma'am, I will, in fairness to the witness, take him to the

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actual evidence. It's Exhibit 26, the statement of D20. From about paragraph 122 on each - - -

5 MS McMURDO: Do you want the witness to be shown that?

LCDR GRACIE: Look, it would probably help.

MS McMURDO: Exhibit 26.

10 Lcdr GRACIE: Do you mind, Sergeant? It's Exhibit 26. Thank you, ma'am.

MS McMURDO: The statement of D20.

15 Lcdr GRACIE: When you get it, just take your time to have a read of it and just to yourself, and then we'll ask some questions.

MS McMURDO: Well, if you could perhaps take him to the paragraphs that you are asking him about?

20 Lcdr GRACIE: Yes, I will, I'm sorry. Yes, I didn't mean read the whole statement. Thank you. That's fine.

25 So if you turn to page 22 – I'll just jump through this a little bit, and paraphrase it. At 122, D20 is talking about her flying with Diesel to get her AMC qualification, and then she talks about putting Max with Diesel in Bushman 83 at paragraph 123. She said she was a little bit worried about this because Max had done his SO Co-pilot Course at the end of '22, on the same SOQC that Diesel completed his SQ Captain qualification. She spoke to D2 and D6 about it, two of the QFIs, as we've heard, on the pairing, and they discussed it. No need for me to read that out, but you can see that there's her recollection of that discussion. At 125 she says:

35 *Yes, okay, I'm comfortable with that.*

At 126 she says this:

40 *I deliberately crewed Phil –*

WO2 Laycock –

45 *on Bushman 83 as the senior aircrewman, and Naggsy as the senior junior aircrewman, to provide extra support for Diesel and Max. Phil was my safety blanket on the aircraft to help be an extra set of eyes and back Diesel up.*

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What I want to suggest to you is for that safety blanket to be as effective as D20 intended, to be extra support, an extra set of eyes for the pilots, that would assume, would it not – or necessitate the doors to be open?

5

D10: I would say that would be speculation on my part for what D20 was thinking.

LCDR GRACIE: Based on your experience, to achieve the optimum safety blanket and the optimum value of an extra set of eyes for the pilots, you would only achieve that with the doors being open, wouldn't you?

D10: I would say having the doors open does help, but I would follow that with formation has a very specific – there are very specific circumstances when the doors are required to be open and when they may – sorry, and – I'm just trying to skirt the boundary here. There is a very set procedure on when the doors can and cannot be opened.

LCDR GRACIE: Correct. And there was some evidence from a witness to the effect that if a flight was of less than 20 minutes duration from take-off to target, and which he said it was – he said this was 18 minutes – the doors are meant to be open as per Standing Instructions. Now, I can't find that, but is there something to that effect?

D10: It's not in the Standing Instructions, but I won't speak to tactics in this forum.

LCDR GRACIE: Well, it's open evidence. Is his statement correct?

D10: I cannot speak to the tactics in this forum.

LCDR GRACIE: But if you combine the approach taken by D20 in her consideration for the crew mix, and the evidence that I read out of D12 that the only time he experienced difficulty seeing an aircraft in formation is with the doors being closed, can I suggest that it was almost an imperative at night, low level, in these degraded conditions, to have those doors open to assist the pilots in their forming?

D10: Whose imperative are you saying it is?

40

LCDR GRACIE: A safety imperative.

D10: I would state – and to be clear, it is always a Captain's, an Aircraft Captain's, ability to open their doors should they deem it fit.

45

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LCDR GRACIE: Which you did, and the other three didn't.

D10: I opened my doors at a point at which I understood the doors were to be opened, as briefed in orders.

5

LCDR GRACIE: And as AVM Harland mentioned, there was perhaps some scope for ambiguity there because the other three aircraft had their closed.

10 D10: I would state it was pretty clear in orders, and the standard procedures which we would follow.

LCDR GRACIE: But you can only open them once you've dropped down to 80 knots, can't you?

15

D10: Correct, which was our speed at the time.

LCDR GRACIE: Yes, but you'd only just come down into 80 to do the racetrack, the holding pattern.

20

D10: Which was the procedure at the time.

LCDR GRACIE: Just one final thing – sorry, there's two things. In terms of the importance of the aircrew being able to assist in perception of distance in a four-ship formation – and if it's too difficult to answer in Open Session, that's fine – but you mentioned you've heard the cockpit voice recording of your crew. Do you recall that there was a situation just as the doors were opening where you and D9 discussed your distance from 83?

25

30 D10: There were constant discussions about distance, and a few other things at the time. I'd have to reference the transcript.

LCDR GRACIE: I'm just talking about the point where the doors were opened. Do you recall it?

35

D10: Roughly, yes, in time.

LCDR GRACIE: Do you recall D14 correcting you, and D9, as to your actual distance because he was able to look out the door?

40

D10: I'd be speculating on that.

LCDR GRACIE: No, it's in the CVR. Do you recall seeing it in there?

45 D10: At some point in time. Yes.

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LCDR GRACIE: When the doors were open?

5 D10: Can I get a copy of the transcript to have a look at that?

LCDR GRACIE: We'll do that maybe another time. One other question. And, again, bear in mind – although I think this has been read onto the record by FLTLT Rose. Is there any coincidence in the fact that your decision height setting – you were on the right side, weren't you?

10 D10: Yes.

LCDR GRACIE: And were you flying?

15 D10: I was flying pilot up until I took over the Air Mission Commander duties.

LCDR GRACIE: At what point was that?

20 D10: Post-incident.

LCDR GRACIE: One thing I'm not sure about is why is the co-pilot not flying if he's to get his AMC quals?

25 D10: Flying and non-flying pilot duties are separate to the Air Mission Commander role.

LCDR GRACIE: Why were you flying and not the co-pilot?

30 D10: Because that was what was decided within the aircraft at that time for the context.

LCDR GRACIE: Because I thought this was a training exercise because the other three ships all had their co-pilots flying.

35 D10: The requirement of who is flying and non-flying pilot at any time is a direction of the Aircraft Captain.

40 Lcdr GRACIE: Well, and in this case 83 took over. Sorry, CAPT Lyon took over. The other two did not, on the evidence we've got. My question is was this a training mission for the co-pilots to get their hours up and fly with the experienced Captains?

45 D10: This was a training mission for all aircraft.

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LCDR GRACIE: Yes. Was it to assist the more junior co-pilots getting their skill level up?

5 D10: Every flight, as I've stated before, is an experiential and learning journey. This flight specifically had qualifications attached to it for 1, 2 and 4.

LCDR GRACIE: For training purposes?

10 D10: For training purposes. Correct.

AVM HARLAND: It might clear it up. Is the AMC role related to a kind of bigger scheme of things, other than flying a particular aircraft? So the skill he was learning was it wasn't really concentrating on flying the aircraft, it was something else. Is that a fair statement?

15 D10: Yes, sir. The Air Mission Commander is responsible for the Air Mission. The Air Mission in this context was one element of the overarching mission.

20 AVM HARLAND: Yes, and again I'm proposing this, by you flying the aircraft at the time, it gave D9 the ability to concentrate on his Air Mission Commander training and that particular role.

25 D10: Correct, sir. Yes.

AVM HARLAND: Okay. Thank you.

30 Lcdr GRACIE: What I'm trying to ascertain here is if your decision height was set at a level – I won't say what it is because I can't recall if it was read onto the record; I think it was – but if yours was set at the same as the non-flying pilot in 83, and your co-pilot's decision height was set the same as the flying – sorry, I've put it badly. I've put it all round the wrong way.

35 If your decision height was set the same, being the flying pilot, the same as the flying co-pilot of 83, right – give it a number if you want, but they're the same – and the non-flying co-pilot of 84 was set at the same as the Captain non-flying pilot of 83, is there some coincidence in that, or is that part of the way that you were trained to set your decision heights?

40 D10: Sorry, I'm trying to follow that. The Aircraft Captain is the one who will direct what the decision height will be set at. I suspect my decision height was set due to muscle memory from previous missions.

45

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LCDR GRACIE: Could that also be the factor in 83 then having the same as 84?

5 D10: It could be a factor for any of those aircraft.

LCDR GRACIE: There was almost an identical decision height – it was out by five feet – in relation to 81. It had the same for one of the pilots, I don't know which, and it was five feet different for the other pilot. So again, that seems to have some consistency about it. Three of the four ships  
10 have almost the same decision heights across six pilots. Can you explain that?

D10: I can't speak for the other aircraft, but I suspect for mine, knowing what it is, based on that final report, it was likely, in my assessment, muscle  
15 memory from the previous night's mission, or two nights ago.

LCDR GRACIE: Muscle memory, did you say?

D10: Correct.  
20

LCDR GRACIE: For all of them? All six?

D10: No. To be clear, I can only comment for my aircraft.

25 Lcdr GRACIE: But as an Air Mission Commander, on being informed of that what would your response be?

D10: Sorry, can you clarify that?

30 Lcdr GRACIE: As the Air Mission Commander, with three of your four ships having almost the same decision heights that were not in accordance with the Standing Instructions, or the STANMAN, what's your explanation for that? Is it a failure in training, or bad practice?

35 D10: It would be a stretch to comment on that as an Air Mission Commander. What I would say is it is in accordance with the Standardisation Manual, based on the mission two nights ago.

40 Lcdr GRACIE: I'll just round it off. 82 had both pilots set at about double what the other three had as their highest height, but well short of the 10 per cent of the 200 feet. Again, any explanation why that would be different?

45 D10: A comment for the Aircraft Captain of 82.

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LCDR GRACIE: I just want to pass you this note. I can do it in Private Session, but I'm just going to show you that.

5 SQNLDR NICOLSON: Can I see it? Thank you. I didn't want to object.

LCDR GRACIE: He scared me last time. I've never heard him object in 18 months.

10 SQNLDR NICOLSON: It's only 12 months.

LCDR GRACIE: It's 12, is it? Okay. Don't read that out, but that's an extract from the cockpit voice recording, which is said three times in reference to your, and your co-pilot's, characterisation of the movements of 83, and there is also some evidence – it's open evidence – that there's 15 comments that 82 and 83 were both high. But in relation to those words, what would it have taken for you, on that being said three times in relation to some perception about what 83 was doing, to have contacted 83 to ask, "What are you doing?" or "What's happening?" or "What's going on? Are you okay?"

20 D10: So those were my words spoken over the duration of the sortie, upwards of 20-odd minutes. Those words are specific to what 3 was doing at the time, and I was – it's in my statement. At some point, the level – I can refer to those words, can I? Sorry, I'll change that. The position of 25 three at no stage until the final point was at a point that I would consider as completely out of the norm. There is a level of normality associated with being in 3, and at all times it was above, and not below. If it was below, that would be a concern.

30 LCDR GRACIE: I understand that there has to be a pre-briefed climb height to go to in the event of a – I think it's an AHPA. What's that?

D10: Attitude Heading – sorry, so you're referencing the IIMC, the - - -

35 LCDR GRACIE: Attitude Heading.

D10: Inadvertent - - -

LCDR GRACIE: Position.

40 D10: - - - Instrument Meteorological Conditions.

LCDR GRACIE: Yes.

45 D10: Sorry, I'm struggling to get that out.

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5 LCDR GRACIE: That's all right. But there's a drill where you either need to do a UA or you've lost sight of the formation, and there's a pre-briefed climb height that you are to go to. Was that pre-briefed in this case?

10 D10: The IIMC, Inadvertent Entry to – sorry, Inadvertent Instrument Meteorological Conditions height and turn direction is pre-briefed in orders as a must. It's located on the mission pack of each aircrew that were in the mission, and it is – dependent on the pilot, should be set up in their automatic altitude height as a reminder.

15 LCDR GRACIE: Did you think, in the 14 seconds that you observed 83 climbing, that it was going to that pre-briefed climb height?

D10: No, that climb height, which I - - -

LCDR GRACIE: I don't think it's in there, but it's probably - - -

20 D10: Is my mission pack in here?

LCDR GRACIE: If it is we'll have to deal with that in the Private Session.

25 D10: If I could state – there's the timeline.

LCDR GRACIE: I've missed it, but if it is in there, then I apologise.

D10: It's replicated in orders.

30 SQNLDR NICOLSON: I think it's at FF.

D10: FF.

35 LCDR GRACIE: Tab.

D10: Yes. Excuse me, ma'am. So the second slide of mission orders under "Handouts" is what lists the document, and the document itself is the mission pack. On that mission pack is the specified height for each aircraft, and that includes – sorry, I'm just - - -

40 LCDR GRACIE: No, you're right.

45 D10: That includes a turn direction, and that is the drill. Sorry, that dictates when the drill ends for that specific aircraft.

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LCDR GRACIE: Is it in there?

D10: It's in the mission pack, yes.

5 LCDR GRACIE: It is?

D10: Yes. Sorry, the mission pack is not in my – it's listed as an annex, but I don't have a printed copy.

10 LCDR GRACIE: Can you point me to the pre-brief climb height then in the documents that you have got?

D10: I don't have my mission pack here, sorry.

15 LCDR GRACIE: So it's not – we don't have - - -

D10: Yes, but you – sorry, the Inquiry should have it. I've listed it as an annex, and attached it to my document.

20 LCDR GRACIE: Did you think that 83 was perhaps going up to that pre-brief climb height?

D10: No, there is a very deliberate manoeuvre that is conducted to get you into the climb, and the climb is in the value of thousands of feet.

25 LCDR GRACIE: Just on the scenario that there was nearly an increase close to double – or 75 per cent of the height which you were then flying, what went through your mind at that point in terms of what was going on, given the earlier comments about the behaviour of 83?

30 D10: Are you referencing the last 15 seconds?

LCDR GRACIE: Yes.

35 D10: I have it in my statement. It was at the point they reached the top I was conducting – sorry, I had made the assessment, and was making the assessment, about what was going on, to which I then reported or radioed that aircraft.

40 LCDR GRACIE: But it was getting close to double the height at which you were then flying. Did that not set off any alarm or trigger in your mind that something untoward had happened?

45 D10: As I have just stated, it did trigger me, which I did call them.

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LCDR GRACIE: Ma'am, I'll leave it at that, if I may. I see the time too, and I've probably – I won't say gone over, but I will save some of it for that private briefing. I've done as much as I can in public.

5 MS McMURDO: Yes, all right. I think there's probably not much point starting anything further at this point. You are free to go. If you could return for a 9.30 start tomorrow, please? Thank you.

D10: Thank you, ma'am.

10

MS McMURDO: So please feel free to leave the Hearing Room now. Thank you.

15 <WITNESS WITHDREW

MS McMURDO: COL Streit is just going to deal with another matter in the absence of this witness.

20

COL STREIT: I can indicate the mission pack is above classification "Protected", which is why nobody has it.

MS McMURDO: Thank you, COL Streit.

25

COL STREIT: Ms McMurdo, through D10's Counsel, I've been asked to read out an extract of information from his statement. I just indicate that this could cause – not intentionally of course – I imagine some difficulties for people in the room, particularly the families. At paragraph 123 of his statement, D10 extracted a part of the speech he gave on behalf of 6 Aviation Regiment at the memorial in September 2023, and I will read out that extract now:

30

35 *On Friday night, 28 July 2023, call-sign Bushman, our formation of four MRH-90 aircraft, would take off from Proserpine Airfield on a mission that will forever be etched in our nation's history, and engraved in this unit's memory.*

40

*At 2237 hours, we would become a formation of three, with Bushman 83 never returning home. Our nation would mourn the loss of four brave servicemen, and our Defence Force would be reminded of what it means to serve.*

45

*Today, we gather as a Regiment, as we will every year, to remember and honour the legacy of Bushman 83: CAPT Lyon,*

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*LT Nugent, WO2 Laycock and CPL Naggs. We acknowledge their dedication to service, and their important role in the unit's vital mission on behalf of our nation.*

5 *We recognise the profound sacrifice made by the families who are left behind. We understand the overpowering sacrifices made by our members here, and their families, who will now carry this same mission.*

10 *It is important to remember the context of their service. The military is the only organisation where you voluntarily are prepared to give your life. This contract is absolute in service of your nation. The members of the unit serve on a mission of national significance. Guardians of our nation's security, which*  
15 *Bushman 83 would pay the ultimate price for.*

*We honour their memories, not dwelling on their loss, but by remembering them and what they believed in. To remember them, is to remember why they served.*

20 *Danniel Lyon (Dan), a son, brother, husband and proud father, a loyal, committed officer, who made sure no one was ever left behind. He placed others before himself, and treated everyone as his best mate.*

25 *Maxwell Nugent (Max), a son, brother and devoted partner, quintessential Lieutenant aviator, who knew what he wanted and worked hard to get it, both at work and in his home. He was a future Commander we all deserved but will, unfortunately, never*  
30 *meet.*

*Joseph Laycock (Phil), a son, brother and proud father, a steady hand on the darkest nights to help steer the ship, and a quiet voice to tell us it will be okay when things get hard. He would always do*  
35 *the right thing, rather than the easy wrong.*

*Alexander Naggs (Naggsy), a son, brother and devoted partner, the consummate professional, a quiet achiever, with a steadfast dedication to all things he set his mind to. He always knew what*  
40 *needed to be done, and could see light in the darkness. He lived by his convictions, not by circumstances. Never afraid to speak up.*

*We stand here today on their shoulders. Their sacrifices have paved the way for us, and those who will follow us. On the cold,*  
45 *dark and wet nights they faced dangers head-on, and stood tall.*

**OFFICIAL**

*And we will face it and stand tall. They gained their strength through unity and life. We gain ours together today remembering their lives, and what they believed in.*

5 *As a unit, we are proud to have served beside you, privileged to have been part of your lives, and honoured to continue your legacy. Bushman 83, as a crew, you demonstrated great courage in the face of battle valour, and you will be forever the first amongst equals.*

10 *Primus inter pares.*

That concludes the quote from D10's statement.

15 MS McMURDO: Thank you, COL Streit. We'll adjourn now until 9.30 tomorrow morning. Thank you.

20 **PUBLIC INQUIRY ADJOURNED UNTIL  
FRIDAY, 2 MAY 2025 AT 0930**