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

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

PUBLIC INQUIRY

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

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Counsel Assisting**

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CMDR B JONES SC, representing D19
MR G O'MAHONEY, representing Airbus
MS K MUSGROVE, representing the Commonwealth**

0930, TUESDAY, 6 MAY 2025

DAY 54

TRANSCRIPT VERIFICATION

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

Signed	Date	(Chair)
Signed	Date	(Recorder)
Signed	Epiq Australia Pty Ltd	Date	06/06/25	(Transcription)

.MRH-90 Inquiry 06/05/25

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WITNESS LIST

Date: 06/05/2025

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<D19, on former oath

<EXAMINATION-IN-CHIEF BY COL STREIT, continuing

5

MS McMURDO: Yes, COL Streit.

10 COL STREIT: Good morning, Ms McMurdo, AVM Harland. Very
briefly, before D19's evidence resumes, can I indicate that I'll be making
application at the appropriate time for a Private Hearing of certain aspects
of D19's evidence? I don't imagine, at least from my perspective, that
Private Hearing will be terribly long. As a component of that Private
15 Hearing, can I also indicate I will be seeking for questions being asked of
D19 concerning interaction with D20 be conducted in a Private Hearing,
and that, subject to your Direction, that there be no questioning of D19
about matters concerning D20, specifically, in a Public Hearing.

20 MS McMURDO: Yes. Well, I think Counsel representing have been
informed that we received material from - - -

COL STREIT: I haven't informed them of the content of the material.

25 MS McMURDO: You haven't informed them – well, not the content.
Well, we received material over the weekend about considering D20's
medical position, and for that reason I have determined it will be
appropriate for me to direct that any evidence concerning her be heard in a
Private Hearing.

30 COL STREIT: Thank you. I anticipate – or the plan is, that D19's
evidence will conclude today, and if there is a window of opportunity left
in the hearing day, then Dr Smith will be called to make a start in relation
to his evidence, and he'll be taken by FLTLT Rose.

35 COL STREIT: D19, can I take you to page 10 of your statement,
please? Page 10 deals with your responses to questions, or commences
your responses to questions in relation to fatigue management, and on
page 10 you set out matters concerning various orders, instructions and
policies. That's correct?

40

D19: It is.

COL STREIT: Can I just very quickly take you to 36(d)? I take it that's
a typo following the words, "for flying or".

45

D19: It is, yes. "Uncrewed" rather than "unscrewed".

COL STREIT: Uncrewed. If you could just correct that, and just initial? Thank you. I'll ask you some questions, but please only answer to the extent it's within your knowledge. Some questions may be outside your knowledge. The first question is in relation to 26 – I'll start again. Paragraph 36(a), you identify that one of the orders, instructions and policies is SI Avn Ops 1/201 Flight Authorisation Officer Requirements and Responsibilities, and you set out at 36(a)(i) that:

10

The Flight Authorisation Officer has to self-assess for fatigue. The health of the crew is to be assessed, specifically for fatigue. The flight autho brief is to specifically address crew fatigue status.

15

Is what you have said there, is that correct?

D19: As per the SIs, yes.

COL STREIT: The question I have is, do you know why the Flight Authorisation Officer is limited to a self-assessment for fatigue and that somebody else is not making that assessment?

D19: I do not, no.

COL STREIT: Because the SI reveals, as you have set out, that the health of the crew for fatigue is assessed by the Authorising Officer. That's correct?

D19: Yes.

COL STREIT: But to the extent as you understand the SI Avn Ops 1-201, nobody is mandated to assess the Authorising Officer for fatigue.

D19: Yes, I believe in that context the Authorising Officer would be, for want of a better term, the safety check, the person confirming the crew about to actually go and do the physically dangerous thing.

COL STREIT: There's nothing that prohibits the Authorising Officer from being a person that also participates as a pilot with the crew that they're assessing for fatigue.

D19: That is correct, yes.

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COL STREIT: In the context of 28 July 2023, the Authorising Officer was D10. That's correct?

D19: Yes.

COL STREIT: So D10 is making an assessment based on SI Avn Ops 1-201, assessing the aircrew participating in that sortie for fatigue, but the SI doesn't provide for anyone to assess D10's level of fatigue in the same way. Is that your understanding?

D19: Yes.

COL STREIT: Can I take you to page 11, please, paragraph 39? Paragraph 39 is a response to a question in these terms:

The Inquiry has received evidence to the effect that the DASR Aviation Fatigue Management Regulation came into effect in October 2021, followed by a two-year grace period whereby DASA would not conduct compliance assessments in Aviation units until 28 October '23. And in respect of the DASR Aviation Fatigue Management, please respond to the following.

That's the context of the series of questions you were then asked. The first is:

When did you become aware of the DASR Aviation Fatigue Management?

You say, at 39, you first became aware that an impending change to the rules in around quarter two, 2022. Correct?

D19: Yes.

COL STREIT: Quarter two is a reference to the period April to June 2022.

D19: Yes.

COL STREIT: You say:

As part of a sleep study I undertook as CO, the first phase of the study used the FRAT.

I will pause there. "FRAT" is a reference to Fatigue Risk Awareness Tool?

D19: It is.

COL STREIT:

5

I utilised the FRAT from the DASA Aviation Fatigue Management Guidebook to frame the first phase of this study. This involved the education of all aircrew in the Regiment about the details associated with the FRAT, and the likely requirement to implement updated fatigue policy in the future.

10

Is that right?

D19: It is.

15

COL STREIT: Could the witness please be shown Exhibit 39?

MS McMURDO: Yes.

20

COL STREIT: D19, I am just showing you a document which has been accepted into evidence before the Inquiry. Take a moment to just review that document so you are satisfied you understand what the document is. Just to assist you, the front cover says, "Aviation Fatigue Management Guidebook Version 1". If you turn inside, you will see "Version 1". The inside cover, you will see "Version 1" as of April 2021.

25

D19: Yes.

30

COL STREIT: When you talk about using the FRAT for the sleep study from the DASA Aviation Fatigue Management Guidebook, are you referring to the Fatigue Management Guidebook that is before you now?

D19: Yes.

35

COL STREIT: Can I take you to page 35 and 36? If you just have a quick look at that?

D19: Yes.

40

COL STREIT: So 35 and 36, where you give evidence in your statement referring to the FRAT, is that what's depicted in 35 and 36, being the Fatigue Risk Awareness Tool?

D19: It is, yes.

45

COL STREIT: We will return to your statement, but if you – we will return back to that exhibit in a little while. Returning to your statement at paragraph 39, do you recall how it came to be that the FRAT was used in the first part of the study? So in other words, did somebody suggest that the FRAT should be used to you, or was that something you had identified and asked to be done?

D19: I think internal to the staff – to the best of my recollection, internal to the staff within the Regimental environment we had a conversation about how we could do this better, what options were open to us, as part of a more fulsome understanding of fatigue in the workplace, to move through a phased approach associated with understanding our own workplace in a very specific context. We saw this as an opportunity where we could potentially better understand the policy and the future of the policy, while applying it to our workplace as part of an ongoing study which could then potentially in the future inform some of our own internal policies about how we manage fatigue, better design activities, et cetera.

COL STREIT: Again, not a memory test, but in relation to the Fatigue Management Guidebook that you have in front of you, do you recall first coming across that – sorry, when do you recall first coming across that document?

D19: It would have been as part of those investigations into how we can better understand fatigue in the workplace.

COL STREIT: To be clear, so part of the sleep study that you were initiating, that's where you first came across the Aviation Fatigue Management Guidebook?

D19: Yes, I believe so.

COL STREIT: I'm not suggesting it might stain your memory, but if you do, can you tell us? Do you have a recollection of going through it, that particular guidebook and, if yes, what was your impression of the document?

D19: It's some time ago now. I don't think I really had an impression about the nature of the document. Apologies.

COL STREIT: Do you know if it was MAJ Sam James that brought the Fatigue Management Guidebook to your attention?

D19: I couldn't be certain, sorry.

COL STREIT: You were asked the next question at 27(b):

5 *To your knowledge, what steps and actions did 6 Aviation Regiment take in relation to the implementation of the DASR Aviation Fatigue Management within the unit, and on what dates?*

You say at 40:

10 *6 Avn Regiment didn't take any steps on the implementation of high-level policy formulated by regulators, including the DASR Aviation Fatigue Management. At operational unit level, including 6 Avn Regiment, there are neither the resources, nor the expertise, to implement such policy for a single unit. The*
15 *steps to be undertaken in implementing high-level policy are developed by Higher Headquarters and framed as a set of policies and instructions that are to be implemented by various units, including 6 Avn Regiment. This is usually done by issuing Standing Instructions or similar policies such as Special Flying*
20 *Instructions.*

What I have read out is correct?

25 D19: Yes.

COL STREIT: At 41 you go on to say as the CO of 6 you wanted to improve awareness and management of fatigue in the unit as far as you reasonably could.

30 *The entire team at the unit saw this as an opportunity to take action. To that end, during 2022 I engaged the services of SO2 psychologist, MAJ Sam James, as part of this initiative, and specifically the unit funded the SO2 psych to travel and work with the unit on several activities. As part of this engagement, one of*
35 *the duties of the SO2 psych was to research and investigate the implementation of DASR Regulation on behalf of the Higher Headquarters. The unit was helping with the development of the policy while also continuing to educate its members by way of regular briefs on fatigue and how to manage it. This was at all*
40 *levels across the unit, across all ranks, trades, not just aircrew.*

Is what I've read correct?

45 D19: Yes.

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COL STREIT: In relation to engaging the services of MAJ James, you say at 41 you engaged the services of James as part of this initiative. So the reference to an “initiative”, is that a reference to the sleep study?

5 D19: It is, yes, to better understand ourselves as a workforce.

COL STREIT: Did you understand, from your conversations with MAJ James, that one of his duties was to research and investigate the implementation of the DASR Regulation on Fatigue Management on
10 behalf of Aviation Command Headquarters? Was that your understanding?

D19: That was, I believe, paraphrased from an email on which the basis – sorry, the basis on which I approved funding for him to come to the
15 unit. It should be very clear, I suppose, that was but one line of effort that he was assisting us with, specifically working to OC 173 at that point in time.

COL STREIT: Was it your understanding that the outcomes of that sleep study would be some data that would contribute to Headquarters Aviation Command’s implementation of the DASR on fatigue management?

D19: That was not directed to me, or by me, so in that sense, I saw it as an opportunity. Little more than that. So to leverage the resources I had
25 within my command and control at that point in time, to take an opportunity to assist where I could see there might be a gap in the future. Whether that information was subsequently used or employed in a meaningful way, that was not my decision at that point in time, but I was certainly doing all I could – and the Regiment was, I should highlight, and
30 the members of the Regiment – doing all we could to better understand ourselves as a workforce, and assist Higher Headquarters where we could.

COL STREIT: Perhaps my question was a little bit clumsy. Did you understand from talking with MAJ James that the outcomes of the sleep study may be used by him in the research and investigating the
35 implementation of the DASR Regulation on Aviation Fatigue Management?

D19: It was an opportunity. I don’t specifically recall that he was
40 intending to use that information for those purposes. It would certainly contribute to the evidence, should he wish to use it in the future, but I don’t specifically recall him saying this would be advantageous for us.

COL STREIT: Was there an intent, to your understanding, of how the sleep study was described to you, and how it would be conducted? Was
45

there an intent at any stage to try using wearable devices, such as watches, to assist in the recording of information?

5 D19: There was. Yes. I believe in one of the enclosures I've actually detailed exactly the specifics around that particular study, and the levels we went to, to have it approved at the requisite authority.

10 COL STREIT: That, I take it, was something that was important to you because your earlier evidence – and noting your science background – having empirical evidence assists in making informed decisions? Would you agree?

15 D19: It would certainly have been advantageous and assisted us in making evidence-based decisions as it relates to policy in the future, yes.

20 AVM HARLAND: Can I just ask, was part of your motivation for digging into this – and notwithstanding the fact that at para 40 you say that 6 Avn Regiment didn't take any independent steps – I guess you're part of 6 Aviation Regiment, and you appear to be taking independent steps – but was part of your motivation because of the results you'd seen through Snapshot and the feedback you'd got from your workforce about tempo and fatigue? Was that a motivating factor for you to do these things?

25 D19: That was certainly a contributing factor, sir, yes.

30 AVM HARLAND: Yes. Okay. Thank you. Actually, one more. Did you feel you were leading the conversation on Aviation Fatigue Management within Aviation Command, or did you find that as you were going through this process you found that other levels within the organisation, up to Aviation Command, were also considering it, and were looking at how they might implement, or did you feel like you were ahead of the pack?

35 D19: I don't want to speak for Aviation Command or the Higher Headquarters there, sir. I was very focussed on the issues – issues might not be the correct term – but the problem set that I faced at the unit level, and was trying to seek solutions about, again, how we could better understand ourselves, to better inform local policy around our operating
40 context.

45 AVM HARLAND: Perhaps I'll frame it a little bit differently. As you were going through this consideration, did you speak to higher levels of Command about this?

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5 D19: As per the enclosure there, I certainly wrote to Higher Headquarters seeking approval and updating them as part of the progress. Outside of those conversations, I couldn't necessarily recollect any specific efforts or conversations in support to either one or two up there, sir. Apologies.

AVM HARLAND: Okay. Thank you.

10 COL STREIT: Just to assist you, D19, at paragraph 42 you identify, by essentially extrapolating out from Enclosure 1, some of the key points from 42(a) through (e). Is that correct?

D19: It is, yes.

15 COL STREIT: You'll note there at 42(a) – I'll start again. You say at 42:

20 *The scope of the work of the SO2 psych is annexed at Enclosure 1 and included:*

(a) Assist with the development of new Aviation Fatigue Management Framework for 6 Avn aligned with incoming DASR Aviation Fatigue Management.

25 I just pause there. In relation to the scope of work that you have identified there, how did that particular scope of work come about? So, in other words, why was it identified as a part of the work that the SO2 psych was engaged to do?

30 D19: To be clear, they're not my words. They're paraphrased from some email traffic.

35 COL STREIT: That's correct. Well, perhaps if we can assist you, we'll go to Enclosure 1. Enclosure 1, would you accept, is an email chain comprising two emails. The first one is Friday, 24 February 2023 at 7.11 am from D14 to you, D19.

D19: Yes.

40 COL STREIT: It says this:

Hi, boss.

The bottom line up-front, request \$1000 in travel funding to get

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SO2 Avn psych, MAJ Sam James, from Adelaide to Holsworthy, 1 to 3 March '23. Scope of work would be:

5 *(1) Assist with the development of a new Aviation Fatigue Management Framework for 6 Avn aligned with incoming DASR Aviation Fatigue Management.*

Is what I have read out correct?

10 D19: Yes.

COL STREIT: If we go to the top, the second email is an email from MAJ Sam James to you, copying in D14 and D10. It says:

15 *Hi, sir.*

I have elaborated on a few of D14's points below, and also looped LTCOL Jordan and D10 in for comment, as required. These are consistent with the lines of effort discussed with D10 and D14 last year.

20

For your consideration.

MAJ James.

25

What I read out is correct?

D19: Yes.

30 COL STREIT: It would seem to indicate – and if I have this wrong, please tell me – but that correspondence would seem to indicate that D14 – who at the relevant time was an officer that reported to you?

 D19: Yes.

35

COL STREIT: That D14 had engaged with MAJ James, and as a consequence of that discussion lines of effort were identified in MAJ James' email. Sorry, in D14's email to you, and then MAJ James' email confirming those lines of effort, also to you, second in time. It would seem to indicate on the face of it that one of the lines of effort that 6 Avn had asked MAJ James to engage in was to assist the development of a new Aviation Fatigue Management Framework for 6 Avn, aligned with the DASR Aviation Fatigue Management.

40

45 D19: Correct, yes.

COL STREIT: With that background in mind, the question I asked earlier is what led to MAJ James assisting 6 Aviation Regiment – development of new Fatigue Management Framework for 6 Avn, aligned with the incoming DASR Fatigue Management? What specifically led to that as a line of effort?

D19: Because of the work we had done in 2022 leading up to that point, we saw it – again, saw it as an opportunity to better understand ourselves as a workforce, with an understanding of the Regulations that would be in place in the next short while.

COL STREIT: At that point in time Aviation Command had not – I'll start again. Did you become aware at the very end of your posting to 6 Aviation Regiment in December 2023 that Aviation Command – the Commander of Aviation Command, MAJGEN Jobson, had issued a Special Flying Instruction on Aviation Fatigue Management to be applicable to all of Aviation Command?

D19: I believe there was a body of work going on, the specifics of which I'm not sure about, sorry.

COL STREIT: At the time in 2022, this line of effort to assist your unit develop a new Fatigue Management Framework aligned with the incoming DASR Aviation Fatigue Management, at that time there was no – were you aware of any document from Aviation Command effectively saying that the current fatigue management regime that Aviation Command had in force actually complied with the new DASR Fatigue Management Regulation?

D19: I won't comment on the applicability of the Higher Headquarters document in that context, so I'm unaware of whether they would or wouldn't comply, sorry.

COL STREIT: Sorry, my question is, was there any document from Aviation Command telling you that their current structure for fatigue management complies with the Aviation Fatigue Management Regulation that DASA was bringing in?

D19: The assumption, as a unit CO operating in that context, is that the Standing Instructions that we operate to are applicable and comply with the necessary Regulations up and out. I'm not going to question – again, I'm not going to question the Higher Headquarters applicability of their documentation and the suitability of it. We kind of have a set of rules that

we follow and, generally speaking, we try to adhere to those rules as much as we possibly can, for obvious reasons.

5 COL STREIT: Let me put it this way, because I'm not asking you to comment about Higher Headquarters' decision-making. It's simply this: the background is in October 2021 the new DASR Aviation Fatigue Management Regulation came into effect. Just accept that from me. There was a two-year implementation period where MAOs were given two years to assess their current structures and identify if there are gaps, to
10 address those gaps to ensure compliance with the new Fatigue Management Regulation. That period was to expire in October 2023.

MAJ James is attending your unit in 2022 with a line of effort set out in that email that we've just referred to, to assist in development of a new
15 Aviation Fatigue Management Framework for 6 Avn, aligned with the incoming DASR Aviation Fatigue Management Regulation. That's the background. The question is simply this: at that time that you were engaging MAJ James in that line of effort, did you have any document that you can recall from your Headquarters saying that Aviation
20 Command already complies with the new DASR Fatigue Management Regulation? I'm not saying what the decision was, the basis behind it, whether it was correct or not, but just a simple, "We already comply with this Regulation, so we don't need to make any changes"?

25 D19: I did not have a document that specifically called that out, no.

COL STREIT: In any event, on the face of it, you're dealing with matters at the unit level. Correct?

30 D19: Yes.

COL STREIT: And you saw using MAJ James as an opportunity to assist in improving the fatigue management arrangements you had at the unit level within your span of command. Is that a fair assessment?
35

D19: In accordance with the lines of effort there, he would assist us with researching and better understanding ourselves, but also educating the workforce, yes.

40 COL STREIT: Can I take you to page 12, paragraph 27(c), and your answer at paragraph 43? At 27(c) you were asked:

45 *To your understanding, was the DASR Aviation Fatigue Management fully implemented in 6 Avn Regiment prior to 28 July 2023? If not, explain why not.*

You say this:

5 *It was not implemented in the unit prior to 28 July 2023. As
outlined above, it is important to understand that operational
units, including 6 Avn, are not required to implement DASS
Aviation Fatigue Management independently. The diagram
below highlights the document hierarchy in which the relevant
policy and regulations formulated by DASA are implemented.
10 The bottom blue box with the red boundary contained all
Regulations that pertain to flying units. For example, SIs, SFIs,
task boards, AAP, other documents that guide the unit's
operations and other policy that the unit adheres to.*

15 Is what I have read correct?

D19: Yes.

20 COL STREIT: At 44 you say:

*As I mentioned above, operational units are neither resourced,
nor expected to implement DASS-level regulations in isolation.
The usual procedure is the Higher Headquarters addresses the
requirements and then distils it for use in operational units,
25 generally by way of Standing Instructions or similar policy
documents. This ensures consistency across all operational units.*

*If each unit were left to implement DASS-level regulations
independently, there is a serious risk of different interpretations
30 of the policy or regulations among the various units. The
inconsistency would naturally result in confusion among pilots
that transfer from one unit to another as there would be a
different set of instructions that give effect to that policy.*

*Further, the unit's interpretation may be at odds with the
guidance from the Higher Headquarters that has the resources
skillset to interpret and implement the relevant policy. This is
particularly important when considering the resourcing of any
changes to the rules and regulations as they can have significant
40 resource and operational implications.*

I pause there. Is what I've read correct?

45 D19: Yes.

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COL STREIT: Just briefly returning to MAJ James before we move to a different topic. You mentioned that one of the lines of effort at 42(d) was MAJ James supporting OC 173 Special Operations Aviation Squadron with development of consids and solutions for fatigue management.
5 “Consids”, what does that stand for?

D19: I think it’s 42(c), and it’s actually “considerations”.

COL STREIT: 42(c), thank you. So “consids” is considerations. I will
10 start again. In combination, 42(c) and (d) are:

Supporting OC 173 Special Operations Aviation Squadron with the development of considerations and solutions for fatigue management; and running fatigue management activity in support of OC 173 Special Operations Aviation Squadron during a Special Operations Qualification Course in June 2023.
15

Is that correct?

20 D19: Yes.

COL STREIT: Did MAJ James attend the Special Operations Qualification Course in June ’23, if you can recall?

25 D19: I couldn’t be certain, sorry.

COL STREIT: What you’ve said at 42(c) and (d) in terms of replicating the lines of effort from that email we took you to earlier at Enclosure 1, do you know specifically what support MAJ James was providing the OC of
30 173 for development of considerations and solutions for fatigue management in the unit?

D19: No, I couldn’t be certain of the specifics. Apologies.

35 COL STREIT: Can I take you to page 13, please? You were asked at question 28:

State when you first became aware of the DFSB Fatigue Risk Awareness Tool, when you first directed it to be used in 6 Avn, when it became mandatory (if applicable) for aircrew to use at 6 Avn, and explain where the results of each FRAT are saved, and if the results of the FRAT were monitored in any way during 2023.
40

45 You say at 45:

5 *I first became aware of the Fatigue Risk Awareness Tool in 2022. During my time in command, it wasn't mandatory policy at the unit level to complete this tool. I believe this has subsequently changed, and the updated policy, as directed by Higher Headquarters, is to use this tool.*

I'll stop there. Is what I've read correct?

10 D19: Yes.

COL STREIT: If you can cast your mind back to 2022, when you have a memory about first reviewing the Fatigue Risk Awareness Tool, or reading it and understanding what it required, and given your experience
15 at that time, looking back on assessment of your level of fatigue before undertaking a flight, did you regard it as something that – what was your opinion about the tool itself and its uses, or usefulness?

D19: I only used it for a short period of time as part of the initial sort of
20 Phase 1 associated with that sleep study. There's probably two parts to it. There is a significant amount of paperwork to get us in the air to start with. This was another burden on the crews before they could go flying, in that context. As part of that piece, that was why it was made voluntary, because I didn't want to mandate another requirement for crews in an
25 already busy workplace. I think that's a key first point there.

The nature of the tool and how helpful it was, I wouldn't say I really understood it that well because I – when I say I didn't understand it, I understood the intent behind it but hadn't used it enough to form an
30 opinion about it.

COL STREIT: At that point in time in 2022, the level of fatigue that might be experienced by a particular aircrew was essentially a consequence of two components. One is their own self-assessment.
35 Would you agree?

D19: Yes.

COL STREIT: Second is an assessment by the Authorising Officer.
40

D19: Yes.

COL STREIT: The assessment by the Authorising Officer would be limited to, would you agree, their observations of that member of aircrew
45 at the relevant time that they're authorising a flight?

5 D19: I think there's probably a bit more detail than that, as it relates to the actual nature and specifics around the suite of Standing Instructions that we have to move through, that all make reference to fatigue. So the suite of Standing Instructions imply there's about six or seven different gates where fatigue is considered in the planning and conduct of activities. Critically, self-assessment forms the cornerstone of that. And in the previous operating framework around FACE checks – Fatigue, Attitude, Complacency and External pressures – fatigue is but one element
10 associated with those FACE checks. The other three elements can equally distract someone from their primary role and task in that setting.

15 So the assessment of fatigue, while challenging in an objective sense in this context, I think the other external pressures, the attitude, complacency, can form equally safety barriers to the conduct of an activity.

20 COL STREIT: Would you consider that fatigue is something that can impact those other tests, like complacency, attitude, for example?

D19: It can do, yes. Again, not being an expert in the field, you'd need to seek someone out that would actually understand that and how that impacted the various elements, and how they interplayed together.

25 COL STREIT: What I'm really, I suppose, asking you about is you became aware, as I understand your evidence, of the DFSB-sponsored Fatigue Management Guidebook in 2022. Is that right?

30 D19: Yes, it was part of the initial investigations.

COL STREIT: As part of the sleep study process, the FRAT was the tool to be used in the sleep study process.

35 D19: Not the complete tool, just the suite of questions there.

COL STREIT: So the questions on page 35. Correct?

D19: Yes.

40 COL STREIT: Were to be used. So in that circumstance, did you see value then in this tool being used in the sleep study?

45 D19: I saw value as part of, dare I say it, a Phase 1 or an early phase, as part of it, and again, my – to take this through to reduce the workload or the burden on the workforce at that point in time, to implement another

5 piece of policy at the local level, or at any level, that required someone to do more with less, was a flawed policy from the start. So with that in mind, I suppose, if I can – apologies, sir – with that in mind, the idea that you could automate this with some of the more modern technologies around wearable devices – which I believe DFSB now provides some of those services and you can actually do that, whereas they didn't at that point in time, or at least not to my understanding. So I couldn't do any objective study.

10 So rather than expect the workforce to work harder and do more, I saw this as Phase 1 to understand ourselves, what tools are out there, what set of questions can we ask – “Is this possible?” – and then the graduate solution being to automate the thing with a set of wearable devices, as detailed in the enclosure.

15 COL STREIT: As at 2022, when you were looking at doing this study – and I understand your evidence that there was a suite of orders, instructions and policies canvassing matters concerning fatigue, so I understand that context – but focussing in on the individual aircrew that's going to go flying, the assessment about fatigue in the FACE check is an individual assessment that they make. Would you agree?

D19: Yes.

25 COL STREIT: And the Authorising Officer then also makes an assessment about that individual's level of fatigue, as required by the SI.

D19: Yes, largely informed by the crew that's going flying though.

30 COL STREIT: So based on information, if the Authorising Officer asked a question, “How are you feeling? Are you tired?”, and so on, based on a response, the Authorising Officer would then make an assessment.

D19: Yes.

35 COL STREIT: So in relation to the Fatigue Risk Awareness Tool, would you agree with me it asks four questions?

D19: Yes.

40 COL STREIT: And you just fill out a circle as to whether it's “Monitor”, “Actively monitor”, or “Caution”. Do you agree with that?

D19: Yes.

45

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COL STREIT: Then depending on what you've filled out as the circle, then gives some guidance down the bottom as to where you might be sitting, at least in terms of a level of fatigue. Would you agree with that?

5 D19: Yes.

COL STREIT: So in order to fill it out, it would only be a matter of minutes, wouldn't it, for an individual aircrew to fill this document out? Just the first page.

10

D19: Yes, in isolation. But then if I add another piece of policy across the total workforce, if everything only takes a matter of minutes, before you know it, you end up with a matter of hours. So, again, I was acutely aware that asking people to do more was a flawed piece of policy that I could implement at the local level.

15

COL STREIT: I'm not suggesting you should have implemented this at the local level in your unit. I'm just asking you about what the impost, the completion of the first page, would cost in terms of time, and I'm just saying it would be a matter of a few minutes.

20

D19: It would be, yes. I think critically, with any of these self-assessment, like, surveys, for want of a better term, they're open to individual bias as a human. So we will put down what we think needs to be there to achieve the mission, potentially. And I believe the senior psychologist, COL Martin Levey, has offered some evidence around that. Anything we ask the individual to do is open to interpretation at the individual level, and then subsequently it creates more work for them to do as individuals. I was very cautious about – as everyone should be – asking an already pressurised – poor choice of words – an already busy workforce to complete more paperwork to go and get in an aircraft.

25

30

AVM HARLAND: But the FRAT certainly has more objective measures in there, rather than just pure self-assessment.

35

D19: It does, sir, but in terms of the objective measures, whether you fill them out in an objective fashion, that's completely open to the individual.

AVM HARLAND: So people being honest about how much sleep they got, and things like that?

40

D19: Exactly, yes.

AVM HARLAND: Did you have a concern that people weren't being honest about those sorts of things?

45

5 D19: No, not at all. But, again, I'm also aware of human nature, and to bulletproof a system to make it truly objective, no, we don't ask people to report on themselves in any way, shape or form. I believe there's a series of reports that have been offered as part of this to say it's incredibly tough to self-assess in an objective fashion.

10 AVM HARLAND: Was that one of the reasons why you were contemplating the wearables, as part of getting more properly objective measures?

D19: That was the goal, yes.

15 AVM HARLAND: One other follow-on question. Did you discuss, either internally or with your Command chain, concerns about if you went down a more objective path with respect to fatigue management, that you may end up just running out of capacity at the unit because you wouldn't be able to push people to be able to achieve the mission?

20 D19: I don't think any Commander anywhere within Aviation Command or Defence writ large would push people to achieve a mission in a safety critical context. So, no, I never had those conversations about the results. My personal perspective – and I'm very careful to say that – is I would rather have the information and understand our workforce, to then
25 subsequently make better-informed decisions writ large as it relates to policy, the tempo of the unit. Without the information, it's very hard to make policy-framed decisions, as I'm sure both yourself and the Chair can agree.

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

MS McMURDO: But obviously you did recognise the importance of fatigue management in Aviation as a safety imperative.

35 D19: I think Army Aviation and Defence Aviation, all aviation writ large, certainly understands the importance of fatigue management, ma'am. This was a little bit above and beyond in an effort to get the objective detailed nature, because of some of the studies I had previously conducted.

40 MS McMURDO: Yes.

45 D19: So I saw this as an opportunity on a – I wouldn't say a grander scale, but to better inform Command at all levels, but also the workforce themselves.

MS McMURDO: So you were really being proactive in what you were doing in terms of the work with Sam James.

5 D19: Again, your words, ma'am. I won't claim to be proactive. I saw it as a command responsibility in this context.

MS McMURDO: Thank you. Yes, COL Streit.

10 COL STREIT: Noting your responses about the use of the Fatigue Risk Awareness Tool was potentially open to individual bias in completing the document - - -

15 D19: Yes.

COL STREIT: - - - how does that differ from the potential bias in a FACE check?

20 D19: It doesn't, but to replace one biased process with another biased process doesn't make too much sense in my mind, as an individual. It's open to interpretation at this point in time.

COL STREIT: Was that your view in 2022, or is that your view now?

25 D19: I was seeking to, as I said, automate the entire thing, so to speak, where we could have objective evidence. That was the long-term goal as part of the study. The interim step here was to highlight the opportunity.

30 COL STREIT: When you say "automate", what do you mean?

D19: With something like a wearable device as part of a study. And, again, it may not have been a long-term endeavour, but at least better understand the day-to-day interactions of our workforce.

35 COL STREIT: So a wearable device that an individual maintainer or aircrew would wear which would record potentially their sleep, hours of sleep?

40 D19: Yes, that would be the intention.

COL STREIT: So that cuts away the risk of potential bias in people saying they're good to go on a flight just to get the job done when they might not be good to go because they haven't had enough sleep.

45 D19: It could contribute to that, yes.

COL STREIT: There has been some evidence before the Inquiry that the Fatigue Risk Awareness Tool, the completion of it, would then provide some clearer detail about the responses an individual makes because they have to indicate their levels of sleep and so on, which would then generate a discussion with the Authorising Officer or an Aircraft Captain. Do you agree there would be any value in that?

D19: I don't know how it's being applied in the units right now, so not being close to it, having used it in an objective fashion on a day-to-day basis, I'd be cautious about providing those comments.

COL STREIT: We've had some different evidence about how it's being applied at 6 Aviation right now from aircrew, but the bottom line is that the Special Flying Instruction issued in December 2023 mandates its completion prior to aircrew going on a flight. So that's the current state of orders and instructions. But I take it from your early evidence you weren't aware that it is a mandated requirement.

D19: I believe – sorry, as part of the Inquiry I have become aware of it. The applicability of it at the unit level, I am uncertain about.

COL STREIT: Perhaps if we could just move away from the Fatigue Risk Awareness Tool for the moment? Can I just ask you about your own experiences of the impact of fatigue, which starts on page 13? You were asked to outline what shifts, if any, you were working in 2023, and the question goes on. You say:

I worked a mix of shifts and adjusted my schedule to meet the demands placed on me. It was a busy period with three lines of effort running concurrently. The first, the maintenance of short notice mission; second, the preparation for the introduction into service of the UH-60M; and third was the preparation of the withdrawal from service of the MRH-90. All of these lines of effort were related but separate. I made every effort to balance the requirements placed on both myself and the staff, including aircrew, as part of this process.

That's correct?

D19: Yes.

COL STREIT: Turning to your experiences of acute or cumulative fatigue, you don't, at paragraph 49, believe you experienced any acute or cumulative fatigue in 2023. You say that in 2024, when you handed over

command, you do remember feeling like you could do with a good break.
You say:

5 *For me, personally, and I'm sure the unit as a whole, it was an
exceptionally busy, stressful and emotionally devastating
12-month period.*

Then you have identified four things that the unit was engaged in and
achieved. That's correct?

10

D19: Yes.

AVM HARLAND: How many hours a week do you estimate that you
were working while in command?

15

D19: I actually track my hours pretty closely, sir. A couple of times I
tipped over the mandatory 50/55, which I reported to the boss and said,
"I've had a busy week", and maybe I took a late start at some point in
sharing that, dependent upon what was going on. To work a 55-hour
20 week in an objective manner, where you show up at sort of 7, you work
your 12 hours, then you leave, for five days a week is a very, very tiring
period as it relates to five, six days in a row for an extended period of
time. So I think, for myself anyway, I realised that the amount of work
required was significant, but it wasn't unachievable, I think is the best
25 way to put it. It came down to, as with everything in an Aviation unit, I'm
sure you'd appreciate, sir, everything is a matter of prioritisation.

AVM HARLAND: So would you say on average are we talking 45,
50 hours a week sort of thing?

30

D19: Command is a little bit unique in that you will get a phone call as it
relates to a variety of different matters at all hours of the night and day.
You're expected to take the call and answer appropriately. But if I
counted all of those calls and the workdays, and everything else that sits
35 around it, yes, probably 45, 50 hours a week as an Executive is probably
about right.

AVM HARLAND: Would that be similar for the other Executives in the
unit, like the Executive Officer and the Troop Commanders?

40

D19: I can't comment on their work away from the office. I can
comment on what I saw, and my perception was how full the car park was,
is the way to describe it. Quite often the car park was empty when I got to
work, and it was sort of emptying out when I left work.

45

AVM HARLAND: But surely the fact that they were working outside work would have been something you would have been concerned with or would want to enquire about?

5 D19: I was not specifically aware of people doing extended hours after-hours. It wasn't brought to my attention as a thing that needed attention, is probably the best way to put it, sir.

10 AVM HARLAND: So you weren't aware. So your expectation was they came to work, they did their work, they drove home, and then they came back and did the same thing again, with no additional work outside?

15 D19: It depended upon the context, I think. So we went to great lengths to enable flexible work arrangements – you know, DPLs, the ability to work from home as required. So my expectation was I didn't believe in a presentee-ism culture. So the work needed to be achieved. So long as the work was being achieved, you didn't need to do it at work if you didn't have to be at work. And this has resonated across our Reserve workforce and a variety of other workforce segments within the unit, and I believe it was welcomed by several individuals that I'm aware of.

20 AVM HARLAND: So that, to me, would indicate a requirement to understand what people are doing outside work, because that's part of their overall workload.

25 D19: Again, we rely on the individual to manage their own workload accordingly and/or at least highlight when it's too much, or not enough, or whatever they're facing as an individual, in conjunction with their complete life picture.

30 AVM HARLAND: Yes, that makes some sense. I understand that. Just another question, if I may, just about working hours? If you're on a deployment and you have a duty start time at, let's say, 1 o'clock, and you're actually doing work before 1 o'clock, does that constitute duty in your eyes?

35 D19: I've thought a fair bit about this exactly, when we're on call and when we're not on call, so to speak. I would liken it to phone calls before or after work. So as soon as you take a call at some point, does that mean your duty day starts? Like, it's a bit of a philosophical question, I suppose, sir. If you have a work conversation at 8 or 9 at night on the way to or from the office, are you then – does that mean your day has started? I can't answer that unequivocally. I tend to think I know what I expect of Commanders, being a Commander myself at various levels. I think any professional in our setting would be expected to care for their

people, have the tough conversation, as and when required, and then still progress with what would be a day's work.

5 AVM HARLAND: But if you have a flying duty period that's coming up, and you have rules associated with when you start work and when you should finish work because you're flying as part of that duty, and if somebody called up an individual who was going on duty and they broke their sleep, how would you deal with that? Would you consider that's actually a broken crew rest period, or would you just go, "Well, that was
10 just one of those things and we'll just crack on"?

D19: It would probably be a broken crew rest period, but in saying that, if we think about the workforce, and critically thinking about late 20s, early 30s, males and females, lots of young kids around the house, there's
15 a number of factors that will break someone's sleep in a day-to-day life, just getting by at the house, so to speak. So it may well be a work phone call that does it, but the impact could be as a product of several different factors.

20 Now, whether the organisation is placing those requirements on the individuals, I couldn't unequivocally say one is better than the other, is probably a better way to put it, sir. The outcome is still that people are under pressure of some sort.

25 AVM HARLAND: Do you think it is something that Defence could mature in, in terms of understanding how its people are being worked, and what obligations it is placing on them outside their what would be considered to be traditional duty hours?

30 D19: I think the wider workforce is grappling with a similar thing, sir, if I can be so bold? So it's not specific to Defence. I think if we extrapolated a few levels out beyond uniforms – again, a roomful of lawyers here. I'm sure they're taking phone calls after-hours and working on cases. Madam Chair, yourself, I guarantee you're working long hours
35 at the moment, taking phone calls, understanding information on the weekends, et cetera, et cetera. So how society manages that, and then Defence being a reflection of society, I think it's an incredibly complex and challenging problem. I don't begin to profess what the answer may or may not be, sir.

40 AVM HARLAND: I think the single difference, in my view in the example you've used there, is that the solicitors aren't going and they're not parading highly complex equipment at night, low level, in risky environments.

45

5 D19: Yes, but they are driving to and from work. Driving is one of the most dangerous things we do. It was where I viewed a significant amount of risk at the unit level. You know, everyone focusses on one element or aspect of an Aviation unit. We had a vehicle – sorry, a yard full of heavy vehicles, so there was a number of risks we faced in a safety critical context every single day. The management of fatigue across all aspects and work sectors was essential for me, as a CO. So I think even driving to and from the office in the current context would present as a significant risk.

10 So, again, while it may seem in this context to be something we're not thinking about – but your question about how Defence manages it, I believe it's a much broader societal question at the moment. And how society manages these kinds of risks is an increasingly challenging problem as remote work – we're all contactable all the time.

15 AVM HARLAND: Thank you.

20 D19: Thank you, sir.

AVM HARLAND: COL Streit.

25 COL STREIT: Can I take you to page 15, top, paragraph 52, please, D19? You say this:

30 *Prior to my time as CO 6 Avn Regiment, I made the decision not to fly due to feeling fatigued. To the best of my recollection, this happened three or four times in my career. One specific example was while deployed on operations. This was a tough decision, but I believed it was the right thing to do as I was supported by my Chain of Command in doing so.*

What I have read is correct?

35 D19: Yes.

COL STREIT: Where you say, "This was a tough decision", to the extent you can in this forum, can you just explain why?

40 D19: Yes, the operational outcomes. That's as far as I'll go on that matter.

45 COL STREIT: Did that mean that the mission did not go ahead, or were you one aircraft of others?

D19: I'd rather not comment in this forum, if I can, sir?

COL STREIT: Understood. Turning to the Snapshot surveys, if we can now? Still on page 15, paragraph 53. You were asked this:

5

What was your understanding of the outcomes of the DFSB Snapshot surveys 2021/22, and then 2022/23 regarding workforce fatigue, and did you take any actions to address those matters within 6 Aviation Regiment in 2022/2023?

10

You say this:

The 2022 survey was taken in around May 2022.

15 I'll just pause there. So this is the aggregated 6 Aviation Regiment Snapshot survey?

D19: It is, yes.

20 COL STREIT: Does that give you the specific – I'll start again. Does that break the results down into your sub-units? So 173, your second Flying Instruction, your Support Squadron?

D19: It does, yes.

25

COL STREIT: So you are able to see at a glance, or at least interrogate that information, which will tell you how things are performing within the same topic, but within different Squadrons?

30 D19: Yes.

COL STREIT: Continuing your evidence, you say – I'll start again, perhaps, to not confuse things. You say:

35

The 2022 survey was taken in around May '22, which was a relatively high tempo period for the unit. We had just come out of COVID and were starting to get back to travelling away again. The requirement for a unit like 6 Avn to be proficient at deploying cannot be overstated. It forms a key element of the mission for the unit. Additionally, there was a requirement to continue to develop junior aircrew in the organisation. In particular, this involved running Special Operations Qualifications Courses internal to the unit.

40

45 At 54 you say:

5 *There was a significant difference between the aircrew and
maintenance sectors in the workforce. The aircrew had better
results than the maintenance workforce. Themes of concern
across both workforce sectors were tempo, fatigue, workload,
detachment (i.e. difficulties in stopping thinking about work), and
burnout. There were some concerns about the number of
appropriately qualified people across both workforce sectors.
10 *There were some frustrations that the workforce was spending a
disproportionate amount of time training itself, rather than
providing support to Special Operations Command. The
leadership and safety considerations were both strengths across
all workforce sectors. This showed the largest positive change in
some time. Additionally, I reflected on the disproportionate
15 workload the MRH-90 aircraft system was placing on our people,
particularly the maintenance workforce.**

What I read is correct?

20 D19: Yes.

COL STREIT: So the issue that you have identified, themes of concern
across both workforce sectors is tempo, fatigue, workload and detachment
– pausing there. So this is 2022. Casting your mind back to your previous
25 postings to 6 Aviation Regiment, those themes you have identified as at
2022, were they themes that were consistent with your understanding of
earlier Snapshot surveys?

D19: I would have to go back and look at the evidence there, sir –
30 apologies – just to confirm it.

COL STREIT: Were you surprised by those being themes of concern
across the workforce?

35 D19: I wouldn't say I was surprised, but they certainly got my attention.

COL STREIT: I'll pause there. Just casting your mind back, when you
got the survey results, and immediately before the survey results, in your
mind, what did you think were going to be the key themes of concern, if
40 any?

D19: I choose not to speculate. I'll wait for the evidence to come there,
sir.

45 COL STREIT: I see. When you got these results and the themes of

concern you have identified, did those themes – were they reflective of your own observations in the workforce up to that point in time?

5 D19: Sorry, when you say – sorry, rephrase the question for me, sir.

COL STREIT: Let me put it a different way. So in your evidence in your statement you indicate the positive things you did in relation to maintaining oversight visibility, walking around the unit, talking to your crew within the Regiment, and getting a feel for how things were going.
10 Would that be fair?

D19: Yes.

COL STREIT: So in that context you would have made observations
15 about the challenges with the workforce, the workload, you've taken steps to try to affect those challenges in a way to assist the workforce dealing with those particular matters, reducing tempos, leave. All of these things you address in your statement. So you do all of those things, but then you get the Snapshot survey, 2022 May, with the key themes of concern you
20 have identified.

So in terms of synthesising your direct observations of your workforce compared to the results you get from the Snapshot survey, was there any overlap? That is, what you're observing was then reflected in the
25 Snapshot survey, or what you're getting in the Snapshot survey is raising things which you thought were under control, for example?

D19: It probably raised things I thought were under control, to use your term, sir.
30

COL STREIT: I forgot to ask you at the start about Snapshot surveys, so I'm sorry about that. What was your understanding when you took command in December '22 as to the purpose of the Snapshot surveys?

35 D19: I'd have to go back and actually look at the purpose of a Snapshot there, sir. Apologies. It's a safety metric to keep an eye on – inform Commanders at all levels exactly how the unit is performing across eight or nine different factors, from memory. Health and wellbeing, being one of them.
40

COL STREIT: Would you agree with this summary, that the Snapshot survey is a tool for Command to understand anonymous responses from their workforce against particular questions?

45 D19: Yes, that's how it's delivered.

COL STREIT: In that sense, would it be a tool that Command could use that, notwithstanding what might be their direct observations of what's happening in the workforce and what people might be telling them about how they're travelling with work, fatigue, and those types of things, the Snapshot surveys, if they cast a different picture, can be used by Command to then adjust workload, tempo, commitment to taskings?

D19: It could be, yes, as one piece of evidence as part of the decision-making process.

COL STREIT: In relation to that last response you've just given, when you received the May 2022 Snapshot results with the key themes you've identified, or key themes of concern you've identified, what did you then do with that information?

D19: I'm sorry, when you say what did I do with the information, the information itself, or a response to the survey?

COL STREIT: Your response, yes.

D19: So the regular thing for a Snapshot survey like this is we, as COs, Commanders across all units, you'll gather this evidence up. You'll provide context to it, as I've done in the statement there – you know, the May '22, critically end of COVID, getting back to regular business, so to speak. There was a lag of people coming back to the workplace. Again, societal-level issues, not just Aviation or Defence issues, getting people back in the workplace. Once you provide the context, you summarise the key findings from it, formalise that in a written response to Commanders. One up, in my case.

COL STREIT: In terms of your Squadron Commanders, you're having a discussion with them individually about the results relevant to their particular Squadron.

D19: Yes, I saw this as a key opportunity for them to understand the details of a Snapshot survey, and as part of that, engagement with psychological services – psychologist services, I should say – to assist with the interpretation of results as part of more junior Commanders' development.

COL STREIT: Turning to paragraph 55, you say:

The 2023 survey was taken just after the MRH-90 ditching event. There were multiple DACC tasks that the unit was directed to

undertake. There was also some uncertainty associated with the introduction into service of the UH-60M as it related to core states for individuals in both maintainers and aircrew.

5 At 56 you say:

10 *There were positive results in the following areas relative to previous years with respect to unit performance, continuous improvement, leadership and autonomy. I understood that this meant that there was trust in the leadership at the time of the survey. There were some weaknesses in job hindrances, things that affect delivery of capability, workload, professional standards. I was concerned about any deterioration in professional standards, so I directed my staff to further investigate the issue. Those investigations revealed that it related to the perception that we were doing more training and tasking for Non-Special Operations roles and tasks, i.e. we were not doing our core SO mission.*

20 Is what I've read correct?

D19: Yes.

25 COL STREIT: At paragraph 57 on page 16 you set out the actions you took to address the other issues raised in the surveys – workforce manning and manning issues. You've set that out at 57(a) through to (d); is that right?

30 D19: It is, yes.

COL STREIT: 57(a) you say:

35 *I identified and highlighted workforce shortages at both Commander 16 Brigade recall and Aviation Command recall. It was apparent the entire Force was in a similar state once this was highlighted to the Commander.*

40 When you say that in your evidence, when you say the "entire Force", is that a reference to the whole of 16 Aviation Brigade or is that a reference to Aviation Command?

45 D19: I'll talk to the Command as it relates to that recall, specifically at the Brigade level. The other COs were facing similar challenges, is probably the best way to put it.

COL STREIT: You took steps to engage with the Director of General Management to request additional personnel postings to the unit. You sought to identify additional personnel across all SERCATs that were seeking a posting in the local area in the first instance, and you facilitated the posting of newly graduated Lieutenants from Duntroon Royal Military College into the Headquarters, your Headquarters, in administrative roles while they awaited course commencement. Is that right?

D19: It is, yes.

COL STREIT: Just one final question on the Snapshot survey results. In relation to 2022 results – if I have this wrong, tell me – I understood your earlier evidence was that you communicated the 2022 results upwards.

D19: I did, yes.

COL STREIT: So upwards, as in to 16 Aviation Brigade?

D19: Yes.

COL STREIT: Do you recall any discussion? Do you have a recollection of having any discussion with the Commander of 16 Aviation Brigade about the May 2022 results?

D19: No specific discussion, but I will say the Snapshot survey results are analysed in a fair bit of detail across all strata of command.

COL STREIT: That was my next question, as to whether the results for 6 Avn are communicated to the Brigade?

D19: They're communicated to the Brigade and higher in an aggregated setting. I should also note as part of our regular safety days at the unit level, these results were transmitted and promulgated back into the Regimental environment as well, so everyone understood the pressures the unit was facing at the individual level.

COL STREIT: At paragraph 59 and 60 you deal with matters concerning training, cell development, and professionalisation, and an initiative that you activated in the unit. At 60 you say:

I conducted a review that revealed that the unit ran up to 18 weeks of formal training annually, creating significant pressure on 173 Squadron. I then initiated a review of the Learning Management Package, LMP, discussed below.

Just in terms of context, where you say, “I conducted a review, that the unit ran up to 18 weeks of formal training”, when is that occurring? Is that in 2022 or – your review is 2022 or 2023?

5 D19: Across the length of the course, the number of courses, I believe it was kind of the standard training time for a year, give or take. I’d have to go back and check the calendar again to get the exact details.

10 COL STREIT: Sorry, it’s probably a clumsy question. What I’m asking you is when you conducted the review that identified to you that the unit ran up to 18 weeks of formal training, do you know when you did that review yourself? Was it, for example, in the first part of 2022 or the second part?

15 D19: I couldn’t be certain exactly when that was conducted.

20 COL STREIT: The reason I ask is because there’s evidence before the Inquiry that the June 2023 Special Operations Qualifications Course was the first course where the Squadron wasn’t responsible for conducting the training; that in fact it was conducted out of the Regimental Headquarters using Squadron personnel assets. So that’s the context. Have I got that right?

25 D19: That was the intention, yes.

COL STREIT: If we reverse engineer that back in time, you must have made the decision back in time for that change to occur to the Special Operations Qualification Course in June 2023, and I’m just trying to understand when that occurred, when you made that decision.

30 D19: So the review of the course was done in conjunction with Army Aviation Training Centre, and also the Standards Branch, specific to the course. The requirement to review the course and better understand how we were training and what efficiencies could be born from the system, came off the back of an Operational Airworthiness audit. I believe I’ve attached that as one of the enclosures in the statement myself.

COL STREIT: That’s right.

40 D19: So there’s a confluence of evidence starting to build in my mind, as the Commander, that we’re training ourselves to a very high standard internally, but that’s also not leaving much time to do anything else in the background there, so it’s increasing our tempo. By understanding who conducts the training, where it’s conducted, how it’s conducted, the

effectiveness of it, we could potentially get to a better solution longer-term.

5 What this meant as part of that review was it was nearly a year long to review in total, so it was a very deliberate process. The Terms of Reference were drafted, references were taken out in terms of Operational Airworthiness audits. The specifics of the course were done. It was a tremendous body of work, and all those involved in it should be very proud of what they've done.

10

COL STREIT: So you just said a year-long review process?

D19: It was, yes.

15 COL STREIT: Does that mean the review started in order for the Special Operations Qualification Course in June 2023 to be the first course where it was run by your Regimental Headquarters and not the Squadron? Does that mean the review started in the first half of 2022?

20 D19: It would've been around then, yes. Again, I believe the issues that are in an enclosure here are actually dated and signed by some of the Standards and the AAvnTC folks.

25 COL STREIT: Last question on this matter. The 18 weeks, is that an aggregate of all training, formal training, that the unit had to do, or is the 18 weeks limited to – only incorporates Special Operations Qualifications Courses annually?

30 D19: It was only the Special Operations Qualification Courses. So the combined and joint training that is required of the unit is above and beyond that.

35 COL STREIT: You set out on page 16 and 17 particular initiatives that you engaged in concerning infrastructure and office space optimisation, workforce analysis, and long-term impact, deliberately planned and forecasted known activities, reduction of stockholdings and engagement with medical staff. That's correct?

40 D19: It is. Yes.

COL STREIT: At paragraph 65, last sentence, you say:

When I took command in 2022, I delivered a presentation in which I highlighted to the entire unit that TALISMAN SABRE '23

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was the main effort in terms of exercises that the unit would conduct so members could plan accordingly.

Is that right?

5

D19: It is, yes.

COL STREIT: The term “main effort” would be familiar to Military people, but what does it mean?

10

D19: That is the singular thing that will be the priority for a period of time, generally speaking. To break down a Military term as it relates to “main effort”, you get one really important thing each week. Philosophically speaking, from my perspective, if you get one really important thing each week, one really important thing each month, one really important thing each quarter, so therefore by breaking it down, what’s applicable and what’s important across the various time horizons, you give people an indication of not only what they’re expected to do, but what matters to them, and where they should focus their efforts on a day-to-day basis.

15

20

COL STREIT: You also say at 65, second-last sentence:

I preserved these reduced tempo periods, despite requests from Higher Headquarters for the unit to undertake an activity.

25

Is what I’ve read correct?

D19: It is, yes.

30

COL STREIT: So you had that capacity to engage with your Higher Headquarters in relation to tasks they might be asking the unit to undertake, but make a case to resist those tasks being completed in order to preserve reduced tempo periods that you’d put into the calendar for the unit.

35

D19: Yes. Probably two things. The relationship with the Higher Headquarters was very positive, and was always an open door discussion, so to speak. The second piece of the puzzle is to find a way that, yes – as a way to think about it, you might offer a scalable response. So it might be they may have asked for three or four aircraft, as an example, or three or four vehicles. We might say we can’t provide three or four, but we’ll scale the response back, or scale the task back, to still deliver the effect in a reduced fashion, therefore sparing the workforce and reducing tempo.

40

45

COL STREIT: Can I take you over the page, please? Page 18, you say in terms of you sought external support, you say:

5 *I consistently engaged with external support to reduce the burden
that would otherwise fall on the unit's workforce. For example,
bringing in qualified aircrewman instructors from outside the
unit to support the Special Operations Qualification Course. I
did the same thing with Flying Instructors for pilots. I
consistently asked Standards Section at Army Aviation Training
10 Centre to fly with the unit as part of general oversight, in addition
to performing annual flying assessments of the workforce. This
reduced the training burden of the unit instructional staff.*

Is that right?

15 D19: Yes, it is.

COL STREIT: You then have a paragraph heading in which you say,
"Only do what is necessary". At 71 you say:

20 *On several occasions I endeavoured to have external governance
activities delayed or rescheduled to reduce the burden on the
unit's time.*

25 Then you list out some of those activities. That's correct?

D19: It is, yes.

COL STREIT: When you say, "Only do what is necessary", what do you
30 mean?

D19: So there's a series of requirements, and again, everything is a
prioritisation on a day-to-day basis, so as a Commander, prioritising those
things that are absolutely necessary against those things that are nice to get
35 to, is a way to think about it. So everyone's got a list of things they wish
they had got to, but as is human nature generally speaking, at the unit
level there's always you want the option to do more or be better, as any
high performing organisation. Quite often you don't get to that because
you're busy doing the things you must do.

40 COL STREIT: Prioritising family time, you say:

45 *In response to feedback from unit members, I deliberately
prioritised social events with families over time traditionally
spent with workmates. The Force shifted to more*

family-orientated events, and none of them were made compulsory. This gave people agency with their time, allowing them to focus on things that mattered to them.

5 That's correct?

D19: It is, yes.

10 COL STREIT: Can I just deal with finishing off your evidence concerning the sleep fatigue study? You've already given some evidence in relation to this particular matter earlier. You say at paragraph 73, but on the top of page 19:

15 *I wanted to ensure Higher Headquarters approved the study and its outcomes. The study had support from Macquarie University, including financial commitments, an ethical approval, and an approved method of managing the collection of data from the study.*

20 That's correct?

D19: Apologies. Macquarie University, I'd have to go back and check the paperwork that's in the enclosure, just to confirm that that is the correct higher education establishment. For some reason, I'd need to just
25 double-check that. Apologies.

COL STREIT: Okay. Well, we might be able to do that in a break.

30 D19: Yes.

COL STREIT: I think I've certainly got a level of confidence in asking you that a university was involved, but we can check to make sure it's Macquarie and, if not, you can correct that aspect. I just want to ask you, when you say, "I wanted to ensure Higher Headquarters approved the
35 study and its outcomes", is that a reference to 16 Aviation Brigade, Higher Headquarters?

D19: Ultimately, Commander 16 was the Approval Authority for me in this instance, yes.
40

COL STREIT: Was there an initial approval by 16 Aviation Brigade to commence the initial stages of the study?

45 D19: There was, yes.

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COL STREIT: Subsequently, the approval by the Brigade for the study was removed.

D19: Yes.

5

COL STREIT: You say at 75 – this in terms of the study:

I wanted to closely track any fatigue in the unit, so I had empirical evidence to support decisions I had to manage.

10

Sorry.

D19: Sorry, sir. That's specifically relating to using Sentinel to log fatigue-related matters, so related, but separate as it relates to initiative in response to Snapshot. Apologies.

15

COL STREIT: Thank you for clarifying that. Just go back to 74. This is in relation to the survey. Is that correct, 74? Paragraph 74.

D19: I think you'll see there's a subheading there that's unnumbered, "Being prepared to walk away from activities if the workforce appeared fatigued or voiced any concerns".

20

COL STREIT: I apologise. I took that to be a sentence - - -

25

D19: Yes, sorry.

COL STREIT: No, that's fine.

D19: That's poor formatting.

30

COL STREIT: Let's return to 73 then. So that's in relation to the sleep fatigue study?

D19: Yes.

35

MS McMURDO: Just in respect of the university involved, if you look at Annexure 4, there's some emails there that talk about a collaboration with the Australian Catholic University and the Australian Institute of Sport. Does that assist?

40

D19: That sounds about right, ma'am.

COL STREIT: You wanted to ensure the Higher Headquarters – that is, Brigade – approved the study and its outcomes, and that is the sleep study.

45

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And your earlier evidence was a few minutes ago that the Brigade Headquarters approved the sleep study, but later, subsequently, that approval was removed. That's correct?

5 D19: Yes.

COL STREIT: Just jumping to that point when you became aware that the approval was removed, how did you learn of that; can you remember?

10 D19: To the best of my recollection, it was a conversation between myself and Higher Headquarters.

AVM HARLAND: Who was that at the Higher Headquarters?

15 D19: I couldn't be certain, sir. Sorry.

AVM HARLAND: Was there a reason given?

D19: Not that I am aware of, no.

20

AVM HARLAND: It was just a "Don't proceed"?

D19: The Commanders and staff at all levels face a series of pressures that subordinate units are not usually across or aware of. I don't profess to know the specifics of those pressures they were facing, or why it was knocked on the head there, sir.

25

AVM HARLAND: Okay. Thank you.

30 COL STREIT: We'll come back to the sleep fatigue study because you deal with it at page 21, but can I just finish off page 19? You there set out actions you took relating to using Sentinel in the unit to log fatigue-related matters to clearly articulate unit priorities and give evidence about approving and managing leave balances carefully. That is what is contained on page 19?

35

D19: Yes.

40 COL STREIT: You identify on page 20, at the top, the leave balances for the crew of Bushman 83.

D19: Yes.

45 COL STREIT: And at 81 you say:

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5 *I also approved all engagements with community and ADF sport. This included approving more than 20 members to attend the ADF surf camp in both 2022 and 2023, which included CAPT Lyon. I considered these activities as an excellent way to reduce fatigue in the workforce while building cohesive teams and strengthening bonds between members of the unit.*

Is that right?

10 D19: It is, yes.

COL STREIT: You also give evidence about standardising the administration of the Operational Support Roster at paragraph 82; is that right?

15 D19: It is, yes.

COL STREIT: You say this:

20 *Part of the administrative burden that Troop Commanders are carrying in the unit is the rostering of members for the short notice mission. This is done in a simple manner, with the names against a series of positions for each day of a month. There was a habit, or a culture, of moving people around, almost on a*
25 *day-by-day basis, to fill the positions to meet the mission. I saw this occurring, and the burden it placed on junior Commanders.*

I pause there. Is what I've read correct?

30 D19: Yes.

COL STREIT: When you posted in and took command in about January 2022, at what point in time did this observation you make at 82 become apparent to you?

35 D19: I couldn't put it down to a specific time there, sir. Apologies. I just know it became apparent to me at different points.

40 COL STREIT: You say:

I therefore directed that people would be allocated to manning documents in set periods only. This was a challenging decision and it had financial implications for members of the unit, but I deemed that to be a secondary issue compared with the draw on
45 *human resources that were applied to changes to the*

5 roster. CAPT Lyon was one of the more vocal members
challenging my decision. He cared for his members, and wanted
to do the best for them. He said he was prepared to continue to
make short notice changes for his people so their allowances
would be maintained. However, I disagreed as managing fatigue
risk was more important than the reduction in allowances that
resulted. I therefore directed that this was not to occur. It
remained a friction point as it was taken that I was directing that
people not be able to get all their allowances they could be
10 entitled to.

What I have read is correct?

15 D19: It is, yes.

COL STREIT: In terms of when you took this decision, when you made
this direction that people would be allocated to the manning documents in
set periods only, can you remember approximately when you made that
decision?

20 D19: I'd have to – not the specifics of the decision. Apologies.

COL STREIT: Sure.

25 D19: It may have been in late '22, early '23; I'd have to go back and
check.

COL STREIT: This might assist, or it might not. CAPT Lyon –
evidence before the Inquiry – assumed his responsibility as a Troop
30 Commander in early 2023, and that in 2022 he was the Executive Officer
for the Squadron. Does that assist you in when you might have given that
direction, because you talk about CAPT Lyon being quite vocal.

35 D19: It would likely be early '23 then.

COL STREIT: Early '23?

D19: Yes.

40 AVM HARLAND: Could you just help me understand because I read
that paragraph a number of times, and I can't decipher what you're really
talking about there, and how it would be advantageous to change people
around day-by-day? I'm mystified by it.

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D19: I'm probably – in a closed setting I'll happily get into some of those specifics for you, sir. Not really appropriate for an open forum, is my read of it.

5 AVM HARLAND: Okay. Maybe we'll put that down for the closed.

MS McMURDO: Just while you interrupted, at paragraph 79 you said only two people in the unit had excessively high leave balances. What would you call an excessively high leave balance?

10

D19: There's very clear direction about exactly what is considered an excessively high leave balance from Higher Headquarters. I'd need to go back and check the policy, exactly what that is or isn't.

15 MS McMURDO: Is that a technical term, "an excessively high leave balance"? I just thought it was an expression that you'd used in the statement, and I wondered what it meant to you?

20 D19: "Excessively" might be my word. "High leave balance" is a known term across the enterprise, ma'am.

MS McMURDO: Just looking at the leave balances of CAPT Lyon and LT Nugent, CAPT Lyon had 30 days. Does that mean it was six weeks? Like, five days is a full week?

25

D19: Yes.

MS McMURDO: So he had six weeks.

30 D19: Mm.

MS McMURDO: No, that's my maths. Yes, six weeks. And LT Nugent had more than nine weeks.

35 D19: Yes.

MS McMURDO: That seems pretty high to me, nine weeks, especially. Even six weeks, in the context where people seem to be very keen to make sure that leave balances are kept down and people are taking their annual leave because it's needed.

40

D19: I'd have to go back and check the posting cycle, but I believe LT Nugent posted in in '23, from memory – late '22, early '23. I'd have to double-check that again. So when people post from one unit to another, they take, as you would expect, ma'am - - -

45

MS McMURDO: Sure.

5 D19: They carry their leave balances forwards.

MS McMURDO: Of course.

10 D19: It's always a challenge, because as members of Defence, we're very fortunate, we get taken care of with respect to leave and conditions.

MS McMURDO: And I imagine that a lot of people want to build up their leave so they can have overseas holidays, for example.

15 D19: A very good example, ma'am, yes.

MS McMURDO: Okay. Thank you.

20 COL STREIT: I'm about to move to a different topic, and I note the time of just over an hour and a half.

MS McMURDO: It might be a convenient time. We'll have the mid-morning break. Thank you, 15 minutes.

25 COL STREIT: Thank you.

HEARING ADJOURNED

30 **HEARING RESUMED**

MS McMURDO: Yes, COL Streit.

35 COL STREIT: Thank you, Ms McMurdo.

40 Something that Counsel for the Commonwealth brought to my attention – I'm grateful for that – I haven't asked you just to look at the pseudonym list, just to confirm that D19 is you.

D19: Yes, it's me.

MS McMURDO: That's a relief.

45 COL STREIT: I had a level of confidence, but - - -

MS McMURDO: We would all be in a lot of trouble otherwise.

D19: What would you have done if it wasn't?

5

COL STREIT: I would have done some tap dancing. So, D19, now we've settled that, can I just take you to page 20, please, of your statement at paragraph 83? There we deal with some questions concerning the 6 Aviation Regiment sleep study 2022/23. At paragraph 83 you say, second sentence – sorry, I'll read the first.

10

After taking command of 6 Aviation Regiment, I wanted to understand as best I could the pressures on the unit so I could manage them appropriately. To that end, I reviewed historical Snapshot surveys that had been undertaken in the previous years to obtain member feedback. It appeared to me that fatigue was an issue for the unit. I therefore took it upon myself to set up a study in conjunction with the Special Operations Training and Education Centre. I consulted widely, and researched the topic at length. My assessment was a sleep study conducted by volunteers in the Regiment could inform fatigue policy not just from the unit, but more broadly.

15

20

Is what I've read correct?

25

D19: Yes.

COL STREIT: At 84 you say:

30

35

40

I therefore drove this initiative as I considered it to be a meaningful response to what I had read in the Snapshot surveys. I directed my staff to investigate what was possible to better understand the workforce pressures (fatigue), so that they could be managed to the best extent practicable. The support from the Regiment and SOTEC, medical staff, the Australian Institute of Sport and the Australian Catholic University was significant. While fatigue can have several causes, it was apparent to me from reading the DFSB Fatigue Management Guidebook Version 1 that poor sleep contributed to more than 41 per cent of fatigue issues. I therefore believed that understanding the unit's sleeping patterns to be a reasonable place to start to understanding how workplace pressures might be managed to the extent they were contributing to a lack of sleep.

45

Is what I have read correct?

D19: Lack of sufficient sleep.

5 COL STREIT: Lack of sufficient sleep. Thank you. Paragraph 85, you describe writing to Commander 16 Aviation Brigade, telling him what you were going to do, and why you were going to do it, and you then followed up with a Phase 1 report on results.

10 *The report highlighted the low reporting rates; approximately one-third of the Force from the voluntary study. This demonstrated the need to get more consistent and accurate data on the unit by automating the process, rather than leaving it up to the individual to complete paperwork. To achieve this, a plan was prepared that included costings, ethical approvals, support*
15 *from partnering universities, and the SOTEC. The impost on the unit would have been minimal. In real terms, the unit members just had to wear the device and everything else would be left to the professionals to undertake the study.*

20 Is what I've read correct?

D19: Yes.

25 COL STREIT: At 86 you say:

I wrote to the Brigade Commander on three separate occasions highlighting the plan, with an interim report and the way ahead. In the end, I was told not to proceed.

30 Is that right?

D19: Yes.

35 COL STREIT: When you say "I was told not to proceed", who is telling you that?

D19: It would have been someone from Brigade Headquarters there, sir.

40 COL STREIT: Paragraph 87 you say:

On about 28 Feb 2023, I wrote to Commander 16 Aviation Brigade to advise him that the unit would be committing funds in accordance with the plan at Enclosure 2. Enclosure 4 highlights the intent to support a broader effort within Aviation Command.
45 *In a subsequent conversation with the Brigadier, he told me that*

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5 *he wasn't sure what we would learn, anything additional to what
was already known about sleep and fatigue. I was informed that
a decision had been made to not commit funds to the study. The
unit didn't have a budget to allocate to this activity, so we ceased
pursuing the study. I didn't view this as a complete setback as
some work had been done, and there was always the opportunity
to recommence in the future.*

10 Is what I've read correct?

D19: Yes.

15 COL STREIT: When you spoke with the Brigadier, that's a reference to
BRIG Dean Thompson, the then Commander of 16 Aviation Brigade. Is
that right?

D19: I don't remember speaking with him, but I do remember writing to
him – sorry, unless I specifically mention it there in my statement?

20 COL STREIT: Yes. So the second sentence, 87, you say, "In a
subsequent conversation with the Brigadier".

25 D19: Yes, sorry. Yes, it would have been the Commander 16 Brigade at
that point in time.

COL STREIT: "In a subsequent conversation with the Brigadier", that's
a reference to BRIG Thompson.

30 D19: Yes.

COL STREIT:

35 *He told me that he wasn't sure what we would learn, anything
additional to what was already known about sleep and fatigue.*

D19: Yes.

COL STREIT: Do you remember where the conversation occurred?

40 D19: No, I don't.

COL STREIT: Do you know if it was on the telephone?

45 D19: I couldn't be certain, sorry.

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COL STREIT: Your recollection is having a conversation, and he communicated to effect the words you've just described?

D19: Words to that effect, yes.

5

COL STREIT: Your unit didn't have the money to independently fund the study, so you weren't able to pursue the study. Is that correct?

D19: The unit had a budget, but to allocate it to this kind of thing wouldn't have been an appropriate use of funds at my level, as the Commanding Officer.

COL STREIT: When the Brigade Commander, your recollection is, told you he wasn't sure what we would learn, anything additional to what was already known about sleep and fatigue, do you recall whether you accepted that response from him, or did you repechage it with him and set out those things the sleep study could achieve?

D19: Again, the document that I wrote to the boss about at that point in time was pretty clear. He clearly had a set of pressures, or an understanding that I did not of an operating context, one level up, so I chose to accept that that was his decision and just get on with it.

COL STREIT: Paragraph 88, you say:

I note that while it didn't offer it at the time, DFSB now offers these services to flying units.

D19: Yes, that's my understanding.

30

COL STREIT: When you say "services to flying units", what's that a reference to? What do you mean?

D19: Sleep studies, and studies of this nature, and specific operating contexts.

35

COL STREIT: And using wearable devices, is that what you are referring to?

D19: I believe so, yes.

40

COL STREIT: The second part of that last sentence in 88 you say:

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I am encouraged by the fact that we are on the right track in the ADF to tackle fatigue in a scientific manner, in a context-specific way.

5 Is that your view now?

D19: It is when I look at the services that institutions and departments – sorry, departments, sections, organisations like DFSB are offering. Yes.

10 COL STREIT: Can I turn the page – or can you turn the page, please, to page 22? There, you describe that – in paragraph 89 you were asked the question:

15 *Outline any other steps you took, or directed to be taken, to monitor aircrews' sleep/work/rest patterns at 6 Aviation Regiment 2022/2023, and the result of that work.*

You say this at 89, in part:

20 *Noting the effort outlined above to record the sleep/work/rest cycles of the workforce, I chose to apply the existing policy in a methodical and rigorous manner. My perception at the time was that to introduce more governance requirements before flying would increase the already significant administrative workload on the Force. The policy at the time had been in place for several*
25 *years, and was well-known and understood. It was the agreed position across all of Aviation Command, and as such, I decided not to distract the workforce any further from their primary tasks. I continued to reinforce the regular update briefs and*
30 *safety days, that members of the unit were to log any occurrences in Sentinel if they considered them to be fatigue-related, to continue to grow the body of evidence in an objective manner.*

35 Is what I've read correct?

D19: Yes.

40 COL STREIT: Is the Inquiry to understand that after the decision was communicated to you by Commander 16 Aviation Brigade that the sleep study would not be funded, that your position was to then not introduce any additional governance requirements for your unit, but simply to apply the extant safety framework imposed by Aviation Command?

45 D19: Yes.

COL STREIT: Can I turn to the question about using human factors psychological support services? You were asked to outline any human factors support services provided to 6 Aviation Regiment in 2022/23 to assist with identifying, monitoring and alleviating workforce fatigue, and the reasons those services were provided. At 90 you say:

The unit fostered a strong relationship with external psychological support. This included both Command-level psychologists and organisational human factors-level support.

To the best of your recollection, the SO1 Command psych visited the unit on one occasion in 2023 to oversee the conduct of the SOQC. So SO1 Command psych in 2023 was LTCOL Vanessa Jordan; is that correct?

D19: Yes, it was.

COL STREIT: In the context of LTCOL Jordan's visit on one occasion in 2023, you understood it to be like an audit to gauge the unit tempo and understand some of the difficulties the unit faced.

SO1 Command psych is capable of moving about the unit and seeing things I don't see. They offer a unique perspective on the unit and what is going on. I always found the third party perspective to be valuable during my time in command. They offered a unique perspective on things.

Is that correct?

D19: It is correct, yes.

COL STREIT: Do you recall anything specific that – again, casting your mind back a little bit here, and if you don't recall, please say so – but do you recall anything specific LTCOL Jordan provided you by way of feedback after that visit?

D19: Nothing specific, no.

COL STREIT: Was the visit in the first half of 2023, to your recollection, or the second half?

D19: Sorry, to be clear, so I believe she would've been in and around the unit post the incident, and the visit, this Command – I wouldn't say Command-level visit, but in her capacity as SO1 Psychology for the

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Command, this would've been an oversight visit, just to get a feel for what's going on in the units.

5 COL STREIT: Yes, sure, but do you recall whether that - - -

D19: Sorry, the first half of '22.

COL STREIT: First half.

10 D19: Sorry, '23. Apologies. The first half of '23.

COL STREIT: Thank you. So to your recollection LTCOL Jordon visited the unit prior to the deployment of 173 on TALISMAN SABRE?

15 D19: Yes.

COL STREIT: Can we turn now to the engagement between Headquarters 6 Aviation Regiment and the 173 Squadron, which is on page 23 of your statement? You were asked to describe broadly any discussions you had with D10 in 2022/2023 about the impact of workload and fatigue levels within 173 Special Ops Squadron, and the outcomes of such discussions. You say at 93:

25 *I would regularly talk to all OCs about the amount of work the Regiment was undertaking. This was done both in formal settings, Commander update briefs, and informal settings, where I would move around the Regiment and drop in to see what the tempo was like. In my experience, there is plenty to be gained by exercising command curiosity, and actively seeking to engage the*
30 *workforce in the workplace as the CO.*

Is that correct, what I've read out?

35 D19: Yes.

COL STREIT: You then say:

40 *One example of an outcome was my decision in May 2023 not to run the Special Operations Qualification Course after TALISMAN SABRE. In discussion I had in about May 2023 with D10, he was adamant that the training of the Force is necessary to grow the depth of the Force ahead of the transition from MRH to UH-60M. I disagreed with him on this matter and told him to inform the workforce that there wasn't going to be an SOQC after*
45 *TALISMAN SABRE '23.*

5 *I was most concerned to implement a deliberate reduced tempo period to rest the Force after what would be a busy period conducting TALISMAN SABRE '23. The operations calendar was one of the principal mechanisms I had to reduce the tempo of the unit. This is one such example where I decided to remove an activity from the calendar to reduce tempo and enable the Force to refresh before it started to commence the transition to UH-60M, which would be demanding of their time.*

10

Is what I've read correct?

D19: Yes.

15 COL STREIT: When you say the last sentence, last line, where you talk about reduce the tempo to enable the Force to refresh before it started to commence transition to UH-60M, the reference to "the Force", is that a reference to 173 Squadron?

20 D19: The entire unit at that point in time.

COL STREIT: Just to ask you this. At the time in 2023 I understood your earlier evidence that the single flying Squadron you had on MRH-90 was 173 Squadron. Is that correct?

25

D19: Yes.

COL STREIT: The other flying Squadron – is it 171?

30 D19: Yes.

COL STREIT: Thank you. The other flying Squadron 171, it was engaged in transition training to the new Black Hawk.

35 D19: It was.

COL STREIT: That transition training for that Squadron had been ongoing since you mounted command in January 2022?

40 D19: Yes.

COL STREIT: And 171 Squadron didn't deploy on TALISMAN SABRE. Correct?

45 D19: They did not.

COL STREIT: So when you're talking about reducing the tempo of the unit, and enabling the Force to refresh before it started to commence the transition, post-exercise TALISMAN SABRE was it intended for
5 173 Squadron to transition to the Black Hawk?

D19: It would have commenced, yes, and when I say "commenced", it would have been along the lines of individuals moving to conduct various training serials and courses, both domestically and also overseas.
10

COL STREIT: At paragraphs 94 onwards to 97 you answer the question:

Provide details of what training, if any, 6 Avn Regiment received up to 28 July concerning workplace fatigue management.
15

You identified it is as a requirement for all members to undertake annual mandatory fatigue training on ADELE. That's right?

D19: It is, yes.
20

COL STREIT: That mandatory fatigue training, do you remember what it was? Like, how long it went for?

D19: I couldn't remember the specifics. Apologies.
25

COL STREIT: You say "annual mandatory fatigue training", so that's just an annual requirement to complete that training. Correct?

D19: Yes.
30

COL STREIT: ADELE is a computer program accessible via the Defence network where you just simply log on and step through whatever the training course requires?
35

D19: Yes.

COL STREIT: So it's a tick and flick course, in the sense you're given some guidance, you might be asked a question or two, you have to answer the question, and if you get it right you then get to progress to the next level, or you complete the course?
40

D19: I'm uncertain that the mandatory requirements being referred to as a tick and flick course would be viewed positively. So the training is delivered online, part of the Defence Learning Environment. The course
45

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is pretty detailed, is my understanding from memory, without going into the specifics of it.

5 COL STREIT: Okay. But you can't recall now - - -

D19: It wasn't delivered by an instructor, no. It was online training.

10 COL STREIT: It was online training. But you can't recall, if you sat down and did the training, how long it would take you to complete the training?

D19: Yes, I can't remember. Apologies.

15 COL STREIT: It's not something that would run the day though. That would not be your recollection, I take it?

D19: I wouldn't expect so, no.

20 COL STREIT: You say at 95:

All aircrew must undertake NTS.

What's "NTS"?

25 D19: Non-Technical Skills.

COL STREIT:

30 *And Aviation Medicine training periodically, which includes fatigue management.*

That's what you say at 95. When you say "periodically", what does that mean?

35 D19: Both NTS and Aviation Medicine have a flying currency associated with them as part of the Top 8. I'd need to go back and review the policy, exactly how often those two courses need to be run.

40 COL STREIT: If it assists, would it be an annual requirement or something that exceeds – you know, once every 12 months, or once every two years?

45 D19: Annual sounds about right. But, again, I'd need to go back and have a look at the policy and see what was written down, just to confirm it.

COL STREIT: Non-technical skills, in the broad, what's your understanding of what non-technical skills covers?

5 D19: It's broad ranging as it relates to things not associated with the technical nature of flying. So in terms of – sorry, the microphone. In terms of non-technical skills, it's how you communicate in a cockpit environment. Things like that basically. Fatigue would be part of that. Fatigue awareness, understanding fatigue, as part of that process. Again,
10 the delivery of the course and exactly what was in the Learning Management Package, I'd have to go – I'm sure someone, somewhere submitted it as evidence. I'd have to fish it out and confirm that for you.

COL STREIT: You had to undertake this training, I take it?
15

D19: Yes.

COL STREIT: You also say at 96 at safety days, which occurred twice a year at the Regimental level, in addition to other safety days held at the
20 Squadron, you would always talk about fatigue and how we manage it at the unit level.

As part of these discussions, I made it very clear that there was a requirement for the individuals in the unit to take responsibility for their own fatigue management. On each occasion, I said words to the effect, "Fatigue is partly an individual's responsibility. I will continue to listen to the Force, and make changes where we need to, but I need the evidence to do this. Reporting of fatigue-related matters will help me get the evidence to make positive changes to policies".
25
30

Is that correct?

D19: Yes.
35

COL STREIT: You say:

While Command has a responsibility to ensure that evolutions are planned in such a way as to give individuals sufficient time to have appropriate rest between flying operations so they're not fatigued, individual responsibility is fundamental to fatigue management. This is highlighted in the Standing Instructions Operations, Standing Instructions Safety, of all the DFSB fatigue-related material, particularly on the FRAT that the unit was trained on in 2022 as part of the sleep study.
40
45

I just pause there. Is what I have read correct?

5 D19: Yes, it is. I'll make one correction though.

COL STREIT: Sure.

10 D19: With respect to the FRAT training, it wasn't a deliberate mechanism where we took it upon ourselves to train in the FRAT tool. It was more as a by-product of us engaging in the sleep study, the Phase 1 of that.

COL STREIT: But that would only concern volunteers in the sleep study, wouldn't it?

15 D19: Yes.

COL STREIT: When you say, "Particularly on the FRAT that the unit was trained on in 2022", I understood your earlier evidence the unit wasn't trained on the FRAT in 2022, it was only used in relation to those participating in the sleep study.

20 D19: So, yes, the specific questions, how to use the questions, and what part of – the document itself that they were part of was something we actually – everyone conducting it was aware of in broad terms.

COL STREIT: Sorry, it's my error.

30 D19: Apologies. No, that's okay.

COL STREIT: I've lost you there. I'll just ask you these questions. As at 2022, the Aviation Fatigue Management Guidebook is brought to your attention, the Fatigue Risk Awareness Tool is brought to your attention. You've been advised that it should be used as part of the sleep study, and then Part 1 of the sleep study occurs where people are volunteering to participate in the sleep study, including using the Fatigue Risk Awareness Tool; is that correct?

40 D19: The questions in the Fatigue Risk Awareness Tool translated into another mechanism, but not specifically referenced as the FRAT questions. So the intent of the document was used as the basis for the study, but the document itself was not used.

COL STREIT: When you say that the FRAT – particularly on the FRAT, that the unit was trained on, or the unit – is that evidence not correct because the unit wasn't trained on the FRAT in 2022?

5 D19: So it had no specific training, but it was a discussion about what the document was. So, yes, as it is read there, the unit was not trained in 2022 as part of the sleep study. So that is my mistake. Apologies.

COL STREIT: That's all right. That's okay. So where it says,
10 "Particularly on the FRAT, the unit", that should be read as, "Particularly on the FRAT, that the unit was not trained on in 2022". So it's just an error.

D19: Yes.
15

COL STREIT: At 97 you say:

*I would consistently empower individuals to make the right choice with respect to fatigue. This was highlighted when
20 OC 173 made the choice to not continue with a night mission as part of the Special Operations Qualification Course in 2022. He reported this to me, and I congratulated him on this decision. I did this personally, and then in public forums, to illustrate what a good decision looks like and how it is indicative of a generative
25 safety culture.*

That's correct?

D19: Yes.
30

COL STREIT: Just turning briefly to where you say at 98:

*As outlined above, the SO2 psych was engaged to train the flying Squadron on fatigue. He visited the unit several times in
35 2022/2023 and provided advice and counsel to the workforce on fatigue.*

Just in relation to that aspect of your evidence, the reference to SO2 psych is a reference to MAJ James?
40

D19: Yes, it is.

COL STREIT: When you say "was engaged to train the flying Squadron on fatigue", what training was he engaged to do, that you can recall?
45

D19: He was assisting the OC 173 in a direct command relationship at the sub-unit level around fatigue and fatigue awareness. The specifics of the training, as it relates to set training methods, and mechanisms, and courses, I couldn't be certain. Apologies.

5

COL STREIT: So your recollection, he visited the unit several times in 2022 and 2023 and provided advice and counsel to the workforce on fatigue. That's your impression?

10 D19: Yes.

COL STREIT: Just turning to serviceability of the MRH-90 and whether or not it impacted 6 Aviation Regiment 2022/2023, you say this at 99:

15

MRH was a difficult aircraft to maintain. The databased maintenance it required meant that even if the aircraft was not flown there was always maintenance due. In saying this, 6 Avn Regiment was fortunate in that we had the bulk of the spares and, as such, we were able to keep most of our aircraft serviceable. The availability of parts, in addition to a well staffed and capable contracted workforce, meant that serviceability was rarely, if at all, an issue that prevented the Regiment from meeting its operational or training outcomes.

20

25

Is that correct?

D19: Yes.

30 COL STREIT: There has been some evidence over the course of the Inquiry that the serviceability of the MRH-90 did impact its available hours to be flown, and impacted 6 Aviation Regiment in that regard, but your view, at least insofar as 2022/23 is concerned, is that the serviceability was rarely, if at all, an issue that prevented the Regiment
35 from meeting its operational or training outcomes.

D19: At my level, at the CO's level. There were some frictions at the Squadron level as it relates to the serviceability of a machine getting going for a mission. You always needed a few spares – a spare aircraft as a
40 minimum – to assure the outcome. Now, in saying that, we were very fortunate at the unit purely because we were prioritised for spare parts generally. We had an incredibly capable and well-resourced contracted workforce that assisted us with any ongoing maintenance.

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COL STREIT: Your maintainers though were impacted, were they not? Just looking at paragraph 100 of your evidence.

5 D19: They were, yes, and that's reflected in the Snapshot from both '22 and '23, when you look across the workforce segments. So while we're focussed on aircrew here at the moment, the maintenance workforce, in addition to GCMS and GCAS – so the other two workforce segments in there – actually highlighted fatigue as being a significant issue as it relates to ground-based trades.

10

COL STREIT: You said two acronyms there.

15

D19: Sorry, Ground Crew Aircraft Support, and Ground Crew Mission Support.

COL STREIT: Are they civilian contractors?

20

D19: No, they're green uniform workforce members. Again, at the CO level, I was watching, in conjunction with Commander 16 and Higher Headquarters, the fatigue across the total workforce in a fair bit of detail.

COL STREIT: You say in answer to question 39:

25

Describe whether you think there was a culture at 6 Aviation Regiment of aircrew being honest about their fatigue levels in 2023 and feeling comfortable to disclose that they were too fatigued to fly, even if their exit from a sortie would compromise the ability of other colleagues to complete their training requirements.

30

At paragraph 101 you say:

35

I believe that aircrew were honest. They were never backwards in coming forwards with their concerns. An example of this was when an instructor chose to exercise the right to obey my open door policy. He came in unannounced and said he had a safety concern. I stopped what I was doing immediately, listened to his concern, and took action about the discussion to remediate the issue. The Unit Standards Officer and Standards Warrant Officer would also do the same thing with the Safety Officer regularly. I consistently sought their counsel on a number of different matters to check my own perceptions as the Commander at the time.

40

Is what I've read correct?

45

D19: Yes.

COL STREIT: Just in relation to your earlier evidence about individuals doing a FACE check, and potentially filling out the FRAT, with their responses potentially being infected by bias, how do you – I'm just trying to reconcile that evidence that you gave with what you've said in your statement, that you believe aircrew were honest?

D19: So I think - - -

MS McMURDO: Just following up on that question, do you appreciate there's a difference between honesty and reliability?

D19: Well, I think there's a difference between our internal bias and honesty, ma'am, if I can be so bold?

MS McMURDO: Yes, and unconscious bias and honesty.

D19: Absolutely. So in direct response to the question, do I believe the crews are honest? 100 per cent. So I have complete faith in them as humans and individuals. Do I think our own internal bias – to your point, ma'am – I believe that is something that we as humans, it's frailty within our nature.

COL STREIT: I ask the question broadly so I'm not putting words in your mouth about unconscious bias as it can mean different things to different people, but what do you mean when you say "internal bias"? What does that mean?

D19: Well, jeez, here we go. I'm not a psychologist, so I'm careful to not go into any of this territory. Do I think people can get past their own perception of themselves in a philosophical sense as it relates to psychology? It can be tougher for some individuals than others. Do I think people are being honest as they perceive the world? Absolutely I do.

So, again, the trust within the workforce, and my willingness to listen to and trust them with the information they're presenting me, I have no choice as a Commander but to trust them. If we lose that trust between command/subordinate relationship, there's bigger issues in the unit environment.

So with that in mind, the evidence – not the evidence – the information I was presented at that point in time that people were offering me, notwithstanding some of the Snapshot pieces you've highlighted there a

second ago – people were honest with myself and each other, is my perception of it.

5 COL STREIT: Just focussing on you, and not putting the aircrew and your unit, or the maintainers to one side, but just the internal identification of the risk of bias impacting your internal assessment of, let's say, fatigue in circumstances where you might be responding to your superior
10 Commander or an Authorising Officer for a flight, you might be honestly responding to say, "You're good to go" – that is, in terms of a FACE check – but internally you're exposed to an internal bias that your body is telling you you're tired, but internally you're reconciling that by saying, "No, I may be a bit tired, but I am good to go. So I'm good to go, and that's what I'll tell the boss".

15 MS McMURDO: Because you don't want to let people down. You don't want to let the organisation down. You want to get the job done because that's what your group of people do.

20 D19: I don't think that's what the group of people do, if I can be so bold, ma'am, and the reason I say that is that safety – to a point where anything that relates to safety, and everything in an Aviation unit is a safety critical environment – safety is the bedrock on which we sit. The level of training we go through as it relates to fatigue, fatigue management, and awareness of ourselves, is extensive relative to a lot of other areas in broad terms.
25 How we get past our own internal biases to be honest within ourselves – not just ourselves, but also those around us – can be very challenging at the individual level.

30 A way that I did this personally as a Commander was to seek external third parties to come and check on the Regiment, check on the unit, check on its goings on. The suite of audits and reports was another mechanism that assisted me with respect to my own internal bias as a Commander and what I was seeing on the ground. It's a mechanism, and my perception is that this was occurring at the sub-unit level as it relates to external third
35 parties, instructors, psychologists coming to assist OC 173 at that point in time.

40 COL STREIT: In circumstances where you're dealing with, in one sense fortunately, a motivated force of people to get the job done and achieve a mission, in that context, in those circumstances where they're being asked to make an assessment on their FACE – Fatigue, Attitude, Complacency – I always forget the "E". What's that?

45 D19: External pressures.

COL STREIT: External pressures. They're being asked to make that particular assessment internally that they're good to go. In that particular context, how could the system deal with the risk of internal bias so it's getting accurate information about whether a person is actually good to go on the mission?

D19: Are you asking me for an opinion as the Commander of that unit about what I would have done differently?

COL STREIT: No. No, I'm just asking you to – let me put it this way. You've given some evidence – this is not about honesty of the workforce, right.

D19: Sure.

COL STREIT: You've given some evidence about the issue of internal bias an individual has to grapple with, make an assessment, and tell their boss in relation to a question, a FACE check. "You're good to go on this mission. You need to tell me because I'm about to authorise you on a flight. Are you good?" "Yes, I'm good to go." In the circumstances of a motivated Force, wanting to achieve the mission for the organisation, and all of those attributes the Military needs, balancing the risk of internal bias infecting that individual's decision-making about what they tell their boss – not amounting to dishonesty, just telling them they're good to go and maybe they shouldn't go, objectively. How does the system grapple with establishing orders, instructions and policies to deal with that matter?

D19: I actually don't have a good answer for you. Apologies. My gut feel is education is where this would start, and a certain humility across the workforce to understand ourselves in the operating context we currently live in. Beyond that, I think you're clutching at straws to try and legislate that, if I can be so bold as to say that's the case.

COL STREIT: Well, one way of dealing with it insofar as 2022, it seemed you identified was to seek empirical and objective data by reference to a sleep study with people wearing a device that would give a certain amount of information.

D19: That is one mechanism as it relates to only – as the Fatigue Management workbook says there, it's only 41 per cent of the issue. The other 59 per cent of the issue, that we don't have a really good answer for yet, at the moment, so I'd be cautious about trying to write rules that legislated human nature in that sense.

COL STREIT: Can I just ask you to look at the Fatigue Management Guidebook, please? You'll see up the top, on page 32, it says:

5 *Self-identification of fatigue risks. Individuals are not good*
judges of their own level of fatigue-affected performance. Research has demonstrated that without training, humans are
quite poor at determining their acute level of fatigue. However,
10 *validated tools such as the Samn-Perelli Scale increase the*
reliability of self-assessment. The DFSB Fatigue Risk Awareness
Tool, which incorporates the Samn-Perelli Scale, is an example
of a decision-making aid when determining fitness for duty. The
tool is designed to enhance individual awareness and to promote
supervisor engagement. In all instances, the self-identification
15 *should promote the development of appropriate risk management*
that takes into consideration the nature of scheduled tasks and
available control measures.

Just in relation to that particular matter, and dealing with the risk of
internal bias or unconscious bias you've given some evidence about,
20 would not completion of the Fatigue Risk Awareness Tool assist in
improving the accuracy of information provided to Authorising Officers
for flights, or the Chain of Command about an individual's fatigue
risk? Would you agree with that?

25 D19: It could, yes. I think critically, at the very start of it there it
specifically mentions – and you read this out a second ago – “Research
has demonstrated that without training humans are poor”. So if we step
back one and we say that our Force is well trained, and they understand
the risk and themselves, they can become better at this. So I think that's a
30 key statement to understand, that if we train the Force to a very high
standard as it relates to fatigue – which, again, without having the
references to hand, I believe our fatigue training is pretty good, generally
speaking, that we're probably better than the average Joe in population,
for want of a better way to put it – so once we train the Force as it relates
35 to fatigue, fatigue awareness, fatigue management, to the right standard,
the scale may offer a way to subsequently increase the objective nature of
the assessment, but the training itself is actually the nub of the issue.

COL STREIT: Sure. And I read the whole section out to you because it
40 incorporates the issue of training, and you've identified training to the
right standard, and that's probably the million dollar question. What is the
right standard?

D19: Martin Levey, as an example of someone that I know in that space, would be able to provide an expert opinion to exactly what is about the right standard for a workforce such as ours.

5 COL STREIT: But the reality for you as the CO insofar as 2022/23 is concerned, the right standard is something that's determined above you by Aviation Command in its orders, instructions and policies, aligned against whatever requirements in the DASRs.

10 D19: Yes, that's a fair assessment, notwithstanding as Commanders at all levels we reserve the right to train to a higher standard above and beyond what is mandated.

15 COL STREIT: Sure. At paragraph 102 you say:

In all my conversations with crews across the unit environment when visiting deployed members with the Force, as part of training activities or on a DACC, no one ever indicated to me that they had any concerns about fatigue. My sense is that while they would do what was right for the unit at some expense to themselves, then this is what service is. I'm of the firm belief they would never jeopardise their own safety and that of others by flying when too fatigued to do so safely. Given the regular training aircrew had on fatigue and safety, and my regular exhortations to them that safety came first, and my encouragement of them to be open and honest with me, I was confident they all knew that safety was the bedrock on which the capability of 6 Aviation Regiment sat.

30 Is that correct, what I've read out?

D19: It is, yes.

35 MS McMURDO: Given your caveats on internal and unconscious bias, do you mean that you were of the firm belief they would never intentionally – obviously they wouldn't intentionally jeopardise – knowingly jeopardise?

40 D19: I believe so, ma'am, yes.

MS McMURDO: Knowingly. So is that a qualification that needs to be there, really, given what you've conceded about internal bias and human frailty?

D19: Look, I think if we start the conversation with people are doing things knowingly or unknowingly, it's again a very dangerous place to start the conversation, ma'am. So with that in mind, do I think people are doing the right thing, and are trying to do the right thing every day they show up to work? Absolutely I do. Do I also think that people would never jeopardise the complete Aviation safety system in any way, shape or form if they thought there was an alternative choice?

MS McMURDO: Thank you.

COL STREIT: One of the issues the Inquiry needs to consider is, putting to one side whether anyone would knowingly risk or knowingly cause a safety risk – just putting that to one side for the moment – is the extent to which individuals recognise a risk of fatigue impacting their performance, and when they realise that, and then what they do with that realisation; in other words, communicating to the Chain of Command. So in circumstances where – we've come back to the DFSB Snapshot survey, May 2022 – you were receiving information which shows that the key themes of concern you've identified in your evidence are extant in the workforce, against what you're observing on the ground. Did you consider at that point in time that the workforce is demonstrating that it's not a good judge of its own levels of fatigue?

D19: I did not consider that, no.

COL STREIT: On page 25 you were asked the question:

Noting that fatigue management is both a Command and individual responsibility, outline how you, as the CO, filled your responsibilities to manage aircrew fatigue.

You set out particular matters there at paragraph 103 through to paragraph 107; is that right?

D19: Yes.

COL STREIT: At paragraph 106 you say:

When the unit was directed to provide support for various national emergencies, I selected a Force from across the entire unit to spread the workload where appropriate. In particular, I tried to not burden 173 Squadron. This often meant that key administrative tasks were delayed or not completed. I briefed Higher Headquarters on this, and they consistently supported my decisions with respect to these matters. The balance of managing

the fatigue of the workforce whilst supporting the nation during periods of national crisis was always a challenge.

Is what I've read correct?

5

D19: Yes.

COL STREIT: When you say, "Was always a challenge", why do you say that? Why was that the case?

10

D19: I think you'll agree that a short notice task of any nature in an already fully planned out calendar during the year becomes a prioritisation effort, so therefore you need to go back and rejig the rest of the year appropriately. As it relates to tasking, the specifics around the Force, the timeframe associated with the Force, I'm probably getting into a Closed Hearing around some of the more challenging aspects associated with that.

15

COL STREIT: I may know the answer to what your evidence is going to be, but we need you to give the evidence, that's why I asked the question.

20

D19: I understand.

COL STREIT: But we'll do a little bit more in the Private Hearing.

25

D19: Sure.

AVM HARLAND: Just a clarity on the sentence that says:

30

This often meant that key administrative tasks were delayed or not completed.

Does that mean you could just basically just not do them and there'd be no impact, or was there always the job to catch up on afterwards?

35

D19: There was always the job to catch up on afterwards, is the best way to describe that, sir.

AVM HARLAND: So the work didn't go away, it just basically went to another part of the program and you had to play catch-up?

40

D19: Yes. Sorry, I'll clarify that. On more than one occasion when, as a unit, we were off conducting these tasks, we were fortunate in that the Higher Headquarters was very understanding and they would assist us with some of these matters where they could, is the best way to describe it.

45

AVM HARLAND: Yes. I guess the point I'm trying to explore here is whether that work disappears, or whether it just gets lumped onto the program afterwards where you've got to play catch-up, which then becomes another demand in itself?

D19: It does become another demand, but that comes to my desk about prioritisation at the Regimental level, sir. So I then need to – I wouldn't say I use the term "build a business case", but be very clear with what I'm choosing not to do in an already full calendar across the entire Regiment.

AVM HARLAND: I guess the thing with prioritisation is that at some stage you can run out of capacity, so unless jobs go away you've got a particular capacity to work with, and the only variable in that is to push that capacity harder.

D19: If we view the world as a demand and sort of resource signals – so demand capacity is probably the better way to put it, the discussion around the demand signal and the task at hand – again, very fortunate, being trusted as a CO within the Defence apparatus – the demand discussion was always exactly that, a discussion. So the point I made earlier about offering a scalable response, quite often is the response in that sense.

So someone may ask for the high end of what they're looking for. The discussion might be, "Well, as a CO, I probably can't offer you the thing you're asking, but what I can do is X, or I can do this in response to that". So that becomes a way to preserve the workforce to enable them to do the catch-up work later.

On occasion – and a good example is the SOQC that OC 173 and myself spoke about that was to be run after TALISMAN SABRE – I will run roughshod as the CO across the OCs as it relates to what tasking and what priority sits where.

AVM HARLAND: How many times did you say no to DACC tasking?

D19: Look, I don't think we ever said no. Again, it was always a discussion about delivering the effect on behalf of the Defence Force – the Army, the Defence Force, in support of the government and national interest. I don't think that's necessarily something we get the option to say no to. You know, we defend and support the nation and its national interests. If the nation says we are to do something, then we go and do that thing, sir. It's up to us to prioritise our internal efforts thereafter.

AVM HARLAND: If it compromised safety at the time, would you say no?

5 D19: Absolutely, yes, but I don't believe – and again, you know, that discussion around what is possible with what you have at that point in time, being trusted, as all Commanders are at our various levels, you know, that discussion about what we can scale to deliver the effect they're looking for was always a fruitful discussion, and people listened critically.

10 AVM HARLAND: So am I correct in assuming that when we talk about the DACC, a short notice task that comes down, that really comes down as a kind of a “must do”, and your reaction would be to manage that task safely, and then effectively adjust your program, and you would end up having to adjust your program subsequent to that, and in some cases not
15 achieve what you had planned to achieve for the year?

D19: Absolutely, sir, yes. So, again, the key word being “prioritisation”. It is always at the forefront of every single Commander's mind, regardless of the level with which you sit, sir.

20 AVM HARLAND: Where would that prioritisation, and I guess the cost, come from? Would you be able to go to Headquarters JOC and say, “Hey, we don't really want to do this task that you've got for us?”, or would that primarily pressurise your training program?

25 D19: I don't, at my level, at a unit CO level – there was a few levels between myself and JOC in this setting, so I never spoke directly to JOC to understand the context they were facing, or why. Again, we exist to serve. If we get direction to serve, we go and serve, sir. It then becomes
30 our prerogative – or our priority setting to determine what we do or don't do as part of that.

And, again, importantly, once the dust settles – for want of a better phrase – the discussion about what you intended to do for the rest of the year was
35 always a very open discussion with higher command within an Aviation setting, sir. If we couldn't meet an objective for a good reason, i.e. we'd been supporting a previous task, they didn't expect us to continue to run faster or achieve more for no good reason. It was very amicable, very open, very reasonable.

40 AVM HARLAND: So where would the cost primarily be? Would it be in your training program or would it be in other tasks that had been set to you by other Higher Headquarters?

5 D19: The training program is a thing that we own in that space. It was always a discussion about – and the way I framed the discussion was, “These are the five things I had on the program, sir” – or “ma’am”, dependent upon the context. “My perception is these are the important things. Are you happy if I prioritise appropriately? And then the bottom two or three we just might not get to. Is that okay?” And that was always a fruitful discussion.

10 Now, some of those may have been actual tasks, training events. Some of those things may have been specific internal training events, and it’s always very context-specific around – in my context, as the Commander, at that point in time, looking closely at the introduction of a new helicopter and balancing the workforce pressures across the competing priorities was at the forefront of my mind, sir.

15 AVM HARLAND: I think I understand. Just on your “exist to serve”, would you agree that if you do indeed exist to serve, that you actually need to be proficient to serve, so you need to look after your own training and your own ability to be able to make sure you can do things?

20 D19: Absolutely, sir, yes.

AVM HARLAND: Yes. Okay. Thank you.

25 MS McMURDO: Yes, COL Streit.

30 COL STREIT: D19, I’m just going to read out some matters you’ve set out on page 27 concerning your relationship with the members of Bushman 83, and I’ll read them out, and I’ll get to the end of each individual and I’ll just ask you to confirm that the contents I’ve read is correct. At paragraph 113 you say, in relation to CAPT Lyon:

35 *I first met CAPT Lyon in person when I was posted in as the Commanding Officer. I flew with him once. We transited back from Queensland to Holsworthy at the completion of an activity at Amberley. As part of this flight, I got to know Dan much better. As a pilot, I considered him to be above average and professional. As a Troop Commander, he was both empathetic and compassionate in his care and leadership of his Troop. His*
40 *people respected his good nature and trusted him.*

Is what I’ve read correct?

45 D19: Yes.

COL STREIT: In relation to LT Nugent, you say:

5 *I never flew with LT Nugent. I do remember vividly the initial interview I had with him when he posted into the unit. My impressions were he was an above average pilot, and based on what the instructors had told me. I flew as a passenger as part of a Command liaison task two days before the incident on TALISMAN SABRE '23.*

10 Is what I've read correct?

D19: Yes.

15 COL STREIT: In relation to WO2 Laycock, you say:

I only flew with Phil once early on my posting in January '22. As the Standards Officer for the Regiment, he was the most senior crewman the unit had. He was a consummate professional. I do remember him coming to me on numerous occasions with a variety of things that needed my attention. He was always respectful in his dealings with myself, while at the same time being personable. Phil and I had plenty of conversations about life and work generally.

25 Is what I've said correct?

D19: Yes.

30 COL STREIT: In relation to CPL Naggs, you say this:

I don't specifically remember my first meeting with CPL Naggs. I do, however, remember seeing him in the unit gym consistently. I flew with CPL Naggs five times in total, four of them when I was doing my refresher training. Alex was also on the same flight from Queensland to Holsworthy that I flew with Dan on. Alex was a consummate professional in all areas of his work life.

Is what I've said correct?

40 D19: Yes.

COL STREIT: Just turn the page. I'll deal with the Regimental Officer's Intermediate Course aspect first. You were asked a series of questions there concerning whether or not you participated or were present on a Regimental Officer's Intermediate Course conducted in 2022, and further,

45

whether you were present when CAPT Lyon – there's some evidence that he said some things to an assembled audience of senior officers, including Commander 16 Aviation Brigade. The short answer to all of that is you weren't on the Regimental Officers Intermediate Course, and you weren't present when CAPT Lyon – there's some evidence that CAPT Lyon said some things to the Brigade Commander. That's correct?

D19: Yes.

COL STREIT: You did not receive any information – I'll start again. You were asked at question 52:

Separate to the above, prior to 28 July 2023, did any Army Aviation member ever inform you of any concerns expressed by CAPT Lyon about his workload and his ability to maintain proficiency on the MRH-90 while fulfilling his secondary duties, particularly as Troop Commander in 2023? If yes, who told you, and what actions did you take?

You say at 124:

I never received any information in relation to CAPT Lyon's concerns about secondary duties, nor his ability to maintain proficiency as a pilot.

Is that right?

D19: Yes.

COL STREIT: You were asked a question about comments alleged to have been heard by a Mr Perren, who has given evidence before the Inquiry. Your evidence in relation to that particular matter is you don't recall saying those words, or words to that effect, at any time. You can't even imagine saying them. That's at paragraph 117. Is what I've read correct?

D19: Sorry, I'll just – paragraph – yes, correct.

COL STREIT: Just turning back to page 29 now, dealing with resources for pilots and aircrew in 173 Squadron in 2022/2023, the question is:

The Inquiry has received evidence that cold weather gear worn by the aircrewman of MRH-90 was the subject of a RODUM. Were you aware of this matter, and if so, please describe your understanding of the issue, and for how long the issue has?

It should be “is”. You say:

5 *I was aware there was a RODUM for the clothing. I considered
the matter to be closed based on the attached at Enclosures 5, 6
and 7.*

Is that correct?

10 D19: Yes.

COL STREIT: In relation to Enclosures 5, 6 and 7, they’re at the
“Unclassified” level. That’s correct?

15 D19: Yes.

COL STREIT: In relation to Enclosure 5, which seems to be the most
recent in time, the other two being September 2020, both Enclosures 6 and
7, whereas Enclosure 5 seems to be a signal as at Feb 2021. Is that right?

20 D19: Yes.

COL STREIT: Is it the case that in this particular RODUM issues were
raised in relation to cold weather clothing to be worn by aircrewman for
25 the MRH-90, but ultimately the response in relation to those matters
raised in the RODUM did not result in any replacement clothing being
purchased? Is that accurate?

30 D19: I am not across the details from ‘21. I’d need to check with
someone else exactly the outcome of the RODUM there, sir.

COL STREIT: Sure. I can’t give evidence from the Bar table. I’m
simply just – and I can read the document, obviously, but I just wondered,
35 the document on its face does not reflect that, as a consequence of matters
raised in the RODUM, presumably by aircrewman, that that resulted in
any replacement clothing being purchased insofar as Feb 2021 is
concerned.

40 D19: It does not appear to, no.

COL STREIT: So when we come back to paragraph 127 of your
evidence, insofar as the RODUM is concerned, 2021, your evidence is
relevant to that RODUM as at Feb 2021, and there may have been
45 additional clothing or improvements later. I’m just trying to understand
your evidence.

5 D19: Potentially, yes. Specifically you referenced the RODUM, and as per the enclosures, all three of those RODUMs are closed. So whatever the system determined was the outcome – you know, purchase new gear, wear the gear properly, use it properly – whatever the outcome is as it relates to the RODUM, those three RODUMs are closed. So for myself, as a Commander reading that, it tells me that the matter was closed and we have what we have.

10 COL STREIT: Make the best of what we've got, effectively. Correct?

D19: Yes, sir.

15 COL STREIT: And that approach is simply just consistent with any decisions made concerning any equipment that's allocated to a unit?

D19: In broad terms. Yes.

20 COL STREIT: Turning now to page 30 very quickly, you were asked the question:

25 *In terms of sleeping tent resources in 2022/23, were air-conditioners available to be utilised in the field exercises when 6 Avn Regiment crew slept in tents, as an aid for regulating the temperature to assist aircrew resting, sleeping in hot, humid climates?*

The first aspect of the evidence, at 128 you say:

30 *The unit did not have any air-conditioners.*

That's right?

35 D19: Yes.

COL STREIT: You say at 128(a):

40 *As part of our planning for TALISMAN SABRE 2023, the analysis showed that historical average temperatures for Proserpine in July are 22 degrees high, 14 degrees low. On average, it only rains two days in the month of July, with an average humidity of 70 per cent. These conditions are not considered hot or humid, and, as such, we allowed the activity to proceed.*

45 Is that right?

D19: Yes.

5 COL STREIT: There has been some evidence before the Inquiry that there was air-conditioning in the Operations Tent on Exercise TALISMAN SABRE. Do you recall that at all?

10 D19: There may well have been. It doesn't specifically stick to my mind though.

15 COL STREIT: And in terms of – look, perhaps if I can ask this. In other exercises that you have been on whilst at 6 Aviation Regiment, and in a deployed exercise environment, have they been similar to your experiences on TALISMAN SABRE at Proserpine? Tents, for example?

20 D19: Yes, absolutely.

25 COL STREIT: Have you ever experienced a situation, just on exercise here in Australia with 6 Aviation Regiment, where you did deploy with, or had available to you, air-conditioning units for the sleeping tents?

30 D19: Not within 6 Aviation Regiment. Probably worth highlighting that the tents we were using were actually a Coalition partner's tent, and in that context, so yes.

35 COL STREIT: Those tents have a capacity for air-conditioning, don't they?

40 D19: I believe so, yes.

45 MS McMURDO: In fact, I think they're designed – do you know if they're designed to have air-conditioning? You don't know?

50 D19: I couldn't speak to the design about exactly what the requirements are, ma'am. Sorry.

55 MS McMURDO: Thank you.

60 COL STREIT: So is the Inquiry on safe ground to understand your evidence to the effect that the unit did not have air-conditioners, but in any event the assessment had been made as part of the planning for TALISMAN SABRE that the conditions would not be considered hot or humid?

65 D19: Yes, correct.

COL STREIT: And that, accordingly, it would not be necessary to take – or to do anything else to reduce the risk of it being hot or humid in the sleeping tents, like taking an air-conditioning unit?

5

D19: I think we were trying – and again, reaching back into my memory – I think we were trying to get as much as we could there. It was a matter of capacity as it relates to fixed-wing flights backwards and forwards from the Sydney Basin to Proserpine. When it became apparent that the air-conditioners were surplus as it relates to available space on fixed-wing, the assessment was that the conditions are not hot or humid as it relates to those temperatures as briefed there, such that they're actually quite comfortable for camping purposes, which was essentially what the deployment was in that setting.

10

15

COL STREIT: Can I deal now with your evidence concerning the impact of Defence aid to the civilian community and Humanitarian Assistance Disaster Relief tasking on 6 Avn in 2022 and 2023? You have identified there that 6 Avn, at paragraph 130, was involved in three events in support of the nation during times of crisis, including four weeks in February 2022, five days in July '22, and 10 days in October '22. Is that correct?

20

D19: Yes.

25

COL STREIT: When you identify four weeks, five days and 10 days respectively for those three engagements, when does the commencement of a day or a week start? Is it when you arrive at the deployed location, or when you start the preparation to deploy?

30

D19: Well, sometimes we wouldn't deploy. So a live example is the floods in and around Sydney. So we operated from our home base. Now, in saying that, the response was such that we didn't have to go anywhere or do anything, so it just started when the orders came down basically.

35

COL STREIT: So the four weeks for Feb '22, did that involve a deployment to a different part of the country?

D19: I don't believe so. I'd have to go back and get the specifics of each event there, sir. Apologies.

40

COL STREIT: So there was an impact though, wasn't there, on training of 173 Squadron as a consequence of DACC and HADAR tasking?

45

D19: HADR tasking. Yes, there was. In that instance, around February 2022 there was a confluence of events straight off the back of COVID, a

5 DACC tasking leading into initial Special Operations Qualification Courses. So what we did is we chose to extend the length of the course somewhat to assure the training outcome, rather than not do it at all. So to your point a while ago about how you catch that time up, sir, that was a good example of making a prioritisation decision early in Command to understand our own training requirements for the years ahead, prioritising those training requirements accordingly, persisting with the course, but changing the shape of the course by delaying the – sorry, increasing the length of it.

10

COL STREIT: Paragraph 131, you identify there that:

15 *The Headquarters led in command at the short notice deployments in an effort to preserve 173 Squadron, allow it to continue training. My intent was to create another manoeuvre unit that could complete these tasks, while reducing the tempo in 173 Squadron. Only three occasions this was achieved; however, it wasn't always possible.*

20 Just in relation to that particular evidence, in terms of providing an operational flying capability, was it the case that it was only 173 Squadron that was actually operating aircraft at your unit at that time?

25 D19: Because we had a series of very experienced crew members from across the Headquarters, we could effectively crew a set number of aircraft, the details of which I won't get into, obviously.

COL STREIT: Okay. Sure.

30 D19: As it relates to the supporting elements from across Support Squadron – maintenance workforce, refuellers, like all of the other logistic aspects that actually make an Aviation Task Unit work – we needed to cherry-pick them from across the Regimental environment.

35 COL STREIT: Your intent was to reduce the impact on 173 Squadron's organic staff by utilising qualified pilots and aircrewman from your Headquarters.

40 D19: Exactly, yes.

COL STREIT: To fly 173 Squadron aircraft.

45 D19: Exactly, yes. So they're Regimental aircraft. They're not the Squadron aircraft. So, yes, that was the intention.

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COL STREIT: Well, aircraft allocated to the Squadron. Can I turn to page 31, please? You there identify that D2 and D6 – you were aware that D2 and D6 – sorry, that a Sentinel fatigue report that was submitted in respect of D6 and D2’s workload on the Special Operations Qualification Course for June 2023. Is that right?

D19: Yes.

COL STREIT: You were aware that these two individuals submitted a fatigue report as part of running of the course, and you encouraged them to do so.

D19: Yes.

COL STREIT:

This was the first time the new course was run. In response to the report, I directed that the course be extended slightly to accommodate the longer workdays, thereby reducing the likelihood of it occurring again.

That’s correct?

D19: It is, yes.

COL STREIT: There you have an example, do you, of two experienced Aviation Officers who were Qualified Flying Instructors, who had a Sentinel fatigue report submitted as a consequence of the number of hours worked on the qualification course? Correct?

D19: Yes.

COL STREIT: The submission of a Sentinel report, and the reporting of that level of hours worked might be one thing, but is that also an example to you at the time that even two experienced QFIs were being asked to undertake a work activity which pushed them into effectively working – my words – excessive hours?

D19: Yes, in terms of the activity itself.

COL STREIT: My memory of the Sentinel report is - - -

D19: Sorry, sir, if I can?

COL STREIT: Yes, of course.

5 D19: I'll qualify that. The term "push" – your words there – I just want to be really, really clear, if at any stage those individuals had put their hand up and said, "We're not going to do something", they would have been supported at every level of command.

COL STREIT: Sure. I'm not suggesting at all they would not have been supported.

10 D19: I think that the term "push" may have been troublesome in that sense.

COL STREIT: Let me remove that word. They were the two Qualified Flying Instructors for that course. Correct?

15 D19: That was, yes. There was meant to be a third one allocated to the course, but for a family situation or circumstance that came up, we only had to run with the two at that point in time, from memory.

20 COL STREIT: Sure. So the course can't occur – or the task can't be achieved without both of those members performing their functions as QFI.

25 D19: Yes, correct.

COL STREIT: So putting aside the word "pushed", the reality is that they then did their job in the course, but in completing that job put them in a position of working excessive hours, which then generated a submission of a Sentinel fatigue report, which you encouraged. That's correct?

30 D19: Yes.

35 COL STREIT: So my question is, is what occurred to D2 and D6 – and this is June 2023 – an example where even two experienced and qualified QFIs ultimately ended up in a position of having to work excessive hours to get the course completed because of the pivotal role that they had?

40 D19: Because of the critical nature of the role, yes. I will say that if I was aware that they were about to tip into those hours and warrant submitting a report – which I wasn't at the time, so it was a post-fact matter for myself as the Commander.

COL STREIT: Sure.

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5 D19: I would have told them to pause, rethink it, how can we be smarter about it? Reschedule it, extend it, choose your adjective about what we could do to the course there in that setting. Once it's done though, as a reaction to the event, the best thing we can do – and you'd appreciate this, sir, I'm sure – the best thing we can do as an organisation or an entity is log it, record it, track it, understand it, and learn from it.

COL STREIT: Sure.

10 D19: So that was the response as a unit we took at my level in response to that particular incident.

15 COL STREIT: I didn't suggest at all that you had knowledge that they were entering that window. It was really premised on the question of it was an example of two senior members of your unit, QFIs, engaging in a level of work in order to ensure that the Special Ops Course could be completed. So my next question was, when did you become aware of their circumstances of working those – my words – excessive hours?

20 D19: Almost immediately straight after the fact there, sir.

COL STREIT: Do you recall how you became aware? So in other words, was it something that was raised to you by the Squadron OC? Did D6 raise it with you? Did D2 raise it with you?

25 D19: I couldn't be certain of the exact mechanism, sir, sorry, for that.

COL STREIT: The Course Manager, could it have been?

30 D19: It may well have been, yes. Again, I couldn't be certain of the exact mechanism which I came to that information.

COL STREIT: Do you remember who the Course Manager was for June 2023 Special Ops?

35 D19: No, I don't, sir.

40 COL STREIT: In any event, because you say, "I encouraged them to do so", once you've become aware of what's happened and the hours they've worked, is that a reference to you speaking to D6 or D2, or both, to encourage them?

45 D19: I'm almost certain I would have had a conversation to either one of them, or both of them, potentially, after the fact. The nature of that conversation would have been along the lines of, as something we'd been

speaking about for 18 months within the unit, “Track these events, learn from them, understand them, track them, make sure we adjust our program appropriately”.

5 COL STREIT: Can I just ask you a question about this matter, and it’s really just to assist the Inquiry understand your evidence in context? So the context of this, you gave some evidence earlier about the Fatigue Risk Awareness Tool, your – “reticence” is my word, okay – but you didn’t want to impose additional governance requirements on your unit unless
10 there was a good reason. Correct?

D19: Yes.

COL STREIT: In the context of reporting of fatigue incidents via
15 Sentinel, the completion of a Sentinel report is a governance requirement that takes time for an individual to do. So it’s more paperwork, would you accept that?

D19: It is, yes.

20 COL STREIT: But the purpose is different, is it, because you’re seeking to obtain empirical data in relation to specific events that a Sentinel fatigue report might provide? So you’re content for that additional administrative workload to occur for the unit members. Would that be a
25 fair summation?

D19: Yes, it is.

AVM HARLAND: Just a question on that. Do you think the case with
30 D2 and D6 on that SOQC was an example of the vulnerabilities associated with self-assessment for fatigue and the potential for it not to be a fully effective control?

D19: You could draw that correlation, sir, yes.

35 AVM HARLAND: Thank you.

COL STREIT: If you turn the page, you deal with some matters there, one aspect of which, at 140, we’ll address briefly in a Private
40 Hearing. Can I just turn to “Aircrew Progression”, please? Your evidence is that’s something the Inquiry can have regard to. I just ask you this question, and it’s as a consequence of some evidence the Inquiry has received by a witness, and it’s about the concept of Big Army and whether Big Army understands Army Aviation and the framework Army Aviation
45 has to operate within, and the challenges that that framework provides in

the context of Big Army. So if I'm speaking a bit cryptically, please let me know and I'll try to give some more detail to that. So you understand the nature of the question?

5 D19: I understand so far.

COL STREIT: So in those circumstances, as at the time during your command in 2022, can you just explain whether you considered that was a particular challenge that you had to deal with in explaining not necessarily
10 upwards to Aviation Command but perhaps outwards to wider Army, the particular frameworks that your unit had to adhere to in the conduct of safe flying operations?

D19: As it relates to – sorry, just so it's clear exactly what I'm about to say and why. Are you referencing conversations I would have had with career management agencies? Is that the nature of your question?
15

COL STREIT: Yes. I'm not limiting it, I'm just referring to the concept of Big Army, though Army as an organisation outside Aviation Command, not understanding Aviation Command's requirements in the conduct of flying operation limitations and so on, and asking Aviation Command to do things as if Aviation Command was – my words – some sort of Infantry unit, Arms Corps unit.
20

D19: Yes. Look, I won't speak for how Aviation Command is viewed at the one-star and two-star levels.
25

COL STREIT: Sure. I'm asking at your level.

D19: So if I talk to my left and rights and my peers as Commanding Officers of other units that I interact with, nothing but complete respect. So they understand the challenges, the nuance around the individuals as it relates to workforce management; that they at times can quote our rules back to us better than we know them. So my sense is that those that are in
30 and around Army Aviation know and understand it, and work with it, to a very high standard.
35

COL STREIT: I'm not putting words in your mouth here, so if I have this wrong, tell me. But your level of comfort and experience is that your peers, the fellow COs – 2022, for example – had a meaningful appreciation about the requirements that your unit was required to adhere to, including crew rest periods, and factored that in in terms of the taskings that those organisations outside your unit might request your unit to undertake.
40

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D19: I believe they did, yes. Now, they may have asked the question for us to confirm if we could provide a response, as an example, as part of an activity. Again, it was always a rich discussion, and they were very respectful of why we could or couldn't do certain things. So I never faced
5 any challenges with respect to Big Army or how it views Army Aviation in any way, shape or form. The support from Higher Headquarters has always been very encouraging, I would say that, sir.

COL STREIT: In relation to the Jervis Bay ditching, which you deal
10 with at page 33, just very briefly, you had no role or influence in the decision or the implementation of the blade replacement policy for the HP1 engines. You were not aware that the aircraft the Regiment were operating between 2019 and 2023 had unmodified engines. After the ditching event, you became aware of the issue and, "in accordance with
15 Directions from Higher Headquarters, the Regiment replaced all engines that weren't modified engines as soon as we could in line with the plan and the policy directive". Is that correct?

D19: Yes, it is.

20 COL STREIT: You say at 148:

*There were no orders or instructions, to my knowledge, informing
units or aircrew that the engines were unmodified. My
25 understanding is that no orders because the aircraft still met its design specifications applied by the OEM. The engineering failure rates were in line with those expected for the airframe.*

Is that right?

30 D19: That's my understanding, yes.

AVM HARLAND: Were you aware, was there anything recorded on the maintenance system, CAMM2, to talk about this particular issue?

35 D19: Sir, I'm probably right on the edges of what I'd be comfortable sort of discussing in an open forum. I believe if you fished deep into CAMM2 you could actually find out the status of which engine you had in the system there, yes.

40 AVM HARLAND: Whether it was modified or not?

D19: Was that common knowledge and did we feel we needed to, as an operating unit or crews running the machine? Not at any point in time. I
45 think, critically, the piece about the engine still meeting design

specifications – again, paraphrasing engineering friends is probably the best way to put it – the fact that it still met what was the original intention around design specifications, it tends to – well, hindsight’s a very wonderful thing. In terms of the replacement regime and how that was meant to run, as a unit CO, in hindsight, I probably would have done things differently or asked more questions. But it never breached the threshold because it was meeting all the requirements from a system perspective.

AVM HARLAND: My understanding – and if you could say if it’s your understanding as well – was that while the engine with that particular issue still met the design specification, there was an elevated risk of a potential engine failure.

D19: Yes. It’s since come to light post the incident, absolutely, sir, yes.

AVM HARLAND: Thanks.

COL STREIT: I note the time, Ms McMurdo.

MS McMURDO: Do you just want to finish this issue and over to paragraph 151(a) before we break for lunch?

D19: Is this a classic “one more thing”, ma’am? Are we going to be here for long?

MS McMURDO: No, no. Will that take long, just to finish the Jervis Bay thing up to the pre-deployment matters. That’ll take us to the others. Or have you finished all you wanted to say there?

COL STREIT: I had one further matter to raise, and it won’t take long, D19. At paragraph 150 you say, “Shortly after the direction was given to replace the engines” – so this is a reference to the engines being replaced at 6 Aviation Regiment. To your knowledge, did the replacement of the engines – that is, to upgrade the engines – started before the Direction by Aviation Command was issued for that to occur?

D19: Sorry, just so it’s clear, are you making reference to post the ditching incident or pre-ditching incident?

COL STREIT: No, post the ditching incident, the evidence before the Inquiry is that direction was issued to engage in a process which would see MRH-90 aircraft at your unit not fly unless and until their engines had been upgraded; that is, removing the turbine blade issue. My question was, to your recollection did the maintainers start that process before the

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Direction had been issued by Aviation Command immediately following the ditching?

D19: I couldn't be certain. Sorry, sir. Apologies.

COL STREIT: You say at 151 – it's the last piece:

The Regiment returned to flying once the entire fleet of aircraft had upgraded engines installed. The decision to return to flying was only made after authority was given from Higher Headquarters. The Regiment didn't make any decision to return to flying in a unilateral matter. The airworthiness of the aircraft we used in the operating context were dictated by Higher Headquarters.

What I've read is correct?

D19: It is. I think there's nuance in there, in that the risk assessment surrounding the return to flying, provided you weren't operating in PC-3 context, you could still use the unmodified engines, from memory. So I think there's – while what I've written there is the stance we took as a unit to be – to your point there, sir, be as safe as we possibly could be, I think there was nuance in there that other units from across Army Aviation could continue to operate those machines with the unmodified engines for a period of time, in accordance with the risk assessment that was submitted.

MS McMURDO: But you didn't?

D19: Rather than try and run a mixed fleet and manage a mixed fleet, ma'am, in conversation with Higher Headquarters, I made the determination that for us to be effective as a unit we needed to have a standard operating fleet, in broad terms, and trying to manage certain aircraft that could only do certain things was less than ideal, when you're managing a small fleet for a very bespoke mission, ma'am.

MS McMURDO: Thank you. We'll adjourn till 1.45. Thank you.

COL STREIT: I apologise. Could people please indicate to Counsel Assisting if they wish to be considered to be in the Private Hearing, over the lunch adjournment?

MS McMURDO: Of this witness, yes.

COL STREIT: Yes. Thank you, please do that.

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MS McMURDO: Yes. We'll resume at 1.45. Thank you.

5 **HEARING ADJOURNED**

HEARING RESUMED

MS McMURDO: Yes, COL Streit.

COL STREIT: Thank you, Ms McMurdo.

D19, can I take you to page 34, question 74 of your statement, which deals with the commencement of your evidence concerning pre-deployment matters on Exercise TALISMAN SABRE? You say there at 152:

There was extensive planning and liaison across all elements associated with the preparations for TALISMAN SABRE '23. Planning started in about August '22 to ensure the unit was ready. The following actions were completed.

And then you list a number of actions (a) through to (l); is that correct?

D19: Yes.

COL STREIT: You say at 153:

There was a further key consideration that affected the planning for the activity.

And that information can't be led in this hearing; is that correct?

D19: It is, yes.

COL STREIT: Can I turn briefly to the Risk Management Plans associated with Exercise TALISMAN SABRE. You deal with this in answer to question 74(b) and (c), and you list at 155 a number of Risk Management Plans that 6 Avn were operating for TALISMAN SABRE. That's right?

D19: Yes.

COL STREIT: Turning the page to 36, you identify at 156 several challenges facing 6 Aviation Regiment in preparing to deploy on Exercise TALISMAN SABRE, which included integration with Coalition partners due to late arrival, health support for Coalition partners in location and how this assurance was given, and developing of information flows up and down the Chain of Command in the exercise construct. Is that right?

D19: Yes.

COL STREIT: This might be casting your mind back a bit too far – and if it is, please, let me know – but in terms of just prior to deployment, what was your understanding of training of aircrew in relation to the risk of spatial disorientation?

D19: Sorry, sir, just so it's clear, are you talking specific to TALISMAN SABRE or more generally?

COL STREIT: More generally. So prior to TALISMAN SABRE, what was your understanding of the training for aircrew concerning the risk of spatial disorientation?

Now, to assist you, I'll provide this context. The Inquiry understands, by evidence given by a senior member of Aviation Command already before the Inquiry, MAJGEN Hafner, that in the process that the Command and others are working to bring into force an instruction dealing with the maintenance of spatial orientation, which provides instruction, guidance and assistance in relation to dealing with the risk of spatial disorientation, that's the information before the Inquiry at present.

So in that context, and noting there was no instruction existing in the first half of 2023 specifically on spatial orientation and dealing with spatial disorientation, my question is, to the extent you can recall, can you identify even in broad terms your understanding of the training that assisted – well, the training for aircrew concerning the risk of spatial disorientation in flying operations?

D19: Yes. So again, personal perspective as it relates to the training continuums that I've been through in a number of different settings, spatial disorientation was covered at length in a theoretical sense as it relates to visual illusions and then somatogravic illusions. So the suite of sloping horizons, all the things that are listed off as it relates to spatial disorientation, the three different types of it.

In terms of the physical, actually going to practise it and train it in the machine, in a limited capacity – and I'll be very careful here about things like unusual attitudes, at a very basic level – could potentially form some of that training in the background in terms of physically going to exercise some of that stuff and some of the recovery actions specific to an airframe type. But it was largely a theoretical component associated with an understanding of what it was, what some of the illusions are, how you're aware of those illusions and then subsequently some of the recovery actions you could take, in a crewed environment, to recover from those.

COL STREIT: Again, prior to the deployment on Exercise TALISMAN SABRE in the first half of 2023, did you have an understanding about whether or not there was an increased risk of spatial disorientation when conducting flights at night, in a sortie, overwater, low level?

5

D19: Yes. So to paraphrase and use a more general term, the low contrast and low cue environments you make reference to, that was certainly an increased risk because they're some of the pre-conditions that could lead to spatial disorientation as it relates to a thing.

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COL STREIT: In relation to the contents of the documents you've listed at paragraph 155, appreciating the level of classification to those documents – and I'm not asking you to describe what's in those documents in this forum – but the question I have is, the risk of spatial disorientation, on the face of the materials that you have listed, does not appear to be addressed in any of those risk documents.

15

D19: As a deliberate risk, it probably isn't. No, I'd have to go and check the specifics in those Risk Management Plans.

20

COL STREIT: Sure.

D19: In terms of the operating environment and some of the controls to be effective in those operating environments, those controls still hold beyond the specific risk of spatial disorientation. So while spatial disorientation is one risk you face when operating in those environments, there are multitudes of other risks where those controls still hold.

25

COL STREIT: Can I just ask you this, just about training in relation to the development of new training packages for aircrew – and I'm certainly not suggesting that is a 6 Aviation responsibility at all in this context – is it the case that when a concept is identified as a risk of such significance it warrants training, even at an ab initio level, which might then generate a training package for pilots – and I'm thinking the Aviation Training Centre here – was it your experience that the training centre would then publish to the wider Aviation community in Army, including your unit, particular training packages on topics to deliver to your aircrew?

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D19: For a new and emerging threat – I use that term deliberately – I would expect there would be some kind of a package pushed out to the wider force as it relates to an updated technique, procedure, something we've discovered as part of our general operations. There would be a standardised branch, being the training centre in this instance, that would then subsequently push out the key learning points into the operational-specific context for units to be trained on and in.

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5 I think it might be worth expanding though and thinking a little bit more about spatial disorientation as it relates to automation in an airframe context. Again, the Defence Force has gone to great lengths to automate and buy exquisite platforms with flight control systems that assist pilots in these environments, compared to legacy platforms that had very naïve automation associated with them. So as a part of that, it becomes less about the recognition of these events and more about how you manage the systems to avoid the event to start with, is probably the best way to put it.

10 So it doesn't reduce the training burden, but it transfers the training burden from a flying in a very raw context to a systems management context as platforms become more advanced.

15 COL STREIT: And we'll come to it a little bit later, but one of these mechanisms in terms of automation that would assist reducing the risk of certain events in flying is the application of a RADALT hold when overwater?

20 D19: Yes, I think we've touched on this previously last week though, sir. I think if you cherry-pick certain elements of the complete flight control system, you run the risk of focussing on one thing at a point in time, whereas the complete system – it's in the name – you've got to use all the elements at different points in time for the effect you're looking for.

25 COL STREIT: Sure. I was only using the RADALT as an example. That's one example, isn't it?

30 D19: The BARALT. You choose your thing. You know, exactly. There's several components associated with that particular system that would be advantageous in those environments, yes.

35 AVM HARLAND: Before we move on from the risk management stuff, could I just ask a question about the plans that you've identified there are very much generic plans that relate to a specific mission or role, from what I understand?

D19: Yes, sir.

40 AVM HARLAND: Was there a Risk Management Plan that was specific to TALISMAN SABRE '23? So what I'm talking about there is a plan which really addressed, in the context of TALISMAN SABRE '23 – which is the first step of risk management, obviously – such things as aircrew qualifications to be able to do the task, their currency, their recency in certain events, whether they were fatigued and ready to go,

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whether the arrangements at the Forward Operating Base were sufficient for management of rest, the topography, the local and seasonal weather for TALISMAN SABRE '23, operations with Coalition partners, and local search and rescue arrangements.

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I haven't been able to find a plan which actually goes through and explores those hazards, and how those risks get managed.

10 D19: Yes, so as part of the planning checklist, for want of a better way to put it, outside of a Risk Management Plan deliberately, those things are covered down as part of an activity planning checklist. I think probably one of the key things you were angling towards there, sir, is an RMP specific to TS and the living arrangements, if I can be so bold? We started - - -

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AVM HARLAND: Yes. Well, TS '23 in general, including you're operating in the area as well.

20 D19: Yes. I'll focus in on a couple of key specific ones around operations in and around TS '23. The wonderful thing about the system we have in place at the moment, AVIART, being the risk assessment tool – sorry, the risk tool that we use to step through the process, the seven-step process, in detail – we can draw on historical plans as a start point to help us inform and understand the context we might be getting into.

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AVM HARLAND: So they're the Core Risk Profiles and the Mission Risk Profiles? Are they the historical plans you're talking about?

30 D19: In addition to individual specific plans associated with activities. So a good example, we actually dusted off the Risk Management Plan from TS '21, and we started to use that as the basis for what we might look at carefully and closely in a TS '23 context. I'll draw your attention to paragraph 153 there, sir. It doesn't relate specifically to the Risk Management Plan, but as part of moving through that process it became very apparent to me that some of the controls that were in place for TS 21 were no longer suitable for TS '23, as it related to living arrangements and operating arrangements. Noting the sensitive nature of that decision that was held at my level, deliberately so, to stop the Risk Management Plan/Profile for TS '23 because the likely control was not suitable because of the sensitive nature of the information associated with the activity. I made the decision at my level to cease moving through that process.

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45 AVM HARLAND: So how did you satisfy yourself as a Commander that you had addressed the risks that were specific to TALISMAN SABRE

‘23? The fact that the TALISMAN SABRE 21 plan didn’t really apply because things had changed, let’s put that aside because that’s not actually relevant. But how did you assure yourself that for TALISMAN SABRE ‘23 the risks specific to that had been addressed, as in the hazards had been addressed and the risks had been managed to a satisfactory level? In what process did you do that, and what artefacts do you have?

D19: I don’t have a specific artefact, sir. The detailed nature of the plan is where I would actually hedge my bets to say that that is how we satisfied ourselves that we were ready to go, because the plan was done so thoroughly across all the staff sections, and we deliberately wound the nature of the activity back, for want of a better term, to make it a completely non-tac operating environment where it became basically – and again, I don’t like to use this term in an open forum – but basically a camping trip, where we were flying in support of specific activity outcomes.

AVM HARLAND: But if I was to follow your logic, I could reach the conclusion that you don’t need to do a Risk Management Plan for anything because you’ve got plans and checklists in place.

D19: A plan in the raw sense of the term is a Risk Management Plan, sir, as it relates to the planning process for Army. Related, but separate, you’re right. I can see how the logic in your mind might not correlate, or make the leap there, sir, but the reality is every, single operational plan that an Army officer does – any officer does, for that matter – is actually a balancing of risk and expected outcomes, either in a tactical setting or in a non-tactical setting. So while I deliberately didn’t want to put controls in essentially a mis-classified document about why those controls were unsuitable – and that was a primary reason. It was a sensitive information matter, to speak plainly, sir.

So it’s hard to put something in a document – and again, I’ll dance around it in this setting. It’s hard to write something in a document as to why the control is not suitable because you’ve got to justify it, right, and if I can’t then justify it to the nth degree about where that sensitive reasoning has or hasn’t come from, it becomes really tough and challenging. So in the same way that you need to trust me that I made the right decision for a variety of good and bad reasons, the organisation would have to do a similar thing, and the plan itself would not be valid or hold a whole lot of weight if I couldn’t actually write down the justification for the purpose.

So rather than treat risk management as a tick and flick activity, it’s a very deliberate process we work through in the Regimental construct as part of a combined and Joint Force.

AVM HARLAND: But I wasn't asking whether you needed to justify another plan and the controls that were in place. I was asking - - -

5 D19: You need to justify your controls and why they're appropriate or not, sir, as part of the process.

AVM HARLAND: You do. Yes, I would accept that, but that's - - -

10 D19: So if the privileged information I had in that context was such that I didn't see it prudent to write those controls in essentially an "Unclassified" document, I made that decision, and that rests at my level, sir.

15 AVM HARLAND: So am I to understand that in Army Aviation you consider your normal planning process to be risk management?

D19: Absolutely. Everything is a balance of risk, sir.

20 AVM HARLAND: And it supersedes Aviation risk management?

D19: It doesn't supersede it. It forms a part of the rich tapestry of risk management that is Aviation Operations in a Military context, sir. I'll draw your attention to the very end of my statement there, where we had the initial Airworthiness Board for UH-60M come around and visit the unit. So I hosted them a short period after the incident. It was sort of early/mid-August, from memory. And they specifically called out the Risk Management procedures and plans and practices we have at the unit as being some of the best they have ever seen.

30 So while I don't want to say they're my processes, at the unit level – again, external third party's assessment – our ability to manage risk at the unit level in an Army Aviation context, in conjunction with Ground Forces, understanding our mission sets in a fair bit of detail – their words – is a very mature – and some of the best they've ever seen – practice and profile, sir.

40 So you're right, I absolutely don't have an artefact that I can point to that specifically says, "This is the Risk Management Plan for 6 Avn at TS '23". I made that decision at my level to cease that procedure, even though we started it. But the maturity of our risk management, and our Risk Management practices at the unit level, as assessed by external third parties, very senior Air Force and Navy Generals, were some of the best they'd ever seen.

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AVM HARLAND: That was for the UH-60M introduction?

5 D19: That was the initial Airworthiness Board for UH-60M. So as part of that assessment, they move around the unit, understand exactly how you conduct business, if it's suitable for the helicopter to be introduced into that setting, and then, subsequently, how ready they think we are.

10 AVM HARLAND: So are we talking about project risk management here, or Aviation safety risk management?

D19: If I can be so – do you want me to pull it out specifically in the context of the conversation, sir? It will take a minute to drag it out, but I think it's worth the conversation.

15 AVM HARLAND: Yes, you can. Yes. It's just the reason I ask the question is because we've had a conflation in some conversations about risk management, but it actually turns out it's project risk management, which is not necessarily safety risk management.

20 D19: No, it's not a project risk management matter, sir, it's an operational risk management matter.

MS McMURDO: Which number – is it annexed to your statement?

25 D19: I think it's 19 or 20, ma'am. The one at the very back there, and it is paragraph (d).

MS McMURDO: Is this the Airworthiness Board Report?

30 D19: Yes, it is. So it's 8(d), "Concerns, notes and observations". Would you like me to read it verbatim, sir, or are you happy enough to cover down very quickly?

35 AVM HARLAND: Paragraph 8 – I don't have an 8(d).

MS McMURDO: It's Annexure 20, I think, or it might be 19.

D19: Yes, 19, sorry.

40 MS McMURDO: It's the Aviation Authority report.

AVM HARLAND: It's actually 9(d).

45 D19: Apologies, 9(d). So that, as an objective third party assessment of our ability to manage risk at the unit level, sir, while I completely concede

the point that I didn't specifically, and don't specifically, have an artefact that speaks to the risk management for TS '23, based on some privileged information, I didn't see it appropriate to collect and collate in the wrong classification where the AVIART system sits. I'll use that as a reference to say that we are well practised in risk management at the unit level and take great pride in managing those risks on a day-to-day basis, as has been the culture of the unit for an extended period of time, sir.

AVM HARLAND: Okay. Thanks for the answer.

COL STREIT: Just one question, D19, just to clarify something concerning evidence you've given to the Inquiry just now on 19(d), which is "the observations of the Board in relation to 6 Aviation Regiment's mature risk management system", and it goes on. That was post the crash of Bushman 83; is that right?

D19: It was, sir, yes.

COL STREIT: Did it concern an assessment by the Board relating to a Risk Management system applicable to the new Black Hawk, UH-60M?

D19: It specifically talks to the "Safety Risk Management at 6 Avn". So regardless of the airframe type, the title is in the paragraph, "Safety Risk Management at 6 Avn". So the document relates to the introduction of UH-60M, yes, sir, but it specifically speaks to the unit's culture and awareness of risk management as it relates to Aviation Operations in a combined and joint setting generally.

COL STREIT: Was the Board's assessment based on what was written down on documents in orders, instructions, and policies at the unit level?

D19: I don't know how they arrived at that conclusion, sir. You'd have to ask the Board members as to how that exact paragraph came to be in being.

COL STREIT: The reason I asked you that question was because of your evidence to the Inquiry to the effect that, if I understood correctly, there was no specific Risk Management Plan that 6 Aviation Regiment had for Exercise TALISMAN SABRE. Is that correct?

D19: Yes. We started the process, realised quickly we'd get outside the classification boundaries that were appropriate, and ceased it.

COL STREIT: Your evidence is there was no completed Risk Management Plan, 6 Aviation Regiment, for Exercise TALISMAN

SABRE, but I understood your evidence was those risks had been considered by you, but simply not recorded or written down in a Risk Management Plan. Is that right?

5 D19: I should note there was already an existing Risk Management Plan for Special Operations Command, of which we were a part, which I signed as part of that process in the background there, sir. So this is above and beyond the combined joint Risk Management Profile, the suite of MRPs we operate under every single day, specific to living arrangements in
10 short, sir.

COL STREIT: Yes, understood. There is certainly evidence before the Inquiry about the combined Risk Management Plan. I accept that 6 Aviation Regiment deployed as part of a broader Task Force. This is
15 just specific to just your evidence you've given a few minutes ago, the effect of which I just want to clarify with you, and that is notwithstanding there was no written down specific Risk Management Plan, 6 Aviation Regiment, for TALISMAN SABRE '23, I understood your response to the Air Vice-Marshal's question was that you nonetheless considered those
20 risks, and you kept that at your level. Correct?

D19: Yes, sir.

COL STREIT: In this forum, are you able to say what those risks that
25 you thought about and considered were, and if you can't, just tell me?

D19: I'd probably prefer not to get into them in this forum. They hint to some of the risks associated with the – sorry, I don't know the document number that was tendered there as part of the initial submission.
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COL STREIT: Okay. Just covering off on Enclosure 19, 9(d), in relation to the safety risk management, there you set out what was reported to you that the Board had observed, that it had a mature Risk Management System. You were unsure though how the Board arrived at
35 that outcome, are you?

D19: Well, when I say I'm unsure of it, the two gentlemen, you know, an Air Commodore and a Rear Admiral, have extensive experience in and around operating environments generally across both technical and
40 operational matters. I believe their significant time in service probably contributed to their assessment of that being – as part of the Board there, sir.

COL STREIT: Can I just ask you this question about the reason you've
45 given – or the evidence you've given, rather, as to why ultimately the

6 Aviation Regiment Risk Management Plan for TALISMAN SABRE '23 was not completed? Do I understand correctly it is because you would then need to deal with matters in a document that would take it outside its classification?

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D19: Yes, sir.

COL STREIT: Why, in circumstances where – why would the classification matter? So in other words, why couldn't it be recorded at that higher level classification, which would be accessible to your deployed forces?

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D19: It potentially could be, but it would warrant it being on a different system, sir.

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COL STREIT: So whilst deployed, to the extent you can, there was access to Defence's highest classified system, wasn't there?

D19: Yes, there was.

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COL STREIT: So in that context, and in the context of where your operational staff in Proserpine could access those systems, and therefore access that Risk Management Plan, why could your Risk Management Plan, at that level, not be kept on that system, at that classification?

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D19: It is possible, absolutely. I guess I was trying to use the extant tools that were available to us in the AVIART system there, sir.

COL STREIT: The next question is this. Did you run out of time – that is, your organisation run out of time – due to other pressures to actually complete the Risk Management Plan for 6 Avn for TALISMAN SABRE before you deployed, so that was the reason why it wasn't done?

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D19: I don't think that was a factor, sir, if I could be so bold? And the reason I say that is it was a very deliberate process that I spoke to the Regimental Safety Officer and said, "We've got a bit of information here. It's not appropriate on the AVIART system. Acknowledge the draft you've got in play at the moment. Cease and desist for me, please". 20/20 hindsight is a powerful thing, but I'd make the same choice now. Probably do it differently, but here we are.

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COL STREIT: I'm not asking the question in hindsight. I'm just asking questions in and around what was extant, and the challenges on the ground at the time for you and the unit, and how risks were recorded and

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considered in relation to that. So that was the nature of those questions. One final matter in relation to 19(d). You say:

5 *The Board was surprised that many operationally complex risk assessments only wanted a medium DHRM assessment, even in the training environment. Nevertheless, the Board observed the Risk Management process to be robust. The next Board should be mindful of this arrangement.*

10 What does that mean, if you can assist the Inquiry:

The Board was surprised that many operationally complex risk assessments only warranted a medium assessment.

15 D19: I can't speak for the Board's assessment of the risk, and how they viewed the outcome. All risk is viewed as a matter of likelihood and consequence, and then subsequent outcome associated from that likelihood and the consequences of an activity or an action.

20 COL STREIT: So they didn't explain, the Board, either individually or in a document, didn't explain to you why they were surprised?

25 D19: This document was not to me specifically, sir. Critically, this is, yes, written to Defence Aviation Authority.

 COL STREIT: But you have obtained a copy of it.

30 D19: Yes, it's the Airworthiness Board Minutes, so it wasn't directed to me. This is a report on the unit that I was commanding at that point in time, in short, sir.

 COL STREIT: Put aside whether it was directed to you. Perhaps if I can put it this way? It was relevant to your unit, wasn't it, the Board's report?

35 D19: It was relevant to the unit. It was more relevant to the overarching capability.

40 COL STREIT: But when the Board issued its report, or submitted its report, through whatever means you would have obtained – you obtained a copy of the report, didn't you?

 D19: Not specifically. No, sir. So in terms of this Board outcomes, I became aware of it. I naturally – probably there was an email in the background there, or something similar, that I got reference to. The

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mechanism with which I received this report, I can't be certain in the background there, sir.

5 COL STREIT: Do you have a level of confidence that it was received whilst you were in command, or was it something that came to your attention after you had left command?

10 D19: If I look at the command distribution there, so it's Commander Aviation Command, Deputy Commander, Commander 16, Commander AAvmTC, DG, et cetera, et cetera, et cetera, all the way down there, and the Airworthiness Board members. So it was likely Commander 16 at that point in time forwarded it on to me – and that's a complete hypothetical there, sir. If I needed to join those dots up, that is how I may have received a copy of it.

15 COL STREIT: The date of the document, that it was digitally signed anyway by the two senior officers mentioned there, is 5 September '23.

20 D19: Yes.

COL STREIT: Let's return now to your statement, if we can, please? Dealing with matters on page 37 at paragraph 160, I'll just read this out. So you didn't go into work on the weekend of 22/23 July at Holsworthy, which is the weekend before the deployment on TALISMAN SABRE to Proserpine by 173.

25 D19: I didn't go to Holsworthy, no.

COL STREIT: You were already on TALISMAN SABRE, based at Richmond Air Base; is that correct?

30 D19: That is correct, sir, yes.

COL STREIT: Because TALISMAN SABRE, in your evidence, effectively started the week before the deployment of 173 to Proserpine. That's correct?

35 D19: In broad terms. I'd have to go back and check the exact date, but yes.

40 COL STREIT: And you say at 165 no one raised concerns with you about the deployment of your unit's Forces to TALISMAN SABRE '23 prior to it leaving on the Monday.

45 D19: Not to me specifically, no.

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COL STREIT: When I say “the Monday”, I mean Monday, 24 July 2023.

5 D19: Yes, sir.

COL STREIT: You explain at page 38, paragraph 166, that you were the co-Commander for the Special Operations Aviation Task Force. You were based at Richmond for the duration of the activity. You did deploy
10 forward to Proserpine on Tuesday, 25 July for 48 hours to see that everything was in order. You returned to Richmond on Thursday, 27 July. That’s correct?

15 D19: Yes, sir.

COL STREIT: While you were at Richmond you slept on base. When you were at Proserpine you were in the same tent as elements of 6 Aviation Regiment. You were two to three stretchers along from where
20 CAPT Lyon had his stretcher. Is that correct?

D19: Yes, sir.

COL STREIT: You give evidence to the effect you generally sleep well when you go to field, you usually never have a phone, and find the ability
25 to disconnect from everything for a few days relaxing. I just pause there. As the CO of the Regiment, on the basis you don’t have a telephone, did you have a work telephone, or are you talking about a personal phone?

30 D19: A personal phone in that instance, sir.

COL STREIT: So you had a work telephone, but not a personal phone?

35 D19: Yes.

COL STREIT: You say you slept well the nights you were in Proserpine. You thought the conditions were as good as those you had experienced in operational settings with other Forces. Is that correct?

40 D19: Yes, sir.

COL STREIT: You describe your duty hours and what you did in the period 24 to 28 July in paragraphs 168 onwards, including participating in a flight with your deployed Forces involving LT Max Nugent, who was

the co-pilot on 25 July, and you flew on a mission in the jump seat. Is that correct?

D19: It is, sir, yes.

COL STREIT: You say as at the night of 28 July – so you were back at Richmond at this time. That's correct?

D19: Yes.

COL STREIT: We're looking at 171 of your evidence.

Apart from the night of 28 July, I wouldn't say I was fatigued on exercise, but the hours were long. There wasn't anything else going on for the unit. That is the time that was blocked to focus on TALISMAN SABRE '23. It was all-consuming, but it was designed to be like that. It was a key part in our training cycle.

That's right?

D19: Yes.

COL STREIT: Can I just take you briefly back to paragraph 160 on page 37? The last sentence says:

The design of the activity was such that the Force would spend a minimum amount of time away from Sydney in an effort to reduce cumulative fatigue in the Force.

I just ask you on that point, was it your assessment at that time, just prior to the deployment to TALISMAN SABRE, that 173 Squadron was experiencing cumulative fatigue, or are you talking about risk there?

D19: No, it's about preparation for the introduction of the UH-60M, sir. So rather than – that, in addition to some operational considerations, is why we try not to spend too much time away from Sydney generally. The cumulative fatigue piece is setting the Force up for success to enable it to introduce UH-60M as part of a Change Management Program.

COL STREIT:

The design of the activity was such that the Force –

173 –

would spend the minimum amount of time away from Sydney in an effort to reduce cumulative fatigue in the Force.

5 Your evidence there is a reference to reducing cumulative fatigue in the Force when they return from TALISMAN SABRE, before undergoing that transition to the Black Hawk?

10 D19: That's the intention, yes, sir.

COL STREIT: At page 39, paragraph 172, you say:

15 *I wasn't concerned about the fatigue levels of the team that deployed to Proserpine because there had been a reduced tempo period for a couple of weeks beforehand. Several aircrew had just taken leave. The exercise schedule was not arduous, with a mission only every second day, and I spent two days in location to observe their circumstances. I was in regular contact with the Force multiple times a day, and at no stage did anyone raise*
20 *fatigue as an issue with me.*

Is that correct?

25 D19: Yes, sir.

COL STREIT: So your engagement at that time during that week before the 6 Aviation Regiment, or 173, deployed to Proserpine – you were at Richmond, so the opportunity to engage with you for your Chain of Command back at Holsworthy was via the telephone?

30 D19: That would have been the principal mechanism, yes, sir.

COL STREIT: You briefly deal with some matters concerning the Hoffman. You were asked to state whether any test systems were
35 deployed to Proserpine to test the functioning of the night-vision devices used by aircrew, including but not limited to, a Hoffman 20/20. Your answer is at 175:

40 *I don't specifically recall a Hoffman system being in the field. The decision associated with this piece of equipment rested with the ALSE Commander for the deployment. I don't know how the decision was made to deploy or not deploy that piece of equipment. It was never raised with me.*

45 And you say at 176:

I have deployed with and without a Hoffman 20/20 into the field environment.

5 What I have read out is correct?

D19: Yes.

10 COL STREIT: At the time that you were deployed on Exercise TALISMAN SABRE and 173 Squadron is deployed to Proserpine, are there any aircraft back at 6 Aviation Regiment designated to undertake flying missions as tasked?

15 D19: There are aircraft back at 6 Aviation Regiment. As it relates to the flying of them, it is not likely they had a specific task at that point in time, sir.

COL STREIT: Were they available to be tasked?

20 D19: Yes, they were, sir.

25 COL STREIT: Some of the evidence that is before the Inquiry is that there was only one operational Hoffman set, and a decision was made to not take it on Exercise TALISMAN SABRE, in effect because it might be needed back at 6 Aviation Regiment. If you cast your mind back to Exercise TALISMAN SABRE, noting that the bulk of 173 Special Operations Squadron had deployed, including its Forces, was there a requirement for the Hoffman, to your knowledge, to remain at Holsworthy for the purposes of aligning HMSD for pilots that might undertake flying operations?

D19: I probably – I'm happy enough to get into that in a closed setting, sir, rather than open setting, as to why that might be the case.

35 COL STREIT: Can I take you to page 41, please? You state there whether it was mandatory for aircrew to conduct a reconnaissance mission or rehearsal flight during the day before the sortie of 28 July, and you give your evidence to the effect that it was required for the crew to conduct a reconnaissance in accordance with Standing Orders.

40

I was aware this had been done the day before if the crews were not in the mission two nights earlier. For this mission, due to the simplicity of it, there was no requirement to conduct a day rehearsal as this is only required if certain techniques are used at the target. On this occasion, these techniques were not in

45

use. As such, the target reconnaissance met the requirements. In short, everyone was familiar with the target and the environment. All mandated requirements were met for the mission to proceed.

5 That's your evidence?

D19: It is, yes.

10 COL STREIT: Just dealing with radar altimeter decision heights on 28 July 2023, the bottom line there is at 192 of your evidence, to the effect that your evidence is that the decision height would be set at 10 per cent below the minimum authorised altitude for the sortie. For example, if the height was 200 feet, the RADALT would be set at 180 feet. Is that correct?

15 D19: It is, yes.

20 COL STREIT: Were you aware at the time, in July 2023, that the Standardisation Manual actually provided a discretion to an Aircraft Captain as to the height they may set the RADALT decision height to?

25 D19: I'd need to go back and check the wording of the manual there, sir. Again, I probably viewed it in a very simplistic fashion, and kind of took it as the letter of the law.

30 COL STREIT: But certainly the manual – just accept from me that it does provide guidance that the RADALT decision height would be set at 10 per cent below the authorised height, but it also uses the word “may” in that guidance, which would indicate a discretion for the Aircraft Captain.

D19: It probably gives some flexibility, yes.

35 COL STREIT: But your expectation in any event, given your evidence at para 192, was that the decision height would be 10 per cent below – well, one setting of the decision height in the MRH-90 would be 10 per cent below the minimum authorised altitude for the sortie. That's correct?

D19: Yes, sir.

40 COL STREIT: To your recollection, is that the way you did business when you flew in MRH-90?

D19: Yes, sir.

AVM HARLAND: Just in relation to that, you did mention before when you arrived at 6 Aviation Regiment that you had spent some time in the jump seat, and one of the drivers for that was to get an insight into the standardisation of the Squadron and flying. You talked about the radar altitude decision height, and we've heard separately that there was –
5 notwithstanding your understanding, that wasn't the case for the Bushman formation in terms of setting radar decision height. But in addition to that, did you have any concerns, based on your observations about the use of the various AFCS modes in the aircraft, when the crews were overwater,
10 below 500 feet?

D19: No, I don't, sir. I never saw anything that was untoward about how they were using it. It's very specific in terms of SOPs, and again, most of my time in the jump seat was in and around ship operations specifically, because that's one of the highest risk missions we do. I
15 didn't see anyone not use AFCS in an appropriate manner for the context they were operating in at that point in time, sir.

AVM HARLAND: So if they were below 500 feet, they would be in the radar altimeter mode?
20

D19: Generally speaking, yes, sir.

AVM HARLAND: Okay. Thank you.
25

COL STREIT: Can I turn now to when you were informed of Bushman 83's impact with water on 28 July 2023? This is on page 42, commencing at question 103 of your evidence. You say at 195:

30 *I was first informed of the incident moments after it occurred. I heard the call from Bushman 84 over the SATCOM from the TOC in Richmond.*

Is that right?
35

D19: Tactical Operations Centre. Sorry, acronym.

COL STREIT: I was about to ask. Thank you. You say at 196:

40 *As soon as I confirmed what I thought I heard, I proceeded to inform my Higher Headquarters, both Special Operations Commander and Commander 16 Brigade. I then stood up the Tactical Operations cell too and started running a response centre from Richmond, to the extent I could.*
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The Headquarters was stood up. I was fortunate enough to have a Coalition asset that was prepared to fly myself and the RSM, the Regimental Sergeant Major, from Richmond to Proserpine almost immediately.

5

I had no engagement with QPS until I arrived at Proserpine, and it was through Commander 16 Aviation Brigade. I was not involved with the Joint Military Police Unit. I recall placing a call to the Defence Flight Safety Bureau to inform them we had an incident, with more details to follow.

10

Is what I have read correct?

D19: Yes, sir.

15

COL STREIT: Paragraph 198, you arrived at Proserpine approximately 0430 hours in the morning on 29 July; is that right?

D19: Yes, sir.

20

COL STREIT: Commander 16 Aviation Brigade and the Brigade RSM were at location when you arrived. You say that 173 Squadron was responsible for search and rescue prior to your arrival. Once you arrived, you then assumed command of the situation until the Australian Maritime Safety Authority was on station. "Once they arrived on station, it was clear that others were best placed to continue the mission." Is what I have read correct?

25

D19: Yes, it is, sir.

30

COL STREIT: In relation to the decision to leave Proserpine Airport on 29 July, you say you left Proserpine Airport at approximately 1400 hours on the afternoon of the 29th. You were on the plane with the bulk of the unit. You remember informing the Commander of your intention to return as much of the Force as you could to Sydney as soon as possible, and that you'd leave behind a skeleton crew that would manage the site. You spoke with the OPSO of 6 Aviation Regiment, and asked if he could secure a fixed-wing asset for the task. The discussion with the Brigade Commander, or Commander 16 Brigade, was short. At this point in time he was principally attending to dealing with external agencies engaging with the QPS in location. Is that right?

35

40

D19: Yes, sir.

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COL STREIT: Just dealing with interviews given by some of the aircrew with Queensland Police, on page 44, at paragraph 202, you say:

5 *I was made aware that QPS wanted to interview some members
from the flight as we were waiting for the transport plane. To the
best of my memory, there would be four separate police officers
that came across to the airport to meet the crew of
Bushman 84. I told the crew they needed to provide evidence to
the QPS officers. I then enabled this by asking airport staff to
10 offer some quiet space in the service area of the airport. The four
separate investigators took the four individual crew members
from Bushman 84 aside separately, and they interviewed them in
the service area of the airport.*

15 Is what I've read correct?

D19: Yes.

20 COL STREIT: Did you come to that independent decision that the
aircrew of Bushman 84 should speak to, and provide a statement to QPS
at that time?

25 D19: Commander 16 Brigade called me on the phone and advised me
that it was the prudent thing to do in that context.

COL STREIT: Do you recall when you – well, I take it you raised this
with the individual crew members of Bushman 84?

30 D19: Mm.

COL STREIT: Was it a direction that they do this, or was it something
you asked them to do?

35 D19: I couldn't be certain whether I gave a direction or asked them,
sir. Apologies.

COL STREIT: In the end though, they went and spoke with the QPS at
that time?

40 D19: They did, yes.

COL STREIT: You describe in relation to - - -

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D19: Actually, sorry, I'll – sorry, sir, I'll back up one. In hindsight, it's unlikely that I asked them. It is likely that I actually directed them to have a conversation with the investigators at that point in time.

5 COL STREIT: I ask you because at 203 you say:

I did not direct any members of 6 Avn not to speak to QPS Officers.

10 It's just double negatives. I understand that aspect of your evidence. So is there two components - - -

D19: The question – sorry, sir. The question asked if I directed any other members of 6 Avn Regiment not to speak to QPS officers; if so, explain why. So I did not direct any members of 6 Avn Regiment not to speak to QPS.

COL STREIT: So that doesn't apply to the four members that did speak to QPS.

20 D19: Sorry, I read it as a follow-on question, specifically any other members.

COL STREIT: Well, perhaps if we deal with it this way? You are not sure now whether or not you did direct the crew of Bushman 84 to speak to the QPS, but in the end they did?

D19: Yes.

30 MS McMURDO: I think his evidence was that he probably directed them to speak to the police. That was - - -

D19: It is unlikely – and again, you know, understanding that the Commander – the command responsibilities on the ground, the nature of the environment, everyone has been up for an extended period of time, our willingness or desire to do the right things by all concerned at that point in time, I suspect I probably told those young men to go and have a conversation with the QPS officers and offer what they could, in support of, you know, good relationships moving forwards, noting the nature of what had just occurred.

COL STREIT: In relation to the second component, you did not tell the remaining 6 Aviation Regiment members that they weren't permitted to speak to the police if they wanted to.

45

D19: Yes.

COL STREIT: Did you receive any training prior to deployment from the organisers of TALISMAN SABRE as to any guidance or actions on in
5 engaging with investigative agencies like Queensland Police if an incident occurred?

D19: I can't specifically recall receiving any training, no.

10 COL STREIT: Do you see any advantage or utility in Defence having a protocol in existence that can provide very clear guidance to deployed members as to what their rights and obligations are in the circumstances of an incident involving QPS, or some other external civilian investigative agency?
15

D19: I would be cautious speaking on behalf of a Higher Headquarters in this context.

20 COL STREIT: I'm not asking that. Just you, given your experiences.

D19: I can say in my experiences, the second I picked the phone up and rang Headquarters and asked for help, help was very forthcoming. So as it relates to one-up, two-up, exercise design, exercise activities, Special Operations Command, all of the Headquarters that I had access to, the
25 the second I rang and asked for help, people were bending over backwards to come and help me as a CO on the ground at that point in time.

COL STREIT: The premise of the question and the context is simply this: that four members involved in this incident spoke with police without having an appreciation of what their rights and obligations are in responding to questions asked by police. In that context, putting aside the desire to assist another investigative agency and cooperate, and all of those things, but putting that to one side, do you consider there being value in the organisers of future exercises, or just generally, that there just
30 be a quick, easy, one-pager which a member can be provided to explain what their rights and obligations are speaking to police in circumstances where, at that point in time, in any event, people were missing in an aircraft accident?
35

40 D19: Yes, more broadly across an exercise construct such as that there is likely to be value in, as you say, a one-pager, but then again, I'm always cautious of the death of a thousand cuts. So you get one page to deal with this incident, you get one page to deal with another one, one page to deal with another one. Before you know it, you've got an A4 binder before
45 you can go anywhere. So you'd need to temper it with the suite of other

responsibilities and requirements as it relates to pre-deployment or RSO&I training for an activity such as this. At the surface, here and now, 20/20 hindsight, do I wish I had a quick card that I could have used at that point in time that would be a ready reckoner? Certainly. How does that
5 compare and weigh up against the suite of other responsibilities you're faced with every, single day in that construct? You need to be careful. By solving one problem, you could create three others.

10 COL STREIT: Well, the issue is simply this. It's not your rights and obligations because you didn't speak to the police.

D19: True.

15 COL STREIT: It's the people involved in the incident, and the context of the questioning, of why I ask you, is because subsequently – and it's covered in your statement – when given a legal brief by the Forces Command Legal Officer, the evidence is that there was – members declined to provide a voluntary statement to the Coroner, and a notice had to be issued by the Coroner compelling a statement to be produced by the
20 aircrew. So do you understand that occurred, as a context?

D19: I do, yes.

25 COL STREIT: So really what we're talking about here is just something that would assist future Commanders of whatever, of any corps in Aviation, Infantry, whatever it is, if there's an incident involving an ADF member, having an easily accessible guide about rights and obligations to individual members when speaking with QPS, that would be of assistance, surely?
30

D19: Of course, sir, absolutely, yes.

35 COL STREIT: Correct me if I'm wrong on this, but it seems, at least on the ground, there was no organic legal support for 6 Aviation Regiment on the ground at Proserpine. Is that right?

D19: No, sir, we don't usually go to field with a Legal Officer.

40 COL STREIT: Your unit doesn't?

D19: Not specifically, dependent upon the operation context. For an exercise activity like that, no.

45 COL STREIT: But within the context of Exercise TALISMAN SABRE 2023, at the formation level there were lawyers, weren't there?

D19: I don't know.

COL STREIT: You don't know?

5

D19: Yes, I'd have to ask the question and check exactly who was deployed at the Higher Headquarters.

COL STREIT: So what was the answer, casting your mind back to TALISMAN SABRE, if your unit needed some legal support on a particular matter? What did you understand was the conduit as to how that legal support could be obtained?

10

D19: I'd probably place a call to Higher Headquarters and request it.

15

COL STREIT: Just dealing - - -

D19: Sorry, just to be very clear, given that my Higher Headquarters rang me and said the Queensland Police were coming across and needed to talk to people, that was the trigger for me to make my Bushman 84 crew available.

20

COL STREIT: Sure, and I think – well, you gave evidence about it was Commander 16 Aviation Brigade that contacted you.

25

D19: Likely, yes.

COL STREIT: Now, you identify at 208 you were interviewed by the DFSB on 30 May 2024, and Comcare on 7 May 24; is that right?

30

D19: Yes.

COL STREIT: I'm just going to deal briefly with post-incident matters in terms of contact with the families. At paragraph 210:

35

To the best of my recollection, I provided direction that caution should be applied when discussing the incident altogether.

I'll pause there. Who are you providing that direction to?

40

D19: The unit members.

COL STREIT:

5 *I never specifically told members not to talk to families about the incident, just to be careful of the information that is discussed. Unit members were not to speculate on the incident. The investigative process was to be afforded the opportunity to fully understand how this incident occurred.*

10 Is what I've read correct?

D19: Yes.

15 COL STREIT: You identify at paragraph 211 engagements with the families, and at paragraph 212 you say:

The first time I attended Mrs Lyon's home was to provide an official notification of my condolences, consistent with my Notification Officer training.

20 I'll pause there. Notification Officer training is specific training provided by Army to Notification Officers, or to persons performing a notification function, as to how they are to approach that matter in terms of even sometimes the language to be used. Is that correct?

25 D19: It is, sir, yes. I believe it's – I'm not sure if it's an Army or Defence-delivered - - -

COL STREIT: Defence.

30 D19: I think it might be a Defence-delivered course.

35 COL STREIT: I think you are right – Defence. So consistent with that training you had received the notification, you say, was very formal and lasted no more than 20 minutes. You were very particular about being on formal duty, the serious nature of the topic of the discussion. This was a terrible and tragic loss of her husband. Is what I have read out correct?

D19: Yes.

40 COL STREIT: You say on page 46, 213:

45 *I attended the homes of all the next of kin for Bushman 83 at different times shortly after returning to Holsworthy. Early in the process it was for official notifications only. Later I attended their homes to coordinate service arrangements. They were all*

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remarkable people in dealing with this terrible tragedy, and have always offered myself care and compassion in my engagement with them.

5 Is that right, what I've read out?

D19: Yes.

10 COL STREIT: You did not – sorry, I'll read these matters out and just ask you to confirm they're correct.

15 *I attended all of the services for the crew of Bushman 83. I have attended two memorials to honour the crew, CAPT Lyon, LT Nugent, WO2 Laycock, and CPL Naggs. I neither attended the service, nor engaged with any family member, on the reading of the names of any kind at this part of the service.*

20 And that's the Anzac Day service of 25 April 24. Is what I've read out correct?

D19: Yes.

25 COL STREIT: You have listed on page 47, under some paragraphs, the welfare support you established and/or made available to members of 6 Aviation Regiment. You say:

30 *I chose to return the members to their families as soon as possible following the incident as I believed it was in the best interests of the unit and their members. I directed unit members that every member was to go through the initial psychological support process. They could opt out subsequently if they wished to do so. The unit held several social gatherings at the unit. All families were made aware of these events and were always welcome to attend. I note that the services available to service men and women are broad and wide-ranging. If a member presents and asks for help, they will receive the best care available to anyone.*

40 What I have read out is correct?

D19: Yes.

COL STREIT: You, at paragraph 223, say:

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I did not have any time off during my Command. I took leave after I left Command over the Christmas period, and some off in my subsequent role.

5 Just in relation to that aspect of your evidence, does that mean upon assuming command in January 2022 you didn't take any time off until you finished?

10 D19: No, apologies. I thought it was in respect to welfare support, and as it relates to post-incident management, so to put it in context.

COL STREIT: No, you're quite right. So after the incident of 28 July 2023, you did not have any time off for the rest of your Command?

15 D19: I did not, no.

COL STREIT: Does that include weekends?

20 D19: I think some of the weekends were questionable at different points in time.

COL STREIT: You deal with, at the bottom of page 47, changes in orders, instructions and policies, and you give evidence that:

25 *As a new helicopter was being introduced into the Regiment and MRH-90 was being retired as a direct result of the incident, there was a wholesale review of all orders, instructions and publications to remove MRH-90 from all documentation and update all procedures to make them relevant for the UH-60M*
30 *Black Hawk. This was a significant undertaking as part of the IIS of UH-60M and the retirement of the MRH-90 from service.*

D19: Sorry, introduction into service, IIS. Apologies.

35 COL STREIT: Thank you. I was going to ask. I know you've set that out somewhere else in your statement. Thank you. You deal with other issues. I should importantly observe at paragraph 226 you say:

40 *I sought to set the conditions for my replacement to succeed. My intent was that they safely transition to the new type for the operational demands of the unit, the mission, and government of Australia. Additionally, I wanted to make sure the continued care for the members of the unit and the families of the fallen were in place as part of these processes.*

45

What I have read out is correct?

D19: Yes.

5 COL STREIT: The reference to “sought to set the conditions” for your replacement, that was your replacement, being the new incoming Commanding Officer for 6 Aviation Regiment; is that right?

D19: Yes, sir.

10

COL STREIT: You set out under “Command, Culture and Focus on Safety” various matters commencing at paragraph 227, and then over onto page 49. You say that the foundation of the unit’s capability was safety. You say further in the body of that paragraph:

15

Of critical importance to the whole system is the bedrock of safety risk management that the arch rests on. I regularly highlighted this mantra as a principle for the unit to abide by: “Safety is the bedrock on which the capability sits”. As outlined above, I effectively encourage members to be open and honest reporting safety concerns, particularly fatigue, including directly to me by way of my open door policy. I just didn’t want lip service paid to safety. I wanted reporting and tracking of each and every incident, so I had empirical evidence to support command decisions to mitigate risk as far as practicable. From my interactions with personnel and reports that were made, I was comfortable all personnel understood my command intent, and took safety very seriously.

20

25

30 Is that correct?

D19: Yes, sir.

35 COL STREIT: Turning the page, you identify at paragraph 232 an example of where you intervened to stop a mission. You say:

On Exercise TALISMAN SABRE, I intervened in a combined Rehearsal of Concept with Coalition Forces. It was my assessment at the time when viewing the mission orders and rehearsal that more details needed to be fleshed out. I therefore stopped the event, and told everyone to delay the timings by three hours, reissue the orders, and go through the Rehearsal of Concept drill again so that there were no outstanding questions, and a common operating picture was established for all crews in the activity. This was two days before the Bushman 83 incident.

40

45

Is that right?

5 D19: Yes, it is. The three-hour timeframe, it might have been two hours, it might have been three hours, it might have been four hours. It was a ball park figure there, sir. It was a matter of hours to delay, because we owned the timeframe in that setting.

10 COL STREIT: You conclude your statement by saying managing the unit's workload in this regard was only achieved with the dedicated oversight of the entire Command Team, and a commitment to safety that pervaded the unit during your entire Ccommand tenure. You are very proud of their unstinting efforts. However, it is your deepest regret and sadness that despite these efforts, couldn't manage to avoid the
15 tragedy of 28 July 2023, and the loss of our comrades. What I have read is correct?

D19: Yes.

20 COL STREIT: Thank you, D19. I have one question remaining, and it concerns support that's available to your unit as at 2022/23 from Medical Officers.

25 D19: Yes.

COL STREIT: Can I just ask you this? Was there available to your unit an Aviation Medicine doctor posted to Holsworthy specifically to treat personnel at 6 Aviation Regiment and fly in missions? So not just participate and treat medical ailments or do assessments, but also
30 participate in missions?

D19: Sorry, sir, just so it's clear in my head, what's the intended effect you think exists, or should exist? So is it a flying doctor that's aircrew qualified, or someone that rides in the back of the aircraft, or - - -
35

COL STREIT: So a medical doctor, Aviation Medical Officer, Military, can be in an aircraft and observe the conduct of a mission for training purposes that aircrew are engaged in, to assist in the advice that they might provide you about how things are tracking.
40

D19: So the unit has the ability to fly medical staff. I believe that's under – and, again, I'd need to go back and check the orders and instructions to see exactly who can authorise that. I'm pretty sure, as a Commanding Officer, I could have authorised that, to fly any Military
45 member in the back of a machine, no problems at all. Sorry, just so it's

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clear and I understand exactly the effect you're looking for, were you hoping that the doctor would be airborne, providing advice live to the - - -

5 MS McMURDO: It just relates to some information we've received, and we just want to find out if you're aware of it. Was there any Army, uniformed Army Aviation medical doctor at Holsworthy in support of the 6th Aviation Regiment, particularly in support of pilots who would also fly with them for evacuation missions? Did you know about this? Is it correct?

10 D19: I think you're starting to get into the space of a high-end operational medevac-style thing. Is that the intent, ma'am?

15 MS McMURDO: I don't know. I'm just asking you whether you're aware of - - -

D19: No.

20 MS McMURDO: - - - a medical doctor, a uniformed Army medical doctor at Holsworthy to support 6 Aviation Regiment, particularly pilots, and to fly with them for evacuation missions?

25 D19: I don't specifically know the person, the thing, the effect you're speaking of, or exactly what the outcome is meant to derive, ma'am. Sorry. I will provide a comment to the service and support that 6 Aviation Regiment gets in the Holsworthy Precinct from the medical staff generally.

30 MS McMURDO: Yes.

D19: The relationships with the medical staff are excellent.

MS McMURDO: What medical support is available?

35 D19: The Holsworthy Medical Centre, there's - I think there was two AVMOs there, off the top of my head. One specifically, Dr Clay-Williams, he's an outstanding physician, knows the unit inside and out. I have the utmost respect for him and the support he's provided to the unit.

40 MS McMURDO: Is he within Army, or is he a medical practitioner outside Army?

D19: He's a contractor at the moment, but I believe he still is a

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Reservist. And I believe, to paraphrase the effect you're looking for, is could I fly someone like Dr Clay-Williams in uniform as a Reservist? I absolutely could have.

5 MS McMURDO: No, this is something different, I think, from a contracted doctor, but I don't know whether it is – it's not something that you're particularly aware of outside the Holsworthy Medical Centre?

10 D19: So while a contracted doctor is an effect provided through the medical system on Holsworthy, a gentleman like Dr Clay-Williams, who is also a Reservist, can put his uniform on and come and work with the unit as a Military member for a period of time. So while we can't dual-hat him, the effect is one of dual-hatting. So it's a very powerful mix of a specialist individual.

15 MS McMURDO: So is he full-time? Is he full-time?

D19: He's a full-time medical physician in Holsworthy, yes.

20 MS McMURDO: And is he the only full-time medical person in Holsworthy?

D19: No. No, the Holsworthy Medical Centre – and again, I'd have to go – you know, I don't have the information to hand.

25 MS McMURDO: No. Well, just your memory of it to the best of your ability.

D19: Several medical staff there, providing first rate care for the unit writ large.

MS McMURDO: On a full-time, Monday to Friday, basis?

35 D19: Absolutely, yes. And, look, to be honest, there's an on-call system, that if I rang them up they will come and help us on the weekend as well.

MS McMURDO: And they're not - - -

40 D19: A good example of that is - - -

MS McMURDO: They're not usually in uniform?

45 D19: It could be a mix of uniform members or non-uniform members, dependent on who was available at that point in time, ma'am.

MS McMURDO: Okay. Thank you. That's fine.

5 COL STREIT: If you just have a look at pseudonym number 131? Do you know that person?

D19: I do, yes.

10 COL STREIT: Is that a person that, at least during your tenure, provided medical support to 6 Aviation Regiment?

D19: Not specifically in an Aviation Medicine setting.

15 COL STREIT: Sure, no problems. Thank you. That concludes the evidence-in-chief at the "Official" level.

MS McMURDO: Thank you.

20 AVM HARLAND: I just had one more question in the open before we go to closed. It shouldn't take long. I was just after your opinion on whether this is a normal timeline, and it relates to the Bushman 83 incident sortie on 28 July. By my recollection from other evidence we've heard in this Inquiry, the duty start time was at 1300 on that day. 1400, there was an orders brief. 1600, there was a Rehearsal – or 1500, I think, 25 a Rehearsal of Concept that they went through, then there was some down time, and the crews arrived at the aircraft around about 2000 that evening, and then they took off at around about 2220, or thereabouts. Just looking at that, and noting that the take-off time is nine hours and 20 minutes by my calculations after the duty start time, is that a normal way of planning 30 for the Regiment? It seems to be that the highest risk element of the day is conducted very deep into the day.

D19: I won't comment on the work times for the Regiment as it relates to that particular activity. I will say that they would have been watching 35 closely sleep patterns and circadian rhythms, so rather than have people sleep until 2 or 3 in the afternoon and then put them in a situation where they're out of whack, so to speak, avoiding the early hours, the wee hours of the morning, so to speak there, sir, if there's an understanding that the mission is going to be relatively short, you will try to fly and get to bed so 40 you preserve your circadian rhythm as much as possible.

Your point about the timings and the amount of time before launching, personal perspective – and I'm always careful saying that – I wish I had 45 that much time on more than one operational mission. So I see nothing but bad outcomes when people rush. The fact that the crews and the

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- 5 command on the ground at that point in time were that far ahead of it, that prepared, being very diligent and proactive, and deliberate with their processes and procedures, following them to the T, giving themselves plenty of time for meals, snacks, all the things that you would expect a high-performing team to do, with an understanding of how long the mission would take – again, you know, my own personal perspective about flying in operational environments all over the world, I wish I had that much time on every mission I ever took off on, sir.
- 10 AVM HARLAND: Yes. Look, I'm not suggesting people rush through the day or otherwise, but a take-off some nine hours and 20 minutes after you start work, that's actually longer than most people's day, and you haven't even started the highest risk aspect of your day's work.
- 15 D19: True, yes. I won't provide comment on the applicability of it in the background there, sir. I can certainly see your reasoning. I will say that again, being aware of when people are going to sleep and when their sleep cycles are, if you can keep them as normal as possible and still conduct the work of a night, with an understanding of how long the day will be, I can pre-suppose or surmise that the Commander on the ground
- 20 at that point in time probably made that choice for that reason.
- AVM HARLAND: Okay. Thank you.
- 25 MS McMURDO: Yes, now applications to cross-examine?
- LCDR GRACIE: Yes, ma'am.
- MS McMURDO: How long will you be?
- 30 LCDR GRACIE: 10 minutes.
- SQNLDR THOMPSON: Five minutes.
- 35 MS McMURDO: Is that - - -
- COL GABBEDY: 10 minutes.
- MS McMURDO: 10 minutes. All right. We'll make a start. Thank
- 40 you. This is, of course, in the Public Session. We'll then go into Closed Session.
- LCDR GRACIE: Yes, ma'am.
- 45

<CROSS-EXAMINATION BY LCDR GRACIE

5 LCDR GRACIE: Sir, my name is LCDR Malcolm Gracie, representing
the interests of CAPT Danniell Lyon. Can I ask you to have a look, please,
at paragraph 25 of your statement? It's page 7. This concerns the
distance to run feature in version 5.10 of the upgraded symbology, and
you will see that some of your subsequent paragraphs deal with your
involvement in the OPEVAL. Could I ask that Exhibit 121 be made
10 available, please, to D19? Thank you. Ma'am, that's the redacted version
of the OPEVAL.

15 Could you go, please, sir, to Annex B, which is a schedule which lists
12 pseudonyms and names at the top, which provides a numerical rating
of taskees, or difficulty, in relation to symbology assessment. Have you
got that there?

D19: Yes, seen.

20 LCDR GRACIE: And you see you're listed there.

D19: I can, yes.

25 LCDR GRACIE: Off to the right. There's no trick in this. I just want to
get some clarity. Do you see under the column D19, it's a replication of
what D23 says? Just have a look at that and satisfy yourself that's the
case.

30 D19: Yes.

LCDR GRACIE: Was D23 your pilot or co-pilot in your flights that you
did for this OPEVAL?

35 D19: I am uncertain. I'm not sure.

LCDR GRACIE: Doing the best that you can recall, did you adopt
D23's comments, or did D23 adopt yours?

40 D19: I couldn't be certain, sorry.

LCDR GRACIE: The only reason I ask is because you'll see if you go to
serial 6 – and this hasn't been redacted – in relation to the distance to go
function, in relation to whether it would or would not affect your ability to
conduct an SO approach, the answer from you and D23 is:

45

No. Co-pilot calls and distance to run can be used as effectively.

Was that your assessment?

5 D19: Yes. So I think the key part of the column you're looking at there,
sir, if I can be so bold, is that it's in accordance with extant procedures.
So the procedure – and again, noting the environment we're in, and not
wanting to get into the specifics of it – the procedure specifically identifies
10 certain tasks for the crew that they must perform, so if I am assessing that
particular thing in accordance with the existing procedure, then those
comments are absolutely correct. If I then leap forwards and understand
the value-add of the distance to run as it relates to an operational
imperative, as I have in my statement, the graduate solution implies that
15 by having the distance to run it actually makes us much safer, much better,
much better prepared to conduct our mission in the longer term there.

So by reading the question in the OPEVAL, answering it very deliberately
and directly, those comments are completely correct. By understanding
the context where the distance to run is applied, as it relates to the
20 historical analysis of incidents and accidents, I can then see the value-add
is significant, you know, when compared to the Standards Manual and
answering the questions that relate to SOPs versus what this thing could
offer us moving forwards in an operational setting.

25 LCDR GRACIE: So that's the explanation for the different conclusion
reached in the OPEVAL to what's in paragraph 25 of your statement?

D19: It is, yes.

30 LCDR GRACIE: I understand. Sir, flattery will get you everywhere, but
you don't need to call me "sir".

D19: Okay.

35 LCDR GRACIE: I'm well down the - - -

D19: It's a safe bet in this room.

40 LCDR GRACIE: I'm well down the list. Thank you for that. Just
jumping to it, you will see that the symbology was only regarded as
marginally beneficial to SO Ops. Is that still your assessment?

45 D19: The symbology itself was helpful, is probably the best way to put
it, but I think the context again is key, in that we went from flying a
machine that had no MFDs – sorry, not no MFDs. We had a lot more

information as a complete aircraft all of a sudden compared to what we had previously in legacy platforms.

5 LCDR GRACIE: Could you just go back into the OPEVAL a bit, and I appreciate you may not have seen this particular part of it, but you may be aware of it? If you go to page 8 of the substantive document, you'll see at the top there, there's a warning that was part of the recommendation to ensure a requirement to align line of sight forward when making attitude changes. That was one thing. And the second was a line-of-sight alignment for attitude reference in UA recovery. So there's two parts to this, but the first part is dealing with line of sight, aligned with longitudinal aircraft axis when conducting UA recovery.

15 And I don't know if you recall, but in the Standing Instruction there was also a notification to the effect that you could only make attitude changes using the symbology, aligning line of sight forward, when making an attitude setting reference. Do you recall something to that effect?

20 D19: Yes, I believe the Chair deliberately called out this last Friday. I think I – again, not the fact there is no question there, but I'll get ahead of it at the risk of answering the wrong thing. I believe across all airframe types a HUD is an additional source of information. As we touched on last Friday, the ability to draw information from a variety of different resources at different points in time specific to the operating environment and the phase of flight you're in, is actually the task of a pilot.

30 So in this setting, the usage of the HUD specific to different contexts, different flight profiles, different parameters, different mission contexts, and the information provided, it's not everything all at once, all of the time. You get the information you need as part of a good instrument scan. Sometimes that will come from the HUD. Sometimes that will come from the MFD, the instruments down below. So the usage of the HUD must be tempered with exactly the operating environment you are in.

35 LCDR GRACIE: But there are two qualifying factors, can I just suggest, and I'll step through them in a second. But just to overlay the point, one is it's time-related. That's one aspect. It depends on how much time you've got in terms of what you're able to do. And the other is task-related. It depends, perhaps, if you're in formation or not. So there's those variables. So can I just step you through this which there's been some evidence about? There were three scenarios that were put by a witness in the context of whether or not that warning was a sufficient mitigation against risk. The first is – and the example was given of someone flying a P-9 Poseidon, or a P-3 pilot operating in a maritime

environment, overwater. The pilot only has one task to do, and that's to fly off the Primary Flight Display. That's one scenario. Then when you factor in a night environment, you have NVGs, and the pilot then has two tasks to do. You have to fly off the Primary Flight Display, and fly with the visual environment provided by the NVGs. And then the third is more task-specific.

Where you have an NVG formation task environment you've got three tasks, and you have to divide your time between those three tasks, and one task might offset another because you have to do station-keeping to hold in terms of your position in the formation. So that introduces a third variable in terms of what you're able to do, I respectfully suggest, in terms of accessing, or scanning that Primary Flight Display. It's time-dependent, isn't it?

D19: It is time-dependent. Again, if we think about why we'd use a Primary Flight Display in different operating contexts, different flight modes, the Primary Flight Display is a way that you set an aircraft datum. In formation flying, the other aircraft are the aircraft datum, generally speaking, and you're using, in this context, the HUD to back up with height, speed, just to confirm you're in about the right place. So the rate of closure is absolutely of paramount importance. Your distance from the rest of the formation is of paramount importance. So your datum-setting mechanism is the rest of the formation in that context there, sir.

LCDR GRACIE: I understand. But in this scenario, let's say - - -

D19: Sorry, which scenario?

LCDR GRACIE: This scenario I'm about to give you, sorry.

D19: Okay.

LCDR GRACIE: Sitting in formation, if you have the other aircraft coming across or you have to take avoiding action, you aren't going to have time – if you're looking off-axis, you're not going to have time to come back and set your attitude by reference to forward line of sight, are you, if you're, let's say, two rotor di's apart?

D19: Again, it's a visual flight environment in that setting, so you're setting the attitude by looking out the front, and setting it visually.

LCDR GRACIE: But if you're forming off an aircraft to the right of you at, let's say, two rotor di's, you don't have that time or capacity to

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reset your attitude by taking your eye off that aircraft that's off-axis to forward-looking along axis, do you?

5 D19: Well again, you're setting the attitude in a visual context, so you're not necessarily coming back in to look at your Primary Flight Display to set your attitude. It's done visually, looking out the front.

10 LCDR GRACIE: So you're not going to be scanning the Primary Flight Display?

D19: Again, formation flying is a tough business, a particularly tough business of a night in low cue environments.

15 LCDR GRACIE: I was going to ask you this, just to get your assistance. There has been some evidence that two rotor di's is 34 metres. It's varied. There's some that has come in at 32.6 metres. Some evidence has come in at 36. So let's pick the middle of 34. What's your assessment of the distance – you're frowning?

20 D19: Surely we've got a Flight Manual somewhere that's got the specifications for the - - -

25 LCDR GRACIE: Well, if I use NH Industries, it's 32.6 metres, two rotor di's.

D19: As the diameter for it?

30 LCDR GRACIE: Two rotor di's is 32.6 in distance. Just on that though, and it might be – I don't know if it's easy to have Exhibit 2? Sorry, I should have foreshadowed that.

MS McMURDO: That's a diagram of the heavy left formation. Is that - - -

35 LCDR GRACIE: Yes.

MS McMURDO: That's the one you want? Okay. It is Exhibit 2 then.

40 D19: I was going to say, that seems closer to - - -

LCDR GRACIE: Yes, one rotor di.

45 MS McMURDO: Exhibit 5 is a drawing of the dimensions of the MRH-90, which would probably - - -

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LCDR GRACIE: I think it's two with the formation, is it?

MS McMURDO: With the formation? That one?

5 LCDR GRACIE: Yes. Okay. I apparently put two rotor di's at 34. It's 1 at 34, and then you double it for 2, obviously. Does that make - - -

D19: So 70 metres, just in round figures.

10 LCDR GRACIE: Yes, 70.

D19: So a football field, or a little bit less.

15 LCDR GRACIE: Does that make more sense? If you look at that exhibit, you see it's got the - I think it's even headed, "Heavy left", isn't it? "Heavy left formation"?

D19: Yes.

20 LCDR GRACIE: When you're measuring rotor di's, are you measuring it tail - in the case of 82 and 83 there, are you measuring it tail to nose, or do you measure it along that arc of freedom that's depicted on that document?

25 D19: It would be along the arc of freedom.

30 LCDR GRACIE: If you're looking at a scenario where you have a four-ship formation such as that depicted in Exhibit 2 at 80 knots - it doesn't matter what altitude, it doesn't matter whether it's a degraded visual environment or not - my understanding is that one knot equals .51444 metres per second. I'm not asking you to accept it, but if you do the calculations, at 80 knots times that metre per second rate, you're travelling at 41.1552 metres per second. And to cover, in the first case, one rotor di of 34 metres, it's .82 seconds. So you'd be doubling that for
35 two rotor di's. It's not much time, is it, to react to that aircraft changing its station in terms of you being able to scan that Primary Flight Display and keep an eye back on that second ship, is it?

40 D19: No, it's not much time.

45 LCDR GRACIE: So this is where I was coming to, that scenario. When you add in the third factor of time and task, as another factor, that is always going to dictate whether or not you had the time or the ability to scan that Primary Flight Display if you're in formation, at speed of, let's say, 80 knots, at, let's say, two rotor di's.

5 D19: Yes, I think the key thing to highlight here is the Primary Flight Display might be of less relevance in a visual flight environment. So you're actually setting the attitude off prevailing aircraft in the formation. So you're flying the machine, as you sit in it right then and there, in concert with your team members 70 metres away.

LCDR GRACIE: Yes.

10 D19: So you're not taking your eyes off them at any point in time, is the key thing.

LCDR GRACIE: No, and I appreciate that.

15 D19: And setting an attitude is done visually. So it's old school instrument combing, a fraction above the horizon, below the horizon, with respect to the formation buddy. So you're keeping the pictures about the same. So in very basic aircraft terms, we get to a point where we're not talking about instrument flying, or Primary Flight Displays, or using of
20 HUD. We're talking about flying the pitches.

And that's a very basic flight technique. In the most simple of aircraft you can fly perfect formation by flying the pitches, by keeping the other machine locked in a point in time and space in your cockpit, as it relates to
25 what you see out the front there. And that is very, very good formation flying technique, is the way to think about it.

Now, the HUD in that setting, as I highlighted previously, is a set of back-up information to confirm height, speed, everything is about
30 right. But it almost – I wouldn't say it's irrelevant. It is actually all about flying in formation with respect to your teammates, as you highlighted, 70 metres away.

LCDR GRACIE: Look, it was really just to provide some context to quite a bit of evidence that's been given about the need to scan the Primary Flight Display, and to put that into the context of the speed and the rotor diameter that might be applicable to a four-ship formation, that's
35 all.

40 AVM HARLAND: Can I just clarify, because the fact that the helicopter is doing 80 knots is not really the figure that's of importance. It's actually the closure speed. So are your calculations based on the closure speed, or the actual speed of the helicopter?

45 LCDR GRACIE: Actual speed.

AVM HARLAND: In your calculations, and by my understanding, at 80 knots, it would have taken that much time to cover a rotor di. That has to be 80 knots of overtake, not 80 knots of actual base speed, for that closure to happen. Does that make - - -

LCDR GRACIE: It does.

AVM HARLAND: Have I got my understanding correct?

LCDR GRACIE: ChatGPT didn't tell me that though. So I was only working off the information it gave me.

AVM HARLAND: Yes, because closure speed, by my understanding, in what you're trying to describe, is the real number that we need to look at, not the actual base speed of the helicopters.

LCDR GRACIE: Is there some way to determine that?

D19: There is, yes, but the General's point a second ago there about closure speed being the actual – resulting in the amount of time you have to make adjustments is the critical thing. So everything in a formation flight – and again, I am not a QFI. There are people far better qualified to talk to this. But everything in a formation flight is relative to the flight lead. The amount of training we put – as I'm sure you'd appreciate as an Air Force General, sir – the amount of time we put our Force through, the amount of training we put our flight leads through, to make sure that the first – number 1 in a formation is flying it like an airliner. It is completely predictable. Everything is very measured, very controlled, no one is changing anything rapidly, which then means that that relative time that you spoke to a second ago, sir, is increased significantly because everyone knows exactly where they're meant to be, and what they're meant to be doing.

And that is how – I don't say we get away with it lightly – that is how we're able to fly within 70 metres of each other in the dead of night, is because of the predictability of that formation. And if anything changes as part of that journey, it is absolutely briefed, and re-briefed, and pre-briefed, and spoken about on the radio, to give everyone in the formation enough time to make adjustments. The application and the applicability of the Primary Flight Display in this setting is principally a back-up mechanism to your ability to fly formation, in this tight formation model, in this context. So that relative time and space that we afford ourselves to perform the task is the key thing.

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Now, your point about less than a second, that is absolutely the – you’ll have no time if someone does something erratic for a very bad reason. You’re absolutely right. The likelihood of that being the case in a formation with this much experience in it is almost zero, and that’s the trust I have in the crews.

LCDR GRACIE: But even with that relative speed the Air Vice-Marshal has talked about, there is then the reaction time too, isn’t there? So there’s a lot of variables in that relative timeframe.

D19: It is a really challenging task to fly formation of any kind, yes.

LCDR GRACIE: Thank you, sir. That’s been very helpful. Thank you. And you too, sir.

MS McMURDO: We might take a 15-minute break now.

HEARING ADJOURNED

HEARING RESUMED

MS McMURDO: Yes, SQNLDR Thompson.

<CROSS-EXAMINATION BY SQNLDR THOMPSON

SQNLDR THOMPSON: Sir, I am SQNLDR Chris Thompson. I represent the interests of WO2 Phil Laycock. I just have a short question for you. In your statement, at paragraph 44 – you shouldn’t need to reference it – but you state that you had many discussions with WO2 Laycock about life and work, and things in general – my paraphrase. With regard to some of the discussions you had regarding work, was it ever raised, the issue of the cold weather clothing?

D19: I’m sure it came up at some point as part of a general discussion about suitability or not, et cetera. Again, I’d need to – you know, without having a specific reference or something – I almost guarantee he would’ve spoken about being cold, or wet, or something, in the back of the aircraft at some point in time.

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SQNLDR THOMPSON: Yes, but at the moment you can't remember any specifics?

D19: No, sorry.

5

SQNLDR THOMPSON: You have some confidence that it was raised?

D19: Knowing Phil, and having worked with him a few doors down for a while, he would've certainly said something to me in passing, if not in a deliberate fashion, yes.

10

SQNLDR THOMPSON: Okay. Thank you. I have nothing further.

MS McMURDO: Yes, who is next? COL Gabbedy.

15

<CROSS-EXAMINATION BY COL GABBEDY

COL GABBEDY: Thank you, ma'am. Afternoon, [REDACTED] I'm COL Nigel Gabbedy. I appear for MAJGEN Jobson. I've just got a few questions for you, and I want to start with fatigue training. Counsel Assisting took you to paragraph 94 of your statement.

20

D19: Yes.

25

COL GABBEDY: And I think from paragraphs 94 to 98 you outline in some detail the fatigue training that is provided.

D19: Yes, sir.

30

COL GABBEDY: Would it be fair to say that all members of Aviation Command receive regular fatigue training?

D19: Yes, it would be.

35

COL GABBEDY: They receive annual mandatory training, together with extra training in the form of safety days and other presentations?

D19: Yes.

40

COL GABBEDY: That training spans the entirety of their careers at Aviation Command.

D19: Yes.

45

COL GABBEDY: And that regular annual and additional training builds a baseline of knowledge, and then reinforces it for all members of your command.

5

D19: Yes.

COL GABBEDY: At paragraph 97 you refer to a generative safety culture, and in paragraphs 101 to 102 you talk about never jeopardising safety. Are you able to expand for me on what a generative safety culture is, with relevance to Army Aviation?

10

D19: A generative safety culture as it relates to my time in command was always the goal. I don't think you ever really know if you get there. You only hope you inculcate the attitudes, beliefs and symbols across the organisation that form the basis of any culture, to the point where safety becomes paramount as a principal planning mechanism.

15

Now, a generative culture is one that reinforces itself. So the idea that safety is the principle on which the whole thing is based was always a goal for me, and that was born from a significant amount of operational experience where some of the highest risk missions came down to just being safe as the initial start point, and then managing the threat back from there.

20

25

COL GABBEDY: Thank you, and in your statement – I don't need you to turn to it – but if you accept from me that at paragraph 227 of your statement you say that, amongst other things, the foundation of your unit is safety. Is that statement correct?

30

D19: It is, yes.

COL GABBEDY: Is that an underpinning sort of bedrock for the way that Army Aviation operates?

35

D19: I believe so, yes. So that heuristic around the archway of capability with the bedrock on which the archway sits being safety is – I can't imagine operating any aviation enterprise in any other fashion.

40

COL GABBEDY: Thank you. Counsel Assisting took you to the Aviation Fatigue Management Guidebook, which I think is Exhibit 39. I don't know if you've still got the exhibit with you, but if you don't, that's okay. He took you to a statement at the top of page 32, and in fairness I will read you the first two lines of that statement. It says:

45

Individuals are not good judges of their own level of fatigue-affected performance. Research has demonstrated that without training, humans are quite poor at determining their actual level of fatigue.

5

In your opinion, do you believe that the training provided to members of Aviation Command is broad and sufficient enough to assist them in overcoming that problem that individuals are not good judges of their own levels of fatigue-affected performance?

10

D19: I believe that our training is sufficient in the current context. Now, in saying that, it can always be better, and we can always do more. So I'm not so naive to think that we're doing enough, and enough is enough. I think we should always be aspiring to be as good as we possibly can be. If that turns out to be train more, train better, train differently, understand the context and be better in that setting, then we should certainly allow our training to evolve to meet the emerging methods and the emerging threats associated with fatigue, and how we assess it within ourselves.

20

COL GABBEDY: But it's certainly correct, is it not, that you have a fatigue-educated workforce?

25

D19: Absolutely, yes. I think – sorry, in my statement here I highlight the suite of SIs, the Standing Instructions, that were in play at the time of the incident. I mentioned to Counsel Assisting that we were – seven or eight different gates, I think it was, from memory, that the unit has to pass through from an organisational to an individual perspective. Each one has a fatigue gate associated with the various activities associated with the Standing Instructions. The implication is that not just at the coalface of the authorisation brief is fatigue considered, fatigue is actually considered through the complete depth of the workforce and everything we do, all the way back to the Regimental calendar and the planning associated with the activities.

35

COL GABBEDY: So looking at those gates, and looking at those controls from planning forward, if you get from planning through to the mission, the Authorising Officer has to make sure that people are green on PEX. Is that right?

40

D19: It is, yes.

COL GABBEDY: And that means that they've done their fatigue training, and they're current in that aspect of their training.

45

D19: Yes.

COL GABBEDY: It means a number of other things as well. But then you have FACE checks, and they could be conducted more than once
5 prior to a sortie.

D19: Absolutely, yes, to the point where I have – traditionally speaking again, a little bit more mature than most of the crews in the Regimental construct – it was the last thing we did before we climbed in. So you’d
10 always have the quick crew brief at the machine, “Is everyone right to go and do what we’re about to go and do?”

COL GABBEDY: Prior to that, the Aircraft Captains have to confirm that their crews are not fatigued to the Authorising Officer. That’s right, isn’t it?
15

D19: It is, yes.

COL GABBEDY: And underpinning that, you’ve got Command support, in that if there is a fatigued crew, arrangements can be made. It can be
20 bumped. The mission can be stopped. There are a whole range of options.

D19: As is evidenced by some of the things that occurred with OC 173 and myself across an extended period of time of command.
25

COL GABBEDY: If I just move on to Snapshot, and you gave evidence about the Snapshot surveys that you were aware of. It’s fair to say, is it not, that if Snapshot indicates fatigue is a concern, all of your people
30 aren’t fatigued all of the time? That’s right, isn’t it?

D19: That would stand to reason. Yes.

COL GABBEDY: And it would also be true, would it not, that some of your people aren’t fatigued all of the time?
35

D19: Yes.

COL GABBEDY: What Snapshot is telling you is that some of your people are fatigued some of the time; is that right?
40

D19: That could be an interpretation, yes.

COL GABBEDY: So then at paragraphs 57 to 81, and again at

paragraphs 103 to 107, you go into a great deal of detail about the efforts that you took to try and alter the tempo and provide support to ensure that your members weren't being unduly fatigued; is that right?

5 D19: It is, yes.

COL GABBEDY: Have you heard the term "adult work environment"?

10 D19: Yes.

COL GABBEDY: Would it be fair to say that what you're talking about at paragraphs 96 and 97 of your statement is providing an adult work environment for your members?

15 D19: Yes.

COL GABBEDY: That they're empowered to speak up. And you say in paragraph 96 these words:

20 *Only the individual can know whether they have had sufficient sleep in the time given to them, and whether they are too fatigued to safely conduct flying operations.*

25 Does that statement relate to only the individual being aware of the quality of the sleep that they have had?

D19: It would be an age-old discussion about quantity versus quality, and how you feel when you wake, whether you are refreshed or not.

30 COL GABBEDY: And it can be the case that you could have your head down for 10 hours but sleep terribly.

D19: Absolutely, yes.

35 COL GABBEDY: So simply monitoring the time is only part of the picture.

D19: It is, yes.

40 COL GABBEDY: Now, at paragraph 137 you were taken to the issue of D2 and D6, who were QFIs on an SOQC course, and I'd like to suggest this proposition to you. I think in your evidence – and I apologise if I am paraphrasing you wrong; it's an occupational hazard for me – you said that you would have liked to have been aware at the time that they were as
45 fatigued, or they were working the hours that they were that led them to

put the Sentinel report in, so you could have made adjustments yourself. Is that the crux of your evidence? If it's not, please correct me.

5 D19: Look, I don't want to say anything in hindsight, but had I known that I probably would have made the decision to alter things ahead of time, rather than get to the point where the report had to go in, yes.

10 COL GABBEDY: What I'd like to suggest to you – and tell me if you agree with this or not – is this paragraph is an example of the system working exactly how you would want it to work. These two members put in a Sentinel report, and sensible changes are made to a training program in order to accommodate their concerns; is that right?

15 D19: That application of an existing system, and then a subsequent outcome in short order, from a Commander's perspective, is a very good – it implies the system is functioning healthily.

20 MS McMURDO: The best option, of course, would have been if they weren't fatigued in the first place, wouldn't it, by the course?

25 D19: Absolutely, ma'am. Look, you'll take the proactive measure every day of the week, but in hindsight again, the fact that the adjustments were made as soon as we knew about it, I think that's probably as much as we can hope for in that setting.

30 COL GABBEDY: And, look, ma'am's point is quite right. You would never want to be in a situation where you needed to tweak and adjust your system, but it is always good to know that if you do find yourself in that situation, the system is working in the way you expect it to.

D19: Yes.

35 COL GABBEDY: I just want to talk about Proserpine, if I could, for a moment? I think you say at paragraph 157 of your statement there was a low tempo period prior to the exercise; is that right?

D19: Yes.

40 COL GABBEDY: Were you comfortable, or satisfied, that the members that you deployed to Exercise TALISMAN SABRE were not carrying with them an accumulated level of fatigue?

45 D19: I didn't see any evidence of it, is probably the best way to put it. So given that everyone had just had a break, spent time with family, friends, as a little circuit breaker in the middle of the year there before we

go away for a couple of weeks, and it was only meant to be 10 days altogether, I think, from memory, and then a subsequent reduced tempo period planned post-activity, I didn't see any evidence that there was a cumulative fatigue mounting in the Force at that point in time, no.

5

COL GABBEDY: I think you said it was only meant to be 10 days. I think the 10 days refers to the deployment to Exercise TALISMAN SABRE itself; is that right?

10 D19: It is, yes.

COL GABBEDY: That's a relatively short deployment, isn't it?

15 D19: For TALISMAN SABRE, yes. A lot of other Army units are griping right now, yes.

COL GABBEDY: Are you able to comment on the tempo, or the planned tempo, for 6 Avn's deployment to TALISMAN SABRE, given that they were there for 10 days? I think they only had four or five sorties planned.

20

D19: There was not to – it wasn't sorties altogether. I think the key metric to measure is the FMPs.

25 COL GABBEDY: Sorry, by reference to the FMPs would you say it was a high, or moderate, or a low-tempo exercise?

D19: It would've been planned that way deliberately so to account for fat in the program, to give us a chance to catch up a mission if we missed it, but also to understand that it was a measured train-through, rather than train-to, methodology applied to TALISMAN SABRE for the unit.

30

COL GABBEDY: So in relation to tempo, if there was fat in the program, does that mean it was a relatively moderate tempo, or would you say it was high, or low? How would you categorise it?

35

D19: It was relatively low compared to what it could have been with a mission every second day.

40 COL GABBEDY: And, again, it was a deployment to a field environment, and I understand that there were capability and security reasons why that was selected. Is that right?

D19: Yes.

45

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COL GABBEDY: You visited Proserpine?

D19: I did, yes.

5 COL GABBEDY: Were you there for 48 hours? Is that right?

D19: I think it might be marginally less, but two days in broad – two nights, yes.

10 COL GABBEDY: During that time, I think there were approximately 30 members of 6 Avn deployed. Do you know the exact number, or am I about right in terms of my estimation?

15 D19: I think it was a fair few more than that. I won't get into the details in this forum, but it was significantly more.

COL GABBEDY: If I limit my estimate to just aircrew, pilots and aircrew, would 30 be about the right number?

20 D19: Again, I'd have to go back and check the specifics. Probably a few more, but that's probably about right, yes.

25 COL GABBEDY: During the time that you were there, did you have time to interact with the members of your unit? Did you basically walk the floor, talk to pilots and aircrew, get a feel for how they were going, and what their experience was like?

D19: I did. Yes, of course.

30 COL GABBEDY: Do you think you had sufficient contact with those members to make assessments as to how they were faring in terms of their fatigue or their enjoyment?

35 D19: My perception was I did. Little things like shaving together outside the tents – and just to your point, ma'am, before about being on duty, even at that point in time you're in shared living arrangements, in a field environment like that. So while you're not on duty, as such, your proximity to each other as a team is very close. So my own personal example, or experience, was shaving with half a dozen other members sort of, you know, stealing hot water from the kitchen, this sort of
40 business. Like, just things that happen in the field generally when you go together as a team.

45 COL GABBEDY: What was your assessment of the mood and morale of your members on that deployment?

5 D19: My assessment, in simple terms, was it seemed pretty high. I didn't see anyone rushing around. I didn't see anyone with short tempers. Lots of conversations about food and ration packs, and how to make them better, which is usually a reasonable sign that things are okay from a CO's perspective. Simple markers.

MS McMURDO: The conversation re complaints; is that right?

10 D19: Look, I don't think anyone is particularly comfortable or happy eating ration packs, ma'am, but the fact that people are going to the trouble to make them better implies a level of – "acceptance" is not the right term – but they're in it together, and they can understand, and it's only a few days, and they'll figure it out as part of the journey. So, yes.

15 COL GABBEDY: Were you able to make an assessment in relation to any issues with tempo, or issues with fatigue, amongst the members of your 6 Avn aircrew?

20 D19: I didn't see anything that was alarming as it relates to fatigue. The tempo piece, as was highlighted there previously, I jumped on pretty quickly when I saw people rushing through a mission rehearsal, ROC drill, to get to a mission, and in a Coalition combined setting I wasn't comfortable with the common operating picture, that everyone knew
25 it. So anything I witnessed on the ground, on the day, on the spot, I jumped on pretty quickly, but outside of that, if I didn't change it, I didn't see any reason that it was of concern from a Command perspective as I moved around the camp.

30 COL GABBEDY: In paragraph 169 of your statement you talk about flying with both LT Nugent, and on a different occasion, with WO2 Laycock. I assume on those separate occasions when you were flying with each of those members you would have spent a number of hours in the aircraft with them.

35 D19: Yes. I was a passenger for LT Nugent as part of the Command and Liaison Task adjacent to Proserpine, is probably the best way to describe it. We stopped off at an airport. It was quite a lengthy sortie. Again, as I highlight in my statement, I was very proud of the work that everyone was
40 doing, and the decisions they were making at that point in time, to the point where – I'll talk to LT Nugent's sortie specifically. We landed. We were getting gas from somewhere, and I offered a different perspective about how we could have been more efficient, but the fact that they had chosen the safer option, as it relates to decision-making, before they
45 returned to base, I applauded them for that decision.

COL GABBEDY: In that time that you spent in close contact with LT Nugent, to start with, did he express to you any concerns about tempo, or fatigue, or his general health during the mission?

5

D19: No, he didn't, and again, I don't – I'm cautious, or careful, to say this, but he seemed like he was having a pretty good time on the activity, right.

10 COL GABBEDY: Indeed, we had some evidence that the then Troop Commander, D20, raised concerns about – I'm not going to ask a question about D20. I'm just raising it in context. I'll put it a different way. We've had some evidence that some of the younger pilots were up early, and that there was a need to speak to them about sleep hygiene and noise
15 in the morning. Was that indicative to you of basically young people enjoying their first time away on exercise?

D19: Look, I couldn't be so bold as to propose that that would be the, again, causation/correlation – you know, that that was the cause for it.
20 Everyone seemed in pretty high spirits, is probably the best way to put it.

COL GABBEDY: I'll leave it at that. And again, you spent some number of hours in an aircraft with WO2 Laycock as well. Did that give you a pretty good opportunity to assess his level of fatigue, or his mood on
25 the exercise?

D19: Yes, I was in the jump seat, sitting in front of the curtain that I believe has been described in a previous setting there, so I didn't directly deal with Phil, but I certainly saw him and spoke with him during the
30 mission, and then after the mission. He didn't raise any concerns to me specific to fatigue, and what it was. Or sorry, any indicators of fatigue in the workforce at that point in time.

COL GABBEDY: From your observations of both WO2 Laycock and LT Nugent, did you have any concerns yourself about levels of fatigue they might be displaying, but were not communicating to you?

D19: No, given that LT Nugent flew quite a bit for the Command and Liaison Task, and Phil was not backwards in coming forwards with me specifically. If he had an issue or a gripe, he was certainly going to let me
40 know about it straightaway.

COL GABBEDY: Fair enough. At paragraph 168 of your statement you talk about your duty day as being quite a long day, starting at 0900 in the morning, and potentially finishing at 1 am the following morning, and
45

sometimes later. That's a long day. Were you always on during that day? Did you have downtime where you could relax during the day?

5 D19: No, it wasn't always 100 miles an hour, but I think the – and again, Command is tricky in these environments in that you need to be available to answer questions, solve problems, assist where appropriate. I took great pride in seeing what the workforce was doing and the problems they were solving as part of a combined Coalition Task Force. There were some really big things achieved during the activity that will hopefully
10 never see the light of day, but there were some real capabilities demonstrated that were tremendous to be a part of that, and to see the team embrace it was really, really powerful.

15 COL GABBEDY: For yourself, during what were a couple of quite long days, were you able to take a break and have a rest if you were concerned about your own levels of fatigue?

D19: I could've if I really wanted to, yes.

20 COL GABBEDY: I want to just move to something different. The issue of spatial disorientation and risk controls that have been built in to try and deal with that known concern. I understand that there is training in unusual attitude correction. Is that right?

25 D19: There is, yes.

COL GABBEDY: I understand that one of the controls is this, what's been described by one witness as "Pilot 101", to look at the clocks when you're uncertain of where you might be. Is that where you go to as sort of
30 a first step?

D19: Absolutely, yes. I think there's probably – in a crewed environment there's probably a step before that where you hand over to the co-pilot as quickly as you can.
35

COL GABBEDY: So if you're not certain – I mean, if you're aware that you've got spatial disorientation, you hand over because you don't know where – the issue is if you don't know, I suppose.

40 D19: Unrecognised, yes, would be a very dangerous and problematic situation to be in.

COL GABBEDY: In response to a question from Counsel Assisting, you talked about controls for unrecognised spatial disorientation. You referred

to RADALT and BARALT. Were there other controls there that you wanted to talk about as well?

5 D19: Not specifically, no. I think that the principal control in a modern aircraft to avoid – to use your phraseology, ma'am, about getting ahead of it and having a proactive control in place – if you use the AFCS complete, it can be very, very powerful and avoid a lot of the issues that come with it.

10 COL GABBEDY: And the AFCS complete, and forgive my ignorance in terms of things Aviation, is that the same as what's also described as the RHT upper mode, or the automated attitude mode? Is that the same thing?

15 D19: I think the flight control system, the automated flight control system, is a much broader suite of technology that sits behind the pilot, and assists the pilot in those settings. So things like four-axis autopilot, three-axis autopilot, again, the complete suite of tools available to a fourth generation aircraft are significant in that setting.

20 COL GABBEDY: And one of the tools – tell me if I'm wrong again because my knowledge of this is pretty limited – is this, what's called the RHT upper mode, and my understanding is it's mandatory to set that if you're flying at night, overwater, below 500 feet, and that if you set it, it will hold the aircraft to a particular height that you set it at. Is that right?

25 D19: It will, yes.

30 COL GABBEDY: My understanding is that you can, if you want to, if you're forming and having difficulty forming, you can override it, but you leave it on, so once you've finished overriding it to increase or decrease your altitude, it comes back on. Is that right?

35 D19: Yes, by pulling what they colloquially refer to as the trigger on the collective, you disengage it momentarily, but the system is still engaged in the background, so as soon as you release the trigger it will recapture your altitude and put you back in the right place.

40 COL GABBEDY: The key part there is you disengage it momentarily, isn't it?

D19: For station-keeping purposes, yes.

45 COL GABBEDY: And my understanding – and tell me again if this is wrong – if you were to disengage it completely, if you were going to switch it off as the flying pilot, that would be something you would need

to brief your crew about, or discuss with your crew, before you took that step?

D19: Absolutely, yes.

5

COL GABBEDY: Because in doing so, what you're doing is turning off an important control measure.

10 D19: Very much so, yes. I think there's a qualifier in there in the background, that stress and pressure will result in different physical and physiological manifestations in the cockpit, and you see this in different settings where people, if they can't reconcile the visual world with what they're perceiving in their head, they will – you know, classic signs, you start to hear less, you start to lose auditory cues, your muscles will tense up, you may well engage or disengage different modes of flight that you're unaware of at different points in time. It's a thing that we can't really account for. Just humans in the loop, I suppose is probably the best way to put it.

15

20 COL GABBEDY: So it could be almost involuntarily disengaging the system?

25 D19: Absolutely, yes. I think that's the key thing, that while everyone is assuming that everything has potentially occurred in a very deliberate fashion in this setting, as Counsel Gracie highlighted a second ago, there's only seconds, fractions of seconds, in this environment. If we find ourselves uncertain of our environment potentially, what we think we see is not what we actually see, it results in various physiological manifestations. You may find yourself clutching at controls, tightening your muscles up that you don't usually have, having done it myself, having had the leans in a very challenging setting before.

30

35 So while the assumption here that everything has occurred in a very deliberate fashion, it is highly likely that various modes have been engaged or disengaged in a very not deliberate fashion, is probably the best way to put it, and almost a physiological response to a stressful environment.

35

40 COL GABBEDY: And, of course, I assume it follows – and tell me if I'm wrong – that in those circumstances where you've got a physiological response there's no briefing of the crew because you're not completely aware of what it is you're doing. It's a physiological rather than deliberate response.

40

45 D19: That could be the outcome. Yes, absolutely.

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

5 MS McMURDO: Thank you. Any re-examination, CMDR Jones?

<RE-EXAMINATION BY CMDR JONES

10

CMDR JONES: Very briefly. One minute, in that time.

D19, are there Standing Instructions that deal with the various
requirements for a Forward Operating Base, such as spacing between
15 accommodation tents and the distance from the flight line?

D19: There is, yes.

CMDR JONES: From your observations of the two days you spent at
20 Proserpine – and Proserpine would be classified as an FOB, a Forward
Operating Base?

D19: For the context of the activity, yes.

25 CMDR JONES: From your observations while you were there, did the
accommodation set-up, the camp set-up, comply with those SIs?

D19: It did, yes. I specifically remember having the conversation with,
I'll just say our Regimental Logistics Officer, about the work she had
30 done, and how proud I was of her ability to achieve some very unique
things in that setting. Yes.

CMDR JONES: Finally, the accommodation tent, in particular the one
that you were in, sharing with the aircrews, were the members of that tent
35 on the same shift, or was there a mixture of shifts in that tent?

D19: We were all on the same shift. All the aircrew were on the same
shift. There was a mix between day and night shifts between different
tents, but everyone in the same tent was on the same shift, as a guide.
40

CMDR JONES: No further questions.

MS McMURDO: Re-examination? No. So I understand at this stage we
will need to go into Private Session.
45

OFFICIAL

COL STREIT: That's correct.

5 MS McMURDO: I've just made Direction number 15 of 2025. I've just made Direction number 15 of 2025, which relates to the conduct of the hearing in Private Session, and it is in the same respect as the earlier Directions in this way but for the people permitted to attend, and the people permitted to attend this Private Hearing are the witness, of course, AVM Harland and me, COL Streit - - -

10 COL STREIT: I think, Ms McMurdo, that list would need to be in Private Session.

MS McMURDO: Will it need to be in Private Session? Okay.

15 COL STREIT: Yes.

MS McMURDO: So we now need to cut the feed. All right. Well, just do it.

20 <WITNESS WITHDREW

25 **HEARING ADJOURNED**

(Continued in Private Hearing Session)

HEARING RESUMED

5 MS McMURDO: Now, tomorrow morning, do we need to start at 9.30?
We probably do.

COL STREIT: Yes. I wonder if you would grant an indulgence, and that
is we were going to start Dr Smith today for a little bit. I wonder if we
can make a start with him first thing in the morning for about an hour.
10 FLTLT Rose is taking his evidence. She will not be here on Thursday.
And then we would finish his evidence on the Friday. I don't
anticipate - - -

15 MS McMURDO: That is we'll finish Dr Smith's evidence on the
Friday?

COL STREIT: Correct.

20 MS McMURDO: Yes, we don't anticipate MAJ Jobson will have any
trouble finishing MAJ Jobson's evidence by Thursday afternoon?

COL STREIT: I would not have thought so, and I will engage with my
friends shortly. I imagine I will be the better part – well, not a complete
day, but I would be the balance perhaps of tomorrow, but then I will be
25 done, and that would leave a whole day for cross. I'm sure that won't be
necessary, but I will engage with my friends.

MS McMURDO: So FLTLT Rose would be returning to Sydney
tomorrow. Do we need to start – is that right?

30 FLTLT ROSE: Tomorrow evening.

MS McMURDO: Not until tomorrow evening. So 9.30 is - - -

35 COL STREIT: 9.30 for Dr Smith for an hour, and then start
GEN Jobson.

MS McMURDO: Okay. We will do that. We'll adjourn until 9.30
tomorrow morning. Thank you.

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**PUBLIC INQUIRY ADJOURNED UNTIL
WEDNESDAY, 7 MAY 2025 AT 0930**