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TRANSCRIPT OF PROCEEDINGS
TRANSCRIPT-IN-CONFIDENCE

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

PUBLIC INQUIRY

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

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

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SQNLDR J GILES, representing LT M Nugent
MAJ H PEROTTET, with LCDR M TYSON, representing
CPL A Naggs
SQNLDR C THOMPSON, representing WO2 J P Laycock
COL N GABBEDY, representing MAJGEN Jobson
SQNLDR M NICOLSON, representing D10
MS K MUSGROVE, representing the Commonwealth
MAJ M BARNES, representing CHAP Hammonds**

1000, MONDAY, 5 AUGUST 2024

DAY 12

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	09/08/24	(Transcription)

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MS McMURDO: I warmly, and respectfully, acknowledge the traditional owners of modern Parramatta, or Burramatta, as they knew it, “Place of eels”. Here on the upper reaches of the bountiful Parramatta River, the Burramattagal Clan of the Dharug people prospered for tens of thousands of years before colonisation. Eels were their totem. They held meetings here, working out how to do things better in their society. In essence, much as we are doing in these hearings.

As this Inquiry continues its difficult work, we can all reflect with pride that as Australians we are uniquely privileged to remember and honour those ancient Burramattagal traditions. And now I understand why the local football team is the Eels.

I again extend the Inquiry’s deepest sympathy to the families and colleagues of the deceased aircrew who are always at the forefront of our work: CAPT Danniell Lyon, LT Maxwell Nugent, WO2 Joseph Laycock and CPL Alexander Naggs.

The Inquiry notes, with respect and sadness, the recent inaugural anniversary of the crash which led to their untimely deaths. The Inquiry has already received 40 very helpful submissions; some through the web and others by email. Many of those submissions have required a commendable degree of courage to make.

I sincerely thank those who have come forward so far. If you are still contemplating whether to make a submission, be assured that you can do so confidentially; that it is possible to give evidence using a pseudonym and without your evidence being live-streamed or published; that it is possible to give evidence in private session or with limitations as to who is present in the hearing room; and that the inquiry will do all it can to ensure that you are treated in a respectful and trauma-informed way.

You may also be comforted to know, under the IGADF Regulation, anyone who prevents or dissuades someone from providing information to the Inquiry commits an offence, as does anyone who victimises, penalises, or prejudices someone for giving information to the Inquiry.

As in the last hearing, much of the evidence in this hearing block will be given by witnesses who require the protection of a pseudonym. Only the audio of those witnesses, not the video, will be live-streamed. I have made a non-publication direction in respect of the identity of these witnesses, now a list of more than 100 people. Remember, it is an offence to publish the identities or any images of these witnesses.

5 Some of the evidence to be called in these hearings will be classified. For that reason, the Inquiry has agreed with the army's request to increase the two-minute delay between giving and live-streaming evidence to five minutes. This will ensure that there is time to prevent any inadvertent reference to classified information from being live-streamed and for me to make a non-publication order in respect of any classified information inadvertently given in a public hearing.

10 When Counsel Assisting identifies that evidence classified "Official: Sensitive" will be given, the Inquiry will enter private session and the live-streaming will cease. All unauthorised people, including media, will need to leave the hearing room unless I direct otherwise. I may permit someone to be present during a private hearing if I'm satisfied that the person has need to know the evidence due to their particular participation or involvement in the Inquiry. I will almost certainly make a non-publication order binding all present in the private hearing.

20 If you are not legally represented and wish to be present during a private hearing, first raise your request with Counsel Assisting. Family members who would like Counsel Assisting to notify the Inquiry of their requests to be present during a private hearing should speak to the Inquiry's Family and Witness Support Officers to discuss this.

25 At the commencement of each private hearing and before any evidence is led, it will be necessary for each person to state their full name so that this is recorded in the transcript. This step is necessary for security purposes. Counsel Assisting will guide this practice.

30 I ask counsel in cross-examination to take care not to trespass into areas of classified information in public session; that can only be done in private session. If in any doubt at all, discuss the issue with Counsel Assisting before commencing cross-examination.

35 You may recall that Dr Adrian Smith gave expert aviation medical evidence in the last hearing. He will likely be giving further evidence later in these hearings. As in the last hearings, I gave Dr Smith permission to watch or listen to the live-stream of evidence or to sit in on hearings when relevant witnesses give their evidence. Please let me know if there are any submissions to the contrary.

40 I have granted an additional application for leave to appear. Mr Jeffrey Phillips SC has leave to appear for the interests of Dr Maria Gavrilescu.

45 I understand there is a further application for leave to appear? Yes, MAJ Barnes.

5 MAJ BARNES: Thank you. My name's MAJ Michelle Barnes and I seek leave to appear for CHAP Bruce Hammonds. He has received a notification that there is information contained in the statement of Mr Ron Curnow that's adverse to his interests, and I seek permission to appear for him.

10 MS McMURDO: Yes, certainly, MAJ Michelle Barnes. You have leave to appear. And thank you for taking this matter on at relatively short notice. Greatly appreciated.

MAJ BARNES: Thank you, ma'am.

15 MS McMURDO: Some of the evidence to be given over the next two weeks may be confronting to many. Remember, you are not alone. Confidential help is always available. ADF members can call the all hours support line on 1800 628 036. ADF family members can call the Defence Family Helpline on 1800 624 608. Open Arms on 1800 011 046 is available for current ADF members, veterans and families. General help is available from Safe Zone Support on 1800 142 072, or Lifeline Assistance on 20 13 11 14. These contact details are also available on the IGADF website.

COL Streit will now give his opening address. Yes, COL Streit.

25 COL STREIT: Thank you, Ms McMurdo. With the Inquiry's permission I'll make some brief opening remarks as to the purpose of this hearing phase, including identifying witnesses to be called. It's important to briefly recall my submissions from previous hearings in this regard.

30 Bushman 83 is the call-sign of the MRH-90 Taipan aircraft in which CAPT Lyon, LT Nugent, WO2 Laycock and CPL Naggs were flying at night on 28 July 2023. The Inquiry is required to examine issues before the crash of Bushman 83, find out what happened at the time of the crash and what happened after the crash. The Inquiry's Directions describe these broad areas as pre-incident, the incident, post-incident issues, and other 35 issues. The term "incident" refers to the crash of Bushman 83 on 28 July 2023.

40 In earlier hearings in this Inquiry, Ms McMurdo and Deputy Chair AVM Harland, you heard evidence about pre-incident issues and post-incident issues. Your consideration of those important matters will continue this week. However, the main focus of this hearing phase is to commence the Inquiry's examination of the incident itself.

45 In this regard, important evidence will be led from 6 Aviation Regiment witnesses who were involved in the sortie of Bushman 83 on 28 July 2023.

5 Their evidence will inform the Inquiry in a very human way of their knowledge of CAPT Lyon, LT Nugent, WO2 Laycock and CPL Naggs and their interactions together leading up to the mission on 28 July, the actual conduct of the mission, their observations of what happened to Bushman 83 during the mission, and the immediate aftermath of the crash of Bushman 83.

10 Can I say something about giving evidence and Defence values? It's important to acknowledge that for witnesses, giving evidence in a hearing can be a challenging experience. Giving evidence about a matter where mates and colleagues have been lost is even more challenging. But that evidence is incredibly important for the Inquiry to hear.

15 All witnesses are under a moral and legal obligation to give truthful evidence before this Inquiry. That is the rule. But the meaning of the rule for an Inquiry is much deeper than simply providing a line in the sand. Without the assistance of frank and forthright evidence given by witnesses about their experiences relevant to this tragic matter, the Inquiry will be diminished in its ability to assess and understand what may have been the causal factors leading to the crash of Bushman 83, and be diminished in its ability to make recommendations designed to avoid, or limit, the risk of such an event ever occurring again.

20 I observe there are two Defence values that may provide comfort to ADF witnesses to recall when they give their evidence, and the Counsel Assisting team certainly keeps these matters in mind. The first is integrity. Integrity as a Defence value is the consistency of character to align your thoughts, words and actions to do what is right. The Defence value of courage is described as the strength of character to say and do the right thing always; especially, in the face of adversity.

25 Can I say something about the witnesses to be called in these proceedings. Today, the Inquiry will hear from Mr Curnow. He'll give evidence about notification matters. Mr Curnow is the father of Mrs Caitland Lyon. CHAP Bruce Hammonds will also be recalled to give further evidence. We will also hear and continue the evidence of Detective Inspector Emma Novosel, a Queensland Police Serving Officer and who was involved in the investigation from a Queensland Police perspective of the crash of Bushman 83.

35 We will also hear from CPO Naval Police Casey Theissen in relation to search and rescue matters. CPO Theissen is presently the Australian Defence Force Investigative Service Liaison Officer at the Office of the Director of Military Prosecutions.

45

On Tuesday, we'll hear from D55, who's a pilot and attended an Aviation training course with CAPT Lyon. We'll also hear from Dr Raymond Matthews, an expert witness regarding human fatigue.

5 On Wednesday, we'll hear from LTCOL Brendan Reinhardt who was in charge of an organisation internal to the army and conducted an assessment of the TopOwl upgrade. His organisation prepared a report and he'll be giving evidence about that. We'll also hear from Dr Maria Gavrilescu, who's an expert witness regarding night-vision devices and will also give
10 evidence concerning TopOwl.

On Thursday, we'll hear from AIRCDRE Joseph Medved, who is the Director-General of the Defence Aviation Safety Authority; Mr David Edwards, a member of the Defence Aviation Safety Authority; and
15 GPCAPT Chris Pouncey, a member of the Defence Aviation Safety Authority. That evidence, collectively, will inform the Inquiry of the structure of Defence Aviation Safety and its application to Aviation Command and other matters concerning MRH-90.

20 On Friday, we'll hear from CAPT Benjamin Jackson, who'll appear via video-link. He's a pilot and attended the aviation training course with CAPT Lyon. We'll also hear from D129, who's a pilot and attended the aviation training course with CAPT Lyon and CAPT Matthew Goodridge, who's a pilot and attended the aviation training course with CAPT Lyon.

25 The first week will be busy. The second week will be busier. The second week is focused, exclusively, in relation to aircrew and other members of the 6 Aviation Regiment that were involved in, or participated in, the sortie on 28 July 2023.

30 On Monday, we will hear from D3, who was Bushman 81 aircrewman. We'll hear from D2, who was Bushman 81 Aircraft Captain and an MRH-90 Qualified Flying Instructor.

35 On Tuesday, we'll hear from D6, Bushman 83 Aircraft Captain and MRH-90 Qualified Flying Instructor. We'll hear from D21, a pilot who undertook a fatigue study in 2022 at 6 Aviation Regiment, or was involved in a fatigue study. We'll also hear from D5, who's the Bushman 82 co-pilot.

40 On Wednesday, we'll hear from D13, who was a member of 6 Aviation Regiment and, at the relevant time in July 2023, was the Camp Commandant at Proserpine for deployed elements of 6 Aviation Regiment. We'll hear from D16, who was an Operations Officer on Exercise TALISMAN SABRE.

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On Thursday, we'll hear from D14, the 6 Aviation Regiment Standards Officer and MRH-90 Qualified Flying Instruction; D9, who's Bushman 84 co-pilot.

5 And on Friday, we'll hear from D1, Bushman 81 co-pilot, and conclude with the evidence of Dr Adrian Smith, the expert witness to which, Ms McMurdo, you referred to a few moments ago.

10 Can I say, the order of witnesses that I have just informed the Inquiry about is not something that is set in stone and may change due to unforeseen circumstances or matters beyond control of the Inquiry. It's not always easy to accurately estimate the length of time a witness may take to give evidence in these proceedings. Barristers – perhaps me, more particularly – are notoriously inaccurate in this regard. How long the evidence-in-chief may take, and time for any questions that may come from Counsel representing is sometimes difficult to accurately assess. On occasions, a witness may not be able to conclude their evidence on the day they are called and will conclude their evidence the next day. It is also possible that witnesses listed for a particular day may finish their evidence early. If that occurs, the hearing may conclude early on a day.

20 The witness list contains sufficient flexibility to manage these possible occurrences. As I said, this week will be busy. Next week will be even busier.

25 I'll briefly say something concerning security. I note, Ms McMurdo, your guidance concerning security matters and the delineation between public and private hearings. The Counsel Assisting team stands ready to assist Counsel representing with those matters and will, at appropriate times, foreshadow to the Inquiry and Counsel representing if Counsel Assisting considers a witness's evidence may require a private hearing.

30 Thank you, Ms McMurdo, that concludes my opening remarks.

35 MS McMURDO: Thank you. Yes, FLTLT Rose.

FLTLT ROSE: I call Ron Curnow. Sorry, I understand that some cameras may need to be removed before we take the first witness.

40 MS McMURDO: Yes, we might just have a minute or two while the cameras are removed.

FLTLT ROSE: I understand that is now completed. I call Ron Curnow.

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<RONALD WALTER CURNOW, Sworn

<EXAMINATION-IN-CHIEF BY FLTLT ROSE

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FLTLT ROSE: Can you please state your full name?

MR CURNOW: Ronald Walter Curnow.

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FLTLT ROSE: Could you just raise your voice, or perhaps direct the microphone just slightly more towards you? Thank you.

MR CURNOW: Is that better?

15

FLTLT ROSE: Yes, it is. Are you the father of Caitland Lyon?

MR CURNOW: I am.

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FLTLT ROSE: And the father-in-law of CAPT Danniell Lyon?

MR CURNOW: Yes.

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FLTLT ROSE: Could you please confirm if you received the following documents prior to arriving today: a section 23 Notice requiring your appearance to give evidence?

MR CURNOW: I did.

30

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

MR CURNOW: I did.

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

MR CURNOW: I did.

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FLTLT ROSE: A Frequently Asked Questions Guide for Witnesses in Inquiries?

MR CURNOW: I did.

FLTLT ROSE: A Privacy Notice.

45

MR CURNOW: Yes.

FLTLT ROSE: Did you prepare a statement for these proceedings?

MR CURNOW: I did.

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FLTLT ROSE: I'll hand you a document. If you could look through that document and confirm that is the statement that you prepared.

MR CURNOW: Yes, it is.

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FLTLT ROSE: Is that dated 20 June 2024?

MR CURNOW: It is.

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FLTLT ROSE: If you turn to the final page, page 6, is that your signature?

MR CURNOW: It is.

20

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

MR CURNOW: No.

FLTLT ROSE: I tender the statement.

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MS McMURDO: That will be exhibit 34.

**#EXHIBIT 34 - STATEMENT OF MR R W CURNOW
DATED 20/06/24**

30

FLTLT ROSE: In paragraph 6 of your statement you set out that you were at home on 29 July 2023 with your wife, Lynnette.

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MR CURNOW: Yes.

FLTLT ROSE: And that's when Caitland called Lynnette to tell her, and you, about the incident that had occurred with Bushman 83.

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MR CURNOW: Yes.

FLTLT ROSE: And you immediately drove to Sydney to be with Caitland and your grandchildren.

45

MR CURNOW: Yes, we packed some clothes and then headed up.

5 FLTLT ROSE: At paragraph 9 you state that during that morning you met a number of people from Defence, including a Padre, is that correct, at Caitland's house?

MR CURNOW: That's correct.

FLTLT ROSE: Do you remember the name of the Padre?

10 MR CURNOW: Bruce Hammonds, I believe.

FLTLT ROSE: Did you refer to him as Padre Bruce Hammonds?

MR CURNOW: Yes, I called him Padre all the time.

15 FLTLT ROSE: Is it the case that he and another officer gave you some details about the crash?

MR CURNOW: Yes, they did, in Caitland's lounge room. We were sitting down. They gave some details that there'd been a crash, and that Dan was missing.

20 FLTLT ROSE: And the other officer, was that an ADF Officer?

MR CURNOW: It was, yes. I don't recall his name, but I do recall the Padre speaking to Caitland and I at the time, and the other officer was there with him. I don't recall any conversations, or I wouldn't be able to identify him if I saw him again.

25 FLTLT ROSE: At paragraph 12 you set out some evidence about funeral preparations.

MR CURNOW: Yes.

30 FLTLT ROSE: You state that you saw the Padre a number of times after that initial meeting, including at the funerals for the other members that died in the crash.

MR CURNOW: Yes, Caitland and I attended all three funerals.

35 FLTLT ROSE: And you saw the Padre at those funerals.

MR CURNOW: Yes.

40 FLTLT ROSE: At paragraph 13 you state that at either Phil or Naggsy's

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funeral you said the Padre addressed the congregation and said something about Caitland.

5 MR CURNOW: Yes, we were sitting three rows back at the Chapel at Holsworthy, and he said that he would never forget the look on Caitland's face when he told her that Dan was missing. I felt that that wasn't a time or a place to make a comment like that, so we were both sort of taken aback by that, given the fact that it wasn't Caitland's funeral, it was another member. And I personally felt that it should have been more about them, 10 and not the Padre's view that he wouldn't forget her face when he told her of Dan.

FLTLT ROSE: At paragraph 16 you state that both you and Caitland had some reservations about the Padre carrying out Dan's funeral service. Was that correct? 15

MR CURNOW: Yes, it is.

FLTLT ROSE: What were those reservations? 20

MR CURNOW: At the second funeral we felt that it sort of went on a bit of a tangent sometimes during the service, and Caitland expressed concerns to me that she wanted Dan's funeral - - -

FLTLT ROSE: You said that he went on some tangents. Were you concerned that he may not carry out the service in the way that Caitland wanted it to be carried out? 25

MR CURNOW: Yes. Yes, with some of the tangents and forgetting one of the people's brother or son-in-law, I think, at one of the funerals, saying that, "I'm sorry, I've forgotten your name", I thought that was not very good, to forget someone's name if you're going to mention them at a funeral. I also recall that he was given some words to speak on behalf of one of the people at one of the funerals, but went off on another tangent, not 30 sort of reading the information that he was given. It could've been nerves; I don't know. 35

But we did have that reservation, and to the point where she wanted it all to go well for Dan, and I volunteered that if she would like, I would get our minister from the South Coast to come up and do the main part of the service, but still have the Padre involved, but our minister to run the service. And Caitland said, "No, he's under a bit of pressure, so let's see how he goes at the third funeral", and I said, "If you're not happy, we'll make that recommendation". Because it always was said to Caitland that, "It's Dan's funeral. We'll work with you to make things go as smoothly as possible". 40 45

So we just discussed that. The other minister said, “More than happy to step in”. But at the third funeral, we thought it got better and we were quite comfortable with him looking after Dan’s funeral.

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FLTLT ROSE: So you continued with the Padre was going to run Danniell’s funeral.

MR CURNOW: Yes.

10

FLTLT ROSE: At paragraph 17 you state that yourself and your wife, Lynnette, and Caitland, and also Dan’s stepmother, Sue, attended some briefings at Holsworthy Barracks about the funeral preparations.

15 MR CURNOW: Yes.

FLTLT ROSE: Was the Padre at those briefings?

MR CURNOW: He was.

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FLTLT ROSE: In paragraph 19 you state that at one of those briefings the Padre mentioned that the unit was hoping to have all the funerals done as quickly as possible so they could get back to operational. By “unit”, do you mean his Squadron, or the 6 Aviation Regiment?

25

MR CURNOW: 6 Aviation. It just seemed, from my perspective, that there was a rush to get these over and done with, and Caitland was feeling more and more pressure, and so was Lynn and I to a degree, that it was being rushed, and she wanted to take time and breath, to sort things out and get it through her own mind about the funeral.

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FLTLT ROSE: Was anyone else from the Defence Force at those briefings where the Padre mentioned wanting to get the unit back to operational?

35 MR CURNOW: There were people there, but I don’t believe they were close enough to hear him say that to Caitland and I.

FLTLT ROSE: Was this said when it was just the three of you together?

40 MR CURNOW: Yes, that’s my recalling of it.

FLTLT ROSE: Do you remember the wording that he used?

45 MR CURNOW: Not exactly. It was more of the lines that we need to get these funerals together – commenced. It’s affecting the unit, and just can’t

keep having it linger on for weeks or months on end. That's basically it.

5 FLTLT ROSE: Did you have any understanding at that point, when you were having those conversations with the Padre, whether or not 6 Aviation Regiment were in fact conducting any operations?

MR CURNOW: No.

10 FLTLT ROSE: You weren't aware or they weren't?

MR CURNOW: I was not aware.

15 FLTLT ROSE: Paragraph 21 you state that on another occasion the Padre came to Caitland's house when you were there.

MR CURNOW: Yes.

20 FLTLT ROSE: And you said it was about 7 pm on a Friday, when Caitland had some friends over.

25 MR CURNOW: Yes, it was. We started having friends of Caitland and Dan around for a meal at night. I recall it being a Friday and we were sitting there having a meal. Lily and Noah were playing, things like that. And he – I recall sitting at the table eating and I turned around and I saw the Padre talking to Caitland near her fridge. She's got a planner on the fridge, magnetic planner. And the area's quite large, it's like an open plan kitchen/dining room, a large kitchen bench and then you have a little opening that you can walk through. And I saw the Padre talking to Caitland and they were pointing at the fridge.

30 I recall somebody that I was sitting next to said, "The Padre's here". And I went – I thought it was strange because usually he rings to let – it's okay for him to come over. And I saw them standing there talking, so I went, "I better hop up", because it looked – pointing at dates on the calendar and things like that. So I went over there to him and they were discussing that he had heard that Caitland was planning to have Dan's funeral on Father's Day. And Caitland said, "Well, if that's the case, then that's the" – or, "If that's what it is, that's what it is", if she chooses to have it that day.

40 I recall the Padre saying, "Well, you're going to dishonour the most important person in your life", and he pointed to me. And I said, "What?" And Caitland went, "What?" And he said, "Yeah, because you have to also consider future partner/husband and children and how it will affect them". With that, Caitland was very – I could see she was very upset.

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And then she said, "I've got to go", and she went past me and went to the children that were in the bathroom having their bath. And the Padre then looked at me and I said, "I think it's time you should leave". I was very upset by that comment. And then he was about to say something to me and I stopped him and I said, "It's time that you left". So I escorted him – or
5 I walked out with him, I didn't escort him.

I walked him out to the front of the house and he still wanted to continue with the date that Caitland had allegedly set, and I said, "Caitland was always informed that, 'There's no rush for Dan's funeral. Take the time that you need'". And he said, "You should tell her not to have it on Father's Day". And I said, "Caitland will have the funeral on whichever day suits her and works for her", because around that time we've got the grandchildren's birthdays and things like that. So with that, I said good
10 night to him and closed the front door.
15

FLTLT ROSE: I take you back to a few items you raised during that evidence then. You said that usually the Padre would call in advance of coming to Caitland's home?
20

MR CURNOW: Yes, he usually phoned to say if it was the right time for her or if she was able to see him. We sort of always thought that was quite good that he did that and just didn't turn up. But on that night he just turned up.
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FLTLT ROSE: So did he have contact details for Caitland in terms of her mobile number? Is that how he used to contact her?

MR CURNOW: Yes.
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FLTLT ROSE: Did he have your contact details?

MR CURNOW: I'm not a hundred per cent sure. But if he had asked for it, I would have given it to him.
35

FLTLT ROSE: But the usual course was that he would call Caitland on her mobile?

MR CURNOW: He would call Caitland, yes.
40

FLTLT ROSE: And he hadn't done that in advance of this particular visit?

MR CURNOW: No. Because Caitland and I had a talk and we thought it was very strange that he would turn up on Friday night, as I recall.
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FLTLT ROSE: Was he on his own, the Padre?

MR CURNOW: Yes.

5 FLTLT ROSE: You said that you told the Padre that you'd understood there was no rush in terms of picking a date for the funeral?

MR CURNOW: Yes, that's right.

10 FLTLT ROSE: Who had told you there was no rush?

MR CURNOW: I believe it was the officer that was organising the funerals. I cannot recall his name.

15 FLTLT ROSE: Was this an officer that was at some of those briefings that you attended at Holsworthy Barracks?

MR CURNOW: Yes. Yes, it was.

20 FLTLT ROSE: Was it a male officer?

MR CURNOW: Yes.

FLTLT ROSE: Was it someone in the army?

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MR CURNOW: Yes, it was.

FLTLT ROSE: Was it someone from 6 Avn Regiment?

30 MR CURNOW: My understanding is yes.

FLTLT ROSE: When the Padre did come to visit Caitland at her house on other times, was he alone or was he with other persons?

35 MR CURNOW: Sometimes he was alone, other times he had another officer with him.

40 FLTLT ROSE: Did you or Caitland ever talk to anyone at 6 Aviation Regiment, or in the army generally, about the Padre's comments to Caitland?

MR CURNOW: No, that was – Caitland and I were – that's just – we just kept that to ourselves. I never mentioned it to anybody else.

FLTLT ROSE: At paragraph 33 of your statement you said a week later, after the visit to Caitland's home, the Padre came back to Caitland's house when you were there, to talk about the Order of Service.

5 MR CURNOW: Yes.

FLTLT ROSE: Was that during the day?

MR CURNOW: It was.

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FLTLT ROSE: Was he on his own on that occasion?

MR CURNOW: He was.

15 FLTLT ROSE: Was that visit pre-planned? Caitland was aware he was arriving?

MR CURNOW: Yes.

20 FLTLT ROSE: You said that Dan's name had been spelt wrong in the Order of Service?

MR CURNOW: Yes. We sat down at the dinner table, my wife Lynnette was there and Sue was there. That's all – there may have been someone on the phone, so one of the relatives or something so they could keep up to date what Caitland was – how she was planning the service. That person, I cannot recall. But he sat down with a copy of the Order of Service and we picked up that Dan's name was spelt wrong at the front. The Padre made a comment that it would – that it'll be fixed up on the day. And I remember Caitland saying, "Well, it better be, because we're paying for it".

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So we went through that. The Padre was a bit forward in how it should run and I believe – and I felt, I'm sorry – I felt that given Dan's character, it's not in his character to have a full-on church service. He'd rather have people speak about him. And that's where we had a few – probably more speakers than usual at a service. But they all wanted to express their life and times with Dan, but they kept to that.

35

The Padre mentioned the comment that, "It's a long time to be out there for a service". And I recall somebody out of the – either Lynnette or Sue or Caitland said, "Well, I'm going to be there. They wouldn't be there if they didn't want to be there". So that comment was let go. And then Caitland said that she wanted to give a eulogy at the time. The Padre said that, "Usually spouses don't do that because it's very difficult". And Caitland said, "Well, that's what Dan would do. That's what I'm going to do".

40

45

He tried to steer Caitland away from it and probably had good intentions, but as Caitland said, “I’ll be reading it and if I have any difficulty, I” – she’ll have her brother with her, Cameron, to take over.

5

FLTLT ROSE: You made the comment that he said, “It’s a long time to be out there”. Is that because it was held outside at HMAS *Creswell*?

MR CURNOW: Yes, it was. Yes.

10

FLTLT ROSE: Did Caitland give the eulogy at the funeral?

MR CURNOW: She did.

15

FLTLT ROSE: The funeral was held at sometime in September 2023?

MR CURNOW: Yes. It’s strange that you remember when people pass but it’s difficult to remember the funeral dates. Second week of September. If I’d have to make a – Father’s Day was before, whatever the second week is, 13th - - -

20

FLTLT ROSE: So it wasn’t held on the Father’s Day?

MR CURNOW: No, it was not.

25

FLTLT ROSE: Was that Caitland’s decision?

MR CURNOW: Yes. I don’t know where the Padre heard that from, that Father’s Day one. Yes, I just don’t know where that came from.

30

FLTLT ROSE: Turning back to that conversation in the kitchen that you had with the Padre and Caitland, was there anybody else in the kitchen with you when the three of you were discussing the dates?

35

MR CURNOW: There was. There was one of Caitland’s family and friend members, I think they were washing up or putting some food on the plate. They may have heard conversation. I don’t recall – I didn’t mention it to him. I don’t recall them saying anything to me about the conversation. But because it’s narrow, there was only room – if anybody wanted to get in and out, we’d have to move to allow them through. But I do recall two people being in the kitchen at the sink or the breakfast bar.

40

FLTLT ROSE: When you gave evidence before that you didn’t speak to anyone in the army about the comments that the Padre had made to you,

was it something that you discussed after the Padre left, internally, amongst your own family?

5 MR CURNOW: No, I just mentioned it to Caitland. I didn't discuss it with anybody else.

FLTLT ROSE: Overall were you pleased with how the funeral went for Dannie?

10 MR CURNOW: I was. The only disappointing thing that I felt was that after Caitland gave her eulogy, that – to the words the Padre asked people to clap Caitland for her courage in giving the eulogy. He may have felt that way, but I didn't think it should be expressed in an open – you know, we're not at a football game, we're at a funeral. I just felt that that wasn't right.

15 FLTLT ROSE: Other than that moment, did you think that the Padre's involvement in the day was suitable for the occasion?

MR CURNOW: I did, yes.

20 FLTLT ROSE: And that he followed the Order of Service the way that Caitland had set it out?

MR CURNOW: Yes. But I will say that the Order of Service, Caitland had to make a few changes to what she originally asked for at the kitchen table when we had the meeting with him. But she got what she was after, which was the main thing.

FLTLT ROSE: I'll ask you some questions now about issues that occurred after the funeral. At paragraph 37 and 38 of your statement you say that some time after the funeral you went with Caitland and Lynnette and Sue to meet the Padre again at Holsworthy Barracks, to pick up a quilt that volunteers had made for the family. Do you recall that meeting?

35 MR CURNOW: I do, yes.

FLTLT ROSE: You said that as the Padre handed the quilt to Caitland, he said:

40 *Here is the quilt but, by the way, they spelt Dan's name wrong. We can leave it or it can be easily fixed.*

And then he said:

Anyone that is good with a needle and thread could fix that up, or you can send it back and the ladies at the organisation will fix it up, but it may take a few months.

5 MR CURNOW: That's correct, yes.

FLTLT ROSE: So was this a quilt that volunteers make for fallen - - -

10 MR CURNOW: Fallen soldiers, yes. Yes. I don't recall the organisation; I do apologise for that. But it was an organisation that I haven't heard before. But as he pointed to Lynn and Sue about needle and thread, one of the other ladies there – I think her name was Maria – one of the welfare officers took it, because I think we were both pretty upset that we'd get this and it's not right. So with that, we took the quilt. I remember Sue having
15 some difficulty trying to find the organisation contacts to get it fixed up. Eventually did, and Lynn posted it. I've not seen the quilt and I – my understanding is Caitland – Caitland hasn't shown me and I feel that she hasn't even looked at it herself. Just a bit difficult at the moment.

20 FLTLT ROSE: So when you were handed the quilt with Danniell's name spelt wrong, the onus was then on you to find the organisation, ask them to amend it.

MR CURNOW: To amend it.

25 FLTLT ROSE: And pay for the postage.

MR CURNOW: Yes. We didn't take it out of the plastic sleeve to look at it. I think we were all, yes, taken aback by it not being correct and we just
30 didn't open it up. We just left it as it was.

FLTLT ROSE: Did the Padre offer to handle that process for you, to send it back to the organisation and have that amended on your behalf?

35 MR CURNOW: I don't recall him making that offer. I do recall him saying it will take quite a number of weeks to get it fixed, because they're very busy. And I thought, "Well, if they're very busy to do this, obviously there's something wrong with the whole system of welfare quilts given to these fallen soldiers".

40 FLTLT ROSE: At paragraph 41 of your statement you set out that you attended an Anzac Day Dawn Service on 25 April 2024 with Caitland?

MR CURNOW: Yes.

45

FLTLT ROSE: Was that at Holsworthy Barracks?

MR CURNOW: It was.

5 FLTLT ROSE: Was there anyone else from your family there?

MR CURNOW: Yes, my wife was there, Lynnette. Sue Lyon was there and we had some – Caitland had some friends from Queensland fly in. And with the people there, managed to find us and we stood and listened to the service while we were there.

10

FLTLT ROSE: Whereabouts was it held in the barracks?

MR CURNOW: Yes, at dawn, a bit dark to see. I think it was near 6 Aviation, but I can't be sure. I can remember the flame and the statutes or the memorial things they've got behind it.

15

FLTLT ROSE: I take it that it was an outside space?

MR CURNOW: It was outside space, yes. And we were there and Cate was telling me that they will read their names out as part of the Honour Roll. I asked Caitland, "Are you sure?" And she went, "Yes, I've been told quite a few times that their names would be". And I remember one of Dan's friends, when the service had started, mentioning that they'd lost five ADF personnel since last Dawn Service, and one of them whispered in my ear, "There was only four". I said, "No. The fifth one happened not long ago". He went, "Oh". He said, "Who was that?" I said, "I can't recall, but they'll tell us". But they never read their names out.

20

25

FLTLT ROSE: You said Caitland had told you that she had been told on a number of occasions that the names would be read out on the Honour Roll?

30

MR CURNOW: Yes.

FLTLT ROSE: Did Caitland tell you who specifically had given her that information?

35

MR CURNOW: No, she didn't. I asked her. I could see that, coming up to Anzac Day, it was very stressful for her, so I never pushed the point.

40

FLTLT ROSE: Where were you, in terms of how close were you, to the speakers who were reading out the Honour Roll or doing the presentations during the Dawn Service?

MR CURNOW: 25 metres, probably.

45

FLTLT ROSE: And did the speakers all have microphones?

MR CURNOW: Yes.

5

FLTLT ROSE: So you could clearly hear - - -

MR CURNOW: I could clearly hear. And he – what - - -

10 FLTLT ROSE: - - - what was being said?

MR CURNOW: I could clearly hear. And we were waiting to hear the names, but no, mention that they'd fallen since the last Anzac Day Service, but they didn't read out any of the boys' names.

15

FLTLT ROSE: Do you remember who it was – which speaker it was that was undertaking that task of - - -

MR CURNOW: No, I don't.

20

FLTLT ROSE: How did Caitland feel about that?

MR CURNOW: Was not happy. I think I said in my statement she was "really pissed off". And, given the fact that she – when I said to her – and she said she had spoken to a few people about it, had it confirmed by phone calls. And not to have that, it just sent bit of dishonesty, not telling the truth. If you're not going to do it, don't say it. But if you're going to say something, then follow it through. She was really, yes, upset by it.

25

30 FLTLT ROSE: Do you know if Caitland spoke to anybody in the ADF following that incident, to complain about being told the names would be read out and then them not being read out?

MR CURNOW: No, I don't.

35

FLTLT ROSE: Did you speak to anyone in the ADF following that?

MR CURNOW: No. I probably – I didn't want to speak to anybody for the fact that I didn't know who to approach. But, yes, it was a pretty traumatic day for everybody.

40

FLTLT ROSE: Are you aware whether Caitland had been assigned a welfare support team to follow-up with information or be a liaison with her in the Army following the incident?

45

MR CURNOW: I believe so, yes.

FLTLT ROSE: And are those people still available to Caitland to assist her?

5

MR CURNOW: My understanding, that they are. But I haven't been present when they've called or paid her a visit.

FLTLT ROSE: Do you recall their names?

10

MR CURNOW: No, I don't.

FLTLT ROSE: Do you remember, when you said there was some people from Queensland who had come down to listen to the Dawn Service as well, were they people who were ADF members?

15

MR CURNOW: No. No, they were Dan's close friends from – I'll get it wrong – AFL. I'm not an AFL person, but I'm learning. I'm learning. But, yes, they came down.

20

FLTLT ROSE: And when you were in the crowd at the Dawn Service, did you recognise any other colleagues of Dan's in the audience?

MR CURNOW: Yes, I saw they were wandering around. I exchanged pleasantries. Saw the Padre and said hello to him. I recall him saying to Caitland, "I wasn't expecting to see you here".

25

FLTLT ROSE: If you could turn over that A3 piece of paper in front of you. What that is, is a list of people who have pseudonyms in this Inquiry. If you could look through that list and, if you see anybody that you also saw at the Dawn Service that morning, could you please let the Inquiry know who they are, but using the pseudonym which would start with a D?

30

MR CURNOW: I don't have their nicknames. Sorry, I'll do - - -

35

FLTLT ROSE: That's okay.

MR CURNOW: Okay.

FLTLT ROSE: If it's not possible, we could write the nicknames down.

40

MR CURNOW: D15; without her nickname, I believe D33; D78. That's all I can recall with their names, without their nicknames. I apologise.

FLTLT ROSE: Thank you. I have nothing further.

45

MS McMURDO: Yes. Cross-examination? Is there anybody other than MAJ Barnes? Yes, MAJ Barnes.

5 MAJ BARNES: Yes. Thank you, Ms McMurdo.

<CROSS-EXAMINATION BY MAJ BARNES

10 MAJ BARNES: Mr Curnow, I just wanted to ask you a couple of questions. My name's MAJ Michelle Barnes, and I'm representing CHAP Bruce Hammonds. Now, if I refer to him as "Padre Bruce", that's how you knew him?

15 MR CURNOW: I knew him as Padre, yes.

MAJ BARNES: Yes. I just want to ask you a couple of questions. The first question I want to ask you is about a conversation that you say you had with the Padre, and this was fairly early on in, when you gave your evidence, and it's about the topic of the funerals being done quickly. You understand?

25 MR CURNOW: To get the unit up and functioning, yes.

MAJ BARNES: Now, do I understand your evidence, that there was a conversation involving you and also your daughter and the Padre about that topic?

30 MR CURNOW: Yes.

MAJ BARNES: Now, the Padre didn't say anything about the unit wanting to get back to operational duties, did he?

35 MR CURNOW: Yes, he did.

MAJ BARNES: Wasn't it more that he was saying to you that it would be best if the funerals were conducted in a timely manner for the families and for everybody concerned?

40 MR CURNOW: Similar to words of that, yes, as well as getting the unit back to functional. "Operational status" may be a better word than "functional", but - - -

MAJ BARNES: What I want to suggest to you is that the Padre didn't use the words about "being operational" or "getting the unit up and running".

MR CURNOW: He did.

5

MAJ BARNES: And that what he said to you, was that – when he talked about the unit, did he say to you that it would be a good thing for the unit members to have the funerals conducted within a timely fashion?

10 MR CURNOW: No.

MAJ BARNES: No. Can I come to the topic of the conversation that you told us about that happened in your daughter's kitchen, and the one where there was a conversation by the fridge?

15

MR CURNOW: Yes.

MAJ BARNES: If you need to look at your statement to answer any of my questions, then please do so. Now, I remember you said in your evidence that it had been the standard for the Padre to contact Caitland before he would come and attend. That's right, isn't it?

20

MR CURNOW: That's correct.

MAJ BARNES: And, on this occasion, you personally weren't aware whether he was coming or not?

25

MR CURNOW: And neither was Caitland.

MAJ BARNES: Were you the one who went to the door and let him in on this occasion?

30

MR CURNOW: No.

MAJ BARNES: Now, you told us that the Padre was standing, talking to Caitland by the fridge, and you were sitting down.

35

MR CURNOW: That's correct.

MAJ BARNES: And then you got up, to go over and join the conversation.

40

MR CURNOW: Yes.

MAJ BARNES: So it would be fair to say that you didn't hear all of the conversation that they were having?

45

MR CURNOW: Padre was at the fridge for a few seconds, but as I read out in my statement, that is what I heard.

5 MAJ BARNES: And I asked you before about whether or not you let him in, and you said you didn't.

MR CURNOW: No, that's correct.

10 MAJ BARNES: When was the first time you became aware that the Padre was there?

MR CURNOW: When I looked up at the table and saw him there.

15 MAJ BARNES: You heard that they were discussing the date for the funeral, didn't you?

MR CURNOW: Yes.

20 MAJ BARNES: And there was a discussion about whether or not it should be on Father's Day?

MR CURNOW: The Padre had said, which I heard, that, "I have heard that you intend to have the funeral on Father's Day".

25 MAJ BARNES: Had there been a meeting before where you were there when Caitland had raised Father's Day as a possible date, or not?

MR CURNOW: I don't recall.

30 MAJ BARNES: So this conversation was the first time that you had been involved in a discussion with Caitland and somebody from the Army about it possibly being Father's Day.

35 MR CURNOW: (No audible reply).

MAJ BARNES: Do I understand correctly that what the Padre was suggesting was that perhaps Father's Day was not the best choice for the day?

40 MR CURNOW: Yes.

MAJ BARNES: And what he said about that was that she should consider whether or not another day would be better?

45

MR CURNOW: No, he said that “should consider another day, for it would dishonour the most important person in your life”. Pointed to me.

5 MAJ BARNES: Isn't what the Padre said about Father's Day, to start with, that Father's Day had its own meaning and it was a celebration of fathers?

MR CURNOW: He may have, but I don't recall.

10 MAJ BARNES: That was certainly the – was that the thrust of what he was talking about?

MR CURNOW: Thrust of the conversation was that he heard that Caitland was planning to have the funeral on Father's Day.

15 MAJ BARNES: And what I'm suggesting to you, Mr Curnow, is that he was saying something along the lines of that Father's Day is a day to be for a celebration of all fathers. Did he say something like that?

MR CURNOW: I don't recall.

20 MAJ BARNES: And did he say also that she should consider whether or not, if the funeral was on Father's Day, that might be something that would always be associated for the family; that is, Danniell's funeral being on Father's Day?

25 MR CURNOW: No. He made the suggestion that she should consider if she has it on Father's Day, any future partner/husband or children, and how that may affect them.

30 MAJ BARNES: Well, when he was talking about that topic, didn't he just say that “no one can know what the future holds for any of us”.

MR CURNOW: He may have, but I don't recall that.

35 MAJ BARNES: And what I want to suggest to you is that he didn't make any reference to future partner or husband.

MR CURNOW: He did.

40 MAJ BARNES: And you said a moment ago in your evidence that the Padre had said that “it would be a dishonour to the most important man in your life”. You remember giving that evidence?

45 MR CURNOW: Yes.

MAJ BARNES: What I want to suggest to you is that what he actually said was that – he didn't use those words "the most important man in your life". You disagree with me about that?

5 MR CURNOW: "Most important" - - -

MAJ BARNES: Sorry, do you want me to ask the question again, Mr Curnow?

10 MR CURNOW: Please do.

MAJ BARNES: What I'm suggesting to you is that he didn't say, when he was talking about Father's Day – or didn't use the words "the most important man in your life".

15 MR CURNOW: He used "the most important man in my life" - in her life.

MAJ BARNES: And what I want to suggest to you is in fact what he said was that, "You should consider Father's Day and the importance that that might have for your own father", but not the words "the most important man in your life". Do you agree?

MR CURNOW: No, what I said is what I heard.

25 MAJ BARNES: What happened then, really, to come to the end of that conversation as far as Caitland's involvement, was that the children were calling out?

MR CURNOW: They were in the bathroom, getting a bit rowdy. I will say that Caitland left the conversation due to being upset by the Padre's comments. She left, and that's when I asked the Padre to leave.

MAJ BARNES: Well, isn't what happened, Mr Curnow, that she left because the children were getting rowdy, and went to attend to them?

35 MR CURNOW: No. She left – my view is that, and my opinion is that, she heard the children. Because of what the Padre has said upset her, that was her polite way of leaving the conversation.

40 MAJ BARNES: So I take it by that, did she say something to the effect of, "I need to go and tend to the children", or something like that?

MR CURNOW: Possibly.

45 MAJ BARNES: And she then left to go and tend to the children?

MR CURNOW: She left, yes.

5 MAJ BARNES: And then you told us that you then walked the Padre to the door?

MR CURNOW: No, I asked the Padre – I said to him it was time for him to leave, or words to that effect.

10 MAJ BARNES: What I want to suggest to you, Mr Curnow, is in fact it was the Padre that said he should leave because Caitland was busy with the children.

15 MR CURNOW: No.

MAJ BARNES: At any rate, you agree that you walked to the door together with the Padre?

20 MR CURNOW: After I asked him to leave, yes.

MAJ BARNES: And he left?

25 MR CURNOW: He continued the conversation about that we shouldn't – "You should not allow Caitland to have it on Father's Day". I made a comment to him to say that, "Caitland will choose the day that suits her".

MAJ BARNES: And indeed that's what happened, isn't it, Mr Curnow, that Caitland chose the day that she wanted to have her husband's funeral?

30 MR CURNOW: She did. (Indistinct). No, it's fine.

MAJ BARNES: And I think you couldn't quite remember the date before, but that was not Father's Day.

35 MR CURNOW: No.

40 MAJ BARNES: When you went to the door with the Padre, is it the case that what happened was that he had said to you just that he was going to leave, and he would leave the family to think about what was the suitable day?

MR CURNOW: That's not what I recall.

45 MAJ BARNES: And I want to suggest to you that you didn't say to him, "Stop. Caitland will have Dan's funeral on the day that she feels is right".

MR CURNOW: That's what I said to Caitland – sorry, that's what I said to the Padre.

5 MAJ BARNES: I want to move to a different topic now, Mr Curnow. You told us about there being an occasion – sorry, I'll withdraw that. You told us then about there being some further discussions, and as we've just said, the funeral was decided ultimately by Caitland that it would be, I think, the week after Father's Day.

10 MR CURNOW: Whatever the date was. I don't recall the exact date.

MAJ BARNES: And you said that the Padre continued to be involved and did lead the service for your son-in-law.

15 MR CURNOW: That's correct.

MAJ BARNES: And you said in evidence that – and you said this: Caitland was able to have what she wanted. Do you remember saying that?

20 MR CURNOW: Yes.

MAJ BARNES: And that's your evidence, isn't it, that ultimately your daughter was able to make her own choices about the funeral?

25 MR CURNOW: With some resistance from the Padre and some of the length of speeches and the number of speeches, but as I said, that's what Caitland wanted for Danniell at his funeral.

30 MAJ BARNES: And she was able to have what it was that she wanted for the funeral?

MR CURNOW: That's correct.

35 MAJ BARNES: You said as well in your evidence that – you were asked by Counsel Assisting whether you had discussed the conversation at the fridge with anyone. You said just with your daughter.

MR CURNOW: That's correct.

40 MAJ BARNES: And had you and your daughter discussed it close to the conversation happening?

MR CURNOW: No.

45

MAJ BARNES: How long after it, was it that you and your daughter had discussed the conversation at the fridge?

5 MR CURNOW: I don't recall the exact time, but it was not that night, and it wasn't the following day.

MAJ BARNES: Have you discussed it with your daughter on more than one occasion?

10 MR CURNOW: No.

MAJ BARNES: Did your daughter tell you her recollection about that conversation?

15 MR CURNOW: No.

MAJ BARNES: Is it possible that some of what you've told the Inquiry about what the Padre said at the fridge has been influenced by what your daughter has told you?

20 MR CURNOW: No.

MAJ BARNES: Now, ultimately, I think you said that you were content with how the funeral was conducted by the Padre?

25 MR CURNOW: Yes.

MAJ BARNES: And I just want to come to two further topics. But, firstly, about the quilt, do you remember giving some evidence about the quilt?

30 MR CURNOW: Yes.

MAJ BARNES: And is this what happened, that the Padre attended with the two ladies from the organisation that had made the quilt?

35 MR CURNOW: I don't recall them being there, no.

MAJ BARNES: What I want to suggest to you is that there were the two ladies there that had helped make the quilt, and that the padre, when pointing out that the name was incorrect, said that, "One of the ladies here could fix it for you"?

40 MR CURNOW: No.

45 MAJ BARNES: You don't recall that happening?

5 MR CURNOW: No. That's what – I don't believe that is correct. My understanding is that if the ladies were there, they would've offered there and then to Caitland to amend the quilt. The ladies there did not.

MAJ BARNES: But there were ladies there, is that your recollection?

10 MR CURNOW: My recalling is that there were two welfare ladies or social workers there.

MAJ BARNES: And you don't have any recollection of there being a conversation in which the Padre indicated that one of those ladies could fix the quilt?

15 MR CURNOW: No, he indicated to Lynn and Sue that if they were good with a needle and – anyone that was good with a needle and thread – or needle and cotton could – may be able to fix it, and pointed to Lynn and to Sue.

20 MAJ BARNES: And didn't he point to the ladies that were there when he said that?

MR CURNOW: No.

25 MAJ BARNES: At any rate, did he also say – and I think you would agree with this – that, "If you wanted to hold on to it for now, you could then send it back and get it fixed"?

MR CURNOW: Can you repeat that, please?

30 MAJ BARNES: He said that, "If you wanted to hold on to the quilt, you could send it back and it would be fixed".

MR CURNOW: Words to that effect.

35 MAJ BARNES: And that's what ended up happening; is that right?

MR CURNOW: We ended up having to chase up the ladies and their organisation to do it. When I mean "we", I mean Sue Lyon did that, and my wife posted it off.

40 MAJ BARNES: Just one final question, Mr Curnow. You gave some evidence about attending a Dawn Service at Holsworthy?

45 MR CURNOW: Yes.

MAJ BARNES: Now, it wasn't Padre Hammonds that was running that Dawn Service, was it?

5 MR CURNOW: No, I don't believe – no, it was not.

MAJ BARNES: Thank you. I've got no further questions. Thank you, Ms McMurdo.

10 MS McMURDO: Thank you, MAJ Barnes. Any other applications to cross-examination? Any re-examination? Thank you very much.

MR CURNOW: Thank you.

15 MS McMURDO: You can return to your seat.

<WITNESS WITHDREW

20 MS McMURDO: COL Streit?

COL STREIT: Thank you, Ms McMurdo. The next witness is CHAP Hammonds. I understand MAJ Barnes may take that witness through the evidence-in-chief.

25 MS McMURDO: Thank you. CHAP Hammonds, you're on your former oath. You gave an oath earlier and you're still on that oath.

30 CHAP HAMMONDS: Thank you, ma'am.

MS McMURDO: And feel free to be seated and help yourself to a glass of water.

35 CHAP HAMMONDS: Thank you, ma'am.

<CHAP BRUCE LESLIE HAMMONDS, on former oath

40 **<EXAMINATION-IN-CHIEF BY MAJ BARNES**

45 MAJ BARNES: CHAP Hammonds, do you have a Support Officer with you today?

CHAP HAMMONDS: Yes, I do.

5 MAJ BARNES: And can you please state his full name?

CHAP HAMMONDS: It's Andrew Robinson, Deputy Staff Chaplain –
Command Staff Chaplain. Yes, at Headquarters Forces Command.

10 MAJ BARNES: Thank you. Could the witness please be shown this
document?

MS McMURDO: Yes.

15 CHAP HAMMONDS: Thank you.

MAJ BARNES: And, Chaplain, is that a copy of a second statement that
you made to this Inquiry?

20 CHAP HAMMONDS: Yes, it is.

MAJ BARNES: Does it comprise of 42 paragraphs?

CHAP HAMMONDS: Yes, it does.

25 MAJ BARNES: And did you sign and date it on the final page,
“22 July 2024”?

CHAP HAMMONDS: Yes, I did.

30 MAJ BARNES: Are there any amendments that you wish to make to that
statement?

CHAP HAMMONDS: No.

35 MS McMURDO: Yes, I think it will be most convenient if we make the
original statement that was tendered on 17 June Exhibit 20A, and we'll
make this one 20B.

40 **#EXHIBIT 20B - SECOND STATEMENT OF
CHAP B L HAMMONDS, DATED 22/0724**

45 MAJ BARNES: I just want to take you to a couple of topics in your
statement. You've given evidence already that you were appointed initially

to support the Notification Officer, MAJ Douglas, to notify Mrs Caitland Lyon. Is that right?

5 CHAP HAMMONDS: That is correct.

MAJ BARNES: And in that capacity you attended, first of all, at Mrs Lyon's home with MAJ Douglas?

10 CHAP HAMMONDS: Yes, I did.

MAJ BARNES: And then thereafter you continued to have some ongoing dealings with Mrs Lyon and her family?

15 CHAP HAMMONDS: Yes.

MAJ BARNES: During those occasions, did you meet Mrs Lyon's father, Ronald Curnow?

20 CHAP HAMMONDS: Yes.

MAJ BARNES: How many times did you meet Mr Curnow?

25 CHAP HAMMONDS: There were a number of times. I've said about eight, I suppose. He was there each time I visited the house.

MAJ BARNES: Now, as part of your duties at the time, did you also conduct funerals for other members, including for CAPT Lyon?

30 CHAP HAMMONDS: I was involved in all four.

MAJ BARNES: And specifically in relation to the funeral for WO2 Phil Laycock, did you conduct that service?

35 CHAP HAMMONDS: I did.

MAJ BARNES: Now, Mr Curnow has given evidence that you, during WO2 Laycock's funeral, said, "I will never forget the look on Caitland Lyon's face when I told her about Dan being missing". Do you recall saying that at WO2 Laycock's funeral?

40 CHAP HAMMONDS: Not specifically, but I may have said it.

MAJ BARNES: Now, did you consider then that that was an appropriate thing to have said?

45

5 CHAP HAMMONDS: It was the one event that led to all four funerals. So each of the families had in common the one event: the downing of Bushman 83. And certainly Caitland and her father were at all four funerals, and all four families were going through the same grief and loss of their loved one, and so it was – they were all related, and the grief that was expressed by one was being felt by all four families.

MAJ BARNES: Did you also conduct CPL Alex Naggs' funeral?

10 CHAP HAMMONDS: Yes, I did, with another chaplain.

MAJ BARNES: Now, Mr Curnow's evidence is that during CPL Naggs' funeral you forgot CPL Naggs' brother's name. Did that happen?

15 CHAP HAMMONDS: Yes, I did.

MAJ BARNES: Did you speak with the Naggs family about that afterwards?

20 CHAP HAMMONDS: Yes, I did. Afterwards, after the funeral, we presented the members of the family with Australian flags, berets and replica medals, and I spoke with Alex's brother, Sean. He wasn't offended by it. We laughed it off. It was just a momentary lapse of memory, and he wasn't offended by it.

25 MAJ BARNES: Did you apologise to him for forgetting his name?

CHAP HAMMONDS: I did.

30 MAJ BARNES: Can I come back then to the funeral arrangements for CAPT Danniell Lyon? In your new statement, your second statement, Exhibit 20B, at paragraph 22 – if you turn that up – you say there that you were present at the arrangements that were made for each funeral.

35 CHAP HAMMONDS: Yes, I was.

MAJ BARNES: And that obviously includes, doesn't it, CAPT Lyon's funeral.

40 CHAP HAMMONDS: That's correct.

MAJ BARNES: Were there meetings with the family to discuss the arrangements for the funeral?

45 CHAP HAMMONDS: Yes, there were a number of meetings.

MAJ BARNES: Were there also briefings that happened at the unit about the funerals and organising the funerals?

5 CHAP HAMMONDS: There were. There was the military side of it but, in dealing with the families, I had a number of meetings with each family to arrange basically what they wanted as part of each funeral.

10 MAJ BARNES: Were there briefings that involved the family and members of the unit as well?

CHAP HAMMONDS: Yes, there were.

15 MAJ BARNES: Mr Curnow says that at one of those briefings you mentioned that the unit was hoping to have all the funerals done as quickly as possible so that the unit could get back to operational. Did you say that?

20 CHAP HAMMONDS: Part of my role as Chaplain, I'm not privy to operational matters at all. I don't need to be, and so I don't get involved in operational matters. We had conducted two funerals by the time we were arranging CAPT Lyon's funeral, and the third had been arranged, and was imminent, and we were – this was the final of the funerals.

25 The nature of 6 Aviation at the time was our whole focus was on honouring each of the four men who had died in Bushman 83, and the MRH-90s had been grounded, so there was no chance of being operational again in the foreseeable future. I had no idea at that point when we would be. But the concern was not to hurry, but at a time of Mrs Lyon's choosing we would have Danniell's funeral. But obviously it was the final of the four.

30 MAJ BARNES: Was there any particular urgency as regards the unit, that you were aware of?

35 CHAP HAMMONDS: None at all. But for the sake of the family, they needed the closure that a funeral brings, and as I've said, we had completed two funerals – two of the four. And the third, the time, place and arrangements had been made for the third. And it was simply a matter of Caitland and her family choosing when Dan's funeral would be.

40 MAJ BARNES: Can I then come to the next topic, and that is in your paragraph 24 where you say that there'd been a mention by Caitland that she was thinking about holding Danniell's funeral on Father's Day. Do you remember that happening?

45 CHAP HAMMONDS: Yes, I do.

MAJ BARNES: And what did you do as a result of her raising that as a possible date?

5 CHAP HAMMONDS: I didn't want to – that was at a meeting where a number of people were present from Army. I didn't want to raise it there, and I wanted to raise it with her more privately. But Father's Day obviously has connotations of celebrating fatherhood, and it is – I simply felt it would be wiser for her not to choose that date, if at all possible, for a number of reasons.

10 And I also know, from having done funerals over many years, that funeral directors are reluctant – or they don't hold funerals on Father's Day or Mother's Day. They hold memorial services, and that sort of thing, but not funerals as such.

15 And Father's Day is a day of celebrating fatherhood, and it would forever be associated with Dan's death.

20 MAJ BARNES: Did you go and speak to Mrs Lyon about that?

CHAP HAMMONDS: I did.

25 MAJ BARNES: Where was it that you went and spoke to her about that?

CHAP HAMMONDS: It was on a Friday afternoon. It was at her home. The only reason that I raised that issue was because she was looking at the date at that point of when Dan's funeral would be, and so I spoke with her – and her father joined the conversation as well – at the fridge, which is where they had their planner calendar. And there were a number of people present, so I decided to make that a quick visit so I didn't interrupt. But I just wanted to encourage her, whatever date she picked, but to avoid Father's Day.

30 MAJ BARNES: How was it arranged that you would attend there on that afternoon?

CHAP HAMMONDS: I just went round there.

40 MAJ BARNES: Did you contact anyone to let them know you were coming before you went there?

CHAP HAMMONDS: No, I didn't.

45 MAJ BARNES: When you arrived there, I think you said that there were

several people there.

CHAP HAMMONDS: Yes.

5 MAJ BARNES: But the conversation that you had about the date, who was involved in that conversation?

CHAP HAMMONDS: Caitland, and her father was there as well.

10 MAJ BARNES: And that was in the kitchen area, near the fridge.

CHAP HAMMONDS: That's correct.

15 MAJ BARNES: Was your purpose in going to speak to Mrs Lyon on that occasion simply to speak about the date of the funeral?

20 CHAP HAMMONDS: What I've tried to do was to give sound pastoral advice, and to encourage her to pick a date other than Father's Day because of the obvious implications that that would have for the family and for everyone, forever being associated with Dan's funeral.

MAJ BARNES: Did you say to Caitland that you would encourage her not to have the funeral on Father's Day?

25 CHAP HAMMONDS: Yes, I did.

MAJ BARNES: What was her response?

30 CHAP HAMMONDS: I think she took it on board, but what we tried to do was comply with her wishes right through, but I just encouraged her not to pick that date.

MAJ BARNES: I think you said before that Mr Curnow was there, present during this conversation.

35

CHAP HAMMONDS: He was.

MAJ BARNES: Did you say to Caitland Lyon that holding the funeral on Father's Day would be a dishonour to the most important man in her life?

40

45 CHAP HAMMONDS: What I – I didn't use "dishonour". It was I just wanted to honour her father. He'd obviously been a big support to her right through the whole process. He and Caitland's mother had come immediately when they were notified of the catastrophic failure of the Bushman 83, and they had been great support to Caitland. And I wanted to

honour him. As part of the argument for not having it on Father's Day, it's a day for honouring dads.

5 MAJ BARNES: Did you say during that conversation, and refer to him, as, "the most important man" in her life?

CHAP HAMMONDS: I don't remember saying that.

10 MAJ BARNES: Did Mr Curnow say anything when you raised about it being important that Father's Day was a day that she could continue to honour her father?

CHAP HAMMONDS: I don't remember him saying anything.

15 MAJ BARNES: Did you say to Mrs Lyon that she should be mindful of any future partner or husband, during this conversation?

20 CHAP HAMMONDS: I don't remember saying anything like that. I know that the context was, "The decisions that we make now will have implications for the future". And I was thinking more of Noah and Lily, and that that date would always be associated with their father's funeral if they had it on Father's Day.

25 MAJ BARNES: Did you say that to Mrs Lyon and her father?

CHAP HAMMONDS: I did mention the implications for Noah and Lily; I remember that.

30 MAJ BARNES: Did you say anything to Mrs Lyon about her needing to think about any future partner or any future husband?

CHAP HAMMONDS: I said, "We don't know what happens in the future, but the decisions that we make today will have implications for the future".

35 MAJ BARNES: And do I take it, by that answer, that you didn't use the words "partner" or "husband", but rather just a reference to "the future"?

CHAP HAMMONDS: That's correct.

40 MAJ BARNES: How did this conversation come to an end, the conversation by the fridge?

45 CHAP HAMMONDS: I was very much aware there were a number of people there. They were there for dinner. As Mr Curnow says in his statement, the – Lily and Noah were having baths and ready for dinner. And

I wanted to make it a quick visit. Obviously, I didn't want to get in the way of what they were there for, which was having dinner with their friends.

5 MAJ BARNES: Is this how the conversation came to an end, that Mrs Lyon left to tend to the children?

CHAP HAMMONDS: She may well have. We'd had the conversation, and so I left as quickly as I could.

10 MAJ BARNES: Did Mrs Lyon seem upset to you during this conversation?

CHAP HAMMONDS: No. I didn't pick that up. But certainly, we wanted to support her. We complied with her wishes as much as we humanly could. I was only there to try and guide that decision.

15 MAJ BARNES: Did Mr Curnow ask you to leave?

CHAP HAMMONDS: I don't remember him asking me to leave. I thought it was amicable.

20 MAJ BARNES: And what's your memory of how it came about that you ended up leaving the place, then?

CHAP HAMMONDS: I'd been there to encourage her to think about the date, to consider not having it on Father's Day but another date, and then I left that with them. And Mr Curnow showed me to the door – which is what happened anyway on a number of occasions – and I left.

30 MAJ BARNES: Did Mr Curnow and you have a conversation at the door when you were leaving?

CHAP HAMMONDS: I may have said something to him, but certainly not in the – I don't remember it along the lines of what was in his statement.

35 MAJ BARNES: Well, I'll take you to that. In his statement and in his evidence, Mr Curnow said that you said something along the lines of – you were pressing the issue about it shouldn't be on Father's Day. Do you recollect discussing that at the door?

40 CHAP HAMMONDS: I don't remember that. I may have made some comment to him just as I left, but certainly was not that he should direct or tell Caitland not to have it on Father's Day, but just that Father's – if I'd said anything, it would've been that, "Just try and avoid Father's Day because that's a day" – it was important for everybody. Remember, the
45 whole unit had lost four good friends as well, and they needed to spend time

with fathers, children, whatever. It was important for everybody who was grieving to be able to, if possible, have that day for celebrating fatherhood.

5 MAJ BARNES: Can I come back to when you were talking to Mrs Lyon by the fridge. Did you say that to her, about the importance – the wider importance of Father’s Day?

10 CHAP HAMMONDS: Yes, I tried to put it as positively as possible because it is a day of celebrating fatherhood.

MAJ BARNES: But what did you – did you say anything to her about other people and other people’s Father’s Day?

15 CHAP HAMMONDS: I don’t remember exactly what I said, but that was the intent of what I went – I wanted to communicate.

20 MAJ BARNES: And coming back to the conversation at the door, did Mr Curnow say to you, at the door, something along the lines of, “Stop. Caitland will have Dan’s funeral on the day that she feels is right”?

CHAP HAMMONDS: I don’t remember him saying that. But everything that we did was to try and help her to have the funeral that she wanted for Dan.

25 MAJ BARNES: Now, ultimately, was it your understanding that Mrs Lyon chose the date for her husband’s funeral?

CHAP HAMMONDS: She did.

30 MAJ BARNES: And she indicated to you, didn’t she, that she wanted to give the eulogy herself at the service?

35 CHAP HAMMONDS: When I – I always – whenever I do a funeral, I sit down with the family and plan the funeral. And when we had that conversation, she said that she would like to give the eulogy. It is rare for a spouse to give a eulogy at a husband – of their husband or wife, and so I expressed that it would be – it’s a very emotional time and a very difficult thing for a husband or wife to do, and it rarely happens. Usually, somebody else presents that eulogy or, at most, the spouse will write out what they want to say and somebody else in the family, or myself, deliver that eulogy.

40

MAJ BARNES: Now, when you said that to her, what was your intent in saying that to Mrs Lyon?

- CHAP HAMMONDS: It's a very emotional thing to do and a lot of people – most people are simply not able to do it. Caitland assured me that she would be able to do it, and so it was fine. I just wanted to make sure that she had the support on the day.
- 5 MAJ BARNES: Can I take you to another topic, Padre, and that is the Anzac Day service that – the one immediately following from this incident. Did you attend at the Anzac Day service?
- 10 CHAP HAMMONDS: Yes, I did.
- MAJ BARNES: And where was it that you attended the Anzac Day service?
- 15 CHAP HAMMONDS: It was at Holsworthy, at the 2 Commando memorial site.
- MAJ BARNES: Do you know whether Mrs Lyon was at that service?
- 20 CHAP HAMMONDS: Yes, she was. She was there. Her family was with her, and I went over and said hello to them.
- MAJ BARNES: Now, am I correct that you weren't officiating at that service?
- 25 CHAP HAMMONDS: No. It was a 2 Commando service.
- MAJ BARNES: So they had responsibility then to run the service?
- 30 CHAP HAMMONDS: They did.
- MAJ BARNES: Were the names of the four members of Bushman 83 read out at that service?
- 35 CHAP HAMMONDS: They were read out, along with Jack Fitzgibbon who died as a result of the parachute accident. The five of them were read out together as training accidents, and then those who died on Operations were read out – the names – separately.
- 40 MAJ BARNES: And just, finally, one final topic. You say in your statement about there being something – being organised – that there was a quilt made by Aussie Hero Quilts? And was your involvement in that to assist with delivering the quilt to the family?

5 CHAP HAMMONDS: During COVID, I had a lot of interaction with Aussie Hero Quilts, who made laundry bags and quilts. They make quilts for serving members, and laundry bags for ship's companies and soldiers, as a way of recognising Defence Force personnel. They make memorial quilts for those who die on Operations. And I contacted Jan-Maree and asked her if she could organise quilts for the four families – each surviving member of the families, and so she arranged that.

10 I gave her the details early and, unfortunately, when I gave her Dan's name, I hadn't registered at that point that he had a second "n" in his name, and so when the quilts came back, it came spelt with "Daniel", with one "n" instead of two.

15 MAJ BARNES: And did you become aware of that before providing the quilt to the family?

20 CHAP HAMMONDS: It had slipped my attention. Obviously we were focused on the funerals, and when the quilts came back, that's when it occurred to me that Danniell's name only had one "n" in it.

MAJ BARNES: And in terms of the quilts being delivered, were you there when the quilts were delivered to the family?

25 CHAP HAMMONDS: Yes, I delivered it to them.

MAJ BARNES: And were you there – or who did you go with to deliver the quilts?

30 CHAP HAMMONDS: I can't recall if I went with anybody. I do a number of presentations of quilts. There are people that have served many years and a quilt is arranged for them, and I go on my own to deliver them. I think I was probably on my own when I went to Caitland's family to deliver the quilts that had been made for them.

35 MAJ BARNES: Do you have your statement there, Padre?

CHAP HAMMONDS: Certainly.

40 MAJ BARNES: Can I ask you to look at paragraph 40? That deals with the quilts. You say there that:

When I became aware of the misspelling of Danniell's name, I contacted Jan-Maree Ball who was happy to change the name.

45 CHAP HAMMONDS: She was.

MAJ BARNES: And when you say there, “I did suggest either Jan-Maree Ball could fix up the spelling”, when was it that you made that suggestion?

5 CHAP HAMMONDS: When I took the quilts around there, I was aware that Danniell’s name was incorrectly spelt. But I suggested that Jan-Maree could change them or if they – it was up to them whether they did it themselves or it was sent back to Jan-Maree for fixing, and they were sent back to Jan-Maree. She fixed it and then sent it back to them.

10 MAJ BARNES: And were you involved at all with the quilts being sent back for being fixed?

15 CHAP HAMMONDS: No, I don’t believe I was.

MAJ BARNES: Did you say – well, first of all, was this conversation – the delivering of the quilts, was that at Mrs Lyon’s house?

CHAP HAMMONDS: Yes.

20 MAJ BARNES: And was Mr Curnow there?

CHAP HAMMONDS: He would have been.

25 MAJ BARNES: Did you say during that conversation that anyone that is good with a needle and thread could fix it?

30 CHAP HAMMONDS: It was an opportunity if the family wanted to fix it – some people are able to, some people are not – it was something they could either fix themselves or if they wanted to send it back to Jan-Maree, she was happy to make the changes and then return the quilts to them.

35 MAJ BARNES: And is it your evidence that you made that clear to them, that they could get Jan-Maree to fix it?

CHAP HAMMONDS: Jan-Maree Ball was more than happy to take them back. I had spoken with Jan-Maree.

40 MAJ BARNES: Thank you. I’ve got no further questions. Thank you, Ms McMurdo.

MS McMURDO: Thank you.

45

<CROSS-EXAMINATION BY COL STREIT

5 COL STREIT: CHAP Hammonds, you've already given evidence in these proceedings previously and you've now made two statements; is that correct?

CHAP HAMMONDS: Sorry, sir?

10 COL STREIT: You've already given evidence in these proceedings, and you've now made two statements; is that correct?

CHAP HAMMONDS: That's correct.

15 COL STREIT: So I don't propose to go over ground that you've already given evidence about, unless there's something I need to ask you. Dealing perhaps with the matter we just left off on in relation to the quilt, so I take it from your evidence that you knew before the quilt was delivered to Mrs Lyon that there was an error in Danniell's name. Is that correct?

20 CHAP HAMMONDS: It hadn't really occurred to me. What - - -

COL STREIT: We'll just stop there for a second. I thought your evidence earlier was that you were aware that there was an error in the spelling of Danniell's name on the quilt before you took it to Mrs Lyon's home. Is that right?

25 CHAP HAMMONDS: That's correct.

30 COL STREIT: But you decided to take the quilt to Mrs Lyon in any event; is that correct?

CHAP HAMMONDS: I wanted to present them to them.

35 COL STREIT: Sure. But it was open to you to get the name corrected, wasn't it, before you took the quilt to Mrs Lyon?

CHAP HAMMONDS: It was.

40 COL STREIT: But you thought you would take the quilt, given that you had received it, and see if Mrs Lyon would want to fix up the name herself?

45 CHAP HAMMONDS: Yes. Not necessarily herself, but – it was probably an error in judgment that I probably should have sent them back to Jan-Maree before I presented it to them.

COL STREIT: It was going to be an emotional time – I'll start again. Did you consider, as you were going to Mrs Lyon's home to deliver this quilt, it was going to be an emotional time for her to receive the quilt?

5 CHAP HAMMONDS: Yes. It certainly is an emotional time, but it was also a time of being able to give her something that recognises the value of Dan's service to Army.

10 COL STREIT: No doubt. But his name was misspelt, wasn't it?

CHAP HAMMONDS: It was.

COL STREIT: And you knew that?

15 CHAP HAMMONDS: I did.

COL STREIT: And it's an error of judgement, I think you said earlier; is that right?

20 CHAP HAMMONDS: That's correct.

COL STREIT: You've had an opportunity to read Mr Ron Curnow's statement before you gave evidence today; is that right?

25 CHAP HAMMONDS: That's correct.

COL STREIT: And at paragraph 4 on your statement, which is Exhibit 20B, you acknowledge that you've had the opportunity to read through Mr Curnow's statement of 20 June 2024. Correct?

30 CHAP HAMMONDS: That's correct.

COL STREIT: And so where your statement contains denials in relation to the matters that Mr Curnow states in his statement, that is the extent of your evidence in response to those matters; is that right?

35 CHAP HAMMONDS: That is correct.

COL STREIT: Can I just ask some clarifying questions, please? Paragraph 10 of your statement, if you could just turn that up. Paragraph 9 and 10, you give some evidence to the Inquiry in relation to the notification process in which you participated with MAJ Douglas; is that right?

40 CHAP HAMMONDS: That is correct.

45

COL STREIT: And you were there really for pastoral support, and MAJ Douglas was the Notifying Officer?

5 CHAP HAMMONDS: That is correct.

COL STREIT: And now Mr Curnow has given some evidence to the Inquiry in his statement that he considered – well, his recollection was, at paragraph 10 of his statement, that he remembered you saying that on that
10 day that it was still a search and rescue. Do you remember saying that?

CHAP HAMMONDS: That is correct.

COL STREIT: Can I come now to how you came to be at Mrs Lyon’s home
15 in relation to the conversation in the kitchen discussing the issue about Dan’s funeral arrangements? If I call it “the kitchen conversation”, that’s what I’m referring to. Can I just clarify one matter, please? If you can go to para 24 of your statement, which is Exhibit 20B, paragraph 24 says this – or part of it:

20

With respect to paragraph 20 of Mr Curnow’s statement, Caitland mentioned at one of our briefings that she was thinking about holding Danniell’s funeral on Father’s Day. As previously stated in my evidence before the Inquiry, I felt it better to address the date with her in a more private setting.

25

That’s your evidence?

CHAP HAMMONDS: That is correct.

30

COL STREIT: Can the witness be shown Exhibit 28A, please?

What I’m just going to show you, CHAP Hammonds, is your statement tendered to the Inquiry in June, when you gave evidence. Can I take you to
35 paragraph 83 of that statement, please? Paragraph 83, third sentence, begins with, “I was told she was considering Father’s Day”. Do you see that?

35

CHAP HAMMONDS: Yes.

40

COL STREIT: I’ll read it out to you:

I was told she was considering Father’s Day for the funeral, and I visited her home.

45

Do you accept that, at least in that passage, you were indicating that a person has told you that Mrs Lyon was considering Father's Day for Dan's funeral, and that was the reason you visited her home?

5 CHAP HAMMONDS: Yes.

COL STREIT: Do you accept that's what you said in your statement?

10 CHAP HAMMONDS: I do.

COL STREIT: Right. Now, when I asked you about this in evidence on 7 June – correction – Monday, 17 June, I asked these questions and you gave these responses. I'm just going to read this out to you as a matter of fairness. Commencing at line 9, transcript page T888, I say this:

15

COL STREIT: I'll just turn now to paragraph 82 onwards in your statement in relation to a matter Ms Caitland Lyon has given evidence to the Inquiry about. Now, you're aware, aren't you, that Mrs Lyon gave evidence to the Inquiry to the effect that you attended her home to discuss Danniell's funeral when she was contemplating having the funeral on Father's Day. Is that right?

20

CHAP HAMMONDS: I'm aware, sir, yes.

25

COL STREIT: Now, at paragraph 83, second sentence:

"I tried throughout the process to guide the families honouring their wishes. We honoured Mrs Lyon's wishes as far as we could. And I did not pressure her at any point, but we were aware she needed the closure the funeral would provide. I was told she was considering Father's Day for the funeral and I visited her at her home."

30

First, can I ask you, that that's your evidence, isn't it?

35

CHAP HAMMONDS: That's correct.

COL STREIT: Who told you that Mrs Lyon was considering Father's Day for Danniell's funeral?

40

CHAP HAMMONDS: I can't recall. But it was somebody within the chain of command.

COL STREIT: At 6 Aviation Regiment?

45

CHAP HAMMONDS: *At 6 Aviation.*

COL STREIT: *Having received that information, what did you then do?*

5

CHAP HAMMONDS: *I felt it was best to go and see Mrs Lyon. My role was to guide and give her advice, maybe to pre-empt. I wanted to encourage her not to have that date because of the implications that Father's Day has not just for her and her family but for the whole Regiment and everyone who needed it after; that this was a loss that all of 6 Aviation were feeling profoundly and especially needed to spend with their fathers and children.*

10

I stop there. So I've read out that passage or transcript for fairness to you. I'm just going to ask you some questions. On the face of your evidence, there seems to be an inconsistency with what you told the Inquiry as to the reason why – well, the reason that generated your visit to Mrs Lyon's home?

15

CHAP HAMMONDS: Yes.

20

COL STREIT: On the one hand, in June you've told the Inquiry that you were told by somebody at 6 Aviation Regiment, which then caused you to go and visit Mrs Lyon. Today, that's somewhat different, can I suggest?

25

CHAP HAMMONDS: Yes.

COL STREIT: And you've indicated that it's, in fact, Mrs Lyon that first raised the matter.

30

CHAP HAMMONDS: At a meeting - - -

COL STREIT: Sorry, can you just explain what I suggest is an inconsistency?

35

CHAP HAMMONDS: Certainly. We had a meeting with a number of people to organise the funeral. We had a few of those meetings prior to a date being set and Caitland suggested it at that meeting, and somebody spoke to me afterwards from the unit because they raised it again. And that, in my mind, gave me an urgency to go and speak with Caitland about the date that she was choosing for Dan's funeral.

40

COL STREIT: So at paragraph 24 of your statement – which is Exhibit 20B.

45

CHAP HAMMONDS: Yes.

COL STREIT: When you say:

5 *Caitland mentioned at one of our briefings she was thinking about
 holding Danniell's funeral on Father's Day - - -*

CHAP HAMMONDS: Yes.

10 COL STREIT: - - - given your evidence now, that you've just given, you
weren't present at that briefing. Is that right?

CHAP HAMMONDS: I was present at that briefing.

15 COL STREIT: You were?

CHAP HAMMONDS: (No audible reply).

20 COL STREIT: Well, why are we hearing about this for the first time today
then? Why did you give the evidence in the way you did in June about how
you came to be informed that Mrs Lyon was thinking of having a funeral
on Father's Day, which then generated your visit to her home of the Friday?

25 CHAP HAMMONDS: I was at that meeting and it hadn't really stuck with
me that she was saying that she wanted it on Father's Day at that meeting.
But somebody mentioned it to me afterwards, after that meeting, and so I
went around there to address it. It's - - -

COL STREIT: That's your explanation?

30 CHAP HAMMONDS: That's my explanation.

COL STREIT: Did you wish to add anything else before I move to a
different matter?

35 CHAP HAMMONDS: I don't see it as a contradiction as both happened.

COL STREIT: Sure. I'd describe it as an inconsistency.

40 CHAP HAMMONDS: Mm.

COL STREIT: I gave you an opportunity to explain.

CHAP HAMMONDS: Yes.

45 COL STREIT: Is there anything else you wish to say?

CHAP HAMMONDS: No, sir.

5 COL STREIT: Now, you've given some evidence about travelling to Mrs Lyon's home on a Friday; is that right?

CHAP HAMMONDS: That's correct.

10 COL STREIT: Now, in your statement you've described it as – that is Exhibit 20B – you described it as being a Friday afternoon. That appears at paragraph 26?

CHAP HAMMONDS: That's correct.

15 COL STREIT: Do you recall approximately what time it was in the afternoon?

CHAP HAMMONDS: It was late afternoon, before dinner.

20 COL STREIT: At paragraph 33, if I could just turn you to that paragraph? You seem to acknowledge there that the conversation in the kitchen was occurring close to dinner time; is that right?

CHAP HAMMONDS: Yes, that's correct.

25 COL STREIT: The children's dinner time, or Mrs Lyon's dinner time?

30 CHAP HAMMONDS: It was obvious when I went around there, there were quite a number of people present. And it was evident to me that they would be having dinner together, and I didn't particularly want to interrupt that.

COL STREIT: But you did?

35 COL HAMMONDS: I did. But I wanted to keep it brief.

COL STREIT: Now, before you attended Mrs Lyon's home that Friday, late afternoon, you'd previously been to Mrs Lyon's home, hadn't you?

40 CHAP HAMMONDS: I had.

COL STREIT: And had you, on occasion, telephoned ahead to speak with Mrs Lyon to let her know that you were coming?

45 CHAP HAMMONDS: No.

COL STREIT: You'd never spoken with Mrs Lyon on the telephone to arrange to meet with her at any time?

5 CHAP HAMMONDS: The only formal arrangements were when a number of us met there to arrange various parts of the funeral and the preparations for that.

10 COL STREIT: What was the urgency that this needed to be done Friday afternoon instead of maybe waiting until Monday or Tuesday the following week?

15 CHAP HAMMONDS: I know she was thinking about the date and there are many – and I wanted to give her as much time to think about it as possible. Certainly, if she was determined to have it on Father's Day, we would've done everything we could. But there were many parts to – it was a complicated funeral as all four of them were with the military parts – just the way the funeral was being done and I wanted to give her as much time as possible to consider – to work out a date of her choosing.

20 COL STREIT: Now, Father's Day, the date of Father's Day changes every year, doesn't it?

25 CHAP HAMMONDS: It does.

COL STREIT: And so a funeral held on Father's Day, on a date, the following year the date doesn't change, but Father's Day does. Is that right?

30 CHAP HAMMONDS: But the second Sunday will always be Father's Day.

COL STREIT: Sure, but a funeral occurs on a date too, doesn't it?

CHAP HAMMONDS: It does.

35 COL STREIT: And would you accept that some people might think it's the date that they need to remember, not whatever event that that date might have represented at the time of the funeral?

40 CHAP HAMMONDS: It's both, isn't it?

COL STREIT: Because isn't the practical reality when you're dealing with a large body of people to attend a funeral, that there may be a chance that somebody in the audience that that's actually their birthday?

45 CHAP HAMMONDS: That's correct.

COL STREIT: It might be the day they got married. It might be some other special occasion. Would you accept that?

5 CHAP HAMMONDS: Yes.

COL STREIT: Now, did you think before you went out on the Friday, late afternoon, to speak with Mrs Lyon about this matter, did you think – and I appreciate this question is in hindsight – but did you think at all about
10 whether, in fact, it might be best just to ring her to discuss it over the telephone?

CHAP HAMMONDS: I usually try and deal with people face to face. And I always find that's better than doing it over the phone - - -

15 COL STREIT: Were you worried - - -

CHAP HAMMONDS: - - - if possible.

20 COL STREIT: Sorry, I interrupted you?

CHAP HAMMONDS: Sorry. If possible.

COL STREIT: Were you worried that she might make the decision to have
25 the funeral – might make the decision that weekend to have the funeral on Father's Day and go firm on that date?

CHAP HAMMONDS: I simply wanted to give her as much time as possible, because I knew at that point she was thinking about dates.

30 COL STREIT: Did you think, as you were driving out, of the things you might say to Mrs Lyon to assist her navigate this process?

CHAP HAMMONDS: Absolutely.

35 COL STREIT: And were one of those things that you might identify to her the importance of retaining Father's Day for her own father?

CHAP HAMMONDS: There were several reasons. That was one of them.

40 COL STREIT: Sure. Now, was that something you thought of before you went out to see Mrs Lyon?

CHAP HAMMONDS: I did.

45

COL STREIT: Did you think that it might be a good idea to ring Mr Curnow and perhaps discuss the matter with him first?

5 CHAP HAMMONDS: No, I was fairly confident he would be there.

COL STREIT: So he was going to be hearing your points for the first time, using him potentially as the basis for changing a date of a funeral?

10 CHAP HAMMONDS: I was simply encouraging her to avoid Father's Day for a number of reasons, and that was – her own father was only one of them.

COL STREIT: But you didn't know what his view was, did you?

15 CHAP HAMMONDS: No.

COL STREIT: He may have been perfectly happy to let his daughter make the call?

20 CHAP HAMMONDS: Caitland was going to make the call anyway.

COL STREIT: Sure. But my point is you didn't seek his opinion before you raised it with Mrs Lyon?

25 CHAP HAMMONDS: No, I didn't.

COL STREIT: But you used him as one of the reasons to persuade her not to have the funeral on Father's Day; is that right?

30 CHAP HAMMONDS: Well, he was standing right there.

COL STREIT: Sure. But that's not my question?

CHAP HAMMONDS: Yes.

35 COL STREIT: You used him, his existence - - -

CHAP HAMMONDS: Yes.

40 COL STREIT: - - - as one of the reasons to not have the funeral on Father's Day?

CHAP HAMMONDS: I did.

45 COL STREIT: But you didn't know what his opinion would be about that?

CHAP HAMMONDS: That's correct.

5 COL STREIT: You didn't know how he might take or receive that information from you, given to his daughter; is that right?

CHAP HAMMONDS: That's correct.

10 MS McMURDO: I think it was stated that Father's Day is the second Sunday in September. It's the first Sunday.

CHAP HAMMONDS: First Sunday, sorry.

15 MS McMURDO: And Mother's Day is the second Sunday in May, just for the record.

CHAP HAMMONDS: Thank you.

20 MS McMURDO: So in 2023, it would've been 3 September – Sunday, 3 September.

CHAP HAMMONDS: Thank you.

25 COL STREIT: When you decided that you needed to speak to Mrs Lyon about the issue concerning having a funeral on Father's Day, I asked you some questions about whether or not you considered ringing her. Do you remember those questions?

30 CHAP HAMMONDS: Yes.

COL STREIT: Was one of the reasons why you didn't ring her was because did you hold a fear that she would not want to see you in person to discuss such a matter?

35 CHAP HAMMONDS: No.

40 COL STREIT: One of the other things, can I suggest arises because you arrived unannounced, was you didn't know what state of mind Mrs Lyon might be in at the time when you arrived at the front door. Is that right?

CHAP HAMMONDS: That's correct.

45 COL STREIT: Can I just take you to paragraph 35 of your statement of Exhibit 20B? At paragraph 35 you say:

Insofar as paragraph 30 of Mr Curnow's statement is concerned, I have no recollection of friction or negative conversation with either Caitland or her father. There was no conversation of the type alleged.

5

COL STREIT: The conversation you were having with Mrs Lyon and Mr Curnow was present, that's correct, in the kitchen?

CHAP HAMMONDS: We had that conversation, yes.

10

COL STREIT: And Mr Curnow was present?

CHAP HAMMONDS: He was.

15

COL STREIT: You don't have a recollection of friction or negative conversation; is that right?

CHAP HAMMONDS: That's correct.

20

COL STREIT: Would you accept it was an emotional and difficult conversation to have, because you're talking about Dan's funeral?

CHAP HAMMONDS: I always tried to remain as pastorally sensitive as possible. I understand it was – there's a lot of emotion involved. And I tried to be as delicate as I possibly could be.

25

COL STREIT: You were taking a bit of a risk though, weren't you, arriving there unannounced, not having flagged with Mrs Lyon what the conversation was going to be about, not sure what Mr Curnow's attitude might be? It was a bit of a risk, wasn't it?

30

CHAP HAMMONDS: I didn't anticipate that there would be any problem with it.

35

COL STREIT: You didn't anticipate there'd be any problem persuading a grieving widow to change the date that she had identified possibly for the funeral of her husband?

COL HAMMONDS: I was there less to persuade as to just make a suggestion because everything that we did was to try to help Caitland have the funeral that she wanted for Dan.

40

COL STREIT: But the suggestion, as you describe it, was important enough for you to travel there on a Friday, late afternoon, unannounced, to have that discussion with her in her home?

45

CHAP HAMMONDS: It was just to encourage her, if anything.

5 COL STREIT: Now, I know you've denied Mr Curnow's evidence in relation to what he alleges he said to you when he walked you out to the front door, but the reality is, he walked you to the front door. Is that right?

CHAP HAMMONDS: He did.

10 COL STREIT: Did you have any further discussion with Mr Curnow after leaving the Lyon's home that night, or that late afternoon/early evening?

15 CHAP HAMMONDS: I don't recall having any further discussion. I may have said something to him as we walked to the door, but that was it. But certainly it wasn't to tell him what to do, or to tell Caitland what to do.

20 COL STREIT: In evidence-in-chief, my learned friend MAJ Barnes asked you some questions. My notes of what you said are not 100 per cent accurate, so if I have something wrong, please say so. But my notes of what you said were that you weren't privy to operational matters concerning 6 Aviation Regiment. Is that correct?

CHAP HAMMONDS: That is correct.

25 COL STREIT: Did you know whether or not 6 Aviation Regiment were continuing – notwithstanding the MRH-90s were grounded at the time, but were continuing training on other airframes?

30 CHAP HAMMONDS: I was unaware of any of that, if it happened.

COL STREIT: You also, my note is – again, if it's inaccurate, please tell me – that in the same vein of giving evidence that you weren't privy to operational matters, you also indicated that the unit was not in a hurry to conduct the funerals, or words to that effect. Is that correct?

35 CHAP HAMMONDS: That's correct.

40 COL STREIT: Why then was it necessary to go out on a late afternoon/early evening, on a Friday, to have a conversation with Mrs Lyon about this matter?

45 CHAP HAMMONDS: I just figured that the reason that it was – the sooner I spoke with her, the greater the time it gave her to make that decision. And if she was thinking about Father's Day, before she locked it in, it gave her as much time as possible. I just wanted to get there as early as possible to

give her as much time as possible to work out what date that she wanted for the funeral.

5 COL STREIT: CHAP Hammonds, they're my questions. But is there anything you wish to add in addition to the matters I've asked you about?

10 CHAP HAMMONDS: I did everything in my power to help each of the four families. It was a very emotional time for everyone. I want to pay credit to Caitland and to her family, and the support that they gave one another. And I was unaware that there was any friction. I felt that there was no difficulty in going around there to speak to Caitland. I dealt pastorally with them.

15 All I wanted to do was help them, to guide them because I wanted what they wanted, the very best funeral for Dan. And everything that I did was in that vein and I just want to pay tribute to the whole unit. Which, everybody, performed way beyond expectations for all four funerals. And we certainly honoured all four in the most – I think the most professional way possible, and tried to give every support that we could.

20 COL STREIT: Thank you, Ms McMurdo, they're my questions.

MS McMURDO: Any other applications to cross-examine? Yes.

25 AVM HARLAND: CHAP Hammonds, just a question regarding the Friday afternoon visit to the Lyon residence. Were you acting under any direction from the chain of command to go and have that meeting?

30 CHAP HAMMONDS: No, sir.

AVM HARLAND: Regarding the Anzac Day service that was conducted, was that recorded? Is there any record of video of that?

35 CHAP HAMMONDS: I have no idea, sir. I doubt it. Anzac Day services tend not to be recorded.

AVM HARLAND: Thank you.

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

Thanks very much, Padre.

45 CHAP HAMMONDS: Thank you, ma'am.

MS McMURDO: You're free to go. Thank you.

<WITNESS WITHDREW

5

MS McMURDO: We'll have the lunch adjournment now and resume at 1 o'clock, I think, with a video hearing with - - -

10

COL STREIT: We do. It's Detective Inspector Novosel at 1 pm.

MS McMURDO: Yes. We'll adjourn now. Thank you.

15

HEARING ADJOURNED

HEARING RESUMED

<CPONPC CASEY THEISSEN, Affirmed

5

<EXAMINATION-IN-CHIEF BY FLTLT ROSE

10 MS McMURDO: Help yourself to water, Chief Petty Officer.

CPONPC THEISSEN: Thanks, ma'am.

FLTLT ROSE: Can you please state your rank, full name and unit?

15

CPONPC THEISSEN: CPONPC Theissen, currently working at the Military Police – correction – at the Office of Director of Military Prosecutions.

20 FLTLT ROSE: What's your first name?

CPONPC THEISSEN: Casey.

FLTLT ROSE: Casey with a C?

25

CPONPC THEISSEN: Correct, yes.

FLTLT ROSE: And just for the benefit of the transcribers, your last name, Theissen, how do you spell that?

30

CPONPC THEISSEN: T-h-e-i-s-s-e-n.

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

35

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Extract of the Inquiry's Directions?

40

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: A copy of LTCOL O'Brien's appointment as an Assistant IGADF?

45

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: A Frequently Asked Questions Guide for Witnesses in
IGADF Inquiries?

5 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And a Privacy Notice?

10 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: I'll hand you a document. Did you prepare a statement for
today's proceedings?

15 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Could you please look at this document and confirm for me
if that is your statement?

20 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Does it comprise nine pages?

CPONPC THEISSEN: Yes, ma'am.

25 FLTLT ROSE: And on that back page, page 9, is that your signature?

CPONPC THEISSEN: Correct.

30 FLTLT ROSE: If you turn back to page 1, you'll see that the date says
"31 July 2024".

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: And on the back page, where you signed it, it was actually
dated 1 August 2024.

CPONPC THEISSEN: Yes, ma'am.

40 FLTLT ROSE: So in terms of the date, should we change on the front page
"31 July" to "1 August"?

CPONPC THEISSEN: I compiled the statement on the 31st and signed it
on the 1st. Yes, so the date would be the 1st, ma'am.

45

FLTLT ROSE: Understood. You have some annexures to your statement. They have tabs on them, Annexures A through to N.

5 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: The majority of those are at the "Official" level. There are a number of them that are at the "Official: Sensitive" classification and I will make that clear when we turn to them - - -

10 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: - - - and will only be leading evidence that is at the "Official" level in this public hearing.

15 CPONPC THEISSEN: Okay.

FLTLT ROSE: So if I could just ask you to – sorry, I'll tender the statement. Sorry, did you wish to make any other amendments to your statement?

20 CPONPC THEISSEN: No, ma'am.

FLTLT ROSE: I tender that statement.

25 MS McMURDO: That will be Exhibit 35.

**#EXHIBIT 35 - STATEMENT OF CPONPC C THEISSEN
DATED 01/08/24**

30 FLTLT ROSE: Could I just ask you to be mindful of your security obligations. So if there is any evidence that arises that you think goes beyond the "Official" level, just to let us know as we come to it.

35 CPONPC THEISSEN: Understood.

FLTLT ROSE: Turning to your background and qualifications, at paragraph 4 of your statement you state that you were employed as a Naval Police Coxswain; is that correct?

40 CPONPC THEISSEN: Paragraph 3, ma'am?

FLTLT ROSE: Paragraph 3. When did you actually join the Royal Australian Navy?

45

CPONPC THEISSEN: 2005.

5 FLTLT ROSE: And was that as a Naval Police Coxswain?

CPONPC THEISSEN: No.

FLTLT ROSE: What was your first role?

10 CPONPC THEISSEN: My first category was a Communications Information Systems sailor.

FLTLT ROSE: Did you have any policing experience then before you
15 joined the Navy?

CPONPC THEISSEN: No, ma'am.

FLTLT ROSE: Since 2015, your primary role has been as an Investigator
20 in the Joint Military Police Force; is that correct?

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: So when did you move from your original category into
25 being a Coxswain?

CPONPC THEISSEN: 2012. I did Naval Police Coxswain duties for three
years and then transferred over to Investigator.

FLTLT ROSE: At the beginning of this year, you started as the Military
30 Police Investigation Liaison Officer at the Office of the Director of Military
Prosecutions.

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: Is that in Canberra?

CPONPC THEISSEN: Correct.

FLTLT ROSE: You have a Diploma in Investigation, a Diploma in Crime
40 Scene Examination and a Masters in Fraud and Financial Crime?

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Is it correct that you first contacted the Inquiry by way of
45 an email on 24 June 2024 to make a submission about your involvement in

the investigation into the crash of the MRH-90 on 28 July 2023?

CPONPC THEISSEN: Yes, ma'am.

5 FLTLT ROSE: What role were you in as of that day, 28 July 2023?

CPONPC THEISSEN: Can you repeat the question, sorry?

10 FLTLT ROSE: What role were you fulfilling as at the time of the crash of the MRH-90?

CPONPC THEISSEN: I was an ADF Investigator.

15 FLTLT ROSE: Where were you based, geographically?

CPONPC THEISSEN: Geographically, I was assigned to Joint Military Police Station TALISMAN SABRE 2023.

20 FLTLT ROSE: When TALISMAN SABRE wasn't on, where were you located? Was it a Canberra role?

CPONPC THEISSEN: No, it was at the Joint Military Police Station Sydney.

25 FLTLT ROSE: Sydney. I'll ask you some questions now about Exercise TALISMAN SABRE 2023. At paragraph 5 of your statement you state that you deployed to support the exercise. Which unit did you deploy with?

30 CPONPC THEISSEN: The Joint Military Police Force.

FLTLT ROSE: And where were you based during the exercise?

CPONPC THEISSEN: At Lavarack Barracks.

35 FLTLT ROSE: Where's that?

CPONPC THEISSEN: Townsville.

40 FLTLT ROSE: What was your role for the exercise?

CPONPC THEISSEN: I was the ADF Investigator Team Leader.

45 FLTLT ROSE: So was it the case that you were to investigate any matters associated with the exercise?

CPONPC THEISSEN: Correct, ma'am.

FLTLT ROSE: How many investigators from your unit were deployed with you?

5

CPONPC THEISSEN: I believe there was around three investigators and around 15, 20 Military Police.

FLTLT ROSE: They were all in the same position that you were?

10

CPONPC THEISSEN: We had – most of them were at the barracks, and then we had a few further up north.

FLTLT ROSE: When did you first hear about the incident involving Bushman 83?

15

CPONPC THEISSEN: Would have been on the 28th.

FLTLT ROSE: On the evening that it occurred?

20

CPONPC THEISSEN: Yes, on the evening that it occurred, ma'am.

FLTLT ROSE: At paragraph 6 you state that you received a direction from WO1 Fenton from the Joint Military Police Station at 8.30 am on 29 July 2023 to attend Whitsundays to provide Military Police assistance regarding the crash.

25

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: So there weren't any Military Police actually stationed at Proserpine Airport, I take it?

30

CPONPC THEISSEN: No, ma'am.

FLTLT ROSE: Or at Lindeman Island.

35

CPONPC THEISSEN: Not that I'm tracking, ma'am, no.

FLTLT ROSE: Paragraph 7, you arrived at the non-Defence training area next to Proserpine Airport at 1315 hours on 29 July 2023. Is that the time that you arrived onsite?

40

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And did you attend with anyone else in your unit?

45

CPONPC THEISSEN: Yes, ma'am.

5 FLTLT ROSE: Who was that?

CPONPC THEISSEN: It was PTE Filipac.

FLTLT ROSE: Another Military Police Officer?

10 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: You said that you were introduced to a number of members from the Queensland Police Service. Do you remember who they were at the time, what their names were?

15 CPONPC THEISSEN: Scells, I think his name was. But I don't specifically recall all the names, sorry, ma'am.

FLTLT ROSE: And they were uniformed officers?

20 CPONPC THEISSEN: Detectives.

FLTLT ROSE: Detectives, so not in uniform.

25 CPONPC THEISSEN: Not that I recall, ma'am.

FLTLT ROSE: Who introduced you to the Queensland Police Service, or did you introduce yourself to them?

30 CPONPC THEISSEN: I introduced myself, ma'am.

FLTLT ROSE: Did those QPS Officers appear to understand the role of the Military Police in matters such as this?

35 CPONPC THEISSEN: No, ma'am.

FLTLT ROSE: Did you have to explain what your role was to them?

CPONPC THEISSEN: Yes, ma'am.

40 FLTLT ROSE: Had you worked with officers from the QPS before?

CPONPC THEISSEN: No, ma'am.

45 FLTLT ROSE: So you had no prior knowledge of who these persons were?

CPONPC THEISSEN: No, ma'am.

5 FLTLT ROSE: Have you worked with any other of the civilian police services with respect to Coronial Inquiries?

CPONPC THEISSEN: Yes, ma'am.

10 FLTLT ROSE: How many times in your career would you have done that?

CPONPC THEISSEN: Around six or seven.

15 FLTLT ROSE: And it just happened to not be the Queensland Police Service.

CPONPC THEISSEN: Yes, most of my career has predominantly been in Sydney.

20 FLTLT ROSE: So New South Wales Police Force.

CPONPC THEISSEN: Yes, New South Wales Police.

25 FLTLT ROSE: Paragraphs 8 and 9, you state that you observed 6 Aviation Regiment personnel collapsing the camp. That's the camp at Proserpine Airport?

CPONPC THEISSEN: Yes, ma'am.

30 FLTLT ROSE: And that you were not concerned that they were packing up to fly back home because they had experienced a tragic incident.

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: And you thought there'd be no difficulty obtaining statements from the relevant persons at a later date.

CPONPC THEISSEN: Yes, ma'am.

40 MS McMURDO: Can I just interrupt you? You said you explained your role to the Queensland Police. What did you see your role as, compared to the Queensland Police Service?

45 CPONPC THEISSEN: At the time, ma'am, I formed the opinion that QPS would have jurisdiction over the matter, so I explained my role was to assist with any Coronial Inquiry that may come out, and help QPS as a Military

Police member.

MS McMURDO: Thank you. Yes, thanks, FLTLT Rose.

5 FLTLT ROSE: Is it that you thought your role would be as a liaison between the QPS and the ADF?

CPONPC THEISSEN: Yes, ma'am.

10 FLTLT ROSE: Had you been told that that was what your role should be, or did you assume that was what your role would be, based on previous experiences you've had with civilian police?

CPONPC THEISSEN: Yes, ma'am.

15 FLTLT ROSE: Which one, the first or the second?

CPONPC THEISSEN: The second, noting where it occurred, and I was of the opinion that QPS would have a jurisdiction over the investigation.

20 FLTLT ROSE: How did you come to that analysis? Had that been the way it had worked in previous matters you'd been involved with, or had you been briefed by your superior officers during your training that the QPS or the civilian police officers would have jurisdiction over accidents or incidents such as this?

CPONPC THEISSEN: Yes. So for all deaths that occur within Australia we, the Joint Military Police Force, defers to civilian policing agencies for taking carriage of those matters.

30 FLTLT ROSE: And you had not been told any differently in the call that you'd received from WO1 Fenton?

CPONPC THEISSEN: No, ma'am.

35 FLTLT ROSE: When you stated that you were not concerned that the members of 6 Aviation Regiment were leaving Proserpine, what made you so confident that you'd be able to obtain statements from the personnel at a later date?

40 CPONPC THEISSEN: We knew who they were. We knew where they were going to, and I was of the belief at the time that we'd be able to facilitate civilian policing agencies obtaining statements from those members within a short time frame.

45

FLTLT ROSE: And the QPS Officers that you had introduced yourself to at the scene, did they seem concerned that 6 Aviation Regiment personnel were leaving the scene?

5 CPONPC THEISSEN: I believe they'd taken notebook statements, but they did not seem too concerned, ma'am.

FLTLT ROSE: When you say you believe they'd taken notebook statements, what do you mean by that?

10

CPONPC THEISSEN: So rather than sitting down and taking a comprehensive statement whilst sitting down with somebody and going through that process, it would've been just a quick notebook statement covering off on who those personnel would be, potentially contact details, a brief summation of the evidence that they may be able to provide at a later date, and that would have been about it.

15

FLTLT ROSE: Did the QPS Officers tell you that they had done that?

20 CPONPC THEISSEN: I was under the belief that they had. Yes, ma'am.

FLTLT ROSE: Do you know who specifically they had taken the statements from?

25 CPONPC THEISSEN: No, ma'am.

FLTLT ROSE: You hadn't seen the notebook statements yourself.

CPONPC THEISSEN: No, ma'am.

30

FLTLT ROSE: At paragraph 10 you state that you spoke to BRIG Dean Thompson, the Commanding Officer of 16th Aviation Brigade. Was that when you first arrived on the scene?

35 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: What did you two discuss?

40 CPONPC THEISSEN: We discussed the incident, and what had occurred. He briefed me on initial actions on concerning what actions were taken to search for the aircraft, and I just advised him that I was there to assist.

FLTLT ROSE: Did he seem to understand the role of the Joint Military Police Force in this incident?

45

CPONPC THEISSEN: I believe he did, ma'am, but you would have to ask him.

5 FLTLT ROSE: Was anyone from the Defence Flight Safety Bureau onsite at the time when you arrived?

CPONPC THEISSEN: No, ma'am.

10 FLTLT ROSE: Were you aware if they were en route?

CPONPC THEISSEN: I was advised that they were en route, yes.

15 FLTLT ROSE: Is there any instruction, or policy, or manual, that sets out what the role of Military Police are in situations like this?

CPONPC THEISSEN: I believe there's a CDF Directive for JMPU to act as the primary liaison with civilian policing agencies with respect to Coronial Inquiries.

20 FLTLT ROSE: You've seen that CDF Directive?

CPONPC THEISSEN: Yes, ma'am.

25 FLTLT ROSE: It was part of your training, that you were taken through the contents of that CDF Directive?

CPONPC THEISSEN: No, ma'am. That was just experience.

30 FLTLT ROSE: Is there some sort of policy or another agreement that sets out how the Military Police and the DFSB are to work with each other in situations like this?

35 CPONPC THEISSEN: I'm not aware of any policy for investigations between – or running concurrently between Air Crash Investigations and Military Police. There may be one, but I'm not aware of it.

40 FLTLT ROSE: In your career up to this point, had you been involved in a matter that required investigation by the DFSB as well as a civilian police service?

CPONPC THEISSEN: No, ma'am.

45 FLTLT ROSE: Had you had any interaction with personnel from the DFSB at any other point in your career?

CPONPC THEISSEN: No, ma'am.

5 FLTLT ROSE: If I can turn to Annex N of your statement – there should be tabs. So it's the last annexure. You provided a letter of exchange between the Commonwealth of Australia, represented by the Joint Military Police Unit, and the State of Queensland, represented by the Queensland Police Service. Do you see that?

10 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And it's signed by the Commissioner of Police from the Queensland Police Service on 21 November 2019, at the bottom.

15 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And co-signed by the Provost Marshal Australian Defence Force from the Joint Military Police Unit on 30 October 2019.

20 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: So was this in force at the time on 28 July 2023?

CPONPC THEISSEN: I believe so.

25 FLTLT ROSE: Did you have a copy of this with you when you went to the scene?

CPONPC THEISSEN: No, ma'am. I had a digital copy.

30 FLTLT ROSE: Had you been aware of this letter of exchange prior to arriving at Proserpine?

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: At paragraph – of that document, paragraph 2(c), it talks about enhancing cooperation and interoperability on investigations, operational policy and Coronial Inquiries, which might include – and you see the subparagraph (iii):

40 *The development of protocols on inter-party operational matters and assistance in Coronial matters, subject to orders, instructions, or policies, as appropriate.*

45 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: At paragraph 3 of that document:

5 *The Joint Military Police Unit and the Queensland Police Service will, in the spirit of cooperation, afford such assistance to each other as is practicable, taking into consideration the level of resources and priorities in each agency.*

CPONPC THEISSEN: Yes, ma'am.

10 FLTLT ROSE: Then at paragraph 4:

15 *Doing so, together with the Joint Military Police Unit and the Queensland Police Service, acknowledge that they are committed to a cooperative working relationship based on mutual respect, trust, and timely and open two-way formal and informal communication and liaison at the senior and local levels.*

CPONPC THEISSEN: That's correct, ma'am.

20 FLTLT ROSE: Did you have this letter of exchange in mind when you arrived at Proserpine Airport?

CPONPC THEISSEN: Yes, ma'am.

25 FLTLT ROSE: And did you go there with the intentions of cooperating with the Queensland Police Service, in line with this letter of exchange?

CPONPC THEISSEN: Very much so.

30 FLTLT ROSE: And your colleague as well?

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: I might come back to the contents of that document in a moment. If we turn now back to 29 July 2023, were you clear about your role in the situation and that of the role of your colleague, PTE Filipac, when you arrived on scene?

CPONPC THEISSEN: Yes, ma'am.

40 FLTLT ROSE: You weren't unsure of your role? You thought that you understood your purpose of being on the scene?

CPONPC THEISSEN: Yes, ma'am.

45

FLTLT ROSE: And you communicated what you thought your role was to the Queensland Police Service?

CPONPC THEISSEN: Yes, ma'am.

5

FLTLT ROSE: And to those in the ADF that you met?

CPONPC THEISSEN: Yes, ma'am.

10 FLTLT ROSE: Did you find any resistance from either of those – any persons that you met at Proserpine about you being onsite?

CPONPC THEISSEN: Not initially, ma'am, no.

15 FLTLT ROSE: Not initially?

CPONPC THEISSEN: When I was at Proserpine, everybody was cooperative, yes.

20 FLTLT ROSE: So we're talking about 29 July, everyone was cooperative?

CPONPC THEISSEN: Yes, ma'am.

25 FLTLT ROSE: And I take it there is a certain date in your mind or a location where that started to change?

CPONPC THEISSEN: Yes, ma'am.

30 FLTLT ROSE: When was that?

CPONPC THEISSEN: 1 August.

FLTLT ROSE: Was there a location change on 1 August?

35 CPONPC THEISSEN: Yes, that was going into the Major Incident Room.

FLTLT ROSE: That's in Whitsundays - - -

CPONPC THEISSEN: Yes, correct, ma'am.

40

FLTLT ROSE: - - - Police Station?

CPONPC THEISSEN: Yes.

45 FLTLT ROSE: We'll get to that in a moment.

CPONPC THEISSEN: Yes.

5 FLTLT ROSE: So at paragraph 11 you spoke to the QPS Assistant Commissioner, Kevin Gutteridge and briefed him on the Military Police capabilities and how could you assist the QPS. Is that correct?

CPONPC THEISSEN: Yes, ma'am.

10 FLTLT ROSE: Was that in person or over the phone?

CPONPC THEISSEN: That was in person.

15 FLTLT ROSE: So he was on the scene as well?

CPONPC THEISSEN: Yes, he turned up to the scene.

FLTLT ROSE: At Proserpine Airport or at the Police Station?

20 CPONPC THEISSEN: At Proserpine, ma'am.

FLTLT ROSE: And was he receptive to the assistance that the Military Police could provide?

25 CPONPC THEISSEN: Very much so.

FLTLT ROSE: From your understanding, in conversations with the Assistant Commissioner, had he worked with Military Police before?

30 CPONPC THEISSEN: I don't recall, ma'am.

35 FLTLT ROSE: At paragraph 12 you then said you spoke to someone called D13. If you could turn over that large A3 piece of paper that's in front of you. That is a list of the person's pseudonyms and their actual real names. Could you just look at D13, and go across and just confirm to me, without saying their name, if D13 is the person? You recognise their name?

CPONPC THEISSEN: Yes, ma'am.

40 FLTLT ROSE: What role did that person, D13, have at Proserpine Airport?

CPONPC THEISSEN: I believe she was assisting in collapsing the site.

45 FLTLT ROSE: And she said the personal effects of the victims of Bushman 83 had been moved into the Operations tent?

CPONPC THEISSEN: Yes, ma'am.

5 FLTLT ROSE: Did you then go to the Operations tent?

CPONPC THEISSEN: I believe so, yes.

FLTLT ROSE: And you took control of the items in the tent and then moved some items – other items – into the Operations tent?

10 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And you took control of those items?

15 CPONPC THEISSEN: Yes, ma'am, I - - -

FLTLT ROSE: What does taking control of the items mean?

CPONPC THEISSEN: I identified that there was evidence that would be of interest to any Coronial Inquiry or the air crash investigation. So I took all that evidence, and cordoned it off, and made sure nobody else had access to it.

20 FLTLT ROSE: “Cordoning it off”, was that putting some sort of physical barrier?

25 CPONPC THEISSEN: Yes, ma'am. I put a barrier around all the evidence and ensured that no evidence that may be of interest would be contaminated or destroyed.

30 FLTLT ROSE: So you'd arrived in the afternoon on the 29th?

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: And that hadn't occurred prior to you arriving? There hadn't been a cordoning off of any items, that you could see?

CPONPC THEISSEN: No, ma'am.

40 FLTLT ROSE: And you were the first Military Police Officer to arrive on scene?

CPONPC THEISSEN: Yes, ma'am.

45 FLTLT ROSE: There were already some QPS Officers on scene, though?

CPONPC THEISSEN: Yes, ma'am.

5 FLTLT ROSE: And they hadn't cordoned off any evidence?

CPONPC THEISSEN: No, ma'am.

FLTLT ROSE: Did you find that unusual?

10 CPONPC THEISSEN: Having a chat with the QPS Officers at the time, I believe they were waiting for directions to start taking control. I believe they were waiting for, yes, advice to commence obtaining that evidence.

15 FLTLT ROSE: You understood, from your discussions with them, that they hadn't quite taken jurisdiction over the investigation as yet?

CPONPC THEISSEN: Yes, ma'am.

20 FLTLT ROSE: So in a sense they were waiting in the wings for some approval to do so?

CPONPC THEISSEN: Yes, ma'am.

25 FLTLT ROSE: That's despite having the Assistant Commissioner onsite?

30 CPONPC THEISSEN: I'm not sure what QPS' practices were at the time, ma'am. All that I saw was that there was evidence that would be of interest to any Coronial Inquiry or air safety investigation. Noting that it had not been taken charge of, I cordoned it off and put it to the side until the Coronial Inquiry had commenced, or the air crash investigators came in and had a look at that evidence.

35 FLTLT ROSE: Did anyone from the QPS speak to you as you were cordoning off the Operations tent and ask you what you were doing?

CPONPC THEISSEN: Not initially, no.

FLTLT ROSE: What do you mean by "not initially"?

40 CPONPC THEISSEN: When QPS received direction, they came over and then took over the scene.

45 FLTLT ROSE: How long was that, from the time that you'd cordoned off the Operations tent to being told that QPS would now take over control of the scene?

CPONPC THEISSEN: It would've been an hour or two, ma'am.

5 FLTLT ROSE: And did you station yourself just outside the front of the Operations tent for that time?

CPONPC THEISSEN: Yes, ma'am.

10 FLTLT ROSE: You and your colleague?

CPONPC THEISSEN: Correct.

MS McMURDO: You didn't make a list of the items, you just made sure that they weren't interfered with. Is that what happened?

15 CPONPC THEISSEN: Yes, ma'am.

MS McMURDO: Thank you.

20 CPONPC THEISSEN: That was with the – under the belief that QPS would send their own crime scene examiners to the scene.

AVM HARLAND: The information that was in the Ops tent in particular, and the personal effects around the incident crew, did you find it unusual that those areas would be packed up so soon?

25 CPONPC THEISSEN: Yes, sir. I believe, noting the seriousness of the incident, that – particularly the Operations tent and the information leading up to when the accident occurred, that that evidence would've been taken positively controlled of and – in preparation for any subsequent inquiry.

30 AVM HARLAND: Thank you.

FLTLT ROSE: You state at paragraph 4 that you thought it'd be prudent to put the personal effects in some bins; is that correct? Sorry, you said:

35 *It's prudent to search the personal effects and the bins for drugs, alcohol or other evidence.*

40 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Did you do that yourself?

CPONPC THEISSEN: I believe I did. Yes, ma'am.

45

FLTLT ROSE: So when you examined these items, was that in the hour that you had from the time you cordoned off the Operations tent to the time QPS took control?

5 CPONPC THEISSEN: I had a look, but I didn't empty out the bins, no.

FLTLT ROSE: So did you put on gloves and – before you touched any of the items?

10 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Did you take any other precautions?

15 CPONPC THEISSEN: No, ma'am. Just gloves.

FLTLT ROSE: And when you say you took a look, was it essentially you took a cursory look?

20 CPONPC THEISSEN: Just a cursory look, ma'am, looking for any obvious, like, alcohol, or tabs, or anything that might indicate drug use.

FLTLT ROSE: And had you discussed with QPS that that was your intention, prior to doing that?

25 CPONPC THEISSEN: No. It was just a cursory look, ma'am. But, no, I hadn't.

FLTLT ROSE: So in terms of the hierarchy of the officers involved at that time, were you the most senior investigator out of the Military Police there?

30 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And who were you taking your orders from?

35 CPONPC THEISSEN: I hadn't received much direction from higher Headquarters, with respect to what I was doing, from a Joint Military Police Force. However, noting my training and experience, I was comfortable running autonomously up until that point.

40 FLTLT ROSE: And was the Assistant Commissioner still at Proserpine Airport when you were undertaking these tasks and cordoning off the area and conducting the searches?

45 CPONPC THEISSEN: I don't recall, ma'am.

FLTLT ROSE: Who was with you when you were doing that?

CPONPC THEISSEN: I think it was PTE Filipac was there with me initially, yes.

5

FLTLT ROSE: And were there any other personnel from QPS with you?

CPONPC THEISSEN: No, ma'am.

10 FLTLT ROSE: And no other persons from the camp who were already stationed there – ADF members?

CPONPC THEISSEN: No, ma'am.

15 FLTLT ROSE: Did you take any photos of any of the effects that you were looking through?

CPONPC THEISSEN: No, ma'am.

20 FLTLT ROSE: And you didn't keep a log or register of what you found at the time?

CPONPC THEISSEN: I didn't find anything, ma'am.

25 FLTLT ROSE: Did you observe any QPS Officers taking photos of the scene?

CPONPC THEISSEN: So when QPS received directions, we had a crime scene examiner turn up, and that's when they started processing the scene in-depth, ma'am.

30

FLTLT ROSE: And did you step aside at that time?

CPONPC THEISSEN: Yes, I let QPS take carriage of that search, and processing of the scene.

35

FLTLT ROSE: Did they ask you to do any specific tasks?

CPONPC THEISSEN: They asked for me to assist in looking through the personal effects of one of the bags, but I was primarily standing back and watching QPS conduct the search. That was in order to ensure that no photos were being taken of any confidential material that may have been kept in the victims' personal effects.

40

FLTLT ROSE: Had you had training on how to identify what could be confidential material, considering this was a 6 Aviation Regiment – a Special Operations Unit?

5 CPONPC THEISSEN: No, ma'am, but I've got service knowledge with respect to identifying what may be considered confidential. Plus, with my previous experience working as a Communications Information Systems Sailor, I was quite – I've got a thorough understanding of what may be constituted as being confidential and above.

10 FLTLT ROSE: And if something was found that was confidential or above, what were you going to do in that situation?

15 CPONPC THEISSEN: I would have ensured that no photos would have been taken, and then I would have liaised with higher Headquarters with how to deal with those matters.

FLTLT ROSE: And was anything discovered that you thought was of a confidential nature?

20 CPONPC THEISSEN: I believe there - - -

FLTLT ROSE: Without naming the items. You can just say - - -

25 CPONPC THEISSEN: Yes, I – yes, there was some digital – not digital, but there was some hard drives that had, potentially, some code words and that on it, that had been cordoned off. So I advised QPS not to take pictures of those items.

30 FLTLT ROSE: And were they compliant with that request?

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: At paragraph 16 you said you maintained a picket at the Operations tent. What does “maintaining a picket” mean?

CPONPC THEISSEN: Just ensuring that no one was entering the area.

40 FLTLT ROSE: Was the intention that you were going to hand over to the DFSB when they arrived?

CPONPC THEISSEN: Yes. So once QPS had finished processing the scene, I believe that there would have been evidence there that may have been of interest to their crash investigators. So I maintained a picket,

making sure no one entered the area until I could hand the scene over to their crash investigators.

5 FLTLT ROSE: And QPS were aware that that's what you were doing, by maintaining the picket?

CPONPC THEISSEN: Yes, ma'am. They essentially – once they had finished processing the scene, they handed it back over to myself.

10 FLTLT ROSE: At paragraph 17 you state that the DFSB arrived at about 2045 hours in the evening.

CPONPC THEISSEN: Yes, ma'am.

15 FLTLT ROSE: And that you briefed them, and then they took over the scene.

CPONPC THEISSEN: Yes, ma'am.

20 FLTLT ROSE: So that's a long time that you just maintained a picket then, essentially from the afternoon until mid-evening.

CPONPC THEISSEN: Yes, ma'am.

25 FLTLT ROSE: By that time, had the remainder of the camp been collapsed? It was just the Operations tent remaining?

CPONPC THEISSEN: I believe there were still certain aspects of the camp still being collapsed, ma'am.

30 FLTLT ROSE: And had you seen personnel from 6 Aviation Regiment leave Proserpine?

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: And did they leave via aeroplanes?

CPONPC THEISSEN: Earlier on that day, yes, ma'am.

40 FLTLT ROSE: And you were there, when you saw that occur?

CPONPC THEISSEN: Yes, ma'am.

45 FLTLT ROSE: So at paragraph 18 – sorry, I take it that you – did you leave the scene once the DFSB had arrived?

5 CPONPC THEISSEN: So once DFSB arrived, I briefed them on what had occurred. I advised them that there may be items of evidentiary value to the air crash investigation. And then once I'd explained all that, I requested if I was required to still be there, but they were happy for me to go.

FLTLT ROSE: And you had accommodation somewhere, did you, nearby?

10 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: At paragraph 18 you attended the Whitsundays Police Station on the morning of 30 July 2023 for a briefing. Do you see that?

15 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And there were a number of agencies there, including members of the QPS Forensics Crash Unit?

20 CPONPC THEISSEN: Yes.

FLTLT ROSE: And the QPS divers?

CPONPC THEISSEN: Yes.

25 FLTLT ROSE: Headquarters JOC Liaison?

CPONPC THEISSEN: Yes.

30 FLTLT ROSE: The DFSB?

CPONPC THEISSEN: Yes.

FLTLT ROSE: And technicians from 5 Aviation Regiment and 6 Aviation Regiment?

35 CPONPC THEISSEN: Yes.

FLTLT ROSE: Personnel from HMAS *Adelaide*?

40 CPONPC THEISSEN: Yes.

FLTLT ROSE: And then yourself as the Joint Military Police Force Liaison Officer?

45 CPONPC THEISSEN: Correct.

FLTLT ROSE: Did you have to re-explain your role to this group of people during that briefing?

5 CPONPC THEISSEN: Yes, I did, ma'am.

FLTLT ROSE: And what did you say to them?

10 CPONPC THEISSEN: That I was the Joint Military Police Force Liaison Officer for this matter, and that I was to assist, from a policing perspective, where appropriate.

FLTLT ROSE: And that you could facilitate requests for information from the QPS through to chain of command for consideration?

15 CPONPC THEISSEN: Yes, ma'am.

20 FLTLT ROSE: Shortly after this, you sent and received a number of emails. Could I take you to Annexure C? At the bottom of page 3 of that bundle, you see the name Scells, Luke Scells?

CPONPC THEISSEN: Yes.

25 FLTLT ROSE: Is that the name that you were trying to recall earlier in your evidence?

CPONPC THEISSEN: Yes, ma'am.

30 FLTLT ROSE: So this is from Luke Scells from the Queensland Police Service to you on 30 July 2023 at 9.29 am?

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: And he was forwarding you some questions that the Queensland Police Service would like to ask of the aircrew that were involved in the sortie, that he'd actually sent through to some other Defence personnel but he was forwarding it to you?

40 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And he asked that when the Defence investigators speak to the aircrew that afternoon, could typed statements be obtained from each of them, and then presumably provided to the QPS?

45 CPONPC THEISSEN: Can you ask the question again, sorry?

FLTLT ROSE: So I'm just looking at the email that Detective Sergeant Luke Scells forwarded to you?

5 CPONPC THEISSEN: Yes.

FLTLT ROSE: And he's asking for – he had sent earlier in that day at 9.26 am to some other Defence personnel. Do you know what agency they were from?

10

CPONPC THEISSEN: No, ma'am.

FLTLT ROSE: You hadn't seen their names before?

15 CPONPC THEISSEN: No, ma'am.

FLTLT ROSE: So you were just receiving this email fresh and looking at the contents of it when you read it?

20 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And so there's a series of questions he's asking he would like answered from aircrew, questions 1 through 13. So you see that on page 415 of that bundle?

25

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And the second paragraph, he says:

30

As discussed, when the witnesses from other aircrews are spoken to by Defence investigators, I would be appreciative if typed statements could be obtained from each of the members, as I expect our Coroner will request them for inclusion in a Coroner's report.

35 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: So then if you turn to Annexure A – so this is an email from Detective Sergeant Luke Scells to you, copying in someone called Emma Novosel?

40

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Do you know who she is?

45 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Who is that?

5 CPONPC THEISSEN: I believe she was the Detective Inspector in the Major Incident Room.

FLTLT ROSE: From QPS?

10 CPONPC THEISSEN: Correct.

FLTLT ROSE: And so Detective Sergeant Scells says to you:

15 *As discussed, see the request below from QPS seeking, in relation to the incident –*

he says:

20 *I understand that a lot of this information may not be forthcoming; however, I figure there is no harm in asking.*

And then sets out certain persons he would like witness statements from?

CPONPC THEISSEN: Yes, ma'am.

25 FLTLT ROSE: What do you think he meant when he said, "I understand that a lot of this information may not be forthcoming"?

CPONPC THEISSEN: You would have to ask him, ma'am.

30 FLTLT ROSE: When you received this email from Detective Sergeant Scells, did you think that you would be able to get – this information would be able to be obtained from the persons listed?

35 CPONPC THEISSEN: I believed at the time that Joint Military Police Force would have been able to assist in obtaining that information for QPS.

FLTLT ROSE: When you attended the briefing that morning at the police station, had there been any discussion about obtaining statements?

40 CPONPC THEISSEN: There had, ma'am, yes.

FLTLT ROSE: Were any issues raised by anyone else at the briefing that might have suggested it would be difficult to obtain statements from each of the witnesses who were involved in the sortie?

45

CPONPC THEISSEN: Not at the time, ma'am, no.

FLTLT ROSE: Was there any positive confirmation that that was, in fact, likely to occur?

5

CPONPC THEISSEN: No.

FLTLT ROSE: In previous matters you've been involved in that led to Coronial investigations, had statements been obtained from ADF members?

10

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Had there been any reluctance from the chain of command for those statements to have been obtained from ADF personnel?

15

CPONPC THEISSEN: No, ma'am.

FLTLT ROSE: Apologies, I think I took you to the wrong email before. I was reading from Annex B instead of Annex A. I think that might have been where I was confusing you.

20

CPONPC THEISSEN: Okay.

FLTLT ROSE: The Annex A email is from you to the DFSB Investigations inbox. Can you see that at 30 July at 9.33 am?

25

CPONPC THEISSEN: Yes.

FLTLT ROSE: And you've copied in some persons from the Queensland Police Service, and some persons in your own chain of command.

30

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And you introduce yourself to the DFSB Investigations Team.

35

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And you state that:

40

At the time, I believe that DFSB will be obtaining statements from personnel from 6 Aviation Regiment, and that QPS are currently in the process of compiling a list of questions to ask within those statements that may be relevant to a Coronial Inquiry.

45

Do you see that in the second paragraph?

CPONPC THEISSEN: Yes, ma'am.

5 FLTLT ROSE: Then the third paragraph:

10 *To assist with this process, the Joint Military Police Force are able to offer the services of an ADF investigator to attend 6 Aviation Regiment with a list of QPS questions and brief the DFSB investigators.*

And you state that:

15 *This is to ensure that the questions that may arise within the Coronial Inquiry are answered today, and minimise any requests for information that may arise at a later date.*

CPONPC THEISSEN: Yes. So my intent with that email, ma'am, was to have either DFSB or ADF investigators go in and obtain statements, and then the other agency would take a statement shortly afterwards. The intent that I was proffering was to reduce the impact that it would have had on the victims' families and personnel within the Regiment.

25 FLTLT ROSE: So you had envisioned, essentially, the witnesses would have been interviewed twice on the same day, but you thought there was an advantage in that, in having both the interviews conducted in quick succession, to have them over with?

30 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: What is the reason that you wanted it to be done "today"? You made an emphasis on that being done – surely they answered "today".

35 CPONPC THEISSEN: Noting that the Coronial Inquiry was commencing, or that it was indicative that it was going to be commenced, and in conjunction that it's best obtaining the witness statements shortly after the event, the intention was to go in and get those statements as quickly as possible to ensure that no evidence was lost or that the witnesses' recall would be to a higher standard.

40 FLTLT ROSE: This was on 30 July 2023 that you sent that email?

CPONPC THEISSEN: Yes, ma'am.

45 FLTLT ROSE: Was it your understanding that the personnel from

6 Aviation Regiment were back in Sydney?

CPONPC THEISSEN: Yes, ma'am.

5 FLTLT ROSE: And so it wasn't yourself that you were saying would do the interviews today, it was colleagues of yours in the Joint Military Police Force from Sydney?

10 CPONPC THEISSEN: Yes, I was trying to organise with Joint Military Police Station Sydney to have members go in and obtain their statements.

15 FLTLT ROSE: At paragraph 19 of your statement you state that CMDR Cooper from the DFSB advised you that there would be no cross-pollination of the QPS/DFSB investigation, and they were to remain separate. Did you have that conversation with them over the phone or in person?

CPONPC THEISSEN: That was face to face, ma'am.

20 FLTLT ROSE: At the police station in Whitsundays, or at Proserpine Airport?

CPONPC THEISSEN: In the Major Incident Room at the Whitsundays.

25 FLTLT ROSE: What reason did he give for saying that there would be no cross-pollination of the investigations?

30 CPONPC THEISSEN: So there were two separate investigations, ma'am. So the air crash investigators would be looking into the reasons why – my understanding, sorry, is they'd be looking into the technical aspects as to why the air crash occurred, where the QPS Coronial investigation would have a much wider left and right of arc with respect to not necessarily just focussing on the technical aspects of the matter. And noting that there were two separate investigations, I totally agreed with the Commander there that
35 there should have been no cross-pollination between the two.

40 FLTLT ROSE: Was this at the same time you were discussing with him your approach which you thought could occur, that there be two separate interviews back-to-back, done by the different agencies at the same time, with the personnel in Sydney?

CPONPC THEISSEN: That's what I was trying to facilitate, yes.

45 FLTLT ROSE: And that CMDR Cooper didn't agree to that process?

5 CPONPC THEISSEN: You would have to ask CMDR Cooper about that, but I believed that when I conveyed to him that, like, we wouldn't be going in there and just taking the one statement and using it for both investigations, it would be the air crash investigation statement and then the Coronial statement – so kept separate.

FLTLT ROSE: Did he agree to it, when you explained it like that?

10 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: If we go back to Annex C at the bottom of page 2, so there's an email from Detective Sergeant Scells to you on 30 July 2023 at 10.09 am, right at the bottom of page 2.

15 CPONPC THEISSEN: Yes.

FLTLT ROSE: Then you go to page 3, and there's the actual email itself.

20 CPONPC THEISSEN: Yes.

FLTLT ROSE: He says:

25 *Hi, Casey. As discussed, totally understand about the reservations from your superiors regarding the statements.*

And then he attaches a QPS statement template and says:

30 *If possible, over the coming days, would you please be able to arrange for the following persons to take statements –*

from certain persons that he lists there, who have pseudonyms. Did you understand those persons to be from Bushman 84, who were flying in the sortie?

35 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: If you need to refer to the pseudonym list just to remind yourself of who those persons are.

40 CPONPC THEISSEN: Yes.

FLTLT ROSE: What reservations was he referring to then, from the superiors?

45 CPONPC THEISSEN: I believe the reservations may have originated from

the statements being obtained so shortly after the incident. That was my understanding of the reservations, but you would have to speak to Luke about that.

5 FLTLT ROSE: So you weren't quite sure what he meant by that sentence. It wasn't that you'd had a briefing and that had been discussed, that it was too early to take statements from those personnel.

10 CPONPC THEISSEN: Yes, there was a lot of discussion at the time within the Major Incident Room concerning whether or not it would be appropriate to take statements so shortly after the accident.

15 FLTLT ROSE: Had you come across that before in your career, that there was hesitation to interview eyewitnesses to an incident shortly after the incident?

20 CPONPC THEISSEN: Generally after traumatic events, in my experience, that nobody really wants to provide statements shortly afterwards; however, it's the best time to obtain that evidence. So, in my experience, it's about ensuring, like, if statements are being obtained, that the appropriate personnel are obtaining those statements, and mental health support is available for those persons. So we can limit the – or attempt to limit the stress that may result from providing a statement.

25 FLTLT ROSE: There's probably no mathematical formula to this, but is there a period of time that achieves both those outcomes: giving someone who has experienced a traumatic experience a little bit of time to work through some of those emotions and being able to give an accurate statement close to the time of events? Is it sort of a week, two weeks, couple
30 of days?

35 CPONPC THEISSEN: In my experience, ma'am, I'll try and get it done as quickly as possible. And just going back to what I was saying before, it's whilst ensuring that appropriate mental health support is available to those persons. But that's discussions that investigators will have with those persons to ascertain whether or not it's appropriate to take statements from those people, or to wait until a short time afterwards.

40 FLTLT ROSE: When you're saying "a short time", is that a matter of days or weeks?

CPONPC THEISSEN: I'd be hesitant to leave it more than a week.

45 FLTLT ROSE: Just in terms of the timeline, I'll just take you back to Annex B. It's the email I was reading off before, incorrectly. That's the

email that you received from Detective Sergeant Scells on 30 July at 10.40 am just outlining the full list of persons that the QPS would like witness statements from, including all the aircrew in all the other three aircraft?

5

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: But there's also some other information that he was seeking flight data – once the flight data recorder had been recovered?

10

CPONPC THEISSEN: (Indistinct).

FLTLT ROSE: Do you see the heading that says, "Flight Data"?

15

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And then on the next page, page 2, there's recordings: cockpit recordings, video recordings, et cetera?

20

CPONPC THEISSEN: Yes.

FLTLT ROSE: And then medical records - - -

25

CPONPC THEISSEN: Yes.

FLTLT ROSE: - - - from those in Bushman 83; a mission outline explaining the objectives of the mission; and maintenance records in relation to the aircraft that crashed?

30

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And then that's when he says:

35

I understand some of this information may not be forthcoming; however, I figure there's no harm in asking.

CPONPC THEISSEN: Yes. So particularly with respect to all of that information would be – I would consider sensitive, yes.

40

FLTLT ROSE: So you had understood that they were asking for certain information that you knew was unlikely to be handed over to the QPS because it was sensitive?

CPONPC THEISSEN: I don't believe – I believe the information would have been handed over, but that certain formal requests would have had to have been made, yes.

5 FLTLT ROSE: So did you understand that taking statements from the aircrew also fell into the category of sensitive, and it would need a formal request associated with it?

10 CPONPC THEISSEN: I don't believe that obtaining statements would have been considered sensitive.

FLTLT ROSE: So, in your mind, there was a distinction between the statements and things like the flight data recorder and cockpit voice recording?

15 CPONPC THEISSEN: Yes, very much so, ma'am. A lot of that information that you're referring to there, including the medical records, yes, would be considered sensitive. And a lot of that information, particularly the maintenance, mission outline recordings, would be considered confidential and would have to get appropriate clearances to be handed over to QPS. And with respect to the medical records, Joint Health Unit would need directions from the Coroner to hand over that information as well.

25 FLTLT ROSE: And you understood that because of your past experience working with Coronial investigations?

CPONPC THEISSEN: Yes, ma'am.

30 FLTLT ROSE: If you go to Annex C, page 1, at the bottom, you sent an email to the JMPS TALISMAN SABRE inbox?

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: And that's at 1.55 pm on 30 July. So if you turn over the page to page 2, you're letting them know – this is your team, your colleagues – that QPS had requested JMPF assist with obtaining statements from the following personnel – and those were the personnel of Bushman 84. Is that correct?

40 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And because they were at Holsworthy Barracks, you suggested that it should be JMPS Sydney that takes carriage of that task?

45

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And then you make a special note:

5 *Please note, DASA has attended 6 Aviation Regiment today in order to obtain a statement for their investigations. The QPS Coronial investigation is separate from the DASA investigation.*

CPONPC THEISSEN: Yes, ma'am.

10

FLTLT ROSE: And were you making that clear to your colleagues because it had been made clear to you?

CPONPC THEISSEN: Yes, ma'am. Yes, so there was no confusion as they were two separate investigations running parallel to one another.

15

FLTLT ROSE: And this is following your conversations with CMDR Cooper from the DFSB?

CPONPC THEISSEN: Yes, ma'am. Plus my own understanding as to how these matters occur.

20

FLTLT ROSE: But in your mind, by sending this email to your colleagues to start undertaking the statement process, there was no restriction in your mind that had been given to you to actually start the process, just that it had to be a separate interview than whichever interviews DFSB were conducting?

25

CPONPC THEISSEN: Yes, ma'am.

30

FLTLT ROSE: If you just turn the page back, to go to page 1 of Annex C. So you were copied into an email sent by WO1 Ken Fenton. That was the Station Manager for JMPS on Exercise TALISMAN SABRE; is that correct?

35

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And that's at 2.48 pm?

CPONPC THEISSEN: Yes.

40

FLTLT ROSE: And it's to JMPS Sydney colleagues, asking them to obtain the statements the QPS were seeking, for them to contact you with any questions?

45

CPONPC THEISSEN: Yes.

5 FLTLT ROSE: If you just now turn to Annex D, this is an email from you to Adam Dyer from QPS. Who was that? This is 30 July 2023 at 2.51 pm. It may be confusing for you in terms of how the flags are, but it's – can you see your handwriting, "Annex D", on the top of the email?

CPONPC THEISSEN: Yes. Yes, I see, ma'am.

10 FLTLT ROSE: Can you see there's an email from you to Adam Dyer from the QPS?

CPONPC THEISSEN: Yes.

15 FLTLT ROSE: Who was that, Adam Dyer?

CPONPC THEISSEN: I don't recall, ma'am, sorry.

20 FLTLT ROSE: You asked that:

Prior to QPS contacting the victims' families to notify them that their loved ones may be deceased –

and then you say –

25 *it is requested that the ADF is provided the opportunity to notify the families in order to ensure appropriate support mechanisms are in place.*

30 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And that if agreed to, the ADF will notify them – notify him once that is completed?

35 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: So is it your understanding that QPS or ADF had contact with the victims' families by that stage, on 30 July?

40 CPONPC THEISSEN: So I believe – I'm not sure at the time whether or not the victims' families had been notified. What I was trying to ensure with this is rather than police officers just knocking on the door and informing the victims' families, whether or not the Padres or unit representatives helped convey that information to the victims' families.

This was, like, to ensure that the ADF was able to provide that pastoral support for the victims' families.

5 FLTLT ROSE: Were you ever briefed, or in a briefing, where they discussed the mission changing from a search and rescue to a search and recovery mission?

CPONPC THEISSEN: Yes, ma'am.

10 FLTLT ROSE: Do you recall which briefing, and which day, you were told that?

CPONPC THEISSEN: No, ma'am, I don't recall specifically, no.

15 FLTLT ROSE: Would it have been a matter of days after you arrived on the scene on 29 July?

CPONPC THEISSEN: Yes, ma'am.

20 FLTLT ROSE: But you're not sure which day?

CPONPC THEISSEN: I'm not sure which day. It was quite apparent to everybody that was within the mission Major Incident Room that it was likely that there was not going to be any survivors.

25 FLTLT ROSE: So you first had your first briefing on 30 July at the Major Incident Room; is that correct?

CPONPC THEISSEN: Yes, ma'am.

30 FLTLT ROSE: So as at 30 July, is your evidence that those in the room there thought that it was unlikely there'd be any survivors?

35 CPONPC THEISSEN: That was the general impression I was getting, ma'am, yes.

FLTLT ROSE: And were you privy to any discussions about who was going to inform the families of that?

40 CPONPC THEISSEN: No, ma'am. No, that was very much outside of my remit.

45 FLTLT ROSE: Do you know if anyone from the QPS did agree that they would speak to the victims' families directly?

CPONPC THEISSEN: Not that I'm aware of, ma'am, no.

5 FLTLT ROSE: At paragraph 23 of your statement you state that you were provided with a point of contact at 6 Aviation Regiment to assist with your enquiries, and you sent that person an email, and then you received emails from that person in response. Now, I note that those emails are at Annex C, but they have been classified as "Official: Sensitive".

10 CPONPC THEISSEN: Yes, ma'am.

15 FLTLT ROSE: So I won't be asking you any questions about the contents of those emails in a public hearing, or about any other matters that you raise in paragraphs 23, or in 25 to 26. If any Counsel representing wish to ask you questions about those emails, that will have to be done in a private hearing, but I think that the emails will speak for themselves.

20 So I'll turn to paragraph 24 instead. You state that at 8.30 on 31 July 2023 you received a request from QPS concerning emergency contact with the victims, so QPS would position themselves to conduct ante-mortem interviews for the DVI process. What did you understand DVI to stand for?

CPONPC THEISSEN: Disaster Victim Identification.

25 FLTLT ROSE: And did you provide that information that was requested?

CPONPC THEISSEN: Yes, I believe so. Yes.

30 FLTLT ROSE: At paragraph 27, at about 1530 – this is still on 31 July 2023 – you received a call from someone called LTCOL Marsh, who was the SO1 Legal at Army Headquarters. Is that a female or male?

CPONPC THEISSEN: Female, ma'am.

35 FLTLT ROSE: She was inquiring about what authority or relations that QPS and JMPU were operating within; is that correct?

CPONPC THEISSEN: Yes, ma'am.

40 FLTLT ROSE: And you told her about the letter of exchange that we referred to earlier in your evidence?

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And that you routinely provide assistance in Coronial Inquiries such as this.

CPONPC THEISSEN: Correct.

5

FLTLT ROSE: You state that LTCOL Marsh asked why MPs, Military Police, wanted to speak to 6 Avn personnel, and what Directions they'd been provided by the Queensland Coroner for you to do this.

10 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Did you have any Directions to point her to?

15 CPONPC THEISSEN: At the time, ma'am, my understanding is that for the Coronial process to be initiated – because usually a few statements are obtained; once those initial statements have been obtained, the Coroner would then issue Directions as to the Coronial Inquiry. So at this time, noting that no statements had been obtained, that the Coroner at that time had not issued any Directions. That's my understanding of the processes,
20 as it was explained to me at the time.

FLTLT ROSE: She asked you what questions you were going to ask the personnel, and you said you weren't at liberty to provide her with that information.

25

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Then she asked if the witnesses would be compelled to provide statements.

30

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: What did you say in response?

35 CPONPC THEISSEN: I explained that they would not be compelled to provide statements, and if there was any inquiry where Directions were made that witnesses were compelled to provide statements, that Military Police would not be involved with obtaining those statements.

40 FLTLT ROSE: So you understood your involvement was only if the statements were to be given voluntarily?

CPONPC THEISSEN: Very much so, yes.

FLTLT ROSE: Then you state that LTCOL Marsh said she would figure out another way to manage this.

5 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And you provided a synopsis of this conversation to the Acting Provost Marshal CMDR Shaw?

10 CPONPC THEISSEN: Yes, I did, ma'am.

FLTLT ROSE: And that's at Annex F. Did you find anything unusual about the questions that LTCOL Marsh was asking you about the process?

15 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: What was that? What was unusual about it, in your experience?

20 CPONPC THEISSEN: Why they were so concerned with obtaining the list of questions, and that I didn't think it was relevant for her to know. And having to run everything by her prior to Military Police or civilian police going in and taking statements, in my experience, is not best practice with how that should occur.

25 FLTLT ROSE: So when the QPS provided you with their list of questions 1 to 13 that I took you to before, you had understood that that, without being told, was a police-to-police communication, so that it could enable you to then ask those questions of the witnesses?

30 CPONPC THEISSEN: Very much so, ma'am. So the intent with that email that Luke provided to myself, if and when MP were going to obtain those statements, were covering-off on the criteria that would be of interest to both QPS and the Coroner. This would be to limit any questions of relevance not being asked, and then having to go back at a later date and obtain a further statement. So having all that information there to obtain would mitigate or reduce the opportunity for that to occur.

35 FLTLT ROSE: In your understanding, it's not best practice to provide a witness, or lawyers who are working with the witnesses, the list of questions in advance of an interview?

40 CPONPC THEISSEN: No, ma'am. They were witnesses, they were not a person of interest. They were not suspects. There was no reason why the lawyers, at that time, needed to know what questions were going to be asked.

5 FLTLT ROSE: At paragraph 31 of your statement you state that you spoke to SQNLDR Woodward – that’s the JMPU Legal Officer – about your conversation you just had with LTCOL Marsh.

CPONPC THEISSEN: Yes, ma’am.

10 FLTLT ROSE: And she directed you that any request for information concerning statements is to go through her?

CPONPC THEISSEN: Yes, ma’am.

FLTLT ROSE: Did you find that process unusual?

15 CPONPC THEISSEN: Yes, ma’am.

FLTLT ROSE: Why is that?

20 CPONPC THEISSEN: After working my career up to this point, I’ve never had legal officers, particularly for witnesses, inject themselves into the investigative process with respect to what questions witnesses are going to be asked.

FLTLT ROSE: And then SQNLDR Woodward also raised concerns for personnel in 6 Aviation having PI?

25 CPONPC THEISSEN: Yes, ma’am.

FLTLT ROSE: What does that stand for?

30 CPONPC THEISSEN: Protected identity.

FLTLT ROSE: What were the concerns that she raised with you about that and how it would affect the process of taking statements?

35 CPONPC THEISSEN: I believe she assessed that persons within 6 Aviation – everybody had protected identity and we weren’t – because of that reason, we weren’t able to obtain statements.

40 FLTLT ROSE: Had you experienced that in the past, interviewing persons with protected identity?

CPONPC THEISSEN: Yes, ma’am.

45 FLTLT ROSE: And you still were able to take statements from them?

CPONPC THEISSEN: Very much so.

5 FLTLT ROSE: You just put in place certain processes so that their identities wouldn't be disclosed in the statement itself?

10 CPONPC THEISSEN: Correct, ma'am. We'd use pseudonyms and other mechanisms to protect that person's identity. So there are ways that with any written statement we can, like, protect that person's identity and if and when that goes to Court, I believe certain applications would be made to the Court about those person's presenting evidence.

15 FLTLT ROSE: And did you discuss that with SQNLDR Woodward, that you could have taken those precautions?

CPONPC THEISSEN: Yes, ma'am.

20 FLTLT ROSE: At Annexe G there's an email from you to SQNLDR Woodward, copying in some other persons from your chain of command.

CPONPC THEISSEN: Yes, ma'am.

25 FLTLT ROSE: That's 31 July at 3.56 pm?

CPONPC THEISSEN: Yes.

30 FLTLT ROSE: Obviously, you're reiterating that there's been a request from QPS for statements from the aircrew of Bushman 84, and that once the QPS send you the Directions from the Coroner, you will send them to her so she can review them?

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: Then at paragraph 33 you refer to an email that someone in Army Aviation sent to the JMPU, which you responded to. And I'm being deliberately obtuse about who those persons are because that's at Annexe H, and those emails have been marked as "Official: Sensitive"?

40 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: So once again, I'll not be asking any questions about that in the public hearing, or anything else that you mention in paragraph 33. And again, I reiterate if Counsel representing wish to ask you questions

about that paragraph, or Annexe H, that it will need to be done in a private hearing. But again, I think the emails can speak for themselves.

5 So at paragraph 34 you refer to emails that you received and sent about the ante-mortem interviews that QPS were going to conduct with the families?

CPONPC THEISSEN: Yes, ma'am.

10 FLTLT ROSE: And those emails are at Annexe I. Once again, they've also been classified as "Official: Sensitive", so I won't ask you about the emails in that annex, or about anything in paragraph 34, in the public hearing. And I reiterate - - -

15 CPONPC THEISSEN: Understood.

FLTLT ROSE: - - - again, that if any questions need to be asked about that, it has to be done in a private hearing. So at paragraph 35 of your statement you have a discussion with Assistant Commissioner Gutteridge again. Do you see that?

20 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Was that over the phone?

25 CPONPC THEISSEN: I believe this was face to face.

FLTLT ROSE: So where were you at the time?

30 CPONPC THEISSEN: Major Incident Room, ma'am.

FLTLT ROSE: And was this on 31 July?

CPONPC THEISSEN: So you're referring to paragraph 35, ma'am?

35 FLTLT ROSE: Yes. If you can't remember the exact date, you can please say so. But at paragraph 35 - - -

CPONPC THEISSEN: 1 August.

40 FLTLT ROSE: Sorry, 1 August. So Assistant Commissioner Gutteridge was still on scene by that date?

45 CPONPC THEISSEN: Yes, ma'am. He was there for the majority of the - beginning of the Major Incident Room, yes.

FLTLT ROSE: And was he at the briefings in the Major Incident Room, for each of the briefings?

5 CPONPC THEISSEN: For a proportion of them, yes.

FLTLT ROSE: If you go to Annex J, after you had that discussion with the Assistant Commissioner, you received an email. If you go to page 2 of Annex J, that's from the Assistant Commissioner Gutteridge to you, 1 August 2023 at 8.05 am.

10 CPONPC THEISSEN: Yes.

FLTLT ROSE: So just in terms of the timing, did you speak to Assistant Commissioner Gutteridge in person at the Major Incident Room before or after this email was sent?

15 CPONPC THEISSEN: Prior, ma'am.

FLTLT ROSE: And Assistant Commissioner Gutteridge stated that:

20 *The Coroner has indicated that he requires statements in support of his making further Directions in relation to the investigation, and that these Directions could include the release of the aircraft and other exhibits to the DFSB.*

25 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And he confirms that the QPS is conducting a Coronial investigation and not a criminal investigation?

30 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: The subject heading of the email refers to "Operation Victor Cloak". Can you see that?

35 CPONPC THEISSEN: Yes.

FLTLT ROSE: What did you understand that to mean?

40 CPONPC THEISSEN: That that was the operation name for the incident.

FLTLT ROSE: The QPS's?

45 CPONPC THEISSEN: Yes, QPS's.

FLTLT ROSE: So if you go to page – still in Annex J, but you flip over to page 1. There’s an email from you to SQNLDR Woodward, who’s the Legal Officer in your unit, copying in some other persons, is it, in your chain of command? Can you see that at 1 August 2023, 8.33 am?

5

CPONPC THEISSEN: Yes, ma’am.

FLTLT ROSE: And then you say – this is to SQNLDR Woodward:

10

Good morning, ma’am. I’ve been assured by Acting Commissioner Gutteridge that the Coroner cannot compel witnesses to provide a witness statement. However, the Coroner can compel a witness to attend the Coronial Inquiry if they’re not satisfied with the information that’s been provided by a witness.

15

CPONPC THEISSEN: Yes, ma’am.

FLTLT ROSE:

20

It’s better for a witness to provide a comprehensive statement shortly after an incident rather than being compelled to attend a Coronial Inquiry at a later date.

Do you see that?

25

CPONPC THEISSEN: Yes.

FLTLT ROSE: And then you say:

30

QPS have advised that the Queensland Coroner may start losing his patience if he does not start receiving statements soon for this matter. And once the Queensland Coroner receives those initial statements, he will provide formal Directions which will be provided to Defence.

35

CPONPC THEISSEN: Yes.

FLTLT ROSE: And:

40

It’s requested that you liaise with Army Headquarters Legal in order to facilitate Military Police access to personnel at 6 Aviation Regiment.

Do you see that?

45

CPONPC THEISSEN: Yes, I do.

5 FLTLT ROSE: Had you had a conversation with Assistant Commissioner Gutteridge, that he had told you that the Coroner may start losing patience if the statements don't start arriving?

10 CPONPC THEISSEN: Yes. Yes, ma'am. The Coroner was, from my understanding, having a chat with QPS and Gutteridge – Assistant Commissioner Gutteridge that, you know, why had no statements been
15 obtained for this mater so he could, like, provide Directions. My intent, having that conversation with the Assistant Commissioner, was to provide assurances to Army HQ Legal, and other stakeholders, that this isn't a criminal investigation, it was a Coronial investigation and, you know, there'd be no suspects or persons of interest. It was just to obtain a
20 statement, like, for the surrounding circumstances, or what evidence that the witnesses may have.

FLTLT ROSE: Did Assistant Commissioner Gutteridge express to you some sort of dissatisfaction that the process, the statement-taking process, was being delayed for various reasons?

CPONPC THEISSEN: QPS were getting frustrated, yes.

25 FLTLT ROSE: And were you the only person they were expressing this dissatisfaction to within ADF?

30 CPONPC THEISSEN: I'm unsure, ma'am. From a policing perspective, they were leaning on myself quite heavily to facilitate those statements being obtained. And they were observing me trying to facilitate those statements being obtained and seeing that I was merely being obstructed in facilitating those statements.

35 FLTLT ROSE: So you had had discussions, sort of informal discussions, with QPS about that?

40 CPONPC THEISSEN: Where they were continuously coming up to me going, "How come we haven't got these statements?", and I was explaining to them that the information was not forthcoming from the various stakeholders; that I was requesting the information, and that MPs were poised to obtain those statements but hadn't proceeded to.

45 FLTLT ROSE: Had you had any discussions with your own chain of command about these obstructions, as you called them, that you were receiving from various Legal Officers?

CPONPC THEISSEN: I had raised it, but that was very much above my pay grade. My role was to put the requests up through my chain of command, and I was getting limited information back. And there was no real explanation as to why those statements had not been obtained. And
5 QPS were getting frustrated with that, because I could not explain to them why those statements had not been obtained.

FLTLT ROSE: Earlier in your evidence, you referred to the notebook
10 interviews that some of the QPS Officers had had with some members of the aircrew that were involved in the sortie on the evening. Do you remember that evidence? There was notebook interviews?

CPONPC THEISSEN: Yes, ma'am.

15 FLTLT ROSE: Was it your understanding that that was not sufficient enough to provide the Coroner with enough information for him to then give the Directions for the Coronial investigation to commence?

CPONPC THEISSEN: That would be a discussion between QPS and the
20 Coroner.

FLTLT ROSE: But in any case, you were receiving constant pushes from QPS to get the statements obtained?

25 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: So just looking at that email then, one of the people that you've copied into that email, at 8.33 am, is CMDR Nigel Shaw?

30 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Who's that?

CPONPC THEISSEN: He was the Acting Provost Marshal.
35

FLTLT ROSE: If you turn to Annex K, page 1, this is from CMDR Shaw to you and SQNLDR Woodward, and some other people in your colleagues in the Military Police, in response to the email you sent reiterating what Assistant Commissioner Gutteridge had told you?
40

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: So the email is at 1 August 2023, 8.35 am. CMDR Shaw says:
45

Casey, stop. We understand the requirements and have asked for a formal request to obtain the statements. Once that has been received, we will discuss a course of action.

5 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Was this the first time you had heard directly from CMDR Shaw during this investigation?

10 CPONPC THEISSEN: I believe I'd had a few conversations with him prior, ma'am, and he did rock up for one day prior to this occurring, yes. Whether or not that was on the 31st, he did come down for one day. But I did have a few conversations with him, providing him with updates as to what was occurring.

15 FLTLT ROSE: It's quite a blunt email, telling you to stop?

CPONPC THEISSEN: Yes, ma'am.

20 FLTLT ROSE: Had he communicated some issues to you in those conversations you had had with him about the way that you were conducting your role as a Liaison Officer?

CPONPC THEISSEN: Not at all, ma'am, no.

25 FLTLT ROSE: Were you surprised to receive the email telling you to stop pushing for the obtaining of the statements?

CPONPC THEISSEN: Yes, I was, ma'am.

30 MS McMURDO: Is that what you understood by "stop" to mean?

35 CPONPC THEISSEN: I had received a phone call, plus in conjunction with this email, to cease assisting QPS with the Coronial Inquiry and obtaining the statements.

40 FLTLT ROSE: So at paragraph 36 of your statement you state that you then received a telephone call from WO2 Davies, who advised you to notify QPS that JMPU would not be assisting their investigation until further notice as the Army would be appointing a Queensland Coroner Liaison Officer?

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: I take it you weren't to be that Queensland Coroner Liaison Officer?

5 CPONPC THEISSEN: No, ma'am.

FLTLT ROSE: Did you know who that was going to be?

10 CPONPC THEISSEN: My understanding was that Army Headquarters were looking at assigning a Coronial Liaison Officer as someone that wasn't necessarily within JMPU.

FLTLT ROSE: Do you know why?

15 CPONPC THEISSEN: I don't know why, ma'am, and it was contrary to CDF Directives as well as, like, what was stipulated with Annex N with how JMPU assist in this matter QPS with Coronial-related matters.

20 FLTLT ROSE: Did you have any further conversations with CMDR Shaw as to why this different process was going to occur?

CPONPC THEISSEN: No, ma'am.

25 FLTLT ROSE: Did anyone else in your chain of command explain it to you?

CPONPC THEISSEN: No, ma'am.

30 FLTLT ROSE: You then briefed Assistant Commissioner Gutteridge on the advice that you had just received?

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Was that in person or over the phone?

35 CPONPC THEISSEN: In person.

40 FLTLT ROSE: You then state that QPS then asked you what course of action they should pursue in the interim. When you say QPS asked you, do you actually mean Assistant Commissioner Gutteridge asked you what QPS should do?

45 CPONPC THEISSEN: Yes. So noting that I had been asked to cease assisting QPS with this matter, the Assistant Commissioner was like, "Well, what should we, like, do now?", noting a lot of the information was contained within Defence. And that's where I advised him that to continue

as they normally would for these types of matters without the assistance of JMPU.

5 FLTLT ROSE: And when you said that to him, to “continue as you normally would”, what did you think they would do?

10 CPONPC THEISSEN: I believed, noting – so where I was trying to value-add in this matter was to ensure that members of 6 Aviation had appropriate support whilst statements were being obtained; to ensure that Military Police, whilst understanding the culture of Defence, would be more tactful in obtaining those statements comparative to civilian policing agencies, rather than civilian knocking on people’s doors and obtaining statements without the support mechanisms that the ADF is able to provide.

15 FLTLT ROSE: So were you aware, prior to receiving this email from CMDR Shaw, that the ADF had asked the Coroner to send through a formal request for the statements?

20 CPONPC THEISSEN: I was briefing my chain of command regularly on what was occurring.

FLTLT ROSE: But had they told you that a formal request had been sent to the Coroner?

25 CPONPC THEISSEN: Not that I recall, ma’am.

30 FLTLT ROSE: At paragraph 37 you sent and received some emails on 2 August 2024, which are at Annex L. They’ve been classified as “Official: Sensitive”, so once again, I’m not going to ask you any questions about those at the public hearing, or about anything else you say in paragraph 36. If any questions are to be asked about that, that would have to be done in a private hearing.

35 CPONPC THEISSEN: Yes, ma’am.

FLTLT ROSE: So at paragraph 38 you then corresponded by email with Senior Sergeant – is it Simpfendorfer?

40 CPONPC THEISSEN: Yes.

45 FLTLT ROSE: About the QPS request for your assistance with the DVI process, and those emails are at Annex N. Is it fair to say that the summary of that is that the JMPU did not end up assisting QPS, or any other civilian police, with those ante-mortem interviews?

CPONPC THEISSEN: Yes. So JMPU – I was – sorry, JMPF have a Disaster Victim Identification operational certified team where we have numerous members across Australia who are DVI qualified. Detective Sergeant Simpfendorfer was aware of this. Noting the amount of people that were involved in the accident, he was requesting JMPF assist with DVI-trained personnel in obtaining those ante-mortem statements.

FLTLT ROSE: And you're not part of the DVI team, I take it?

CPONPC THEISSEN: No, not me. No.

FLTLT ROSE: And even though the discussions were had about potentially the JMPF assisting with that, it did not end up occurring.

CPONPC THEISSEN: No. For reasons that was not explained to me, JMPF did not provide DVI assistance, even though QPS did make the request.

FLTLT ROSE: At paragraph 39 of your statement you said SQNLDR O'Reilly, from the JMPF, then assumed the role as the JMPU QPS Liaison Officer?

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: Is that a, sorry, female or male, SQNLDR O'Reilly?

CPONPC THEISSEN: Male.

FLTLT ROSE: But you continued to assist him when he took over that role?

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And that you continued to assist until 8 August 2024?

CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And that's when you returned to your usual duties?

CPONPC THEISSEN: Correct, yes.

FLTLT ROSE: Was that your decision, or was that chain of command's decision, to relieve you of that role and have it handed over to SQNLDR O'Reilly?

45

CPONPC THEISSEN: That was chain of command's decision, ma'am. SGNLDR O'Reilly came in and I just assisted him, like, as he was performing that role.

5 FLTLT ROSE: Did his role also finalise on 9 August, or did he continue to do some tasks after you had left?

CPONPC THEISSEN: I'm not sure, ma'am, no.

10 FLTLT ROSE: At paragraph 44 of your statement you state that the amount of external Command interference, whether real or perceived, was demoralising up until SGNLDR O'Reilly arrived.

CPONPC THEISSEN: Yes, ma'am.

15 FLTLT ROSE: What changed when he arrived?

CPONPC THEISSEN: The responsibility for being the Liaison Officer was handed over, so – and, well, once he went into that position, I was just following orders from there. So the responsibility to try and make everything work up until this point was taken away from me.

FLTLT ROSE: Do you remember what date that was, that SGNLDR O'Reilly took over that role?

25 CPONPC THEISSEN: I believe it would have been around 3 August, ma'am.

FLTLT ROSE: You described it as “demoralising”. Was that demoralising for you, or demoralising for the JMPF?

CPONPC THEISSEN: It was demoralising – I can't speak on behalf of JMPF. It was demoralising for myself because I know that JMPF had the personnel and the capability to assist and expedite this matter in a way that would have been trauma-informed and victim-centric. And I believe that we could have certainly value-added in this matter where there's a perception from where I was sitting that we were obstructed from conducting our duties as stipulated within CDF Directives, as well as the letter of exchange between QPS and the Joint Military Police Unit.

40 FLTLT ROSE: Did you have conversations with your chain of command that led you to believe that they also thought the JMPU was being obstructed?

CPONPC THEISSEN: If they had those opinions, ma'am, you would have to ask them. I don't think they would discuss that with myself. However, my perception, being there for the first four days by myself, was that we were being obstructed in the conduct of our duties in assisting QPS and the
5 Coronial Inquiry.

FLTLT ROSE: Was this the first time you had worked with Army Aviation in an investigation such as this, and specifically whether that's Army Legal,
10 6 Aviation Regiment, or 16 Aviation Brigade?

CPONPC THEISSEN: Fortunately, this was the only time that I've worked with 6 Aviation and dealt with an incident such as this. As you'll appreciate, there was a lot of – the organisation was trying to get their head around and provide a response for the tragic incident, yes, but this was the
15 first time we've worked with 6 Avn.

FLTLT ROSE: At paragraph 45 you said you were embarrassed to have to tell Assistant Commissioner Gutteridge that JMPF would not be able to assist until further notice, and then you refer to an acronym of MIR?
20

CPONPC THEISSEN: That's Major Incident Room.

FLTLT ROSE: Understood. Thank you. Did you observe any differences between the assistance that the DFSB investigators were receiving from Defence versus what the QPS investigation was receiving?
25

CPONPC THEISSEN: Very much so.

FLTLT ROSE: Can you explain what you observed the differences to be?
30

CPONPC THEISSEN: DFSB, they were being supported during the conduct of their investigation. From my understanding, statements had been obtained. 6 Aviation Regiment was very forthcoming, from my perception, to assist with that aspect of the investigation. Defence, from
35 where my observations, was very much leaning heavily into the DFSB investigation.

Comparatively, with the QPS investigation being assisted by the Joint Military Police Force, we were being questioned and deflected and obfuscated at every single opportunity for requests for information, including the provision of statements.
40

FLTLT ROSE: At paragraph 47 you state that you think that JMPF were undermined by organisations within the ADF to assist QPS with the Coronial Inquiry. Why do you think that is?
45

CPONPC THEISSEN: I don't know. Various correspondence that I had with various entities within this matter, I conveyed to them that this was not a criminal investigation, it was a Coronial Inquiry, and that we were trying to assist the Coroner in obtaining evidence so we could actually find out how this tragic incident occurred. The fact that numerous entities in Defence did not understand this and think that we were going there as an adversarial role to obtain these statements, I just cannot fathom why we were obstructed – or my perception that we were obstructed for obtaining these statements and assisting QPS and the Coroner in this matter.

FLTLT ROSE: And you say in your statement that you think had you not been obstructed, the ADF's initial response to this tragic incident would have been much more efficient and effective?

CPONPC THEISSEN: Very much so.

FLTLT ROSE: What do you mean by "more efficient and effective"?

CPONPC THEISSEN: Well, I believe their statements would have been obtained much quicker. The evidence would have been much more fresh, comparative to – I'm not sure how long we waited until those statements were obtained from QPS, but it would have been – the investigation would have been expedited. Things just would have been much quicker and effective and then – where answers to any findings would have been provided to the families in a timely manner, comparative to it being drawn out over a long period of time.

FLTLT ROSE: Are you aware if statements were ever obtained from the aircrew that were involved in the sortie?

CPONPC THEISSEN: I'm not tracking, but I understood that there was a significant time – there was a significant time before any statements were obtained, but I'm not tracking whether or not any have been obtained at this time.

FLTLT ROSE: Have you been involved in any formal or informal lessons learned activities with your colleagues and the JMPF after this incident?

CPONPC THEISSEN: JMPF did not undertake a post-activity report – an after-action report. Nobody from JMPF, within a formal arrangement, has spoken to me about this matter.

FLTLT ROSE: So, essentially, once you returned to your duties on 9 August 2023, that was the end of it for you. You haven't heard much more about it since then?

5 CPONPC THEISSEN: Correct.

FLTLT ROSE: Are you aware of any new policies or instructions that have been issued since this incident about how the ADF are to work with police services who are conducting Coronial investigations?

10 CPONPC THEISSEN: Not that I'm aware of, ma'am. I understand that there has been subsequent Coronial Inquiries involving ADF members that have occurred since, where – speaking to my colleagues – that they're experiencing similar patterns of behaviour that has been demonstrated in this matter with matters that have occurred recently. So nothing has changed.

FLTLT ROSE: But you, yourself, haven't been involved in any Coronial investigations since this incident in Proserpine?

20 CPONPC THEISSEN: No, ma'am.

MS McMURDO: And is Annexure N, the letter of exchange, still current?

25 CPONPC THEISSEN: From my understanding, yes, ma'am.

FLTLT ROSE: If you can turn to paragraph 42 of your statement, and you state that you –

30 *assessed my role to assist the QPS with the request for information in accordance with JMPU policy and Chief of Defence Force Directions.*

CPONPC THEISSEN: Yes, ma'am.

35 FLTLT ROSE: So when you were undertaking your tasks in Proserpine, were you thinking that you were acting in accordance with current JMPU policy that was extant at that time?

40 CPONPC THEISSEN: I knew that, ma'am.

FLTLT ROSE: You knew that because you had received training on that?

CPONPC THEISSEN: Yes, ma'am.

45

FLTLT ROSE: And you had acted in similar ways with other Coronial investigations you had been involved in?

5 CPONPC THEISSEN: Very much so.

FLTLT ROSE: And has the policy changed at all since July 2023 to make you think any other way, that you could have acted in any other way or should have acted in any other way?

10 CPONPC THEISSEN: Not that I'm aware of, ma'am, no.

FLTLT ROSE: And when you say colleagues of yours have experienced similar issues with Coronial investigations they are assisting with, is that in states other than Queensland?

15 CPONPC THEISSEN: New South Wales.

FLTLT ROSE: And is this something that you discuss amongst yourselves, at your level?

20 CPONPC THEISSEN: Correct.

FLTLT ROSE: And has been fed back up to the chain of command in your JMPU unit?

25 CPONPC THEISSEN: My chain of command would be aware of these issues. I'm not sure how that would be conveyed, but they receive reports on matters such as this. So they would be kept abreast, I'd like to think, of some of these issues.

30 FLTLT ROSE: Did you, yourself, write a report after your involvement in this particular investigation?

35 CPONPC THEISSEN: Yes, ma'am. I wrote an email.

FLTLT ROSE: Was this after you had concluded your tasks on 9 August?

CPONPC THEISSEN: Yes, ma'am.

40 FLTLT ROSE: And that was through to your chain of command?

CPONPC THEISSEN: That was to SQNLDR O'Reilly, requesting to sit down with the Provost Marshal about this, to discuss ways that we could improve JMPF's response to matters such as this.

45

FLTLT ROSE: And have you had that opportunity to have those discussions with anyone in the chain of command?

5 CPONPC THEISSEN: No one within the JMPU, or within chain of command, has spoken to me about this matter in a formal way.

FLTLT ROSE: What do you think could be done to improve the relationships between the civilian police services and the ADF should such an incident occur again?

10 CPONPC THEISSEN: That's really above my pay grade. I believe that the Directions that are in effect would be adequate if personnel within Defence adhered to them. But it's my understanding that even with those Directions, I know there's a CDF Directive with respect to JMPU taking carriage of Coronial matters in assisting QPS in conjunction with that letter of exchange, but when it goes to legal representatives, that message becomes very diluted and it stops Military Police from conducting their duties.

20 FLTLT ROSE: Are you referring to incidents other than the one that's concerning this Inquiry, where this has happened to you since?

25 CPONPC THEISSEN: So there's this Inquiry, and I know that there's been another matter in New South Wales where similar patterns of behaviour have been demonstrated by Army Legal with respect to Military Police being able to conduct their duties.

FLTLT ROSE: Only Army? This is not something that you've experienced with the other services?

30 CPONPC THEISSEN: In my experience, we're able to – particularly where I was working with the Navy dealing with these matters, they've been a lot more forthcoming with information, and we've been able to provide assurances to Command that we're there to assist, and not necessarily the perception that we're going in there to talk to people as suspects or anything like that. But in this particular matter, we did not even get the opportunity to speak to people.

40 FLTLT ROSE: Can you explain the role of the Provost Marshal to the Inquiry?

CPONPC THEISSEN: So he's the Commanding Officer for Military Police members within the Australian Defence Force.

45 FLTLT ROSE: So the top of your chain of command, essentially?

CPONPC THEISSEN: Correct, ma'am, yes.

5 FLTLT ROSE: And did you say there was an Acting Provost Marshal involved in this investigation?

CPONPC THEISSEN: Yes. So CMDR Shaw was the Acting Provost Marshal during this particular incident, and then GPCAPT Terrence Lewis came back to work shortly afterwards.

10 FLTLT ROSE: And is that who the current Provost Marshal is now?

CPONPC THEISSEN: Correct, ma'am, yes.

15 FLTLT ROSE: Those are my questions.

MS McMURDO: Thank you. Applications to cross-examine?

20 LCDR GRACIE: Just some very brief matters.

MS McMURDO: Yes.

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

LCDR GRACIE: Chief Petty Officer, my name is LCDR Malcolm Gracie. I represent CAPT Danniell Lyon. Can I ask whether or not you ever saw a document that set out the Forensic Crash Unit's reporting requirements to the Coroner?

30

CPONPC THEISSEN: Not that I recall, sir, no.

LCDR GRACIE: And did you, during the period of your liaison duties with Queensland Police and the ADF, have access to or see the Queensland Police Operations Procedures Manual?

35

CPONPC THEISSEN: No, sir.

40 LCRD GRACIE: Thank you, ma'am. Nothing else.

MS McMURDO: Thank you. Yes, COL Gabbedy.

45

<CROSS-EXAMINATION BY COL GABBEDY

5 COL GABBEDY: Thank you, ma'am. CPONPC Tyson, I'm COL Nigel Gabbedy. I appear for MAJGEN Jobson, the Commander of Army Aviation. You're a senior Military Police Officer?

CPONPC THEISSEN: Yes, sir.

10 COL GABBEDY: And you arrived onsite on 29 July last year, I understand?

CPONPC THEISSEN: Yes, sir.

15 COL GABBEDY: At what point in time did you understand that you were assisting a Coronial investigation?

20 CPONPC THEISSEN: I believe once I'd arrived, sir, that I would be deferring to QPS. And with my previous experience, I knew that this matter would be going to a Coronial investigation. So I was treating it as such as soon as I arrived.

25 COL GABBEDY: So from the start, you were treating it as a Coronial investigation?

CPONPC THEISSEN: Yes, because I knew it would go that way, sir.

30 COL GABBEDY: So you knew at some stage it would, so you approached it in that way from the very start?

CPONPC THEISSEN: Very much so.

35 COL GABBEDY: Did anybody at any stage say to you that at this point in time it had become a Coronial investigation?

40 CPONPC THEISSEN: It was very ambiguous. As I was saying before, from my understanding is that the Coroner requires a certain amount of information for a Coronial investigation to occur, and that's generally with the provision of statements where he would then issue Directions. I would just caveat that that's my understanding; noting that no statements had been provided, those Directions had not been received. So we had a bit of a chicken and an egg situation.

COL GABBEDY: Just to make sure that I understand that answer, are you saying that it was unclear to you at what stage it became a formal Coronial investigation?

5 CPONPC THEISSEN: Yes, sir.

COL GABBEDY: Thank you for that. If I start at the end, in paragraph 44 of your statement you raise concerns about a number of organisations. I'm concerned with only two of them, and they are 6 Aviation Regiment and
10 16 Aviation Brigade. What precisely do you say was done by those organisations to obstruct you?

CPONPC THEISSEN: I'm not saying that it was either 6 Aviation or
15 16 Aviation Brigade. My understanding was Army Legal were providing advice down to both those respective units. From my perception, it was originating – the perceived obstruction was originating from Army Legal.

COL GABBEDY: Given that answer, would I be correct to understand
20 your evidence in paragraph 44 – and if you've got it in front of you, it would probably help you to look at it – if we deleted the words "6 Aviation Regiment" and "16 Aviation Brigade" from that, as I understand your evidence, you felt you were obstructed by Army Legal. Is that right?

CPONPC THEISSEN: So I believe – so when Military Police were going
25 in to obtain statements from members from 6 Aviation, we weren't – from my understanding, that we weren't being welcomed to attend the Regiment to obtain those statements even though we were positioned and ready to. My understanding is that may have been provided from advice from Army Legal not to facilitate Military Police from attending and speaking to those
30 members.

COL GABBEDY: So if I rephrase that – and tell me if I've got this wrong
– you feel that if you weren't welcomed at the Regiment, that was the Regiment acting on legal advice?
35

CPONPC THEISSEN: I believe that was my impression, sir. I could very
much understand 6 Aviation and 16 Aviation Brigade being apprehensive with Military Police attending and speaking to those members, noting what had occurred. However, I had provided through correspondence – that's
40 been said "Official: Sensitive" here – that was conveying to them in no uncertain terms that this was a Coronial Inquiry; we weren't going in there to speak to members as suspects or persons of interest. Military police were only going in there with the intent to obtain statements to assist with the Coronial Inquiry, yes.
45

COL GABBEDY: I understand what you conveyed to them, and you also confirmed that it was conveyed to you that there were concerns about the personnel that had been involved?

5 CPONPC THEISSEN: Yes, very much so.

COL GABBEDY: And it was the case – and if we look at a couple of these annexures – if you look at page 4 of Annexure C, which is the list of questions you’ve received from Detective Sergeant Scells.

10 CPONPC THEISSEN: Yes.

COL GABBEDY: It would have been possible for you to provide that list to Army Legal, or even the Regiment, for the members to provide answers to those questions, wouldn’t it?

CPONPC THEISSEN: Can you say that question again, please?

20 COL GABBEDY: What I’m suggesting to you, Chief, is that you could have provided that list to a representative of the Regiment or to Army Legal to facilitate the answers of the questions to you. They could have been provided to the members directly?

25 CPONPC THEISSEN: That would not have been best practice.

COL GABBEDY: But I mean, that may not have been in your opinion a best practice, but there’s nothing to prevent that from occurring, is there?

30 CPONPC THEISSEN: No.

COL GABBEDY: Unfortunately, what you told LTCOL Marsh was that you could not tell her what those questions were. That’s correct, isn’t it?

35 CPONPC THEISSEN: Yes, sir.

COL GABBEDY: And if I understand your concern, broadly speaking, your concerns are limited to the provision of these statements; is that right?

40 CPONPC THEISSEN: So my intent was for Military Police to obtain those statements along with the questions here in a professional format that would have been admissible to the Coroner.

45 COL GABBEDY: And I assume that the Coroner’s intent was to get those statements containing that information?

CPONPC THEISSEN: Correct, sir.

COL GABBEDY: And it wouldn't have mattered if it came through JMPU or through some other means?

5

CPONPC THEISSEN: The professionalism and the quality of the statement that would have been provided should we have just handed those questions over to those members would be significantly different comparative to a trained investigator sitting there and taking those statements and obtaining – and answering these questions.

10

COL GABBEDY: I accept that's your opinion, but the question was directed more at what the Coroner was after, and the Coroner was after statements that met those particular questions – or answered those questions that had been provided to you?

15

CPONPC THEISSEN: It was not the Coroner asking these questions, sir; this was QPS.

20

COL GABBEDY: I understand that, and QPS were asking the questions on behalf of the Coroner, were they not?

CPONPC THEISSEN: I'm not sure whether or not the Coroner specifically requested that these questions be asked.

25

MS McMURDO: For the purposes of the Coronial Inquiry.

COL GABBEDY: Thank you. Thank you, ma'am. So the entire purpose of the questions was to assist the Coronial Inquiry?

30

CPONPC THEISSEN: I believe so. Yes, sir.

COL GABBEDY: And I accept your opinion that a more professional product may have been produced if it came through JMPU. Is that your opinion?

35

CPONPC THEISSEN: Very much so.

COL GABBEDY: But indeed, the statements could have been produced by anybody?

40

CPONPC THEISSEN: I'm not sure, sir. Sir, noting that the QPS had provided a jurat and a statement template, I can assure you that the preference would have been for a trained investigator, whether that be QPS, New South Wales, or Military Police to obtain those statements.

45

5 COL GABBEDY: And again, I think we're slightly at cross-purposes. I'm not talking about the purpose or your understanding of the purpose, I'm talking about the end product. Your preference obviously was for JMPU to do this job. That's not the only way the job could have been done; that's the point I'm trying to make. Do you agree with that?

10 CPONPC THEISSEN: So QPS were requesting that Military Police obtain those statements, so that is what I was trying to facilitate.

COL GABBEDY: I don't think that's quite what the email says, if you would like to turn to that, Chief?

15 CPONPC THEISSEN: What annex?

COL GABBEDY: There's a reference on page 4 in the second paragraph to Defence investigators?

20 CPONPC THEISSEN: What annex are you on, sorry?

MS McMURDO: Which annexure?

COL GABBEDY: Annex C?

25 CPONPC THEISSEN: Yes.

COL GABBEDY: And I'm assuming that you've read the words "Defence investigators" and thought "JMPU"?

30 CPONPC THEISSEN: What are you referring to, sorry, in the email?

COL GABBEDY: Page 4 of Annex C, second paragraph.

35 CPONPC THEISSEN: So my understanding, as an ADF investigator, is that when QPS are referring to "Defence investigators", he was referring to somebody with qualifications and training and experience as an investigator.

40 COL GABBEDY: And that was your understanding, and that's why you pushed hard for JMPU to take the statements?

CPONPC THEISSEN: As per the QPS request, sir, yes.

45 COL GABBEDY: As per your interpretation of the QPS request, Chief?

CPONPC THEISSEN: Well, when someone says “Defence investigators” and they’re talking to a Defence investigator, I think it was quite reasonable to infer that it was talking about and requesting somebody with my qualifications and experience - - -

5 COL GABBEDY: Are you - - -

CPONPC THEISSEN: - - - or colleagues with that.

10 COL GABBEDY: Sorry, I didn’t mean to speak over you. Are you telling this Inquiry that Military Policemen or women are the only people qualified to undertake a Defence investigation?

CPONPC THEISSEN: As a Defence investigative authority, yes.

15 COL GABBEDY: And this was not a Military Police – or this wasn’t a criminal inquiry?

CPONPC THEISSEN: No, sir.

20 COL GABBEDY: Are you familiar with administrative inquiries?

CPONPC THEISSEN: Yes, sir.

25 COL GABBEDY: Are they conducted by Defence investigators?

CPONPC THEISSEN: Yes, sir.

COL GABBEDY: So a Defence investigator doesn’t necessarily need to be a Military Police Officer, do they?

30 CPONPC THEISSEN: For an administrative inquiry, yes, sir.

COL GABBEDY: And this was not a criminal inquiry?

35 CPONPC THEISSEN: No, sir.

COL GABBEDY: I think that’s all I have. Thank you, Chief.

40 CPONPC THEISSEN: Thank you.

MS McMURDO: Thank you. No other applications to cross-examine? Yes.

5 SQNLDR THOMPSON: Ma'am, if I might be permitted. Thompson is my name. I am COL Thompson, Legal Officer. I represent BRIG Dean Thompson, who was mentioned in CPONPC Theissen's statement. I'm not seeking leave to appear today, but if my friend COL Streit calls Thompson, will the Chief Petty Officer be available for cross-examination at that stage?

10 MS McMURDO: Well, I don't know whether at that stage, but you can make yourself available for further cross-examination if needs be, can you, at a convenient time?

CPONPC THEISSEN: Yes, of course, ma'am.

MS McMURDO: Thank you.

15 COL THOMPSON: Thank you, ma'am. Nothing further.

MS McMURDO: Yes.

20 FLTLT ROSE: There are a few matters by way of re-examination.

COL STREIT: Thank you. Yes, I can deal with this very quickly. BRIG Dean Thompson is a witness; that should be obvious to everyone. He's been mentioned in other evidence, particularly Queensland Police Service evidence, and I'll engage with my learned friend at a time he makes an application to appear to provide him whatever evidence is required to facilitate that process.

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

30 FLTLT ROSE: Just two matters arising from the cross-examination.

<RE-EXAMINATION BY FLTLT ROSE

35 FLTLT ROSE: Were you aware where the wreckage from the aircraft was being taken to when it was recovered from the scene?

40 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And where was it being taken to?

45 CPONPC THEISSEN: It was being held adjacent to the Whitsundays Police Station.

FLTLT ROSE: Had you been in briefings where there were discussions had about the permissions given by the Coroner for the aircraft wreckage to be stored at the Whitsundays Police Station?

5 CPONPC THEISSEN: Not that I recall specifically, ma'am, no.

FLTLT ROSE: Were you aware of any discussions that the Coroner had given Directions about where debris and human remains were to be stored?

10 CPONPC THEISSEN: No, ma'am. Sorry, clarify that: so I believe human remains were being held in an interim facility prior to getting transferred to another morgue. And with respect to the debris, I know the fuselage was being kept adjacent to the Whitsundays Police Station but, from my understanding, that was not all the debris.

15 FLTLT ROSE: Taking you back to Annex C, page 4, where my learned friend referred to the questions that QPS had asked for Defence investigators to relay or ask of the witnesses to obtain statements?

20 CPONPC THEISSEN: Yes, ma'am.

FLTLT ROSE: And your answer was that, in your opinion, it was best practice for a trained investigator such as yourself, or someone else in the JMPU, to take those statements, to ask those questions?

25 CPONPC THEISSEN: Very much so.

FLTLT ROSE: Why is it best practice for witnesses to be interviewed separately?

30 CPONPC THEISSEN: What do you mean by "separately"?

FLTLT ROSE: Separately, as in you would present those questions to each of the witnesses separately as opposed to providing those witnesses the questions in advance and through a single point of contact.

35 CPONPC THEISSEN: So my concern is, if I had sent those questions through to Army Legal, that they would have provided advice to the members as to what questions could be asked, should be asked, in what manner, and they would have certainly provided a left and – what I believe they would have provided was advice as to how to formulate that statement. I believe with JMPF being independent from the matter, that if we had gone in there and asked those questions separately to those members, that we would have known that those statements would have been taken independently. There would have been no Command interference with how

those questions should be answered and we would have obtained a professional, comprehensive statement comparative to if those questions had just been provided to the members to fill out through Army Legal.

5 FLTLT ROSE: And is there another advantage? By not having it funnelled through a legal team and approaching each of the witnesses separately but in quick succession to each other, is another advantage that it prevents collusion?

10 CPONPC THEISSEN: Very much so, yes.

FLTLT ROSE: Nothing further.

15 MS McMURDO: Thank you.

Thank you very much for coming forward, Chief Petty Officer. The Commissioner and Inquiry really appreciates that. You're free to go at the moment.

20 CPONPC THEISSEN: Thank you, ma'am.

MS McMURDO: We'll let you know if you're needed again, thank you.

25 <WITNESS WITHDREW

MS McMURDO: Perhaps we should have a break now, should we, to see if we can get the video up and running for the witness that we were hoping to hear from earlier?

30 COL STREIT: Yes, I would be pleased with a break. I can indicate we've been trying to resolve the matter concurrently while this witness has been giving evidence, and we're still experiencing some little difficulty. We'll try to resolve that. I've been informed as to the availability of this witness a little later this week, and if we're not able to resolve that today, we'll call the witness a little later this week.

40 MS McMURDO: Could we do it by telephone if the video doesn't work – a telephone link/audio link? Would that be possible?

COL STREIT: That would be possible - - -

45 MS McMURDO: Something you can contemplate anyway, during the break.

COL STREIT: Yes.

MS McMURDO: With that, all right then, we'll adjourn.

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**PUBLIC INQUIRY ADJOURNED UNTIL
TUESDAY, 6 AUGUST 2024 AT 1000**